MAINTAINING INJUSTICE: LITERARY REPRESENTATIONS OF THE LEGAL SYSTEM C1400

DISSEPTION

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Kathleen Erin Kennedy, M.A.

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Dissertation Committee:

Professor Richard Firth Green, Advisor

Professor Lisa Kiser

Professor Ethan Knapp

Professor Karen Winstead

Approved by

Department of English
ABSTRACT

Medieval English authors often regard aspects of the legal system to be in conflict with an endemic cultural practice, maintenance. Simply put, maintenance was the payment of a form of salary to a high-level servant by a lord. The salary this servant (or affine) might receive could consist of cash-payments, gifts, or access to lucrative official positions, including the proxy enjoyment of some portion of the lord’s judicial rights. The more lavish the assistance, the more the lord honored the retainer. Obviously, the mutual ties of aid and loyalty between a lord and an affine threatened impartial justice at every level, and medieval authors strove both to bring its abuses to light, and to offer alternatives. Each of my chapters sheds light on how late fourteenth-century authors articulated the relationship between different legal institutions and maintenance.

I begin by showing how the events in one of the more obscure Canterbury Tales, the Tale of Melibee, resemble a popular out-of-court settlement practice called accord. Chaucer blamed a contemporary practice called maintenance, the exchange of money and influence between a lord and a high-level servant, kinsman, or friend, for corrupting accords. In Piers Plowman, William Langland lamented the damage that maintenance could do to legal process, even in high courts such as the Council and Court of Chancery, a concern that I also examine. John Gower spends a considerable amount of time writing
about the legal profession, especially lawyers and other legal officials. I claim that Gower argues that if the king allowed maintenance and other personal considerations to influence his judgement, then legal officials would do the same; moreover, legal officials tarnish the king’s reputation since they receive their legal powers by delegation from the king. Finally, I explore Thomas Hoccleve’s *Regiment of Princes* as presenting a solution to the problem of legal personnel’s attraction to maintenance. I argue that while Hoccleve’s explicit goal for the work is to have his annuity paid regularly for his work in the Office of the Privy Seal, he bases his right to advise the prince on his experience as a bureaucrat in a royal legal office. In sum, late-fourteenth- and early-fifteenth-century authors demonstrated detailed knowledge of the law and used literature as a forum in which to discuss inadequacies of the system.
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VITA

September 19, 1975............................... Born - Elgin, IL

1997 ...................................................... B.A. History - University of Illinois, Urbana-Champaign

1999 ...................................................... M. A. History - University of Minnesota, Twin Cities

1999 - 2004 ........................................... Graduate Teaching Associate and Research Associate, The Ohio State University

PUBLICATIONS


FIELDS OF STUDY

Major Field: English
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CHAPTER 1

INTRODUCTION

MAINTENANCE, A DECIDING FACTOR IN THE LAW?

When asked about the birth of modern legal culture, legal historians point to the sixteenth century; however, medievalists are quick assert that most of the elements of this culture developed in the fifteenth century. Moreover, a closer look at the historical record reveals that many of these purportedly fifteenth-century institutions actually had their genesis in the last decades of the fourteenth century, but these origins are obscured by irregular documentation. The new institutions that developed between the last quarter of the fourteenth and first quarter of the fifteenth century may not have utilized documentary culture as systematically as they would later in the fifteenth century, but they were by no means ignored by contemporaries. Ricardians and early Lancastrians recorded many observations about legal development in a venue modern legal historians often overlook: literature.

Needless to say, literary critics have been aware of the historical importance of literary works for some time, but legal history and literary studies have been little synthesized until recently, due in large part to the patterns they have followed in their
developments as specializations. Scholars began developing modern editions of literary
texts and employing a range of critical practices to analyze medieval works in the mid-
nineteenth century, with a relatively broad audience in mind for their work. The
subscription insert in the first volume of the Early English Text Society (1864) makes
clear both the scholarly rigor the founders of the society intended, as well as the audience
they hoped to reach, voicing their concern that “more than half our early printed
literature...is still inaccessible to the student of modest means.” For this audience,
composed of both experts and novices inside and outside the academy, the Society
endeavored to provide modern editions of works limited to manuscript or rare early
printed editions. From the first to the current volume, each E.E.T.S. text included a
critical introduction, often a glossary, and other apparati. Frederick James Furnivall,
Walter W. Skeat, and others edited texts for E.E.T.S that they understood to be located
inside a cultural and historical context that was only just beginning to be revealed in
detail by the antiquarians working in late nineteenth century history departments.¹

The modern practice of legal history, and its tendency to shroud itself away from
nonspecialist eyes, dates back to William Stubbs. In 1873, when writing his preface to
*The Constitutional History of England*, he might assert that “without some knowledge of

¹ Furnivall’s and Skeat’s works are well-known, and too substantial and too numerous to cite here. The
great monuments to British antiquarian energy are the series of royal and parliamentary records, and the
important, provincial *Victoria County History* series; each folio volume consists of laborously compiled
records on a single county. The antiquarian moment resulted, too, in the founding of county antiquarian
societies, many of which published (and continue to publish) ancient county records. See for example the
Bedfordshire Historical Record Society, the Surtees Society [Durham], the Lincoln Record Society, and the
Yorkshire Archaeological Society. Continental efforts at archival preservation were less organized than
Britain’s, but could still achieve monumental proportions; these efforts planted the seeds for the Annales-
school. For a nineteenth-century example, see Heinrich Denifle’s and Emile Chatelain’s editions of all of
the medieval records pertaining to the Université de Paris.
Constitutional History it is absolutely impossible to do justice to the characters and positions of the actors in the great drama [of history]” (iv). Nevertheless, at the same time Stubbs insisted that “the History of Institutions cannot be mastered,- can scarcely be approached,- without an effort,” and even more significantly, that such an inquiry “holds out small temptation to the mind that requires to be tempted to the study of Truth” (iii). This double assertion, that the study of law was both necessary, and also difficult or distasteful, to nonspecialists has dogged the study of legal history to the present day.

For the specialist, however, the late nineteenth century saw the rapid development of important tools. The Seldon Society began printing its volumes of selected documents in 1887, its volumes providing facing-page translations and critical apparati to assist scholars. The plan was not to produce an exhaustive series of documents, however; that project was left to the Pipe Roll society. As Frederick W. Maitland said of the first volume, “the aim of the Seldon Society is to publish first-hand materials for the history of the English law” (vii). Maitland’s own efforts culminated in 1895 with the publication (co-written with Sir Frederic Pollock) of the magisterial History of the English Law.

Even in 1895, however, Maitland and Pollock were forced to admit in their preface that the ground-level documentary work that was necessary to support such a comprehensive history had only just begun: in their words, “oftentimes our business has been rather to

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quarry and hew for some builder of the future than to leave a finished building” (vi). 4

Modern legal historians have built extensively from the stones quarried by Maitland. Nevertheless, even a fairly well-known scholar such as J. H. Baker produces books on specialist topics such as *The Third University in England: the Inns of Court and the Common Law Tradition* (1990), rather than more broadly-themed and accessible works. Sadly, no less than the Seldon Society’s first volumes, most recent texts of legal history are accessible primarily to legal specialists; steeped in jargon and disciplinary rhetoric, these texts remain hidden in law libraries, sometimes even unavailable for circulation.

Simply put, modern literary critics have been hampered in their attempts to investigate legal culture in medieval texts by the inaccessibility of legal historiography. Recently, social and political historians have begun to brave this specialized genre of historiography, mining legal history for its relevance to their own fields of expertise. 5

Literary critics have not been far behind. Scholars like Paul Strohm, Lee Patterson, David Aers, and Lynn Staley are leaders in considering Middle English literature within historical (if not always historicist) parameters. 6 Richard Firth Green’s landmark

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6 I differentiate what Staley and others do from New Historicism, as these scholars’ complex and nuanced arguments are situated directly in the literary and documentary sources, rather than framed within the rhetoric of the critical theory tradition as New Historicism is. When these scholars engage theory, it is as another critical tool based on the suggestions of the sources themselves, rather than imposed by the critic.
monograph, *A Crisis of Truth*, brought historicized literary analysis to bear on legal issues.\(^7\) *Crisis’* publication coincided with a growing interest in legal issues among the newest generation of scholars like Emily Steiner, Frank Grady, and Matthew Giancarlo.\(^8\)

This dissertation stands among these latest efforts to place Middle English literature in a historicized, legal context.

At the same time as my work stands within this new focus, however, I concentrate more on the common law as a profession, than do these other scholars, who tend to

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examine the law as a system. I am struck by how persistently Middle English authors made note of their system of common law, a secular law unique in medieval Europe, and how they emphasize the importance of their legal professionals within this system. The authors analyzed their common law as a system in which the interactions of human agents were as much or more important to the protection of justice than any collection of theory. Giancarlo and Grady, perhaps, come closest to investigating these same proclivities in Middle English literature. Yet no one has sought to demonstrate how authors saw the common law system as fundamentally opposed to the equally endemic system of maintenance, a relationship between an lord and a high-level servant. Maintenance’s ubiquity led almost inevitably to corruption of the law, but also highlighted how economically motivated the common law was. Although both systems were based on ideals of justice and loyalty in theory, in practice each manifested an economic basis at odds with these ideals.

As I demonstrate in the chapters below, Middle English authors understood their legal system to be a deeply participatory one; even outside of court people still practiced the hermeneutics of the law. In the last two chapters, I examine considerations of legal officials by John Gower (c1330-1408) and Thomas Hoccleve (c1369-1426). By

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9 It must also be said that my basis in literary analysis sets me apart from the newer set of scholars in history departments as well. The exception is Richard Kaeuper, who uses literary texts, especially romances, to fuel his historiographical work on justice and the knightly class. While Kaeuper’s oeuvre has exerted a special influence on my thinking, my work remains more about legal professionals and how the legal system and maintenance exerted conflicting influences on them than about theoretical and practical levels of violence perpetuated by conflicting elements of knightly culture. See Richard Kaeuper, *Chivalry and Violence in Medieval Europe*, Oxford: Oxford University Press, 1999.

10 For a more complete definition of maintenance, see below, p. 7.
Hoccleve’s day, I believe a de facto solution to the problem of maintenance and the law is beginning to manifest itself. Not yet imaginable for Geoffrey Chaucer (c1343-1400) or William Langland (1330-1387), Hoccleve could see a future where legal officials were salaried, but not maintained, and where this salary would be paid in return for bureaucratic experience, in contrast to the more tenuous maintenance relations based on more nebulous exchanges of power, influence, affection, and sometimes least evident, money.

In a culture practicing maintenance, men bound themselves to each other in a complex web of relationships involving mutual exchanges of goods and power. A lord wishing to retain a man might offer him a monetary stipend, distinctive clothing called livery or badges, as well as access to sinecures and real estate. The retainer, sometimes called an affine, gained prestige from his relationship with his lord, and in his turn volunteered his services to his lord. An affine might take up an office on one of his lord’s manors, and was expected to support his lord’s quarrels. The number of a lord’s affines usually increased the lord’s prestige within the regional community, as well as expanding his authority into local society.

William of Nassington (d.1359) is an early example of a writer who demonstrates implicitly how maintenance threatened the impartial nature of the complex relationships among legal personnel. In its simplest terms, late medieval English authors were concerned about the effect of maintenance on legal personnel, a social class that a section of Nassington’s *Speculum Vitæ* introduces ably. Usually, short critiques of legal officials consider them all generally (“On the Times,” and “London Lickpenny”), or focus on
select officials (the second two poems in Ms. CUL Dd.1.1ff300v-302v, “The Simonie”). Therefore, the 150-line section of the *Speculum Vitae* that concentrates on the law is unique in its detailed presentation of the entire range of legal personnel and its narrow emphasis on the people involved in law, rather than the system itself. Nassington’s discussion of legal officials serves as his example for the fourth branch of the sin avarice, and he does note towards the end that he “speke onliche of fals men/.../And not of hem yt treweliche duse” (f.224r). Nevertheless, the passage that precedes that caveat details ways that nearly every participant of the legal process might corrupt its outcome.

Nassington begins at the very base of the legal structure with plaintiffs and defendants, but the balance of his critique falls squarely upon lawmen. His estimations of various positions are short, and sometimes curiously unemotional: “also þe fals sisour ys prest/ To gon apon a fals enquest/ þat putteþ a mon from his riht tot14/ þorwe schewyng of a fals verdit tot” (f.223v). The danger of the more learned lawmen is their ability to “turne riht in to wronge” (f.223v). This is a hazard with lawyers in general, and each accomplishes it in his own way. A pleader can begin unjustly by taking up a false plea, but he can also fix cases by creating unnecessary delays, mislead the inquest jury, or give


12  It is worth noting that Nassington reveals simply the means of corrupting due process, not the motives the officials have for their malpractice; the only motive implied is the overarching one of avarice.

13  Nassington includes officials found in both common and ecclesiastical courts, but in keeping with the rest of this dissertation, I will restrict my comments to common law officials.

14  In the Simeon manuscript “riht” is followed by “tot,” and in the Vernon manuscript, it is followed by “tyt,” according to an informal transcription by Richard Firth Green. This is probably “tit,” or “quickly.”
false evidence (f.223v). Most disturbing, the pleader can hide his misdeeds so that “his falshe de may men noth knowe/ Ffor he con covere þ hit w' þe lawe” (223v). An attorney can follow a wrong plea instead of a right one, just as the pleader can, but because an attorney acts as the proxy for his employer, his crime is especially heinous if he deliberately loses the case: then he becomes a traitor, as well as an oath-breaker (223v). Judges err primarily by accepting bribes from both sides, and determining the case for the side with the largest gift (224r). In addition, judges can collude with jurors who have loyalties to one side or the other; the jurors can advise that the judge give a false judgement or force a delay in the trial (224r). This is the only place where Nassington acknowledges the influence of outside parties on legal officials.

Although Nassington does not point out reasons for this corruption directly, he alludes to a motivation by placing this critique under the heading of avarice, a particularly economic sin. Nassington implies that the jurors, lawyers, and judges misdirect justice for financial reasons. While these unjust decisions do not necessarily have to be due to maintenance relations, ties of affinity were a recognized source of influence in the courts, and in theory, any of the practices Nassington mentions could have resulted from affinity pressure.

Although pervasive in late medieval English culture, maintenance remains a

15 I am silently expanding most abbreviations.

16 Rather than hyperbole, this is actually a logical, if extreme, extension of the Statute of Treasons (1352) which made treasonous a servant’s murder of his or her master.

17 Nassington discusses “fals sisours” in two places, once near witnesses, and once near judges. I suspect this reflects the varied nature of jurors’ duties; they served on examining juries (in the first instance), but also on trial juries (in the second instance).
shadowy and little analyzed presence within Middle English literature. Two examples which bookend the period discussed in this dissertation show how maintenance was illustrated within literary works, and give us additional insight into the cultural practice. *The Tale of Gamelyn* probably dates to the later decades of the mid-fourteenth century.¹⁸ One of the two manuscript versions of the romance *Sir Amadace* dates to 1450-1460, the other dates to 1475-1500.¹⁹ *Gamelyn* demonstrates the range of activities an affine might engage in for his lord, and *Amadace* illustrates the depth of responsibility the lord felt towards his affinity.

The lord-affine dynamic in the *Tale of Gamelyn* revolves around Gamelyn and a household official, Adam Spencer. Gamelyn appears to be of the class that would develop an affinity.²⁰ His father was a “doughty knyght,” “non husbonde,” and Gamelyn’s family fortune consists of land owned outright, by “purchas” (2, 13-14). Having served as a spencer, or officer in charge of provisioning the household, to Gamelyn’s evil brother, and perhaps his father as well, Adam Spencer bears some status already (396,

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Adam appears to be in a position to move from his station as household official to a higher rung on the social ladder: affine to a lord. At one point in the story, Gamelyn finds himself in dire straits and begs Adam for help. In return he promises to give Adam some of his own “free londes” (406). Initially, this gift looks like a simple reward for services rendered; however, Adam is consciously changing loyalties from Gamelyn’s brother to Gamelyn in this scene. Not only are the lands in question currently illegally controlled by Gamelyn’s brother, but Adam recognizes also that he will be considered a traitor to his former employer (402). Land could be a significant incentive to action, but it does Adam no good without a new lord to protect him from his former employer’s wrath at this perceived treachery. Gamelyn’s grant of land makes sense as the initial gift between a lord and an affine, a gift granted in return for Adam’s aid. When Adam agrees to Gamelyn’s proposal, the young lord formalizes their arrangement: “I wil holde the covenaut and thou wil me” (410).

After this scene, Adam can be found at Gamelyn’s side as a trusted advisor until the very end of the tale. After their agreement is concluded, Adam performs his traditional task, and finds food for Gamelyn. In return, Gamelyn asks Adam for advice about what to do next: “‘Adam,’ seide Gamelyn, ‘what is nowe thi rede’” (425). Adam devises a scheme to free Gamelyn from his imprisonment, and later, when Gamelyn again asks for his advice, Adam recommends the two outlaws hide in the forest (601). In the end, when Gamelyn takes over the courtroom, he makes Adam his court clerk, and a few

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21 Scattergood seems to ignore the complexities of this scene when he asserts that this is merely a bribe (86).
lines later, Gamelyn sits Adam at his feet in the traditional position of a clerk in a
courtroom (824, 852). This short example from the *Tale of Gamelyn* demonstrates that
an affine could expect to receive financial and legal support, land, and offices from his
lord. In return, the lord could expect to receive aid and service rendered from his affine.
Obviously, any reciprocal relationship like this among any of the participants in legal
proceedings resulted in partiality easily. While *Gamelyn* highlights the ways each side
benefitted materially from a maintenance relationship, *Sir Amadace* emphasizes the
emotional importance the affinity-relationship held for a lord: in this case, a lord who can
no longer afford to support his affinity.

The narrative of *Amadace* demonstrates that, although economics played a large
role, amity lay at the ideological heart of maintenance. At every turn, Amadace attempts
to reinforce his relations with his affines, regardless of counsel he receives. Sir
Amadace’s steward tries to convince Amadace to solve his financial woes by letting some
of his affinity, or court, go: “and parte your cowrte in sere;/ And putte away full mony of
your men;/ And hald butte on, quere ye hald ten” (9-11). Amadace adamantly refuses his
steward’s suggestion, and instead he chooses to leave on a quest for fortune amid a
shower of expensive gifts “bothe to squiers and to knyghtis” (51). Later on in the tale,
when he has spent the last of his cash, Amadace is forced to send his steward, sumpter,
and groom out of his service. As he says, “Gode sirs, take noghte on greve,/ For ye most
noue take your leve,/ For youreselvun knauyn the cace;/ For I may lede no mon in londe,/Butte I hade gold and silvyr to spend,/ Nevyr no quere in no place” (355-60). His affines
are moved to tears at this resort, and Amadace tries to reassure them that “Gode sirs, have

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ye no care./ For ye mone have maysturs evyrqware./ As wele wurthi ye ar soe” (364-6).

Whether trusted servants or valued affines, Amadace releases his men and gives them verbal support in finding new lords and employers. In a final attempt to fulfill his duty, Amadace gives his affines their horses and harness before their tearful parting. *Amadace* emphasizes that the affinity was a beloved element of a lord’s lifestyle; here money is secondary, merely a means to make that love visible in a consumer culture.

While these poems depict maintenance in a rosy light, many authors were critical of the practice. In chapter two, I demonstrate Chaucer’s uneasiness with the influence of maintenance on out-of-court settlements. In the *Tale of Melibee*, Melibe’s and Prudence’s decision to settle out of court is based on their assessment of the relative power of their affinity and their enemies’. Chapter three focuses on Langland’s concerns about maintenance as he demonstrates them in the Rat Court scene in the Prologue and in relation to the law in passus four.¹²² In the Rat Court scene, rodents debate what to do with a dangerous member of their world, a cat. I argue that their initial decision is to retain him, but the rest of my investigation reveals problems with that solution. In passus four, Peace brings a suit to the king against Wrong. Both characters are affines of different lords, I argue, and Langland explores the fine line between due process and corruption when maintenance was involved in court.

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¹²² I explain why I call this scene the Rat Court, rather than its more common designation, the Rat Parliament, in Chapter 3, note 2.
While maintenance was not necessarily a legal issue, given the litigious nature of late medieval English culture, the metal of affinity relationships was often proven inside courtrooms.\textsuperscript{23} Maintenance relationships influenced legal decisions made by both lord and affine routinely. Therefore, decisions that took affinity-relationships into account could be at odds with impartial justice both in court and in out of court methods of conflict resolution like lovedays, accords, and arbitrations.\textsuperscript{24} In an accord (an event similar to a loveday) both parties to a dispute agreed upon an arbitrator who would devise a settlement that would benefit both parties. Obviously, the complex bonds of maintenance could easily influence the arbitrator’s decision.

Ms. CUL Dd1.1 includes a short poem that demonstrates contemporary awareness of the ways maintenance could adversely affect the impartiality of out of court settlements.\textsuperscript{25} The poem emphasizes how necessary impartiality is to an arbitrator, but it assumes that he will have ties with one of the sides that he must therefore set aside in the process of making his decision. The second line demonstrates this: “acu tinali merida vel audi alteram partem.” Heffernan notes how the transliterated Greek (\textit{acu tinali merida}) calls attention to the author’s erudition, but it and the following Latin translation highlight

\textsuperscript{23} For my discussion of maintenance and legal officials, see Chapter 4.

\textsuperscript{24} For distinctions between accords and arbitrations, see Chapter 2.

\textsuperscript{25} Thomas Heffernan edited the poem in an article for the \textit{Chaucer Review}, where he argues that f.300v-302v contain a 217 line poem about lovedays. I agree that the first twenty-six lines are about lovedays, but as the meter and subject matter change in the twenty-seventh and again in the hundred-fiftieth line, I suspect that the “poem” is actually three poems copied in succession. In any case, only the first twenty-six lines concern lovedays, and what the poem has to say about them reflects concern with the relationship between maintenance and lovedays. I am grateful for Richard Firth Green’s suggestion about this. Thomas J. Heffernan, “A Middle English Poem on Lovedays,” \textit{Chaucer Review} 10 (1975): 172-185.
this passage for the reader also. The poet reinforces this theme again when he translates the phrase into English in the following lines: “and þer for ye lordingis þat louedayes wile holde, / Loke ye here boþe partyes” (3-4). These lines also identify the subject of this poem as lovedays overseen by lords rather than common law courts presided over by judges. Once the arbitrator examines both sides, the poet identifies misused will, or the capability to make decisions, as the next hurdle to impartial out of court settlement:

“þerfor ground yow...not after wil,/ For wil is no skil wiþ out good resoun” (9-10). The poet ties this possible misuse of decision-making directly to maintenance, asking: “is þis good right & resoun for þis man is my frend,/ I wile mayntene þis man & al his matere als” (11-12). Later, the poet links the arbitrator “having his own will,” regardless of impartial right or wrong, with a sin as deadly as Judas’ (14-22). In the closing sentence, the poet again begs arbitrators to avoid making decisions based on their affinity-relationships: “þerfor for loue or lordschipe for siluer or for gold,/ Mayntene ye no maner man þat wrong wisli wold do” (23-4). Moreover, as in Amadace, these lines associate maintenance with both love and money.

This poem demonstrates that contemporaries recognized links between legal decision-making and maintenance, even in extracurial events like lovedays. In chapter two, I will consider the role maintenance plays in a loveday when I discuss Chaucer’s Tale of Melibee. I establish that the action of the tale is a loveday or an accord, and then take into account how considerations of affinity prejudice Melibee’s decision-making. As the poem in Ms. CUL Dd.1.1 and the Tale of Melibee demonstrate, maintenance’s ability to influence legal decisions was regarded as a grave problem by contemporary
authors. The problem became commensurately more serious, therefore, when the king himself maintained an affinity, since the king was the head and theoretical foundation of English law. Langland takes up this topic in *Piers Plowman*, and I explore his concern with the king’s affinity in chapter three when I analyze the maintenance relationships between Peace, Wrong, Mede, Reason, Conscience, and the king.

The unique position of the English monarch in relation to the legal system led to much innovation in the late fourteenth century. It is a commonplace of European history that the king was the “fountain” of the law, but this was true of the monarchs of various countries in different ways. While English culture seemed to subscribe to this ideal in theory, in practice the English had endeavored to place the king firmly under his own laws since Magna Carta (if not before). Based as much on precedent as on statute law, the common law might sometimes be limited by the royal will, but was not authored by it. Nevertheless, in the late fourteenth and fifteenth centuries, English monarchs developed new jurisdictions that depended on the royal will, on the king’s legal discretion, his ability to judge. The Court in Council, Court of Chancery, for a brief time the Court of Chivalry, and later the Star Chamber, all of which were later courts of the prerogative, and were examples of this tendency.26 These courts were tremendously popular because their justice was swift compared to the protracted nature of proceedings under the common law. Nevertheless, English authors watched this development carefully, and noted a number of problems with it. Like private lovedays, these noncommon law courts depended on the decisions of a single man, and therefore, as in lovedays, maintenance

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26 For more on these courts, see Chapter 3.
posed a special threat to their impartiality. Moreover, because of the theoretical connection between the king’s ability to dispense justice and the legal decisions made by each member of the legal profession, the king’s decisions served as a model to the officials to whom he delegated his judicial powers. Contemporaries believed that corruption in the king’s special courts easily lead to corruption in the common law courts.

One author who spends considerable time lamenting Richard II’s involvement in maintenance is the anonymous poet of *Richard the Redeless*. Early in the first passus, the poet claims that the unlawful actions of Richard’s duketti, high ranking members of his affinity, sapped Richard’s power: these men “as tyrants, of tiliers token what hem liste,/ And paide hem on her pannes whan her penyes lacked” (54-5). The lawlessness of Richard’s affinity caused legal problems on a national level, since “non of [the] peple durste pleyne of here wrongis” (56). I believe the “pleyne” here, and “plete” later in line 60, gives this passage a legal emphasis. The poet links maintenance to the malfunctioning legal system clearly, and implies that this failure led to rebellion (66-70).

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28 MED, pleinen, 2, “to make a legal complaint or accusation”; pleten 1a, “to take legal action.”
In the second passus, the poet moves from the duketti to Richard’s affinity at large, especially the group of lesser men wearing his badges. The complaints remain the same, however. Richard’s liveried servants run amok throughout England and use their relationship with the king to avoid legal censure. “They bare hem the bolder for her gay broches,” the poet claims, referring to livery badges, “and busshid with her brestis and bare adoun the pouere/ Lieges” (38-40). The poet makes clear that livery, especially the king’s livery, is a direct cause of corruption of the legal process (79, 101-2).29

In passus three, the author depicts maintenance as working in direct opposition to the duties of lordship. “So clerlie the cause comsith in grette,” since nobles like the king are the ones granting liveries (190). The author is so concerned with the legal ramifications of maintenance that he revises the traditional tasks of the second estate in a striking passage that deserves to be quoted at length:

> It is not unknowen to kunnynge leodis
> That rewles of rewmes around all the erthe
> Were not yffoundid at the frist tyme
> To leve al at likynge and lust of the world,
> But to laboure on the lawe, as lewde men on plowes,
> And to merke meyntenourz with maces ichonne,
> And to strie strouters that sterede ageine rithis,
> And alle the myssedoers that they myghte fynde,
> To put hem in preson, a peere though he were.” (263-271, emphasis mine)

29 See Barr’s notes to lines 79 and 102 as well.
The author claims that the original labor of the nobility was not military, but rather judicial in nature. The first nobles exercised their military privileges only to punish those in breach of the very law that it had been the nobility’s primary duty to sustain. This passage also makes maintenance a product of the fallen, medieval world, and places maintenance at odds with legal order. Indeed, earlier in the same passage, the poet implies that helping to fix cases for a lord at a court of assize was one way to earn a livery (187).

To illustrate how affinities could travesty the legal system, the poet turns near the end of the passus to Richard’s favorite affines, his Cheshiremen. Differentiating between the havoc the Cheshiremen wreck and the bribes demanded by the aforementioned lords, the poet concentrates his critique on ways that these lesser men disregard or mock the legal profession. In contrast to the coifs traditionally worn by lawyers, Richard’s men wore secular helmets (320, 324-6). Paralleling Richard’s efforts to expand jurisdictions dependant on own discretion, his affines from Chester attempt to do this in the localities by misusing procedure derived from piepowder courts (319).30 They “pledid pipoudris alle manere pleyntis,” when by law piepowder courts were quite restricted in their duration and jurisdiction. In general, they “knewe no manere cause,” that is, they were unfamiliar with all kinds of due process (322).31 Moreover, although violence, or even

30 MED pepoudre, “(A) A dusty-foot, a traveler, an itinerant merchant, a peddler; court of pepoudres, a Court of Piepowders, a court held to decide summarily in cases involving itinerants; (b) a Court of Piepowders; [pleas of] pepoudre(s, pleas in a Court of Piepowders; (c) as adv.: as in a Court of Piepowders, summarily.” Simply put, piepowder courts were closely regulated events held during fairs to deal immediately with commercial problems between merchants and consumers.

31 I interpret this phrase slightly differently than Dean. For another interpretation closer to my own, see Barr’s note to this line.
drawn weapons in a courtroom, were seen (unofficially at least) as contempt of court, the Cheshiremen had no qualms about carrying weapons into court and using them to threaten the opposing side, especially during the speaking of the judgement (328-9). To add to the threat, they loan their “longe battis” to others as a sort of temporary livery badge (330). At this point, “they lacked alle vertues that a juge shulde have,” reads as a dramatic understatement, and we are not surprised to find these men sentencing before evidence has been heard (331-2). No one dared to contest this misbehavior, and even the judiciary’s hands were tied (341). The legal profession, and implicitly due process, were no longer sought out: “for selde were the serigauntis soughte for to plete./ Or ony prentise of courte preied of his wittis” (348-9). Again, the poet links this state of affairs tightly to the king, since the corruption of the legal system by the Cheshiremen lasts “the while the degonys domes weren so endauntid” (350). Dean interprets “degonys” as “churls,” but I think it is also significant that the word derives from a diminutive form of the name Richard.

As the example of courts staffed by Richard’s Cheshire affines demonstrated, the king’s personal retaining policy was perceived to mix ill with the legal system. In chapter

32 Instances of courtroom violence were serious enough that they received extra attention even in laconic Sessions of the Peace rolls. For example, see Elisabeth Kimball, ed. Sessions of the Peace for Bedfordshire 1355-1359, 1363-1364, London: Bedfordshire Historical Record Society, 1969, entries 147 and 148, where Roger Mayn was assaulted by two men with drawn weapons “in presencia iusticiariorum.”

33 Here I differ from Dean and Barr, who consider this line to refer to the Cheshiremen beating people with their bats. The most simple reading of the line, “lente men lyverey of her longe battis,” suggests that these weapons were given out temporarily, like badges. For more on badges, see Chapter 3.

34 For more information on sergeants, apprentices of the law, and pleading, see chapter four.

35 See MED, “degon,” or otherwise spelled, “dickon.”
three, I show that Langland also investigates intersections between justice, maintenance, and the king’s affinity in passus four of *Piers Plowman*. John Gower was also keenly aware of the way that king and his affinity served as a model for relations between affinities and the legal system at other levels of society, as I explore in chapter four. In a succession of texts, Gower criticizes legal officials, and implicitly links them to the king’s misbehavior.

Middle English authors identified the influence maintenance had on the king’s decision-making as a problem at all levels of legal culture. As I explain at greater length in chapter four, wages and fees for legal work were low enough that maintenance was an attractive option for officials and lawmen, if not always a necessary one. Moreover, the distinction between regular fees, gifts, and bribes could be quite a fine one. Unfortunately, just as it did with the king, the involvement of lesser officials with affinities threatened the impartiality of justice and influenced their legal decisions.

The author of the late fourteenth-century poem, “On the Times” uses a vivid image of the direct connection between the king and his subjects as an introduction to his critique of the legal system: “sugget and suffrayn/ uno quasi fune trahuntur [are drawn as if with a single line]” (61-2). The author speaks in general of the corruption of the Westminster courts, but is specific about the connection between maintenance and legal corruption when he speaks of “jurrers with paynty sleves, *inopes* famuli dominorum

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[poor retainers of noblemen],/ Theys hurtes and greves” (85-7).37

By the early fifteenth century there is evidence that authors were seeking solutions for these problems, rather than just analyzing their existence and origin. In my final chapter, I look at one such solution, presented in Thomas Hoccleve’s Regement of Princes. Otherwise a fairly standard example of the speculum principis genre, the Regiment includes material that explores a way to break the cycle of maintenance and corruption. As my literary examples of maintenance relationships show, lords and their retainers shared an affective relationship as much as an economic one.38 Hoccleve suggests that the solution lay in the provision of sufficient, regularly paid salaries for a professional legal class. A constant income might break the cycle of irregular financial remuneration characteristic of affinity relations, a situation which made taking bribes attractive. Moreover, Hoccleve depicts his own legal service as lacking the affective ties of maintenance; he is a professional. Even the advice Hoccleve recommends that his audience take from him is not based on love or traditional ties, but on professional experience.

37 Since inops is third declension, inopes can be either nominative or accusative plural; therefore this clever passage reads both directions. That is, the jurors might be poor retainers, or the jurors might hurt poor retainers of noblemen.

CHAPTER 2

MAINTAINING LOVE THROUGH ACCORD IN THE TALE OF MELIBEE

In Chaucer’s Tale of Melibee, I contend that Chaucer exploits the resemblance of the situation depicted in his French source text, the Livre de Melibée et de Prudence, to a popular English means of conflict resolution to comment on the interplay of two significant elements of late fourteenth-century culture, maintenance and the loveday, or accord. Reading the Melibee as an accord reinforces how literary studies may uncover information about legal culture that historiography based on traditional legal documentation may not; since they occurred outside of the courtroom, accords generated no little to no legal documentation. Thus, despite their popularity, we know relatively little about lovedays as they were practiced outside of canon law; reading the Melibee as an accord helps to fill in a gap in our understanding of the legal culture of this period. At the same time that the Melibee can help us understand more about legal history, social history can help us understand the Melibee. In the Melibee, Chaucer narrates a chain of events that was all too typical of fourteenth and fifteenth-century England, including offense, counsel-taking, and reprisal. The social ties resulting from maintenance create

39 I discuss maintenance in more detail below on page 26-7, and accords on pages 27-8.
problems in Chaucer’s text at every step; they may spark the initial violence, and they influence how Melibee approaches his council, as well as the kind of counsel he receives. In the end, the practice of maintenance may well put the peace resulting from the loveday in jeopardy. Accords rested on a foundation of personal decision-making that Chaucer demonstrates was never free from the considerations of affinity.

As we shall see in greater detail below, when Melibee’s foes attack his manor, they do so in ways easily transferrable into English legal idiom. Although a victim, Melibee’s wife, Prudence, immediately takes it upon herself to counsel her sometimes intransigent spouse in his quest for reprisal. First alone, and then with Prudence’s help, Melibee calls a full council to advise him on his options. Although various suggestions are voiced, hawkish opinions like Melibee’s own carry the day. Prudence insists, however, that further violence will not resolve the situation, and suggests a loveday as the best solution. Despite his initial resistance, Melibee eventually agrees to an accord, and Prudence arranges the meeting between their foes and Melibee. At the accord, Melibee states his grievances; his foes submit to his judgement and apologize, and Melibee forgives them. Unfortunately, the maintenance that plagues the narrative continues to hint that the peace concluded in this loveday will not last; in this case the social conventions of maintenance preclude lasting peace.
The events of the tale, from offense to conclusion, are deeply affected by the practice of maintenance, a matter of considerable debate in the later fourteenth century. Maintenance was the payment of a sort of salary to a high-level servant by a lord. As Simon Walker puts it in reference to the Duke of Lancaster: “the duke had many desirable gifts in his hand- land, money, offices, wardships, leases, timber, venison were his to dispose of at will; benefices, corrodies, and pardon of crimes could be obtained at his intercession” (82). The salary an affine might receive could consist of cash-payments, gifts, or access to lucrative official positions, including the proxy of some portion of the lord’s judicial rights. A lord might add a livery (a sort of uniform) or other characteristic token to the fee that he settled on his affine. Even when tokens and other visible livery were not offered to the affines, however, the lord could assist his affinity with food and kinds of payment such as land and legal aid. The more lavish the assistance, the more the lord honored the retainer.

By the late fourteenth century, however, discord over maintenance’s influence in legal conflicts grew loud. Men (and some women) demonstrated good lordship by supporting their affines’ battles, in court and out. Whether in the field or in court, the

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presence of such powerful men could easily sway results.41 Affines supported their lords’ quarrels loyally as well. Statutes that attempted to limit or end maintenance and liveries were plentiful; the first in 1377 was followed by repeated efforts in 1390, 1401, 1406, 1411, 1429, and 1460.42 These complaints cloaked an element of self-interest, however, since the men complaining were those few unattached to an affinity and socially and economically suffering for it, a minority in the Commons.

Although local courts, even royal ones, were deeply embroiled in factional politics, and statute law could be interpreted to the benefit of local magnates, change did occur. Earlier in the fourteenth century, it had been common practice to retain both lawyers and justices, while by the 1390s, judges were no longer maintained. In 1389, the Commons successfully removed local lords from commissions of the peace in an attempt to lessen the impact of their influence on those bodies. By 1390, however, the Commons admitted that without the lords’ power, the commissions were too easily disregarded, and the lords were reinstated onto the commissions. The paradox of a legal system assisting in the promotion of faction was not ignored by Ricardian society, as Chaucer makes clear in his translation of the Livre de Melibée et de Prudence. I argue that Chaucer recognizes that elements in his text resemble an English accord, and exploits this similarity to comment about the influence of maintenance on out-of-court settlements.

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41 For a vivid depiction of how a lord’s affinity might make itself felt during a trial, see the Tale of Gamelyn in Stephen Knight and Thomas Ohlgren, eds. Robin Hood and Other Tales. Kalamazoo, MI: Western Michigan University Press, 1997.

42 See 13RIIst3c1 for an example of this kind of document in Statutes of the Realm London: Records Commission, 1810. Note Storey’s argument that this document is not a statute, however, but a proclamation.
Although the topic has recently attracted renewed interest, J.W. Bennett’s 1958 article, “The Mediaeval Loveday,” still serves as an excellent introduction to the topic of arbitration. Bennett points out that medieval literary, legal, and historical documents are full of references to “lovedays,” and “that any meeting of contending parties for the purpose of settling their dispute might be called a ‘loveday’ in popular and literary writing” (351, 361). The sheer flexibility of accords must be stressed; they could range from the most informal events to more structured remedies borrowing from the arbitrations administered by canon law courts. Edward Powell notes that arbitration was popularly employed to establish “compensation for physical assault and homicide,” since in a common law court victims of felonies received no recompense (52). Most arbitrations impressionistically followed a pattern set by canon law arbitral procedure. Antagonists first swore oaths and made out bonds that they would submit to arbitration, then an arbitrator or arbitrators were chosen. That arbitrator heard the grievances and evidence, and finally he or she made an award, whereupon the antagonists swore and

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44 I will maintain a distinction between “accords” and “arbitrations.” By accord, I mean a more informal event, while arbitrations will refer to more structured, formal remedies. Although Powell’s article seems to focus on arbitrations, some of his conclusions can be more generally applied, and are consonant with Bennett’s and Clanchy’s conclusions on lovedays and accords.
made bonds to the amount of the award. Royal courts were not involved directly in accords or arbitrations, but might grant, to the litigants interested in pursuing an accord, a recess from a case already in progress. This practice meant that soon settlements began to be manipulated, just like other legal delay-tactics. Powell adds, however, that common law courts supported arbitration by denying further legal process to those who had accepted formal arbitration. Nevertheless, accords could easily go awry, and recourse to the Court of Chancery might be the only option for aggrieved parties.

Often serving as a preliminary bout between antagonists, accords commonly supplemented legal action, and preceded more serious confrontations occurring outside the legal context. Bonds recorded in law courts usually ended arbitrations. They served as earnest-money between the parties, and because they were recorded in courts, bonds made the common law courts aware that a resolution had been reached in either a more formal arbitration, or a less structured accord. As Powell notes, there seems to have been “a recognition on the part of the disputants that a settlement made out of court would only endure if it proved unassailable to a subsequent challenge in court” (62). Without bonds enrolled in court, therefore, an accord might not last long. Other hurdles could sabotage the chances of an accord flourishing as well. Over-partiality on the part of the arbitrators and punitive settlements could easily lead to future trouble. In addition, parties could be pressured to settle or to act as arbitrators in order to maintain social status or reputation. This bullying alone might be the goal of an accord. An example from a fifteenth-century letter collection demonstrates a number of the pitfalls that faced parties considering an out-of-court settlement.
2.1. MAINTAINING A GRUDGE: ELIZABETH CLERE V. WILLIAM STEWARDSON

The Pastons, an East Anglian gentry family, provide us with a fifteenth-century example of the kind of conflict that required multiple attempts at resolution, including formal and informal remedies. Due to the informal, out-of-court nature of lovedays, they required little legal documentation, so that other than the Melibee, the Paston letters provide the earliest and most detailed discussion of an informal accord. Ultimately, maintenance was at the root of the “vareaunce” between Elizabeth Clere and the

45 The Paston-letters are an example of what Bellamy refers to when he says: “what is lacking for our proper understanding of the late-medieval period and the quarrels that lay behind them is information about what happened out of court, information which only becomes available (and then in very limited amounts) from the second half of the fifteenth century” (6). Bellamy is a classic example of the learned historian who is either unfamiliar with literary evidence that predates the documentary record, or is unwilling to include this evidence in his study. This chapter is an example of how the literary record must be examined alongside, and with as much consideration and weight, as the documentary record in investigating the development of legal culture.

46 Originating in a debate over a piece of property, the conflict escalated to include alleged threats, kidnapping, beatings, and extortion. The feud continued unresolved for years, despite processes in a range of courts including the manor court of Ormesby, King’s Bench, and the Court of Chancery. For the legal background of this situation, I am drawing from Colin Richmond, “Elizabeth Clere: Friend of the Pastons,” Medieval Women: Texts and Contexts in Late Medieval Britain: Essays for Felicity Riddy. Eds. Jocelyn Wogan-Browne et al, Brepols, Belgium: Turnhout, 2000, pp.251-73.

47 The evidence that historians have traditionally used to develop a picture of what occurred during an accord is limited mostly to formal arbitrations taking place in ecclesiastical courts, which out-of-court settlements might resemble only generally, and litigation in higher courts that recorded testimony, including the occasional accord. For an example of the sort of random historical documents that might include mention of an accord, see Lorenz Morsbach, Mittelenglische Originalurkunden Von Der Chaucer-zeit Bis Zur Mitte Des XV. Jahrhunderts. Heidelberg: Carl Winters, 1923. Notice that only two of the examples date before 1400. For another rare example of a letter proposing a day for an accord, roughly contemporaneous with the Pastons’ case, see letter III in Thomas Stapleton, ed. Plumpton Correspondence, New York: Camden Society, 1839. Particularly notice the following: “I comonde with Henry Pearpointe Esquire for the vareaunce that is betwixt you and him, and he is agred, if it please you, to put all thing that is in variaunce betwixt you and him in the said Sir John and me; and if ye will doe the same, we for the ease of you both and the rest of the country will take the matter upon us, and we will apoynte you to be at Notinggham upon the Monday next after Law Sunday next coming” (4).
Stewardsons that lead to exchanges between Anthony Wydevil, Lord Scales, John Paston I, and Elizabeth Clere that depict the pervasiveness of maintenance in the peace process, as well as how maintenance could make an out-of-court settlement difficult to achieve (II.594.2).48 The interlocking, and sometimes conflicting, set of obligations that this small cast of characters struggle to fulfill would have been familiar to anyone in Chaucer’s day.

The letters use vocabulary that was especially relevant in regards to out-of-court settlements. In his letter to his retainer, John Paston I, Scales pointed out that “there is certayn vareaunce betwene Elizabeth Clere and a seruaunt of myn called William Stiwa[r]desson” (II.594.2-3). The Middle English Dictionary links one definition of “variaunce” with the need for arbitration; from Lydgate’s Troy Book to the Stonor Letters and other documents, many of the citations using the term, which means “a disagreement, discord, or dispute,” also include words indicative of equitable compromise like “accord,” “arbitrement,” or agreeing to a mediator (MED, variaunce). Scales, too, connects the two concepts; having identified the problem, he proposes a solution to his retainer. It sounds like Prudence convincing Melibee’s enemies to make their submissions to her husband: “intrete the said Elizabeth to such appointement as the brynger of þis letter shal

48 Like his peer Clere, Paston was himself a landholder, of course, but he was also retained by Lord Scales. Stewardson was Clere’s tenant as well as Scales’s man (II.594.2-3, Richmond n20). Richmond notes that this dispute dates to the early 1450s (257). I cite from Paston Letters letter 594 and 600, using the volume, number of the letter, and line-number. Therefore, in this case, I am citing volume two, letter 594, and line two. Norman Davids, ed. Paston Letters and Papers of the Fifteenth Century. 2 Vols. Oxford: Clarendon, 1971.
informe you of” (II.594.3-5). The MED lists three different definitions for “appointment,” any of which could apply to an out-of-court settlement, and therefore could apply here. The first definition, “a formal agreement,” could refer to a proposed accord, as could the second definition, “an agreement between hostile parties” (MED, appointment). The third definition could refer to arranging a time and place for an accord to take place, “the fixing of a date for official business” (MED, appointment).

The rest of the letter is full of reminders of Paston’s duty to Scales as a retainer, who is a “right trusty and welbeloued frend” (II.594.1). Scales reminds his man of the mutual obligations binding the two of them: Paston is to “do your trewe dilligence in þis mater as ye wyll I do for you in any thyng ye may haue ado in þis cuntré” (II.594.5-6). As Walker noted of both John of Gaunt’s retaining and Henry IV’s, “one good turn deserved another” (9). Scales’ formulation also recalls the local nature of the powers he could bring to bear on Paston’s behalf. Locally based, too, is Paston’s interest in Elizabeth Clere; the Cleres and the Pastons were fast friends, close enough that Elizabeth could loan the Pastons considerable sums of money without rancor on either side.

Unlike the Melibee, where the readers watch “appointements” both privy and public take place, we have no record of the “appointment” Scales wished to have arranged, or definite identification of the matter of the “vareaunce.” We do have a lengthy letter to which I have already referred, by Elizabeth Clere reporting a meeting

49 Compare this to Melibee’s foes, who allow Prudence to select a meeting day: “Worshipful lady, we putten us and oure goodes al fully in youre wil and dispositioun./ and been redy to comen, what day that it like unto youre noblenesse to lymyte us or assigne us” (M, 1764-65).

50 The first attested use of appointment is 1417, and most first uses date to midcentury; Lord Scales was being up-to-date with his vocabulary.
between herself and Stewardson which may be an attempt to reach an informal accord.\textsuperscript{51}

Some prudent person, perhaps Scales or Paston, had brought Stewardson to the point of capitulation. The day was Easter vigil, the last possible moment in the Church year to cleanse a spotted conscience before the highly solemn occasion of Easter.\textsuperscript{52}

Despite Clere’s apparent discomfiture, just as Melibee’s foes submit to Melibee, so Stewardson submits to Clere; Stewardson “preide [her] to be his good mastras,” thus acknowledging the importance of Clere’s name and reputation, and “put hym-self in [her] rewle...trustyng, he seid, pat [she] wold take hym to grace the rather for his submyssion” (II.600.3-5).\textsuperscript{53} At this point, Clere voices her desire for peace, or at least cessation of violence, but also makes her demand for explicitly financial satisfaction. “I lete hym wete,” Clere tells Paston, “pat I was in charite, for I wold to hym no bodily harm” (II.600.7-8). Charity here is explicitly linked to refraining from physical violence, but as Clere continues, peace for her requires compensation: “if a theef come and robbed me...on the to day and come and asked for-yifness on the tothyr day, were it reson pat I

\textsuperscript{51} Any of the three definitions of “appointement” could apply to this meeting between Clere and Stewardson: it could be an attempt at a formal agreement, an attempt at an agreement between hostile parties, or it could be an attempt to fix a time and a place for official business.

\textsuperscript{52} Richmond assumes that Clere refers to Easter day when she gives the day as “Eastern Even”, but the MED illustrates uses of “even” meaning “vigil” or “day before,” and given the petitionary context of the event, and the penitential nature of the days leading up to Easter, Easter vigil seems a better candidate (MED, even).

\textsuperscript{53} Compare this with Melibee’s foes, who speak of Melibee’s “liberal grace and mercy” when they are “bisekynyge yow that of youre merciable pitee ye wol considere oure gret repentaunce and lowe submyssioun” (M 1821, 1823). See also page 51-2 below.
schuld for-yeve it without satisfaccioun,” she asks, implying an answer in the negative (II.600.8-10). An accord seems possible: Stewardson submits to Clere’s rule, and Clere admits that with adequate compensation, she will consider the matter quit.

Both sides demonstrate a willingness to accord that is compromised at a number of points, however. Stewardson very publicly approached Clere at church on Easter vigil, “among þe more part of al þe parisch,” a sacred venue and solemn time that placed restrictions on Clere’s responses to her antagonist: she tells Paston that “I seide if it had be another day I schuld a rehearsed many mo thyngges” (II.600.14-15). The presence of her tenants and parishioners was in her favor, since she says they would support her claims, but due to the solemnity of the day, she is unable to make her accusations as freely as she would like.

Furthermore, Clere and Stewardson each recount a different series of events. Clere claimed that she was acting legally in sending servants to take possession of a small property. Stewardson saw things differently, however, and claiming ownership himself, he asserted that Clere’s servants entered his place “with force and armes” (vi et armis), a term that denotes a violent trespass, and there beat him (II.600.18,22). According to Clere, Stewardson used this event as an excuse to “noyse” and “slaunder” her, which Clere was “wers plesed with-all þan with ony mony þat I have spent, and as for þat I yaf litel force of” (II.600.11-13).

Clere’s use of the legal language and references to monies expended may refer to any of the suits concerning the property in Ormesby manor court, King’s Bench, or Chancery, and the bonds, court costs, fees to attorneys, and other sums spent as part of
litigation. No award is mentioned in the letter, however, and the case was never brought to conclusion. Instead, the alternative of an out-of-court settlement, or accord, may have been considered.

Unlike the *Melibee*, no accord is reached between Clere and Stewardson at the church on the day before Easter, and maintenance turns out to be a significant impediment to a clear settlement. At first Clere agreed to Stewardson’s suggestion that the matter be settled “in [Clere’s] counsell lerned,” a body probably containing trained lawyers (II.600.31-2). 54 Upon considering that several of her councillors had loyalties divided between her and Scales, however, Clere wrote Paston hoping to call in him and other “freendes” as additional counsel: as she says, she “wol be avised” (II600.35, 42). Taken together, the letter from Scales and the letter from Clere demonstrate clearly the kind of bind in which a well-connected man like Paston could find himself. Clere at one point demands that Scales “schuld leve his mayntenaunce,” undoubtedly to help her conflicted council to focus their loyalty on her (II.600.36). This may also serve as a sly warning to Paston concerning his own bond with Scales. She points out that “ye han caused me to spend mony for your ontrowth and my frendes han labour for me,” possibly referring to money spent in litigation (II.600.33-4). From offense, to counsel-taking, to attempted accord, maintenance haunts this attempt at out-of-court settlement.

The Clere-Stewardson incident highlights problems with extracurial conflict resolution, just as Chaucer’s *Tale of Melibee* does. Clere recognized a very real problem when she demanded Scales cease his maintenance. Maintenance was illegal, but as the above example demonstrates, it was tightly bound up with out-of-court settlement even as it was a primary cause of conflict. Evidence such as the Clere-Stewardson dispute develops the picture painted by the steady stream of anti-maintenance statutes; law was demonstrating the power relationships of Lancastrian society. A decision could hardly remain impartial when very real social obligations pulled at an arbitrator from multiple directions, and such conflicts of interest could easily doom the chances of an accord’s success.

2.2. INTRODUCTION TO THE *MELIBEE*

Chaucer probably translated the *Melibee* between 1386 and 1390 while he was serving his royal appointment as a Justice of the Peace in Kent. His source text, the *Livre de Melibée et de Prudence*, was itself a translation of Albertano of Brescia’s *Liber consolationis et consilii* of 1246. Italian, German, and Dutch translations of the *Liber*


popularized the work throughout Europe in the thirteenth and fourteenth centuries, as did
the four different French translations. Renaud de Louens completed a thorough French
revision in 1336, updating the *sentences* concerning the ills of war and just war, and
adding emphasis on patience and the proper use of wealth. Chaucer translated Louens’
text almost word for word. Therefore, when I explicate the tale in the next section, I will
pay close attention to his exact wording, since Chaucer’s occasional additions to (and
small variations from) the French source are particularly significant.57

A useful recent strand of criticism considers the *Melibee* in relation to the
*speculum principis*, or “mirror for princes,” genre.58 Judith Ferster is a case in point.59
Ferster believes that Chaucer used a translation to screen his political critique, and that

57 Despite, and perhaps because of, the 250 pages of variant readings of the *Melibee* in Manly-Rickert,
most scholars interested in comparison select one edition of Chaucer’s text and set it next to Severs’
edition of de Louens’ work. Askins defends Severs’ edition, and recognizes the practical reasons for using
it. Diane Bornstein and Dolores Palomo have examined Chaucer’s translation and noted small variations
from his source text, arguing for their significance. Diane Bornstein, “Chaucer’s *Tale of Melibee* As an
Chaucer Really Did to *Le Livre de Melibée*,” *Philological Quarterly* 53 (1974): 304-320. When I cite from
Chaucer’s source text, I use the information present in Severs, and I will cite the editor and page number.

58 One of the few monographs concerning Chaucer and the law has little to say about the *Melibee*. In
*Chaucer and the Law*, Joseph Hornsby assumes that Melibee is running a trial, and expands this notion to
consider the enemies’ attack as political treason. Unfortunately, his proof of the latter does not rest on the
firm legal grounding of the 1352 Statute of Treasons, but on the fact that Melibee wished to disinherit and
exile his enemies; however, these penalties could be exacted of any felon. Joseph Hornsby, *Chaucer and
the Law*, Norman, Oklahoma: Pilgrim Books, 1988. An intriguing recent article by Ann Dobyns puts the
*Melibee* inside a Thomistic context of natural law; unfortunately, her argument that the “procedure by
love” that Chaucer depicts is meant to represent a solution which would bring practiced law in line with
natural law suffers from a lack of research into the process of arbitration. Ann Dobyns, “Chaucer and the
Rhetoric of Justice,” *Disputatio* 4 (1999): 75-89. Bringing a knowledge of the law to bear on Chaucer-
interpretation is clearly useful, and I hope to expand and correct some of Hornsby’s and Dobyns’s
assumptions.

59 Judith Ferster, *Fictions of Advice. The Literature of Counsel in Late Medieval England*, Philadelphia:
University of Pennsylvania Press, 1996.
Prudence’s actions in the *Melibee* comment on the Appellants’ coup in 1388, when a group of royal advisors and nobles wrested control of the government away from Richard II. Expressing some skepticism towards the motivations of Melibee and Prudence, she says that the tale “expos[es] the ways in which those who talk about process are sometimes really trying to manipulate it” (103). However, she does not seem to credit Melibee and Prudence with the ability to manipulate the political process successfully and blames the couple’s interpretive incompetence for contradictory comments they make. In contrast to Ferster’s identification of the *Melibee* with the *speculum principis*, Lee Patterson and Carolyn Colette consider the possibility that the *Melibee* was understood within the context of late medieval conduct literature. Patterson claims that the *Melibee* represents a kind of didacticism which Chaucer disliked, and that Chaucer finally rejected the genre and his role as a writer of *speculum principis*. In agreement with Ferster, and in contrast to Patterson and Collette, I view the *Melibee* as a sort of didactic text, certainly, but I argue that it is a cautionary one.

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David Wallace and Lynn Staley examine how Chaucer uses Prudence, among other female protagonists, as a screen for his political views. Lynn Staley emphasizes that Prudence serves as a political counselor, rather than a moral one; she “offers Melibeus counsel that is intended to help him alter a secular and political situation that is poised on the brink of chaos” (Aers and Staley 220). She claims that Chaucer used the _Melibee_ as a call to Richard II to recognize the role of wise, politically motivated parliamentary counsel in government, and to beware of individual counselors such as Robert de Vere. Furthermore, Staley points out that by employing a translation and a female protagonist, Chaucer is able to doubly screen himself from allegations of political criticism. Although he does not cite Staley’s earlier article or book, David Wallace also finds Chaucer using female protagonists as screens for his political platforms. Wallace considers the _Melibee_ to be about literary theory, about delivering the rhetoric of advice. I find Wallace’s emphasis on the physical violence at the foundation of the tale helpful, but I disagree with his theory that Prudence is like Guinevere in the _Wife of Bath’s Tale_ in that both women curb violent tendencies in men as types of merciful queens. After all, Guinevere disrupted the course of law by pardoning an indicted rapist; as I will show below, in contrast to Guinevere, Prudence argues against immediate physical violence,

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and advises Melibee to instead follow a judicial course. This process may lead to the social harmony Staley believes to be Prudence’s goal, but if so, it is a harmony particularly favorable to Melibee and his house.

Daniel Kempton sees Chaucer-the-pilgrim as fulfilling his role as “translator of learned treatises for Christian princes” (271). In fact, although Prudence’s solution to Melibee’s troubles is practical and peaceable, Kempton demonstrates that it is not necessarily founded on caritas. Kempton emphasizes the contradictions between authorities quoted throughout the tale, demonstrating that although she is supposedly an authority, Prudence contradicts herself; moreover, Prudence reconciles these contradictions by taking “avys in hirself,” not by synthesizing the conflicting sentences (266-8, M 1726). In the end, Melibee’s and Prudence’s pragmatic exploitation of sentence, of “auctoritee,” demonstrates ethical behavior misused as a political tool. Kempton’s interpretation of Melibee and Prudence as politically astute enough to exploit the cultural artefacts they find to hand is valuable. Later, I will make the case that just as Kempton sees the couple exploiting “auctoritee,” Melibee and Prudence manipulate a different kind of cultural practice, the loveday, to their own purposes.

Larry Scanlon also briefly considers the *Melibee* and its fitness as counsel.63 Scanlon reminds readers that medieval authority had to be continually reenacted, and that the action of the *Melibee* depicts each step of this procedure: “the submission to royal authority implicit in Melibee’s relinquishing the ideal of vengeance will paradoxically make a share of that authority available to him” (213). According to Scanlon, both Melibee and his enemies participate in an economy of power, so that Melibee only gains sovereignty by relinquishing it to follow Prudence’s judicial procedure. Nevertheless, Scanlon claims that Melibee’s enemies submit to him directly, and not to the law, and that this fact is key to Melibee’s symbolic elevation to sovereign status. By reading the *Melibee* as a narrative of offense, counsel-taking, and accord I can furnish a much more precise description of how the process Scanlon outlines takes place. Furthermore, I wish to refine his impression by placing it within its historical and juridical context: if lovedays conferred even symbolic sovereignty, it was of a very limited scope.

### 2.3. OFFENSE, COUNSEL-TAKING, & ACCORD

Given the difficulties that accords faced if the parties to them were too heavily embroiled in maintenance, the result of Melibee’s loveday is ambiguous; the very forces that lead to its conclusion may lead to its ultimate failure. The small size of Melibee’s affinity relative to that of his opponents makes violent or legal reprisal difficult for him.

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Peace through a loveday serves as a way to restore the balance of power, but, as Prudence points out, no one should really trust reconciled enemies. That is, accords may have been as much about revenge delayed as they were about peace restored. Furthermore, the loveday in the Melibee reflects the problematic nature of out-of-court settlements in a culture practicing maintenance.

Chaucer’s tale opens almost immediately with the description of a violent offense, and despite being closely translated from a French source, the text shows Melibee, Prudence, and their foes acting in ways that would be particularly relevant to an audience familiar with English legal culture: “the dores weren faste yshette./ Thre of his olde foes han it espyed, and setten laddres to the walles of his hous, and by wyndowes been entred,/ and betten his wyf, and wounded his doghter with fyve mortal woundes in fyve sondry places” (M 969-71). This description, which constitutes the third and fourth sentences of the tale, immediately reveals the capital nature of these crimes to an English audience. The doors’ being shut fast forces the enemies to use ladders to enter through the windows, thus proving Melibee’s foes to be house-breakers, and therefore felons.\(^{64}\) Moreover, the fact that the foes “espied” that Melibee had left implies premeditation, which appears in court-records as \textit{ex malicia precogitata} and seems to have denoted a more severe offense, “aggravated,” if you will.\(^{65}\) In battering Prudence, the felons added

\(^{64}\) House-breaking (\textit{domus fregerant}) was similar to close-breaking (\textit{intraverunt domus} / or \textit{clausum}) and these offenses were often coupled with other felonious acts to indicate that the case was more serious than if the assault or theft had occurred elsewhere. House-breaking itself was a felony, but was not always prosecuted as such if combined with assault.

\(^{65}\) This distinction can be seen applied in the \textit{Nun’s Priest’s Tale}, when Russell the fox lies in wait for Chaunticleer: “...thorghini the heggies brast/ Into the yerd.../.../And in a bed of wortes stille he lay/.../Waitynge his tyme on Chauntecleer to falle./ As gladly doon thisse homycides alle/ That in await
a count of trespass to their offenses. However, by wounding Sophie, and particularly by
wounding her mortally, the felons add a second count of felony to their record. Like the
house-breaking, although present in the French source, the wounding is described in legal
detail with particular resonance for English audiences. Under English law, the victim of a felony
had to be named in the indictment, and Chaucer gave Sophie a name missing in the French
original. The number and placement of injuries also had to be indicated, and after the “in fyve
sondry places” quoted above, Chaucer goes on to name the injuries individually (as had his
French source). All this legal specificity serves to alert English audiences to the felonious
nature of the “outrages” perpetrated on Melibee’s household.

Following the attack, Prudence recognizes that Melibee requires legal counsel and
she orders Melibee to “telleth youre cas” a Chaucerian addition that retains its
legal connotations to this day, and contrasts with the French source-word “conseil”
[opinion, counsel]. Indeed, what follows is a fictionalized account of the
decision-making process that offended nobles routinely took in the later Middle Ages:
together with their families and affines, they had to decide how to retaliate, whether
violently, legally, or through an accord. Importantly, although Chaucer’s translation

66 For further consideration of Sophie’s and Prudence’s beatings and wounding, see Wallace, Chaucerian
Polity, Aers and Staley, Powers of the Holy, and Daniel Rubey, “The Five Wounds of Melibee’s Daughter:
Transforming Masculinities,” Approaches to Maleness in the Canterbury Tales and Troilus and Criseyde,

67 See Lynn Staley Johnson’s article for a historicist reading which emphasizes the tale’s discourse about
good and bad counsel and counselors. For a different perspective, see Wallace’s defense of Prudence’s
practice of docendi et tacendi, the arts of speaking and being silent, as a counseling-technique.
emphasizes the felonious nature of the offenses that Melibee’s household suffered, there is almost no mention of prosecution in a common law court. Technically, felonies were offenses against the king; unless a victim made a civil appeal, it was the sheriff’s and royal judiciary’s duty to prosecute felonies, and royal coffers received any fines levied. Although it is unsurprising that these English figures do not appear in a Continental work, Chaucer made no attempt to add these elements, and their absence is significant. The English poet was pointedly writing about out-of-court settlement.

Melibee and Prudence debate taking their case to court only briefly, and either the vagaries of manuscript transmission or Chaucer’s own decision has highlighted some problems with seeking vengeance through the judicial process. Melibee begins the section by arguing for the practical use of vengeance: “they that han wyl to do wikkednesse restreyne hir wikked purpos, whan they seen the punyssynge and chastisynge of the trespassours” (M 1431). Following this, Chaucer skips the French source’s change in voice to Prudence so that in the English version Melibee, and not Prudence, insists that only judges have the right to determine just vengeance. The resulting text passes from Melibee’s comments on the usefulness of vengeance to the following: “and yet seye I moore, that right as a singuler persone synneth in takynge vengeance of another man./ right so synneth the juge if he do no vengeance of hem that it han disserved” (M 1434-5). The passage ends with the speaker reinforcing the legal path to justice of the court system; nevertheless, the following line, “‘a’, quod Melibee, ‘this vengeance liketh me no thyng’” closes the section by emphasizing how unsatisfactory a formal, legal response could be (M 1442). I suggest that in light of the missing text, the
passage in Melibee’s voice sounds like a recognition of the necessity for punishment, as well as acknowledgment that the legal system is best suited for such matters; however, this path “liketh [Melibee] no thynge” because the judges are too likely to let his enemies off. The English legal system was notoriously hesitant to convict felons; in addition, as Prudence pointed out earlier and I discuss below, their enemies belong to a large and powerful family and were in an excellent position to sway a judge. Having considered all of this, Chaucer’s characters seek some extracurial means of redress for Melibee and his household, which common law litigation would not provide.

Prudence and Melibee understand that to maneuver through conflicts successfully, one has to make an accurate assessment of one’s strength, and in the Melibee, this amounts to a headcount of family, both by blood and by maintenance. Early on Prudence compares Melibee’s affinity, less the questionable old enemies, to the powers his enemies can muster. Melibee has “no child but a doghter,” nor does he have “bretheren, ne cosyns germayns, ne noon oother neigh kyndrede” (M 1366-7). In contrast, Melibee’s enemies are numerous, and their kinship ties close. This relative lack of manpower means that although he “be myghty and riche,” Melibee is no threat to his enemies, either in court or out; they will not “stinte to plede with [him] or to destroye [his] persone” (M 1365, 1368). With lawyers or with armed men, the violence that the combined forces of Melibee’s enemies can do to him is greater than he and his retainers can do to them.

The involvement of Melibee’s retainers in determining his reprisal reveals the communal nature of this decision. Melibee is a maintainer, as Prudence makes clear: “and, deere sire,” she says, “al be it so that for youre richesses ye mowe have muchel
folk,” and his affines’ right to a place in their lord’s decision-making process makes up the plot to most of the first half of the *Melibee* (*M* 1654). Prudence herself later quotes Cicero to emphasize the need for a council’s consent before a lord takes any action, and asserts it again before Melibee formally acquiesces to an accord; “wise men” on manorial counsels were often maintained on either a permanent or semipermanent basis as legal counsel (*M* 1359-60, 1780-1).68 For the most part, his council agrees with what they believe his own opinion to be, and advises for war as a natural course of action; even dissenting groups acknowledge the usefulness of reprisal. Although war is against their professional ethics, the physicians counsel that vengeance is a natural response to war: “right as maladies been cured by hir contraries, right so shul men warisshe werre by vengeaunce” (*M* 1016). The advocates recommend defensive measures until they can deliberate more so that any action Melibee takes will be “profitable” (*M* 1027). Financial or social, profit made by a lord meant profit for his affines.

If Melibee’s council is most interested in pointing out the benefits of war, Prudence acts as the counselor warning of its costs and suggests alternative, more cost-effective remedies. On a basic economic level, a peaceful settlement will cost less then armed reprisal will: Prudence advises that “the gretteste and strongeste garnysoun that a riche man may have...is that he be biloved with hys subgetz and with his neighebores,”(*M* 1336-7). In order to expect obedience in the future, a dominant Melibee “moste yeven moore esy sentences and juggementz” (*M* 1855). That is, Prudence’s counsels are as deeply rooted in the relations of maintenance as the rest of his counselors’ are, and they

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68 Rawcliffe and Flower 165.
hint that her anti-war stance may be anything but peaceful.69 Early on, she cautions Melibee against accepting “olde enemys reconsiled as by hir semblaunt to his love” into his counsel (M 1009). “Ne trust hym nevere,” she says,

for certes he maketh thilke fayne humilitee moore for his profit than for any love of thy persone, by cause that he deemeth to have victorie over thy persone by swich fayne contenance, the which victorie he myghte nat have by strif or werre. (M 1186-7)

Nothing, it seems, stops Melibee himself from becoming one of these “olde enemys reconsiled” and reaping the same rewards Prudence claims. Furthermore, there is no reason to think that Prudence’s enemies are any lesser strategists than she and her husband; Melibee’s foes also doubtlessly understand that their affinity’s might makes them powerful in court as in war, but they also recognize that, as felons, “alle men knownen wel that [they] disserved deeth” (M 1813). This notoriety could make it difficult to avoid a felony indictment in a common law court, and like Melibee and Prudence, Melibee’s foes consider a loveday more flexible and appealing.

As in a formal arbitration, Melibee’s enemies first agree to allow Prudence to act as a go-between and grant her the power to decide on a day; they make out “obligacioun and boond” to her specifically (M 1764-5). They also formally commit themselves to abide by Melibee’s judgement: “we oblige and binden us and oure freendes for to doon al his wyll and his comandementz” (M 1746). Prudence concedes that “it is an hard thyng

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69 In fact, in the previous quote, the term “subgetz” may refer to affines specifically. See MED, subget definition 2c.
and right perilous/ that a man putte hym al outrely in the arbitracioun and juggement...of his enimys” (*M* 1751-2). In so doing Chaucer uses *arbitration* as a legal term for the first time in English, a fact not highlighted by the *Middle English Dictionary*, which traces this definition first to Lydgate.\(^{70}\) Moreover, the French emphasis in these lines is different, “arbitrage et en la puissance de ses enemies [arbitration and in the power of his enemies]” (Severs 609). Chaucer must have borrowed “arbitration” from the French or Latin term; however, his translation of “juggementz” for “puissance” definitely reinforces the legal slant to this passage. His adversaries understand the peril in which this submission puts them, since they ask Prudence to intercede for them if Melibee wishes that “we [or] oure freendes be [...] desherited [or] destroyed” (*M* 1781).\(^{71}\) Here again, Chaucer’s choice of vocabulary reinforces a legal bent to the text. If not executed, under English law felons were exiled, and in either case their properties were subject to escheat, or confiscation by the royal government. It is possible, of course, that the enemies are playing on an assumption of Prudence’s probity here, since their submission to an accord does not necessarily imply their conversion into pacifists; their comment that “sweete wordes multiplen and encreescen freendes and maken shrewes to be debonaire and meeke” bears multiple registers, not all of which are flattering to Melibee or Prudence (*M* 1739).

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\(^{70}\) The *Middle English Dictionary* does, in fact, cite Chaucer’s use of *arbitracioun* here, but the dictionary uses it to illustrate the first use of the second, more general definition of *arbitration*, “the ‘faculty’ of making a choice or decision; judgment, discretion” (MED, arbitracioun). I believe Chaucer’s deviation from his French source suggests that this passage actually illustrates the first definition, “extra-legal authority or responsibility for deciding a dispute or issue” (MED, arbitracioun).

\(^{71}\) Of course, Melibee could not impose a death-sentence legally; however, he never expresses the wish to kill his foes after they accept an accord.
Melibee’s enemies’ formal submission to his judgement is consistent with arbitral practice, but we need to remember Prudence’s previous cautions against reconciled enemies: “though thyn enemy be reconsiled, and maketh thee chiere of humylitee, and lowteth to thee with his heed, ne trust hym nevere” (M 1186). Early on she continues by suggesting further that these shows of contrition are simply another ploy by the enemy to gain victory, and by the end of the tale Prudence recommends the same strategy to Melibee (M 1187). As mediator Prudence engineers the enemies’ begging forgiveness and their humble acknowledgment that “we knowen wel that we been unworthy to comen unto the court of so greet a lord” (M 1816). This parallels Stewardson’s submission to Clere, when he “put hym-self in [her] rewle...trustyng, he seid, þat [she] wold take hym to grace the rather for his submyssion” (II.600.3-5). Melibee’s foes “lowteth” not just their heads but their entire bodies, since after their submission to him, Melibee “took hem up fro the ground” (M 1826). Nevertheless, we should recall the troubled and protracted nature of the dispute between Clere and Stewardson when we consider the future possibilities for Melibee’s accord.

After the obligations, bonds, oaths, and pledges commence the accord, Melibee sends his enemies home to return on an appointed day to hear his decision (M 1862-4). As he considers his options, Melibee’s first thought is to exact the appropriate English judicial punishment for notorious felons, with his house taking the place of the crown: “I thynke and purpose me fully/to desherite hem of al that evere they han and for to putte
hem in exile forever” (M 1827, 1883-4). However, Prudence promptly quashes this recourse, and what makes Melibee reconsider is her reminder that their faction does not have sufficient power to carry out a private, yet judicial punishment: “ye might nat put it to executioune peraventure./ and thanne were it likly to retourne to the werra as it was biforn” (M 1852-3). Instead, Prudence emphasizes how granting forgiveness will increase their house’s good name and worship (M 1862).

Intimately linked with the development of an affinity, the maintenance of a good name, or reputation, drives some of the defining moments of the climax of the plot. The moment Prudence suggests a loveday, Melibee considers the impact it will have on his name, and concern for his name is the lever which Prudence uses to dissuade Melibee from his plans for immediate, violent revenge. In line 1674, Prudence recommends that Melibee “accorde with youre adversaries and that/ ye have pees with hem.” Melibee retorts with a consideration for his name greater than the original French source’s character: “now se I well that ye loven nat myn honour ne my worshipe” says Chaucer’s Melibee, where the French reads simply “or voy je bien que vous n’amez mon honneur [now I see well that you love not my honor]” (M 1681, Severs 606). “For sothe,” Chaucer’s character repeats, “that were nat my worshipe,” and adds a proverb cautioning

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72 Margaret Avery points out that when common law cases appeared before Chancery, that is, cases that would usually be heard in common law courts, but for poverty or maintenance obstructing justice, Chancery tended to select remedies in accordance with common law practice in “The History of the Equitable Jurisdiction of Chancery before 1460,” Bulletin of the Institute of Historical Research 42 (1969): 129-144. For more discussion about this kind of case, see Chapter 3 below. For English penalties for felons, see Henry de Bracton, De legibus et consuetudinibus Angliae, Ed. George E. Woodbine, New Haven: Yale University Press, 1915-42, or Cornell’s excellent electronic edition available at http://bracton.law.cornell.edu/bracton/Common/index.html. For a modern consideration of criminal trials and their outcomes, see J. G. Bellamy, The Criminal Trial in Later Medieval England. Felony Before the Courts From Edward I to the Sixteenth Century, Toronto: University of Toronto Press, 1998.
that “over-greet hoomlynesse engendreth dispreisyng” (*M* 1684-5). In the *Melibee*, as in historical incidents like the Clere-Stewardson dispute, any slight to reputation demanded some sort of reprisal, and an accord could be an attractive, and often intentionally temporary, solution.

After accepting his enemies’ submission to his authority, Melibee desires to disinherit and exile them, but Prudence cautions that this strategy will only result in public censure: it will “gete yow a coveitous name,/ which is a vicious thyng” (*M* 1838-9). She continues, “for bettre it is to lesen good with worshipe than it is to wynne good with vileynye and shame,/ And everi man oghte to doon his diligence and his bisynes to geten hym a good name” (*M* 1842-3). Delivering more “esy sentences and juggementz,” she says, will ensure “that youre goode name may be kept” (*M* 1855, 1864). Only after this speech does Melibee’s “herte gan enclyne” (*M* 1870). Melibee and Prudence weigh their reputations carefully and found their decision to pursue an accord on this appraisal.

Ultimately, Melibee’s “herte gan enclyne to the wil of his wif” only after he considers “hir trewe entente” (*M* 1870). The line is lacking in the French source, which suggests that this “trewe entente” be carefully examined (Staley 144). Recall that intent could be contradictory, as Melibee states both that “he is wel worthy to have pardoun and foryiffenesse of his synne, that../...knowelecheth it and repenteth hym, axyinge indulgence,” but also that he wishes to exile his foes (*M* 1772-3, 1833-4). Epistolary evidence parallels this literary model: Elizabeth Clere tells John Paston both that she

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73 Staley makes this point, unnoticed by Severs (Johnson 144).
wishes Stewardson no bodily harm, but also that she must have “satisfaccioun” from him (II600.7-10). The historical example of a failed or aborted accord illustrates a common result of the contradictory intentions displayed by disputants like Melibee or Clere.

Due to its roots in the civilian tradition, “entente,” or intentio, was the foundation upon which any equity case, like an arbitration or an accord, had to be determined. Melibee’s ambiguous final speech to his adversaries demonstrates the ultimate problem with this solution, however, as Melibee’s “trewe entente” is almost impossible to ascertain. The speech occurs in two parts: in the first, Melibee acknowledges his enemies’ offenses, and in the second he grants them forgiveness and says why he has shown mercy, but I suggest at the same time he implies limits to that mercy. In the first part, Chaucer greatly emphasizes the wrongs done by the enemies: “al be it so that of youre pride and heigh presumpcioun and folie, and of youre necligence and unkonnynge,/ ye have mysborn yow and trespassed unto me” (M 1875-6). The French source mentions only pride and presumption, while Chaucer adds ignorance, negligence, and trespass, all words carrying legal valences in England.

After Melibee recognizes his enemies’ “trespass” against him, in the second part he acknowledges their “grete humylitee” and repentance but makes no final conclusion of accord (M 1877-8):

...yet for as muche as I see and biholde youre grete humylitee/

and that ye been sory and repentant of youre giltes,/ it

74 In contrast to civil law, common law left no room for intent, and was suspicious of any attempt to determine it.
constreyneth me to doon yow grace and mercy./ Wherfore I receyveth yow to my grace/ and foryeve yow outrely alle the offenses, injuries, and wronges that ye have doon ageyn me and myne... (M 1877-1882)

Just as Stewardson’s submission on Easter Vigil pressures Clere into negotiation, this repentance “constreyneth” Melibee to forgive his enemies, which he does; at the same time he details their abuses to his household, just as Clere does (M 1879-81). Moreover, given at what purports to be a settlement, this catalog of grievances suggests that future concord is not Melibee’s goal, whatever his “trewe entente” might be; he makes no mention of ceasing hostilities and promises no future amity. As with Elizabeth Clere’s failed negotiation, by participating in this partial accord, Melibee saves face in the meantime, but leaves open the possibility of future reprisal.

Indeed, violence in the future between Melibee and his enemies seems likely, from the medieval English perspective. Since no legal bond was drawn up concluding the accord, Melibee’s resolution cannot be legally binding; in common law no one will be able to uphold this loveday.75 Ultimately, the odds are not in favor of the success of the

75 The bonds Melibee’s enemies give in line 1827 are unlikely to represent legal checks to the loveday’s future permanence, since they precede Melibee deciding what he will ask of his enemies. More likely, they refer to bonds traditionally made out earlier in the process that registered Melibee’s enemies’ willingness to accord with him, just as they had previously made out bonds to Prudence individually recognizing her role as mediator.
“love” resulting from Melibee’s settlement. The capabilities for violence were too carefully weighed throughout the tale; Melibee’s final speech makes no requests for friendship, but leaves his enemies with an implied threat.

Analogous to the persistence of maintenance in the face of numerous statutory prohibitions, the popularity of accords suggests that Ricardian and Lancastrian culture sought an alternative to the hierarchy presented by the formal legal system. Victorious in defeat, having circumvented the formal legal system, nevertheless the considerations Melibee must make as a retainer-lord demonstrate the challenges facing anyone making decisions for others in a culture practicing maintenance. Both the Melibee and the Clere-Stewardson dispute question traditional legal hierarchies both in terms of circumventing the court-system and in perpetuating maintenance. Although accords were increasingly popular in the late fourteenth century as a means of conflict resolution, even for violent trespass, such exercises of personal discretion could not contain the antagonisms plaguing Ricardian and Lancastrian England. Chaucer’s translation of the Livre de Melibée et de Prudence reveals the limitations involved in accords; informal conflict resolution could be compromised by powerful retainer-lords just as the formal courts like Council and Chancery and the common law courts could be.

The influence of maintenance over personal decisions was most starkly demonstrated after 1390, when Richard himself began to retain affines. Even before that date, however, Richard’s autocratic tendencies threatened to confuse decisions he made as king, and those he made as a private person. In the next chapter, I will explore a few
areas in which Langland pieces out some of the tensions resulting from mixing maintenance and the judicial system. The Rat Court section of the Prologue to *Piers Plowman* graphically illustrates the inevitability of the culture of maintenance, a topic that Langland reinforces in the trial scene in Passus Four. Furthermore, the trial enables Langland to expose the critical problems that could occur when the judicial system was influenced by personal considerations, especially those of the king.
CHAPTER 3

MAINTENANCE & THE DISCRETIONARY COURTS IN *PIERS PLOWMAN*

If the *Tale of Melibee* highlights how maintenance can interfere with out-of-court settlement, then *Piers Plowman* demonstrates how maintenance is particularly dangerous when a king takes his own affinity into account when making decisions about public institutions. If law could be made as the result of the king’s personal decision, as it certainly could, especially in courts like Council and Chancery, than it was imperative that his judgement remain disinterested. In practice this was nearly impossible, however, especially in a culture practicing maintenance. For Langland, maintenance was an urgent issue, as Richard and his administration were developing a number of higher courts. His message would have been topical for not only the king and the clerks and bureaucrats working in the legal institutions, but also almost everyone involved in a lawsuit. The Rat Court in the Prologue introduces the issue of maintenance into Langland’s text as a

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76 I borrow the term “discretionary” from Anthony Musson and W. M. Ormrod, *The Evolution of English Justice. Law Politics, and Society in the Fourteenth Century*, St. Martin’s Press, New York, 1999. Although Chancery and Council (later the Star Chamber) can be described as prerogative courts by Tudor times, to call them such in the fourteenth century is premature. Their operation outside of the common law distinguished them, rather than their representation of the royal will as denoted by the term “prerogative.”
significant, and perhaps inevitable, problem in his “fair feld ful of folk” (A.Prol.17).\footnote{Usually this scene is referred to as the “Rat Parliament.” This name unduly narrows interpretations of the fable, however, and obscures how it can apply equally to the realm at large and to local communities. The term “Rat Court” retains this ambiguity, since a court could be national or local. I am using Kane’s edition of the A text, Schmidt’s edition of the B text, and Pearsall’s edition of the C text. Citations to the text will appear in parentheses and will denote the recension, book, and line number. George Kane, Piers Plowman: The A-Version, London: University of London Press, 1960; Derek Pearsall, ed. Piers Plowman the C-text, 1978. Exeter: University of Exeter Press, 1999; A.V.C. Schmidt, ed. The Vision of Piers Plowman, 1995. London: J.M. Dent, 1998.}

There, a group of rodents try to control a cat’s depredations by retaining him in the B text, but in C resigning themselves to living with the feline’s violence. Later, in passus 4, Langland demonstrates how easily maintenance could corrupt legal proceedings. When the king and Mede participate in maintenance, their personal decisions are influenced by affinity relationships. Although Mede engages in no illegal activity inside the courtroom, and correctly fulfils her role as a retainer-lord, in so doing she may compromise impartial justice in a legal suit. The king participates in maintenance as well, behavior which seems in direct conflict with his disapproval of Mede’s comportment. By appointing Reason Chancellor and Conscience Chief Justice in the C version, the king brings maintenance into the highest levels of the judicial system. When Reason makes plans for the future that include the king in a position similar to that which Mede had inhabited earlier in the passus, Langland sounds a warning bell to all of England.
3.1. OF RATONS & RENKES

In taking up the issue of tokens of maintenance, Langland engaged a lively debate that had not existed when he was completing the A text. Changes in the rat fable reflect the shifting political landscape of the later fourteenth century, especially as the debate about maintenance intensified, and I will consider these revisions in order to make the case that Langland recognized maintenance as a critical flaw in his society, a flaw that led to violence rather than ameliorated it. Summarized briefly, the rodents in the Prologue of the B and C texts discuss how dangerous a particular cat is to them. A rat suggests giving the cat a collar with a warning bell on it, but when no rodent can be found willing to deliver the collar, a mouse recommends giving up that tactic, submitting a further proposal which Langland revised between the B and C recensions. In the decade or so between the two recensions, political changes in England led the poet to alter significantly even this short fable, so that instead of feeding the cat as the mouse suggests that rodents do in the B text, in C the mouse is adamant that the small creatures resign themselves to living with an uncontrollable, dangerous power.

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The Rat Court fable held contemporary currency in the later fourteenth century, and one analogue in particular has influenced modern criticism in its attempts to assign historical identities to the fable’s characters.79 Thomas Brinton, Bishop of Rochester, included the fable in his sermon to members of parliament during the meeting of the Good Parliament in 1376. Brinton’s sermon praises the Commons’ harsh denunciation of corruption in Edward’s court, but calls for further action against malefactors, lest the MP’s end up like the rodents, unable to bell their cat.

G. R. Owst believed that Bishop Brinton’s sermon served as Langland’s source for the fable.80 Expanding previous critics’ hypotheses, J.A.W. Bennett identified the cat with John of Gaunt, and believed that the fable was inserted after the Bad Parliament of 1377 as an ironic commentary on the ultimate results of the Good Parliament of 1376.81 Whereas the Good Parliament had resulted in the impeachment of several court figures, John of Gaunt managed to have these measures reversed in the subsequent Bad Parliament. Following Bennett, Derek Pearsall argues that the cat and rats may represent John of Gaunt and parliament, respectively; nevertheless, Pearsall cautions that “topical allusion is probably not of much importance in C” (C.Prol.176n). Although he connects the collar with excessive dress, he distances his reading from considering it a token of


81 Pearsall discusses Bennett on page 38, but see also J. A. W. Bennett, “The Date of the B-Text of *Piers Plowman*,” *Medium Ævum* 12 (1943): 55-64. Donaldson was also of this opinion, see E. Talbot Donaldson, *The C-Text and Its Poet*, New York: Archon Books, 1949.
maintenance, and he characterizes the tone of the version of the fable in C as “resignation to the status quo” (C.Prol.196-216n). I agree that at times the cat may be read as John of Gaunt; however, I believe also that Langland begins to make a more specific political critique in this fable than most critics credit him with. No one has yet examined how changes in the rat fable in the B and C recensions may reflect the shifting political landscape of the later fourteenth century, especially as the debate about maintenance intensified. The relative lack of specificity Pearsall notes in C may itself be read as reflective of new conditions that required a greater circumspection on Langland’s part.

Anna Baldwin and Myra Stokes deserve particular attention in any study of the law and Piers Plowman. Baldwin produced one of the two most recent important critical reviews of the Rat Court. Often cited concerning Langland’s use of legal institutions, Baldwin’s research deserves to be updated in order to register the significant impact recent social historiography has made in our understanding of fourteenth- and fifteenth-century legal and institutional history. She postulates that Langland’s interpretation of the rat fable increasingly favors absolutism in the revisions from B to C. According to her, the cat’s rapaciousness serves as a necessary check on the destructive rodents in both the household and the greater community. Baldwin argues that the rodents symbolize a grasping Parliament, and the cat a strict arm of the judicial system. She notes that the collar that the rodents plan to offer the cat resembles livery, but assumes that the collar is the only token of maintenance mentioned in Langland’s fable.

However, historian Helen Jewel critiques Baldwin’s interpretation.\textsuperscript{83} Although she grants that Langland was convinced that the legal system had become corrupt and hoped for a king to wield natural law, she denies that Langland increasingly supported absolutist ideals between the B and C revisions. Jewell cites a number of Richard’s more absolutist actions in the 1380’s which were very unpopular, and manifestly did not work as governing strategies, “rendering the ideal of a despotic king proving more reasonable and just than an advised monarch [as Baldwin claims] so unlikely as to become rapidly untenable” (75).

In a carefully modulated argument, Myra Stokes sees the rat fable as a return to reality from the idealism of the previous scene’s depiction of nonabsolute government.\textsuperscript{84} In the B text, Langland adds a moral to the traditional point that the rodents are too cowardly to bell the cat: his rodents must also recognize that in a fallen world even a vicious official is better than none. While Stokes delivers an insightful interpretation, I believe that a thorough examination of the political chronology, together with the contemporary debate over maintenance, suggest a reading of the B and C texts different than either Baldwin or Stokes recommends.


Although dating of the *Piers Plowman* texts has come under recent revision, all of
the critics mentioned so far accept traditional dating, and ascribe A to the later 1360's, B
to the later 1370's, and C to the later 1380's. In her reconsideration of the letters of the
Peasant Revolt, Anne Hudson recommends that the A text be dated to the 1370's, while
the B text be dated after the Revolt, in the 1380's. Richard Firth Green narrowed the
window for B further when he pointed out that the surgeon mentioned in passus 20 of the
B text was Friar William Appleton, which would push the B text to a date in the late
1380's. Most recently, John Bowers has suggested that Skeat may have mistakenly
dated the C text to just prior to Thomas Usk’s execution in 1388; Bowers supports Ralph
Hanna’s suggestion that the C text dates to after 1388. In each study, critics defend the
new dates based on consideration of multiple recensions and their historical contexts. I
believe consideration of the Rat Court furnishes further evidence for the new dates.

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85 Anne Hudson, “*Piers Plowman* and the Peasants’ Revolt: A Problem Revisited,” *Yearbook of

86 Richard Firth Green, “Friar William Appleton and the Date of Langland’s B Text,” *Yearbook of

87 John Bowers, “Dating *Piers Plowman*: Testing the Testimony of Usk’s Testament,” *Yearbook of
Hanna also dates A and B late as well. Anne Middleton also argues for a post-1388 dating for C, in “Acts
and Authorship*, Eds. Steven Justice and Kathryn Kerby-Fulton, Philadelphia, PA: University of
Pennsylvania Press, 1997, pp. 208-317. See especially n.8 where she points out that the Statute was not
promulgated by Commissions of the Peace until 1390.

88 Critics have yet to weigh in on Lawrence Warner’s recent, minute analysis of the recensions of *Piers
in “The Ur-B of *Piers Plowman* and the Earliest Production of C and B,” *Yearbook of Langland Studies* 16
(2002): 3-39. Very simply put, Warner says that the B recension as we have it now was not seen by
the public until after the C recension began to circulate. Critically for my argument, the portions of *Piers
that I deal with were part of the ur-B that Warner postulates was available before C. Furthermore, mention
should be made of Jill Mann’s attempt to reorder and redate the recensions, placing B before A, in “The
Power of the Alphabet: A Reassessment of the Relation Between the A and the B Version of *Piers
Langland’s attention to revision is well accepted by scholars, but scholars are not always as accepting of an implication of his interest in updating his own work: he presents us with a sort of moving target. If the characters of the Rat Court can be identified with historical figures, then political reality suggests that these associations change over time, and Langland’s penchant for revision makes it likely that his selection of political figures change, too. That the characters remain the same simply highlights the palimpsestic nature of Langland’s use of this fable: traces of earlier allegory show through in later revisions.89 As critical readers we need to piece out the relationship between characters, historical figures, and Langland’s revisions. Critics commonly identify the rodents with the parliamentary Commons, and I would like to emphasize that this implies that the rodents voice the interests of the gentry. If the cat represents John of Gaunt, as critics suggest, then he is neither a judge nor a king as Anna Baldwin contends, nor even an official as Myra Stokes implies, but first and foremost a neighbor, another household animal and therefore a threatening competitor in the local economy, whose needs the rodents attempt to meet outside the household or county community. I will argue that the cat does not have to be a static symbol, but could stand for John of Gaunt, his son Henry Bolingbroke, earl of Derby, or even Richard II at different points in the fable, and in different recensions.90

89 Middleton makes a similar point when she notes that Langland couldn’t ever truly revise his text, since previous versions circulated concurrently with recent revisions (268).

Langland’s narrator emphasizes the overwhelming agency of the cat in line-endings describing how the cat does things “whan hym liked,” and “at his wille” (B.Prol.149-50).91 Indeed, in preying upon rats at all, this cat is special, since most cats will not attempt to hunt rats, which are fairly large prey, are rather ferocious in their own defense, and can harm a cat severely. Nevertheless, some cats specialize in hunting rats from kittenhood, and the Visio-cat brings physical danger to the smaller creatures, pouncing on them and catching them, causing the rats to feel reluctant even to complain of his behavior. The cat “pleide with hem perillusli and possed hem aboute,” a phrase which calls attention to the social and legal parallels of the Rat Court. Litigation was a common means to harass neighbors, and a powerful lord could easily “push around” those in his area, even to the point that “for doute of diverse dredes we dar noght wel loke!/ And if we grucche of his gamen he wol greven us alle” (B.Prol.152-3).92 Indeed, as I will discuss later in this chapter, discretionary courts such as the Court of Chancery were rapidly expanding in the later fourteenth century through determining cases in which a powerful defendant or his patrons obstructed justice for plaintiffs in lower, local

91 The Rat Court takes place in B.Prol.146-208 and C.Prol.164-216.

92 Langland may be punning on the word “pleide,” suggesting both “played” and “pleaded” in a legal sense. Although the MED gives no definitions of pleide with legal connotations, nevertheless, two variant spellings of the legal verb pleden are plaiden and pleidieth, which seem close enough for at least a homonymic or visual pun to have been possible. See also C.Prol.170 for an even closer spelling, “playde.” The Russell-Kane edition of C notes two manuscripts in the variants that spell this “pledid” and “plead” in George Russell and George Kane, eds. Will’s Visions of Piers Plowman, Do-Well, Do-Better, Do-Best, London: Athalone, 1997. Moreover, Alford gives three examples of the verb pleden, two of which are spelled “plede” in John Alford, Piers Plowman: A Glossary of Legal Diction, Cambridge: D. S. Brewer, 1988. “Game” denoted both play and prey in Middle English. See MED game, but also in The Tale of Gamelyn, how Gamelyn’s violent acts are termed “game” and how Gamelyn’s violence is called “pleye.” Stephen Knight, and Thomas Ohlgren, eds. Robin Hood and Other Outlaw Tales, Kalamazoo, MI: Western Michigan University, 1997, ll. 288, 130, 305, 522. Also, it is just possible that “greven” may also contain a linguistic pun on the Middle French grifer, or “to claw.”
common law courts.

One of the rats offers a carnivalesque solution to the unrestrained activities of the cat: the rodents will retain him. The rat comments that he has seen such maintenance at work, and although he calls the maintained people “segges,” the language he uses also suggests dogs, in keeping with the fable format (B.Prol.160). These “segges” “beren beighes ful brighte abouten hire nekkes,/ And somme colers of crafty work” just like the chains or tokens used by retainers to denote members of their companies, and also like the collars kept on dogs (B.Prol.160-2). Like the cat, these city “segges” run “where hem leve liketh,” but more like dogs than the cat or men, they must be “uncoupled” and choose to sport “in wareyne and in waast,” both places providing shelter for game, and notably outside the local household which encloses the rodents and the cat all too closely (B.Prol.162-3). Clearly, the rodents are not concerned with curbing the violence of the cat, but merely in redirecting it away from themselves, which in theory the bond of maintenance would do. Saul notes that magnates sometimes “grant[ed] badges to malefactors over whom they could exercise little or no control” in an effort to placate otherwise unruly neighbors (Saul, “Badges” 312). The rodents realize that retaining such a powerful creature implies danger, and they plan to add a bell to the collar for additional warning of the cat’s disposition.

Though no rodent is willing to bell the cat and thus the token of maintenance remains unused, I contend that the rodents in the B recension still intend to forge strong ties to the cat, as if maintaining him. A rather conservative mouse voices an alternate,

93 I discuss the significance of alluding to retainers as dogs later, on p 68 and 71.
more flexible solution to the livery-collar. Both at the beginning and at the end of his speech the mouse recommends leaving the cat alone and not offering him the collar, but qualifies this passive behavior in the middle lines. He notes that when the cat has rabbits to prey upon, an extra-household prey, he avoids the rats and mice. The mouse suggests feeding the cat venison, an even more succulent meat than rabbit, and one that he could neither catch on his own, nor obtain inside the household.94 Even when tokens and other visible livery were not offered to affines, the lord could assist his affinity with food and kinds of payment like land and legal aid. The more lavish the assistance, the more the lord honored the retainer; therefore, by feeing the cat with rare game, the cat will not be “defamed” (B.Prol.190).

The meat of the mouse’s speech, however, contains maxims cautioning against self-seeking and warning against the hazards of young kings. The most famous two lines the mouse speaks are the following: “ther the cat is a kitoun, the court is ful elenge”: and “ve terre ubi puer est rex [woe to the land where the king is a child]” (B.Prol.194, 196).95 These lines are traditionally assumed to refer to the Good Parliament, but I think such cautions about a young king and kitten may suggest a different date for the B text. The mouse heard the proverb about the kitten causing woe to the court “seven yeer ypassed” (B.Prol.193). Around 1370, seven years previous to the traditional date of the B text, 

94 Like rats, hares and rabbits are seldom a cat’s prey, since they are often as large as a cat, and their hind claws can do serious harm to cats bold enough to stalk adult rabbits. Furthermore, in the Middle Ages only the privileged were allowed to hunt hare and deer, both of which were protected by franchise in parks and warrens.

95 Incidentally, the MED records this as the first use of the word ‘kitten’ in the English language (MED kitoun).
there was no young politically powerful member of the court. The Peasants’ Revolt in 1381, however, when Richard’s youth was still notable, was seven years before the Merciless Parliament of 1388, when Richard was functionally deposed, and the two dates support Richard Firth Green’s argument for a date between 1387 and 1389 for the B text. Regardless of how they are dated, however, these lines undoubtedly refer to Richard II’s minority; moreover, I argue that in doing so they also allude to the authority that actively wielded power in the king’s name, John of Gaunt, or after the continual council was organized in 1386, the upper nobility in general.

Both the rat and the conservative mouse’s speech contain a number of allusions to the Revolt. The rat believes that without the cat, “we myght be lordes olofte and lyven at our e se,” which sounds like the populist rhetoric of the Revolt (B.Prol.157). His comments about seeing livery-collars in London may refer to John of Gaunt’s prominence there, as well as the famous burning of his Savoy palace in 1381.\(^{96}\) Indeed, in 1377, the livery collar worn by John Swinton, a Lancastrian retainer and Scotsman, incited a mob intending to lynch Gaunt, so that he was dragged from his horse and only saved by the mayor’s intercession.\(^ {97}\) The “segges” wearing these collars “wenden Bothe in wareyne and in waast,” and Gaunt and members of his retinue remained in the north and fled as far as Scotland during the Peasants’ Revolt (B.Prol.161-2). Sounding much like Gower in his diatribe against the rebels in Book One of *Vox Clamantis*, the conservative mouse


\(^{97}\) Goodman 312.
notes that without the check of their powerful neighbor, the rodents would destroy staples
and markers of economic and social wealth and prestige, malt and clothing (B.Prol.198-
200). Just as the rebels learned, so the mouse states the lesson that “though we had
ykilled the cat, yet sholde ther come another”: one cannot simply murder the nobility out
of existance (B.Prol.185). Voicing the nobility’s belief, the mouse says, “for hadde ye
rattes youre wille, ye kouthe noght rule yowselve” (B.Prol.201).

Moreover, the youth of the king and his dependence on noble counsel continued
to be an issue after 1381. The issues crop up again in the late 1380's, about the time
Green posits for the composition of the B text. In the Wonderful Parliament of 1386, a
continual council was organized to take over active rule of the country, an action which
culminated in the Appellants’ coup in late 1387. Indeed, one of the articles in the appeals
and impeachments of the trials characterizing the Merciless Parliament claimed that the
defendants had taken advantage of Richard’s youth. In addition, both in preparation for
defense against the French in 1386, and later as armies converged before and after the
Appellant triumph at the Battle of Radcot Bridge in 1387, troops bearing affinity-badges
moved through London. These certainly could be the “segges” in London wearing collars
that the rat notices.

These “segges” might have another master, however; Henry was as young as the
king was and makes as good a candidate as the king for the kitten that causes the court
woe. Although he was a late-comer to the Appellant-clique and abandoned that group by
1389, during late 1387 and 1388 he participated in deposing a king, punishing courtiers,
and running a country. Henry had two bases, Peterborough and London, and therefore his
men, too, qualify as candidates for being the “segges” wearing collars of which the rat speaks. Derby was known to use the Lancastrian SS collar by the 1390's, but he was also employing other insignia earlier.\footnote{Walker 94.} Adam of Usk noted that Derby eventually used a collar of linked greyhounds.\footnote{Christopher Given-Wilson, ed. \textit{The Chronicle of Adam Usk 1377-1421}, Oxford: Clarendon Press, 1997, 53. E. M. Thomson notes that Henry’s more commonly recognized tokens were the antelope, white swan, and fox’s brush, but he asserts that “here, however, is the badge of the greyhound, so specifically named that there can be no doubt that Henry made use of it” (173 n.2). Edward Maunde Thompson, ed. \textit{Chronicon Adae de Usk A.D. 1377-1421}, London: Henry Frowde, 1904.} This may be particularly relevant in the rat fable in B, where the “segges” are also likened to hounds.\footnote{See my comments above on page 64.}

The concern with collars and maintenance was also particularly pressing in the late 1380's, and demonstrates a division between nobility and gentry, between lords and commons, that seems to be mirrored in the rat fable. R. L. Storey emphasizes that before 1390, the Commons generally felt that the lawlessness aggravated by the maintenance system would be ameliorated by the regulation or abandonment of livery. The Cambridge Parliament of September 1388 particularly linked liveried maintenance with loss of public order, specifically perhaps with Henry of Derby’s “pleing and possing about” in mind. In 1387, Sir John Pelham, one of Derby’s retainers, had broken into a Cambridgeshire knight’s manorhouse, ravished his widowed sister-in-law, and stolen valuables. One of Pelham’s gang received a pardon while Parliament sat in Cambridge in 1388: Pelham himself was later pardoned at the insistence of Derby.\footnote{R.L. Storey, “Liveries and Commissions of the Peace 1388-90,” \textit{The Reign of Richard II. Essays in Honour of May McKisack}, F.R.H. Du Boulay and Caroline M. Barron, London: University of London, 1971, pp. 131-152.} Clearly,
maintenance encouraged violence and disrupted the courts. Nevertheless, when the
Commons made gains in their fight against maintenance in 1389, they were dismayed to
find that less maintenance did not result in less violence. Storey documents the
Commons’ shift to grim resignation towards maintenance’s presence in courtrooms after
1390, and this change is reflected in revisions to the rat fable, further supporting
nontraditional dating.

The C recension’s Rat Court comes up with a seemingly more fatalistic solution
to its problem than its B recension fellow: in C the rodents eventually determine that the
violence of their neighbor is unremediable. This opinion of maintenance reflects political
tensions culminating in the explosive late 1390’s, when Richard’s autocratic tendencies
reached their height. As Saul states it: “that there was not a greater body of complaint
should not be taken to indicate an uncritical acceptance of Richard’s tyrannical rule;
rather it affords proof of his success in stifling dissent. People wisely kept their opinions
to themselves” (Saul, Richard 390). Although they had been close for the early part of
the decade, Gaunt’s relationship with the king became strained by mid-decade, and about
the same time, the king’s reputation in the commons suffered. After mid-decade in
particular, confidence in the king began to erode, and while the nobility could be no less
heavy-handed than they had been in the past, in comparison to previous decades the
nobility were more popular than the king. Trouble came to a head in 1397; Walsingham
said that in this year Richard “began to tyrannize” his people. In January the Commons
made another complaint about livery-badges. In September, Richard’s hand-retained

102 Quoted in Saul, Richard 366.
Cheshire archers menaced the parliament which he deliberately modeled on the Merciless Parliament ten years earlier. In this one, the three senior Appellants were impeached. Matthew Giancarlo has recently examined the extent to which Richard manipulated men, records, and the judicial system during this parliament, especially in Gloucester’s case, where Richard settled discontent with Gloucester’s imprisonment with date-juggling, confession-editing, and a too-convenient death.\footnote{Matthew Giancarlo, “Murder, Lies, and Storytelling: The Manipulation of Justice(s) in the Parliaments of 1397 and 1399,” \textit{Speculum} 77 (2002): 76-112.} Given this political context, and my hypothesis that the B text of the rat fable reflects the climate of the late 1380’s and the Merciless Parliament, it seems possible to see the C text responding to the late 1390's and the September Parliament that modeled itself on the earlier event.\footnote{The 1397 date is not necessary to my argument, however, as quiet discontent spread throughout the 1390s.} This requires, however, that we reconsider the roles of the cast of characters, starting with the cat, who, I argue, in the C text represents the king as much as John of Gaunt or the nobility.

Missing from C’s Rat Court are specifics; references are more carefully screened, and the passage is altogether more ambiguous than the B text, but I think this reflects the more dangerous nature of political critique in the later 1390's. Enough details remain to suggest that the cat can be read in the C text as Richard. The cat plays with these rodents as he does in the B recension, and the spelling of “playde” in C is even more suggestive of a legal connotation than in B (C.Prol.170).\footnote{See my note 92 for more on this word.} I have already mentioned how Richard manipulated the parliament and the legal system to his advantage in the September
parliament. Furthermore, after 1390 Richard had begun to develop an affinity of his own, the first ever created by an English monarch. As with all other affinities, this body was in an excellent position to sway justice in the localities, just as I argued about Gaunt and Derby’s affinities in the B text. Men disaffected with Gaunt’s power like Thomas Talbot and John Massy became the king’s men and could go as far as lead an armed revolt against Gaunt. Moreover, their royal patronage made them notoriously difficult to arrest and bring to court.

Other details also support a late date for C. In C the rat who refers to livery-collars makes his comments more generally applicable by noting that these collars are worn in “cytees and townes” by “bothe knyghtes and squieres” (C.Prol.176, 179). Like other nobles and the king himself after 1390, between 1381 and 1392 Gaunt began retaining more esquires, and fewer knights.106 Chris Given-Wilson adds that although Richard followed this trend generally, “it was only after 1397 [...] that the king really began to abuse his power and to develop a large retinue of liveried lesser servants” (239).107 Nor are these retainers compared to dogs in C, unlike the B text, the “gret syres” who wear these collars in C are not coupled and uncoupled; they do not hunt in the wastes outside of the household (C.Prol.176). Especially if the targeted affinity was no longer Derby’s, the hound reference was no longer appropriate. In addition, with the king himself consciously developing a powerful affinity with a strong base in far-away

106 Walker 13.

Cheshire, especially in 1397, perhaps it was no longer politic to refer to retainers all too negatively and directly as dogs hunting in the wilderness. After Richard’s adoption of the White Hart as a token in 1390, moreover, it would probably have been impolitic to suggest venison as an alternative to livery. Therefore, the mouse does not suggest feeding the cat venison in the C version; instead he advises to “soffre and sey nougt and that is þe beste” (C.Prol.211). This echoes the Commons’ recognition after 1390 that noble participation in the legal system was necessary, although they continued to protest against the travesty of judicial maintenance. Unlike the cat in the B text, this cat is omnipresent; neither hart nor hare can buy him off.

Still present are the references to the young king and the kitten and the tragedy they bring the court, however. “Seune yer ypassed” 1397, give or take, brings the reader back to the Merciless Parliament, the last time that Richard’s youth was a national issue. The mouse’s dictum to harm neither cat nor kitten must have seemed a pragmatic decision in the late-1390’s, with Richard II increasingly autocratic and Gaunt and Derby’s influence rising. The Commons had won their battle to keep lords out of local judicial processes in 1389, but had discovered that it did not help to restore public order. By 1397 the cat was an unrestrainable power, and maintenance and the violence it protected were unavoidable cultural elements manipulated by the nobility only. Both the Rat Court of the C text and passus 4 emphasize maintenance as an inescapable evil, to the extent that in passus 4 the king attempts to halt a cycle of maintenance and judicial corruption only to bring maintenance into his own household.
3.2. RETAINING A COURT OF CHANCERY IN *PIERS PLOWMAN*

Within the vast field of Langland criticism, the trial of Peace v. Wrong in passus 4 remains relatively undiscussed, despite its importance to the first vision and its exploration of the fatal interrelation of maintenance and the law. A.G. Mitchell represents a tradition of criticism emphasizing Mede’s allegorical significance, but he touches on her legal importance as well. In his oft-cited analysis of Mede he refutes earlier critics who condemned Mede as representing corruption, bribery, or cupidity, and asserts that Mede is a fundamentally complex character, albeit consistently unaware of the moral consequences of her behavior. He contends that Langland depicts Mede as “almost morally neutral” (Mitchell 22). Mitchell acknowledges some ambiguity in the ending of passus 4, when Mede simply disappears from the end of the A text, since there is no place for her in the reign of Reason. Like Myra Stokes, whose argument I will discuss below, Mitchell believes that Mede corrupts the legal system by providing bail and sureties which allow malefactors to go unpunished, leading the Visio-king to reprimand her for her near corruption of the law in B and C. Mitchell fails to demonstrate that the source of the corruption lay behind bail and sureties in the institution of maintenance, however, and it is this connection with which I argue Langland takes issue.

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Like Mitchell, more recent critics of passus 4 focus on Mede and marriage, and say little about her role in the main action of the passus, the trial between Peace and Wrong. Schmidt and Alford characterize all of passus 2-4 as a trial, but in so doing subsume Peace v. Wrong in Mede’s marriage litigation. Elizabeth Fowler elaborates on a similar assumption thus: “the project of the allegory through passus II-IV [is] to secure economic justice by drawing on a specific model of agency, found in marriage law, in order to reform the less well-theorized and moralized relations of agency found in the economy,” and later she speculates, politics as well (785). For Fowler, Mede’s dangerously female, marriageable body is banished at the end of passus 4, allowing the establishment of agency relations on a foundation of solid consent. While I do not wish to discount any of these readings entirely, it is important to consider that Langland’s allegory, and the visio particularly, need not always be of a piece. That is, we may consider Peace vs. Wrong as an extension of Mede’s marital issues, but I argue that we must also take seriously what it purports to be on the surface, a trial.

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109 An influential reading of Mede that I do not directly address here is that of John Yunck, *The Lineage of Lady Mede: The Development of Mediaeval Venality Satire*, Notre Dame, IN: University of Notre Dame Press, 1963. John Yunck’s seminal study offers another interpretation of Mede. He traces the Mede-character from her beginnings in venality satire through to her appearance in *Piers Plowman* and after. Yunck considers Langland’s Mede to be fundamentally corrupting to both Christian loyalty and Christian conscience. The central question with which Langland grapples is how to win both one’s daily bread and divine reward, that is, salvation of both body and soul; after expressing this problem clearly towards the end of the visio in the trial of Peace v. Wrong, he proceeds to attempt to answer it with the rest of *Piers Plowman*. For more references concerning Mede, see Stephanie Trigg’s article, “The Traffic in Medieval Women: Alice Perrers, Feminist Criticism and *Piers Plowman,*” *Yearbook of Langland Studies* 12 (1998): 5-29.

A few critics give extended readings of passus 4 that focus less on Mede herself than on her interactions with Reason, Conscience, and the king in a court-room setting. Developing his argument using the supporting cast of passus 4, Andrew Galloway makes the fine point that Langland shifts his focus from subjects of the law in A and B to the subject of the law in C. Centering his discussion on Waryn Wisdom and Witty (subjects of the law) instead of Peace, Wrong, or Mede, Galloway notes how they are put upon by lords Reason and Conscience in A and B, but in C are pernicious gentry themselves, and thus the subject of the law itself falls under scrutiny. Maintenance, and its influence on the legal system, exists as a largely implicit framework for Galloway’s analysis, and one I would like to sort out. Instead of Waryn Wisdom and Witty, I will look at Mede, Peace and Wrong, the maintenance networks inside which they operate, and I will consider how these networks integrate with the legal process of passus 4.

Anna Baldwin believes that Mede represents a threat to social order who is defeated by the king’s absolute power at the end of passus 4. Baldwin accepts Yunck’s explication of Mede’s moral valences, but decides to situate her more firmly within Ricardian culture as a noble practicing maintenance, and not simply as a representation of corrupt reward. Moreover, she argues that the king’s determination to marry Mede to Conscience, thus ensuring her continued presence at court, represents “the obvious solution to the problem of the over-powerful noble” (Baldwin 33). As I will argue later, this strategy may not be abandoned after Conscience refuses to wed. Similarly, I question

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Baldwin’s assertions that “both Meed and Wrong are accordingly imprisoned” in order to promote “a kingdom where loving subjects serve an impartial king who uses his power to enforce justice” (50, 53).

In focusing on justice and mercy in *Piers Plowman*, Myra Stokes also historicizes Mede. For her, Mede figures into “the question crucial to this Passus and the next of what appeasement, atonement, amends, for an offence may properly be said to justify mercy” (Stokes 140). In passus 4, the notion of amends becomes “insidiously” linked to Mede’s person and actions. The *debitum*, or “legal penalty due a crime,” that Wrong owes must be paid “as laid down by the law and not commuted to a fine” (Stokes 144). Instead, Stokes credits the court with wishing to impose a capital penalty on Wrong in order for the king to acquire escheats, land and money forfeited by a convicted felon, better to “live of his own.” If the king is to receive money either way, in escheats or in fines, critics must inquire further into the ramifications of both choices. All forms of law practiced in England recognized fines as a form of redress: they were not simply a dodge. Nor is “the law” as monolithic as Stokes makes out: although she identifies the court to which Peace takes his bill as Parliament, other courts with different powers existed and the resulting “law” provided at each could look quite different.

Clare Lees demonstrates how the exchange of money and the exchange of women are conflated in the character of Mede. Lees identifies Mede as a Marxian commodity, or money, and she emphasizes how Mede is exchanged as a woman and as currency

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either directly or indirectly by the men around her. Indeed, Mede can never be married; she must always remain “a mayde” to forever continue circulating, her value forever fluctuating based on the relations of the men exchanging her. Lees and I both borrow from the traditional interpretation of Mede as a representation of money, and I will return later to an idea of Lees that “Mede as medium of exchange ensures the reproduction of social institutions” (Lees 123). Lees considers passus 4 and the trial of Wrong to be an example of Mede’s corrupting force in the law, but she does little more than state this. According to Lees, Mede is unwanted at the end of the passus: Conscience and Reason have successfully limited her use to direct exchange, and have begun the process of dismantling the institutions that use her. I believe that Mede is wanted at the end of the passus and that her very continuation in the king’s court suggests a continuation of at least one institution that employs Mede.

Lastly, David Aers provides several cautions which inform this chapter. Borrowing Jon Elster’s words, Aers says that consumption and class require that we pay attention to “what ‘people (in some sense) have to do’ rather than what they may choose to do” (Aers 60). 113 This demands that we interrogate passus 4 and ask what the characters like the king, Peace, and Mede need to do, that is, what they must do to survive as well as to continue to participate in their society and culture, as opposed to what they might prefer to choose to do. Aers reminds his readers that Piers Plowman is a text which “may be taking up a partisan line in a complex struggle between human beings,”

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and therefore must be carefully contextualized, lest a critic carelessly uncover “some universal and disinterested ethico-religious voice in the service of a putatively consensual understanding of justice and reason” (Aers 62). Using agricultural examples, he notes that fair wages and idleness, even the honesty of the law, were terms and ideas openly contested in an era of labor laws. Finally, Aers categorically states that criticism of *Piers Plowman* must account for “networks of power, together with the conflicts they involved” (64).

Passus 4 abruptly turns into a courtroom drama that demonstrates one such network of power in action. Maintenance and the law were topics of particular interest to one of Langland’s early audiences, legal scriveners and civil servants of the king working in the Chancery and Office of the Privy Seal.\textsuperscript{114} When justices ceased to be retained in the later 1380s, sergeants and clerks were the civil servants that continued to face a daily struggle to square their dealings with Mede with their duties inside judicial institutions. Moreover, about the same time, many legal bureaucrats were forced to reconceptualize their professional and financial positions, thanks to the development of a number of bureaucratic branches.\textsuperscript{115} The action in passus 4 gestures towards just such bureaucratic and legal developments, especially the early stages of the growth of the Court of Chancery, about which relatively little is known. I argue against the critical tradition that

\textsuperscript{114} On this audience, see page 94 ff below.

\textsuperscript{115} For statutory evidence, see 5RIIst1c9-16 about the Exchequer, 8RIIst1c4 about justices and clerks, 8RIIstc5, 13RIIc2, 3, 5, 15RIIst1c3 about the Courts of Admiralty and Constable and others.
Mede’s fate at the end of the passus is penal and claim instead that Langland hints that in the process of retaining Reason and Conscience, the Visio-king retains Mede as well; each of these actions bears on the nascent Court of Chancery that the Visio-king seems to be creating. With the Visio-king’s maintenance, Langland highlights a fundamental problem with the origin of the Court of Chancery and this serves as a caution to all clerks striving to achieve “right relations” based on “one pennyworth for another” (C.3.343, B.3.258)

Kathryn Kerby-Fulton and Steven Justice note that legal scriveners and civil servants of the king working in the Chancery and Office of the Privy Seal played an important role in the reading circles which initially disseminated Langland’s work.116 Codicological evidence suggests that readers considered *Piers* a practical work of history and politics, and Anne Middleton notices how audiences collected *Piers* together with other works which examined “the derivation of custom and authority” (110).117 The sergeants and legal clerks were the only two groups of “men of law” retained by nobles

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from the 1380's into the 1390's, when they had ceased to retain justices, so these bureaucrats were looking for lessons in *Piers Plowman* at a time that their own trade was in a period of flux.\(^\text{118}\)

Any time a branch of bureaucracy developed, the clerks who staffed that branch had to reconceptualize their positions as well. Even statute law demonstrates this process: 5RIIst1c9-16 considers the role of Exchequer personnel and Exchequer procedure, and chapter sixteen is devoted to payment of clerks. 8RIIst1c4 details punishments for justices and clerks, adult and underage, in case of erroneous legal entries. The jurisdictions of the Courts of Admirality and Constable and other courts were also debated at this time, and these developments would also have affected clerks.\(^\text{119}\) Since clerks continued to be retained by nobles throughout Richard’s reign, this group of civil servants particularly was therefore in a daily struggle to square their dealings with Mede with their duties inside changing judicial institutions.\(^\text{120}\) It is likely that audiences of legal clerks would have recognized as familiar many of the networks of power and influence presented in passus 4.

Langland immediately situates Peace inside a context of maintenance and its legal implications. The bill of complaint he brings specifies many counts of trespass and felony, the legal phrase for which, *contra pacem regis* (against the king’s peace), introduces more information about Peace’s social background. Using a legal pun

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\(^{119}\) 8RIIst1c5, 13RIIc2, 3, 5, 15RIIst1c3.

\(^{120}\) Maddicott 72-3.
Langland implies here that Peace is a member of the king’s affinity: he is, literally, “the king’s peace,” or the “king’s man named Peace.” This implies a mutual relationship of exchange between Peace and the king in which Peace receives financial support, as well as other kinds of assistance, from the king in return for Peace’s agreement to side with the king and support him in his projects. The king appears to take this responsibility seriously, and grants Peace’s suit an immediate hearing. In fact, one of the king’s reasons for not granting Wrong clemency is that such mercy might result in offenders “baldore [...] to bete myn hewes”; Peace may be one of the servants to whom he alludes (A.4.94, B.4.97, C.4.102). Economically, too, Peace seems to be of the social strata that made up the lower ranks of the king’s affinity. Like many gentrymen, his provincial concerns as revealed in his bill include domestic ones such as his barns, geese, pigs and horses, and the welfare of a number of servants, as well as more public and regional responsibilities such as administration of markets and fairs.

Exactly what sort of judicial body Peace addresses has been a matter of some debate among critics. Based on lexical as well as historical evidence, I must disagree with Stokes’s belief that the court in passus 4 represents Parliament, since at this time “parlement” could refer to any group of nobles convened to hold a court, not just Parliament, and the textual evidence suggests that another court is meant (A.4.34, B.4.47, C.4.45).121 I must also disagree with Galloway’s recent suggestion that passus 4 stands

121 Stokes 138, MED parlement(e), Alford, parlement. I will consider further the issue of what court this scene takes place in below on page 27-29. In his forthcoming article, “Piers Plowman, Parliament, and the Public Voice,” Yearbook of Langland Studies 17 (2004), Matthew Giancarlo argues that this court is Parliament. Elements of his argument are compelling, but the Parliamentary elements that he identifies in the trial in passus 4 were shared by the Court of the Council in Chancery as well, a court Giancarlo fails to explore as a possible analog. Moreover, his emphasis on the public nature of the court fails to prove that it
for a court similar to King’s Bench, since the court represented does not seem to reflect
common law procedures.\textsuperscript{122} Baldwin summarizes historical background of the number of
courts that existed by the late fourteenth century before determining that the court in
question was a prerogative court, probably that of the Council, or Council-in-Chancery.\textsuperscript{123}
Each of these courts was undergoing development and change in the later fourteenth
century, however, which makes it more difficult, but at the same time more necessary, to
identify precisely the court to which Langland refers. The very messiness of the court in
passus 4 that has tantalized scholars may, in fact, point to the complexity of the birth of a
new legal remedy.

In a much-cited study, Anna Baldwin suggests that Peace brings his suit before the
Council acting as a court and she dismisses the option of the court representing the Court
of Chancery by saying that “as yet this was hardly a distinct court” (Baldwin 41). The
kind of offenses Peace complains of were actionable at common law, and lacking redress
there, Peace could seek aid from a discretionary court, usually, she says, the Council-in-
Chancery.\textsuperscript{124} While I do not wish to reject Baldwin’s identification of the court in passus
4 as the Council entirely, I do wish to explore it more, and refine it both historically and

\textsuperscript{122} Galloway 127.

\textsuperscript{123} Baldwin 41.

\textsuperscript{124} She notes that Knott and Fowler reached a similar conclusion. Baldwin 41 n.7, Knott and Fowler
A.3.88n. Most critics, such as Simpson and Kerby-Fulton and Justice, cite Baldwin; even scholars such as
Aers and Lees who level criticism at her do not question her legal history. Thomas A. Knott, and David C.
Press, 1952.
I submit that while the A and B texts may well refer to the Council or Council-in-Chancery, that by the C text at the latest, Langland is intentionally drawing a parallel to a moment in the differentiation between the Council and Chancery, to a mythical origin of the Court of Chancery, if you will. Several facts argue against too easily identifying Langland’s court with the Council. First of all, it would have been unusual for the Council to hear and determine a case; it preferred to direct cases back to lower courts, to assign a special commission of oyer et terminer, or to create a new legal remedy altogether, as the Council had done earlier in the century in the development of the Commissions of the Peace. The legal body in passus 4 does not direct Peace back to a lower court, and there is no evidence that Peace is granted a special commission of oyer et terminer. In the C recension, however, the creation of Reason as Chancellor and Conscience as Chief Justice is evidence for division of legal labor, and perhaps the creation of a new legal remedy, the Court of Chancery. Secondly, in the rare instance that the Council decided to hear a case, pleadings were heard and evidence examined immediately, usually in committee, not in full council, and passus 4 lacks evidence of a committee. In Chancery, the plaintiff was heard and the defendant was examined in Chancery, where determination and judgement by the Chancellor were usually immediate. Before the end of the passus in the C text, Reason is named Chancellor, and demonstrates having the good judicial authority to decline mainpernors.

125 I draw my information about the Council from the seminal work of J.F. Baldwin and I. S. Leadam, Select Cases Before the King’s Council 1243-1482, Seldon Society 35 (1918).
There are a number of other facts which support considering the relationship between the court in passus 4 and the Court of Chancery. By the late fourteenth century Langland had a legal model to draw from, since by Richard’s reign the Chancellor was determining at a law court in Chancery without the Council’s presence.\footnote{Most research concerning the functioning of the Chancery as a court uses fifteenth century documentation. Therefore, any discussion of the fourteenth century Court of Chancery, let alone its inception, must remain speculative. Nevertheless, precisely because of our lack of information from this important period of Chancery development, such speculation, when supported by contemporary texts, may be worthwhile. The discussion below is based on research contained in the following studies: Margaret Avery, “The History of the Equitable Jurisdiction of Chancery before 1460.” \textit{Bulletin of the Institute of Historical Research} 42 (1969): 129-144; William Paley Baildon, ed. \textit{Select Cases in Chancery A.D.1364-1471}, Seldon Society 10 (1896); Mark Beilby, “The Profits of Expertise: The Rise of the Civil Lawyers and Chancery Equity,” \textit{Profit, Piety, and the Professions in Later Medieval England}, Ed. Michael Hicks, Gloucester: Alan Sutton, 1990, pp. 72-90; P. Tucker, “The Early History of the Court of Chancery: A Comparative Study,” \textit{English Historical Review} 115 (2000):791-811; and an intriguing new study, Timothy S. Haskett, “Conscience, Justice, and Authority in the Late-Medieval English Court of Chancery,” \textit{Expectations of the Law in the Middle Ages}, Ed. Anthony Musson, Woodbridge, Suffolk: Boydell and Brewer, 2001, pp.151-163.} One of the most popular types of case before the early Chancery was the so-called “common law” case in which a plaintiff had been unable to receive justice in lower courts due to a powerful defendant maintaining a case against the plaintiff. In all three texts Peace complains of Wrong’s theft of his horse without payment “for nouhte y couthe plede,” and the legal connotation of “plede” suggests an earlier suit for damages (A.4.41, B.4.54, C.4.57). This previous attempt at law places his suit squarely in the common law side of Chancery proceedings: all of Wrong’s transgressions are \textit{contra pacem regis}, and if they were unsuccessfully sued in lower royal courts, then Peace is suggesting that corruption of the royal courts due to maintenance is to blame so that he is forced to seek reparations before a discretionary court. Finally, Avery notes that in Chancery common law suits, common law remedies were selected, and J. F. Baldwin points out that the Council only
fined and imprisoned, but it did not exercise its theoretical right to other corporal
punishments: it seems that this same predilection was passed on to the Chancery. Passus
4 demonstrates this tradition, since after fines and other reparations are considered,
Wrong is imprisoned.

Moreover, financial satisfaction seems to be Peace’s goal, despite the capital
nature of Wrong’s crimes. Whether legally trained or not, Langland’s audiences would
have recognized Peace’s “panne blody” as a reason to make a timely trip to court.
Evidence of violence written on the body was considered gravely in English courts: in a
grim example, raped virgins were expected to illustrate bloodied and tattered clothing to
prove their previously virginal status as well as their attempts at self-defense.\textsuperscript{127} Peace’s
bloody pate immediately convinces Conscience and the king in A and Conscience and the
“commune” in B of Wrong’s guilt; in C it is enough to hasten “Wyles and Wyt” in their
efforts to buy the king’s love. Peace has won his suit, but proceeds to accept
compensation from Mede, a “present al of puyre golde” (A.4.82, B.4.95, C.4.91). It
seems that financial reparations are what Peace has been looking for all along. In his bill
he complains of receiving less than the value of his wheat in tallies, and he has “plede” in
a common law court over the price of his horse, suggesting an action for damages
(A.4.40-1, 45, B.4.58, 53-4, C.4.56-7, 61). Litigation over even the rapes he recounts
may have been as much about financial reparation as any sort of criminal punishment.\textsuperscript{128}


Therefore, having received monetary compensation and a promise of Wrong’s future neutrality, by the C text Peace can truly say that “alle my claymes ben quyt,” a phrase whose legal terms mean that Peace considered all of his legal rights were satisfied and all the debts against Wrong cleared (C.4.98). 129

If Peace is a beleaguered affine of the king, critical tradition credits Wrong with being a purveyor, a servant who collected or commandeered provisions for his lord (A.3.34n with reference to Skeat, C. 4.45n). Along with maintenance, purveying was a hot topic in the later fourteenth century. 130 The Great Statute of Purveyors of 1362 rendered purveying for any but the royal household illegal, but the list of parliamentary complaints following that date (1371-3, 1376, 1377, 1380-1, 1383, 1384-5, and 1399) argues against the statute’s effectiveness at curbing the practice. The list of offenses Peace accuses him of suggests that Wrong may be illegally purveying; most are related to goods or acquiring them, and the king makes no move to recognize Wrong as his servant. Wrong steals geese, hogs, a horse, hay, and wheat; he forestalls in markets and fights in fairs. His leaving tallies in place of cash payment for Peace’s wheat is consistent with the problems the Commons complained about; Given-Wilson notes numerous complaints of non- or underpayment. 131 Moreover, Peace’s decision to take his case to Chancery also fit

129 Alford claime, quiten.

130 See Given-Wilson, Household, for general discussion and specifics of the royal household.

131 Given-Wilson, Household 111.
the 1362 statute, which stated that if remedy could not be found at common law, a plaintiff should sue directly to the Chancellor. Socially, purveying for a lord other than the king would probably place him below Peace in social standing, and, indeed, the king’s suggested remedy, stocking, was an ignominious punishment. Wrong has avoided all such punishments in the past, however, and has clearly been sheltered by his powerful lord.132

Langland never names Wrong’s employer, but I believe he implicates Mede by emphasizing Wrong’s direct association with money and exchange, which he reinforces in the C text. In all three texts, Wrong exchanges tallies for Peace’s wheat, and shorts him in the bargain. In C Wrong is also depicted as a waylayer, robbing Peace of his silver whenever he travels and disrupting trade. Moreover, Wrong is apparently maintaining a group of his own men, perhaps against statute. Peace points out in all three recensions that he “meynteyneth his men to morthere” Peace’s servants (A.4.43, B.4.55, C.4.58). If Wrong was of a “lesser rank” then this maintenance was illegal after the 1377 statute outlawing maintained quarrels (1RIIc3).

Wrong also perpetrates a number of sex crimes, a category of offense with an economic valence in the fourteenth century: he “ayeins [Peace’s] wille hadde his wif taken,/...ravysshede Rose, Reignaldes love/ And Margrete of hir maydenhede maugree

132 Purveying is not the only recent statute Wrong breaks, however: he also steals a horse, possibly alluding to tensions leading to a 1397 law (20RIIc5,) which specified that a requisitioned horse must have been paid for, as Peace laments his was not. Edward III’s statute against forestallers (St 25EdIIIst3c3) was confirmed in 1378 (2RIIc2,) and four times statutes directly or indirectly touching on rape or ravishment were enacted under Richard (2RIIc6, 2RIIst2c2, 6RIIst1c6,13RIIst2c1). Breaking close, which Wrong does when he breaks into Peace’s barn to steal his oats, was illegal under statute in 1381 (5RIIst1c7) and later confirmed (15RIIst1c2).
hire checkes,” and he “lyth by [Peace’s] mayde” (A.4.35-7, 46, B.4.48-50, 59). Peace would have been responsible for his wife and female servant, and I suspect that Rose and Margrete (Daisy) were also part of his household. Langland reinforces the connection between ravishment and the commodification of women in C when the woman Wrong ravishes is “Rose the ryche wydewe” (C.4.46). Her widowed status did not mean that Peace was not responsible for her, as proven by the case already mentioned when Sir John Pelham prosecuted his widowed sister-in-law’s ravishment by members of Henry of Derby’s retinue. All women could be considered covert de baron, and either the paterfamilias or the Crown sued cases of rape and ravishment: husbands were able to bring a suit for damages for ravished wives and chattels. Whether or not law demanded it, damages were usually awarded the baron, as well as amercements to the king, although offenders could get away with simply paying the amercements. Terms of imprisonment were ordered until payment was made, “not to fulfill the terms of penal servitude provided in the statutes” (Waker, “Ravishing” 243). Of course, as with any imprisonment, pledges could also be given to guarantee future payment of fines.

Most telling in regards to Mede’s relationship with Wrong is her offer to wage for him, and others’ hope that she will mainpern him. If convicted of a felony, under common law Wrong could be executed and his wealth escheated, or taken into the king’s coffers. As I mentioned above, however, both the Council and Chancery protected life and limb, and this distinction holds true in passus 4 in the C text. Although Wisdom and Wit warn Wrong in the A and B texts that “bothe thi lif and thi lond lyth in his grace,”

133 Storey 134-5. See p. 68 above. Chaucer’s Pandarus and Criseyde also illustrate this point.
when the king “comaundede a constable to caste Wronge in yrones” Wisdom cautions that there are more lucrative ways to deal with him: “yf he amendes may do lat maynprise hym haue/ And be borw for his bale and buggen hym bote” (A.4.59, 73, 75-6, B.4.73, 85, 88-9, C.4.81, 84-5). Imprisonments were rarely carried out in Chancery, but imposed to wrest large fines from malefactors pledging good behavior. “Bale” would be paid by Wrong himself or a mainpernor, someone who would in addition stand surety for Wrong’s continued good behavior. Wisdom is arguing that an imprisoned Wrong makes the king no richer. Witt reiterates this in his punning: “betere is þat bote bale adoun brynge/ Than bale be ybete and bote neuer þe betere” (A.4.79-80, B.4.92-3, C.4.88-9). In other words, delivering Wrong to corporal punishment would help no one, but letting him out on bail would at least help the king’s finances.

Although Wisdom does not here name Mede as a potential mainpernor, in the following passage she offers to “wage” Wrong. In doing so, she offers Peace a monetary indemnity, as well as promises that Wrong “wol do so no mare”; in legal terms, in addition to paying damages, she is standing surety for his keeping the peace (A.4.84, B.4.97, C.4.93). Although I will deal with Mede’s position as mainpernor or pledge in greater depth later, now it is important to recognize how uncommon this situation was. Women rarely ever acted as pledges, and did so only occasionally when closely related to the offender.134 In other words, “the few women who served as pledges in [...] legal

134 Judith Bennett, Women in the Medieval English Countryside : Gender and Household in Brigstock Before the Plague, New York: Oxford University Press, 1987. In the A text, Mede is Wrong’s daughter, but given the slippery nature of many of the names in these passus in the various versions, I will focus on characterizations within passus 4 alone. For one consideration of how interpretively useful the ambiguity of names can be, see Lees 120.
transactions were personally involved in other aspects of the case” (Bennett, “Women” 154). For example, rolls of the Sessions of the Peace show noblewomen pursuing cases on behalf of their beleaguered servants. I suggest that Wrong is one of Mede’s affines, and that she has worked to get him out of common law indictment in the past, just as she offers to assist him here; only, this time, she is willing to make monetary amends to the plaintiff.

Mede’s maintenance-at-law does not mark her as a particularly unusual lord, but it does underline her questionable legal status. Mede’s sole previous appearance in the passus is a passive one: she is “token” by Wisdom and Wit (A.4.63, B.4.77, C.4.73). Her first independent action of the passus, when she “mekan here,” is to seek conciliation with Peace for Wrong, and she does so by offering gold, as well as the promise of Wrong’s future good conduct (A.4.81-4, B.4.94-7, C.4.90-3). As such, Mede is acting just as John of Gaunt assured the Commons in 1384 that lords should act: she is being responsible for her own affines. Moreover, she is working within the preferences of the medieval legal system for out-of-court settlement. So far, then, she is well within her rights and responsibilities as a retainer-lord. It is when this system of payment and


136 In 1388, the Commons defined maintenance-at-law as “the use of his influence by a lord or any other in a lawsuit in return for a share of the profits” (Storey 139).
promises threatens to compromise the suit in court that the king intervenes. Peace has been placated, but that does nothing to change Wrong’s legal guilt. In Stokes’s terms, he still owes a *debitum*, and the king wishes him to remain imprisoned. A mainporners, however, could formally stand surety for Wrong’s good behavior, allowing him to go free. Although she was a woman, as Wrong’s retaining lord it was Mede’s duty to provide this service for Wrong, just as she had informally stood surety for him to Peace. Although he names no candidates, Wisdom recommends this action, reminding the king of the bail-money that allowing a mainporners would bring. However, Mede’s presence highlights how the practices of mainperning and pledging differed only slightly from the illegal practice of maintenance-at-law, if they differed at all. English judges reserved the right to accept or reject mainperners, however, and Reason firmly rejects “some people’s” lobby that Mede mainpern Wrong (A.4.97-9, B.4.110-2, C.4.105-7). Since he does not appear again after the king orders him incarcerated, Wrong appears to languish in prison.

Mede’s maintenance of Wrong provides one demonstration of how money and power could legally compromise a court case, but the Visio-king is also deeply implicated in this practice, including manipulation of the legal system. I have already pointed out that Langland implies that the relationship between the king and Peace is one of maintenance. Moreover, other characters become attached to the king’s affinity before the passus ends. Reason and Conscience both agree to enter the king’s service, and both are rewarded with handsome governmental posts. In the A and B texts, the king wishes that Reason “shalt not riden henne/ For as longe as I lyve, lete the I nille” (A.4.153-4,
B.4.190-1). Reason agrees, stipulating “so Conscience be of oure counseil,” and the king assents (A.4.156-7, B.4.193). In C the king not only orders that Reason not ride away, but that he will “be my cheef chauncellor in cheker and in parlement/ And Conscience in alle my courtes be a kynges iustice” (C.4.184-6). 137

The Visio-king’s interest in adding to his affinity at the same time that he develops his legal structures leads me to hypothesize about Mede’s ultimate fate. I contend that Langland leaves his texts open to the interpretation that the king finally retains Mede as well as Reason and Conscience. Far from casting Mede from him, he calls her to him, and his new chancellor makes reference to her future usefulness for the administration. In no text does Mede definitively leave the hall. Mede enters the court from her position in the king’s custody, where she was placed in passus 3, “attached” as the last line of passus 2 states, but kept in a “chambre,” “hire at ese” (A.2.198, 3.4, 10; B.2.237, 3.4, 10; C.2.252, C.3.4, 11). Langland gives the reader no affirmation that Mede has been freed at the end of passus 4 in either the A or B text. The C text reinforces this: when Mede tries to leave the hall, a sheriff’s clerk summons her back under guard, but specifies that she not be imprisoned: “a! capias Mede! Et saluo custodias set non cum carceratis [Seize Mede and guard her well, but imprison her not]” (C.4.163-5). The sheriff’s clerk served royal writs, and functioned as a kind of mouthpiece of the royal judicial will; he takes Mede into her final custody, and he does so with words reminiscent

137 Despite his good intentions, the Visio-king misappoints his newest retainers. Since the Chancellor presided over the Court of Chancery, also known as a court of conscience, Conscience should have been appointed Chancellor, rather than Chief Justice. See Galloway and John A. Alford, “The Design of the Poem,” *A Companion to Piers Plowman*, Ed. John A. Alford, Los Angeles, CA: University of California Press, 1988, pp. 29-65, for some philosophical implications of this mistake.
of the *sub poena*, the powerful writ used to summon litigants to discretionary courts like the Council and Chancery. No less than Reason and Conscience, then, the king requests Mede’s presence at his court, and she is not in penal detention. She is to be guarded but not incarcerated; as Lees points out, Mede must always be available for circulation. Stokes’ hypothesis that the king’s concern for lost escheats reflected Ricardian worries about a king unable to live “of his own” is a provocative one; the king must retain Mede so as to not burden his people with taxes, nor resort to high-interest loans as Reason adds at the end of the C text passus (C.4.192-4). It seems, perhaps, that the “relacoun rect” that Reason argues for in passus 3 of the C text have been restored with Mede directly controlled by the king (C.4.373).

In the final lines of the passus in the C text, however, Langland problematizes the positive solution he has constructed. Although the king voiced his desires for the future: “y wol haue leutee for my lawe.../ And by lele and lyf-holy my law shal be demed,” Conscience notes that this new order will be difficult to enact “withoute þe comune helpe” (C.4.174-76). In a final passage found only in C, Reason creates a solution to this problem and promotes the king’s future use of money, of Mede, when he outlines his own position as Chancellor: “loue wol lene þe seluer/ To wage thyn and helpe wynne þat thow wilnest aftur” (C.4.191-2). Although the last lines of the passus continue to contrast

138 Lees 121.

139 Stokes 152.

140 Reason, Conscience, and the king make similar statements in the B text, but without Reason’s final solution: the king simply retains Reason and Conscience as members of his council (B.4.180-95). The A and B texts leave Mede’s fate open to debate, but I think that by C, Lees’s assumption that Mede’s “services at the end of Passus IV are little desired” is untenable (Lees 123).
this manner of financing to that of taking out loans, the legal connotation of “wage” forces a knowledgeable audience to consider a legal interpretation of the passage as well that places the king squarely within the same culture of exchange and of maintenance-at-law as before. In the future, instead of waging her own affine, Wrong, Mede will provide surety for the king’s party. As Lees puts it, “Mede as the medium of exchange ensures the reproduction of social institutions,” in this case, maintenance-at-law (Lees 123).

Ostensibly the characters are different, yet money is still paid out as a surety in the interests of a lord, here, the king himself, and the implications of “wage” suggest a legal use for this money as well. Nothing has changed; Mede the maid still circulates through the legal system.141

In attempting to make a change for the better, then, the king merely falls back into old patterns. Nevertheless, at least one audience may have noticed a beginning here, albeit one tainted with the culture of maintenance. The legal clerks and civil servants Kathryn Kerby-Fulton and Steven Justice assert were one of the original audiences for Piers Plowman may have read this passus in the C text as one particularly addressing them. The B text states boldly that the king “gan wexe wroth with Lawe, for Mede almoost hadde shente it” (B.4.174). In C, Langland redirects this comment in very human terms: the king looks angrily at Mede, and “lourede vppon men of lawe.../.../Mede and men of youre craft muche treuthe letteth” (C.4.168-70). Langland is implicating his audience carefully and deeply in the flaw in the origins of Chancery as a court, and

141 Mede’s freedom and protection under the king’s aegus also reopens the question of Wrong’s fate. When the king accepts Mede into his household, he does, after all, legitimize her, and this may imply that she is accepted as a mainpernor for Wrong.
Reason goes on to make a number of demands relating to Chancery business in which clerks were immersed. He asks that the king not “sele youre priue lettres”: this may refer to the sale of pardons, an activity that kept Chancery clerks particularly busy (C.4.189). Reason also asserts that the king sell no writs of *supersedeas* without his permission, and these writs, too, issued from the Chancery (C.4.190). It is as if he is setting up the jurisdiction of the position at the same time the institution itself is created, but establishing it in a culture that still exchanges Mede within legal contexts like Reason selling writs, or the king waging his people. After their creation, then, Mede “ensures the reproduction of social institutions” like the Court of Chancery (Lees 123). Maintenance at the highest levels plagues the legal system in *Piers Plowman*, and passus 4’s allusion to the origins of the Court of Chancery helps Langland to make this point. The maintenance at the heart of the legal system in passus 4 suggests that Langland’s illustration of contemporary events could serve as the negative example against which legal clerks as well as wider audiences had to struggle to imagine a new way of relating to their monetary world of gifts, maintenance, violence, and the law.

While legal clerks would have been a particularly suitable audience for passus 4, a much wider audience would also have appreciated Langland’s thoughts about the troubled intersections of maintenance and the law presented both in the Rat Court and

142 Although Richard’s most infamous sale of pardons occurred after his announcement in 1397 that he was prepared to pardon all but fifty men, he had begun the practice much earlier. See Galloway, “Law,” and “The Literature of 1388 and the Politics of Pity in Gower’s *Confessio Amantis*,” *The Letter of the Law: Legal Practice and Literary Production in Medieval England*, Eds. Emily Steiner and Candace Barrington, Ithaca, NY: Cornell University Press, 2002, pp. 67-104.
continued in the trial of Peace v. Wrong. In the B text, the rodents attempt to deal with their problem by retaining the cat in a less ostentatious manner than livery. By the C text, however, even limited maintenance fails to provide a solution, and the rodents resign themselves to the depredations of their powerful neighbor. In passus 4, maintenance is overt in the C text and plagues the legal system at its highest levels; Langland’s allusion to the origins of the Court of Chancery vividly makes this point. Attempting to solve problems resulting from maintenance, the king makes royal decisions justly in order to develop the legal system; unfortunately, his own retaining practices point to the ultimate failure of these peace-keeping efforts. In passus 4, the king’s good intentions for the legal system clash with the social system of which he himself is a part. Legal personnel reading *Piers Plowman* would also have noticed how their own ties of retainer might conflict with the decisions they must make in their workplace, decisions made possible by power delegated from the king. John Gower recognized this in each of his major works, and his concern with the delegation of decision-making power from the king’s person down to judges, lawyers, and clerks, forms the subject of Chapter 4.
CHAPTER 4

PEDDLING THE LAW IN GOWER’S SPECULUM CAUSIDICORUM

Despite writing about similar topics, and at times employing the same genres as William Langland, John Gower’s work suffers from critical underexposure. This chapter will explore a single previously uninvestigated topic, Gower’s insistence on the common law as the means by which the king and the legal profession must wield the law justly. Gower explores why the special judicial decision-making powers residing in the person of the king must be exercised only through delegation to his legal and judicial officials. In his earliest long work, the Mirour de l’Omme, Gower lays out a number of specific problems within the legal profession, and he continues to develop this theme in subsequent works. In the Vox Clamantis, for example, Gower expands the genre of estates satire to include a critique of lawyers followed by a letter addressing the king, but no critic has yet examined this apparently odd juxtaposition. I argue that the discussion of lawmen and the king in Book Six reveals the poet’s understanding of the law as a sort of commodity that must continue circulating perpetually, as it might when practiced in common law courts, but whose exchange can all too easily be perverted, especially by being centralized under a single hand, as in the developing courts based directly on royal
decisions such as Council and Chancery. Justice will only be served if the king continued
to delegate his own decision-making powers to others; moreover, legal officials can only
justly serve their clients by using their delegated powers, rather than their own, personal
powers of determination. An exemplum illustrating this process can be found in the story
of Virginia in Book Seven of Gower’s slightly later work, the Confessio Amantis; here
Gower boldly voices fears that jurisdictions outside the common law unduly enable
corruption to flourish by being too exclusively based on one man’s decision.

4.1. A PLACE FOR LAWYERS

The earliest of the three works considered here, the Mirour de l’Omme was
completed in the later 1370s, and sets out Gower’s critical appraisal of the legal
profession.143 The original editor, G. C. Macaulay, discovered the single surviving
manuscript of this work in 1895; previously the work was known only from a Latin
reference on Gower’s tomb. Written in Anglo-Norman, the Mirour de l’Omme may be
the last great work composed in that language before English replaced it as an accepted
literary tongue.144 The Mirour’s modern translator, William Wilson, attributes Gower’s
willingness to tamper with gender, declensions, and tenses to meet the demands of his
rhyme scheme, but given Gower’s familiarity with the law, I wonder if these seeming

1902. Volume one contains the Mirour de l’Omme, volumes two and three the Confessio Amantis, and
volume four, the Vox Clamantis.

144 William Burton Wilson, trans. John Gower: Mirour de l’Omme (The Mirror of Mankind), East
irregularities may not as well be attributable to a facility in law French, a technical jargon characterized by traits similar to those demonstrated in the Mirour. A summary of Gower’s consideration of the legal profession in Mirour de l’Omm will help us to later identify how he fit the same material to the new context of Book Six in Vox Clamantis, since the texts are in many places nearly identical.

Having some background in the intricacies of fourteenth-century England’s jurisdictional system assists in understanding the material from the Mirour that Gower reuses in the Vox. Speaking generally, common law was practiced through central, royal courts such as King’s Bench, Sessions of the Peace and Courts of Assize, or Common Pleas in London, or through local courts such as county and hundredal courts in the provinces. By the late fourteenth century, professional lawyers monopolized legal proceedings at all levels. An attorney (attornatus, atturne) physically entered pleas and made complaints for his employer in court; legally they were the same person, and the litigant was constrained by his or her attorney’s actions. A pleader (narrator, placitator, causidicus, conteur, pledour) made the oral argument in court on behalf of the litigant or


the attorney, which the litigant could add to or disavow. Technically, most pleaders in most courts were apprentices; only about a dozen at a time were admitted to the bar in the Court of Common Pleas, where they held a monopoly on pleading and by the 1370s were known as serjeants-at-law (*causidicus, pledour, serjeaunt*). Judges were appointed exclusively from the pool of serjeants-at-law by the fourteenth century. I will introduce other figures later; however, attorneys, pleaders, and judges form the core legal professionals in the court system Gower critiqued in works such as the *Mirour de l’Omme*.

Gower characterizes the legal estate with two words, *tort* (wrong), and *fort* (strong) (*Mirour* 24241). The wrongs of lawmen extend especially to avariciousness and how their work can seem to twist the law. Although Gower castigates all “gens du loy” often enough, the group he singles out within this larger category are the pleaders (*pledours*); he never refers directly to attorneys. The poet is most concerned in the *Mirour* with lawyers’ financial gain from their work, as well as how a lawyer can make a successful suit even for a client who is in the wrong: “qe ja n’ert droit si apparant/ Qui contre tort ara guarant;/ Qant ils ont la querelle pris” (*Mirour* 24250-2). Pleaders give no advice without pre-payment, but will work for anyone who fees them, whether noble or not. Gower claims ignorance about whether or not the delays lawyers seem to

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147 In the following discussion, I will quote from the French, but will cite both Macaulay’s edition of the French by title and line-number, and note Wilson’s English translation by page number. The section on lawyers under discussion takes up lines 24181-24624 in Macaulay’s text, and pages 316-330 in Wilson’s translation.

148 “No right is so obvious that it can prevail against wrong when they take on a case” (Wilson 317). See also similar throughout this section.
encourage in cases are legal or not. For some reason, the poet darkly notes, the lawyers
get out of paying taxes, and Gower portrays the lawyers as working against the common
good by reducing funds (*bien commun*) available to the king.

Lawmen are also *fort*, however, both because of their professionalization and
because of their usefulness to the great men of society. Gower grumbles that it is
impossible to sue a lawyer, since the profession “ne pledont, ce diont plat,/ L’un contre
l’autre…/ Ensi se sont *confederat*” (*Mirour* 24260-2, emphasis mine). Confederacy was
a hot issue in the later fourteenth century, when the term was applied to a wide range of
groups that legislators felt were using benefits of membership to unfair advantage.

Gower depicts lawyers as petty thugs using their legal knowledge as a weapon with which
to shake people down: “mandant ses briefs pour faire entendre/ Qe s’il n’ai part de leur
florins,/ Il les ferra destruire ou pendre” (*Mirour* 24512-14). In accordance with the
genre in which he is writing, for over a hundred lines at the end of the section, Gower’s
attack on lawyers takes a more exclusively religious turn before the poet moves into a
short section on judges.

149 “For they say flatly that they will not plead against each other. Thus have they leagued together”
(Wilson 317). Notice that by referring to pleading, Gower is again indicting pleaders in particular.

150 Anne Middleton examines the labor legislation involving “confederacies” closely in “Acts of
Authorship*, Eds. Steven Justice and Kathryn Kerby-Fulton, Philadelphia: University of Pennsylvania

151 “Sending his briefs to make them understand that unless he gets part of their money he will destroy
them or have them hanged.” (Wilson 321).
While Gower rails at lawyers’ fees in the previous section of the *Mirour*, his section on the judiciary begins by asserting that these men only determine for the litigant offering the largest bribe (*doun*), immediately throwing their impartiality into question.\(^{152}\) The first stanza sets the tone for those following: the next few stanzas each detail a specific, technical corruption within the judiciary. Like bribes, intercessory letters (*lettres a prier*) sent by nobles on behalf of litigants overcome judges’ ethical intentions. *Amour* can also corrupt judges, but in this case Gower is more concerned with connections between friends and kin than he is with romantic or sexual love, which he will discuss in the *Confessio Amantis*. Lastly in this section, before turning to matters of faith, Gower notes that sheer intimidation (*doubtance*) renders judges useless: they fear determining against nobles.

Longer by far than the section on judges, though, is the section following on sheriffs, bailiffs, and jurors.\(^{153}\) Gower repeats the fact that sheriffs take an oath to uphold the law, and both times he emphasizes that this oath is at least partially owed to the people (*communalté, pueple*). Like other men of law, sheriffs are guilty of improperly enriching themselves. Sheriffs influence local decisions through purchased juries: the sheriff selects jurors likely to take bribes. Gower blames sheriffs, as he had lawyers, for causing delays in due process. Rapacious bailiffs are next on Gower’s list, but he links

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\(^{152}\) The section on judges runs from line 24625-24816 in Macaulay, and pages 323-5 in Wilson.

\(^{153}\) The section on sheriffs, bailiffs, and jurors runs from line 24817-25176 in Macaulay, and pages 325-330 in Wilson.
these tightly to corrupt sheriffs: “je croy que si de sa partie/ Visconte fuist d’oneste vie,/ Ly soubz baillif fuissent meillour” (Mirour 25012-14).

Sheriffs and bailiffs aside, Gower reserves special vitriol for corrupt juries. Just as he had earlier suggested that a bribed sheriff would lead to bribeable jurors, so in these passages Gower explains this process further. If the head juror (capitein) was amenable to bribes, he was a traicier. Gower even describes the enculturation of novice jurors: until they learn to say as the traicier does, they pose a potential risk to his activities. Not only is the perjury of the traiciers dangerous for justice, but it potentially destabilizes the social order. Gower claims he lives near such a juror-for-hire and that the man lives and supports his family from his perjury. Lastly, before his final laments lead into the next section on merchants, Gower complains that men that could genuinely swear to the truth of events fail to appear at court, either because they feel powerless against bribed jurors, or because they fear to dishonor their family names.

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154 “I believe that if a sheriff lived honorably, his [under] bailiff would be better” (Wilson 328). Passages like this one also suggest that Gower is speaking of royal courts rather than county or hundredal jurisdictions. Robert C. Palmer demonstrates the pivotal role seneschals played in county and local courts as well as the important place coroners occupied at the local level; Gower mentions neither official (Palmer 113, 120).

155 Wilson cites Troendle for his own assertion that traicier means “one who draws,” and connotes “one who packs a jury” in note 129. Troendle does not support her definition, and the absence of a judicial connotation of traicier from both the Anglo-Norman Dictionary and Baker’s glossary of law French casts doubt on Troendle’s claim. Dorothy F. Troendle, “Mirour de l’Omme”, Dissertation. Brown University, 1960, p.1357. This use of traicier may also refer to one of the wheel horses in a team, making the analogy one of the entire jury pulling together like a team of horses. (Moreover, the wheel horses should pull together: if one leads, the team or pair is pulled out of unison, and it becomes difficult to move the plow or wagon. In using the term, Gower may be reinforcing his point about a traicier defeating the smooth motion of justice).
Simply put, Gower’s *Mirour de l’Omme* sets out his critique of the legal profession in clear and technical terms. Its placement between the sections on knights and merchants reinforces its function as moral critique with a social valence. In the *Mirour*, men of law fit neatly between knights and merchants on a social spectrum with moral implications, but in the *Vox Clamantis* Gower rearranges his text with political reality in mind. In the *Vox*, Gower’s critique is no longer constrained within a tightly organized social hierarchy and embodied within a spiritual work like the *Mirour*, but develops an entirely new and politically pointed valance when positioned next to a *speculum regale*. In Gower’s England, the king himself could be considered a man of law, and therefore Gower’s arresting placement of a discussion of the ills of the legal profession next to a manual on good kingship is both logical and original. In the next section, I want to examine some modern criticism of the *Vox*, and then concentrate on how Gower reshapes the material from the *Mirour* to fit a much larger argument.

4.2. THE COMMERCIALIZATION OF THE LAW

In discussing Book Six of *Vox Clamantis*, scholars have usually noted that Gower drew his critique of the law in *Vox* almost exclusively from the *Mirour de l’Omme*.\(^{156}\) The emphasis in *Mirour* is on the individual members of the greater legal community and their misconduct. Gower is more concerned with who is doing what wrong than with

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\(^{156}\) Macaulay 397 n.1-468, Stockton 220 n.1, Fisher 107. In the following discussion, I will quote Macaulay’s edition of the Latin text, and place Stockton’s English translation in footnotes. I will cite the title and line numbers as heretofore, taking for granted that I am discussing Book Six.
how this corruption affects any theoretical concept of “justice” or “law.” The poet never questions how appropriate it is to require that a litigant pay for legal services; he simply believes the payment-scale to be unfair. Gower never mentions further ramifications of pleading as a “confederacy.”157 Both explicitly and implicitly in the *Mirour*, Gower highlights the dangers of a self-regulating legal profession, one based on the authority of individuals, that could easily be misused. These are the same messages Gower emphasizes in the *Vox Clamantis* in a more condensed fashion than in the *Mirour*.

Nevertheless, there are elements of the legal profession which the poet does not condemn; in the *Vox* and the *Mirour* Gower silently passes over similar elements of the legal profession, and the poet highlights these silences in the revision this material underwent during translation. In fact, in this section of the chapter I contend that what Gower does not say in Book Six is as critical to our understanding of his message to the king as what he does say.

About a third as long as the *Mirour de l’Omme*, the *Vox Clamantis* remains a significantly long poem in Anglo-Latin. Ten manuscripts exist, attesting to several stages of revision, and show that the work continued to be copied until about 1500, after which its popularity declined. Begun in the late 1370s, the poem received a series of revisions and reached its final form only in 1400, although Stockton argues that the bulk of the

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157 I discuss Gower’s claim that the lawyers are a confederacy above on page 101.
poem was completed before 1381. After the Peasant’s Revolt, Gower added Book I, a vivid allegorical recounting of that event.\textsuperscript{158} John Fisher argues that Book Six was also added after 1381.\textsuperscript{159} Much later a short work, the \textit{Chronica Triperta}, was appended; this piece describes the fall of Richard II and Henry IV’s victory in 1399.\textsuperscript{160}

John Fisher, Gower’s biographer, noted that Gower examines three main themes in each of his major works: individual virtue, legal justice, and the administrative responsibilities of the king. Law and justice play roles in salvation itself in Gower’s scheme; humans struggle from sin to justice through reason as expressed in the law. With this in mind, Fisher emphasizes the importance of Book Six of the \textit{Vox Clamantis}, saying that this book is the synthesis of Gower’s ideas of law, common profit, and kingship. While Gower’s consideration of the legal profession in Book Six resembles that in his earlier work the \textit{Mirour de l’Omm} closely, only in the \textit{Vox} is the practice of law linked to kingship. I want to explore this relationship further, and identify exactly how Gower links the legal profession and kingship, as well as to suggest some implications of this connection for his understanding of the law’s functioning in society.


Developing Fisher’s notion of Gower as a royal critic, scholars such as Elizabeth Porter and Judith Ferster examine parts of Gower’s corpus as examples of the speculum principis-genre. Porter sees Gower following the speculum-tradition in promoting individual good governance as a means to political right rule; Gower pushes this goal hardest in Book Six of Vox Clamantis. Speaking of the speculum principis in Book Seven of Gower’s later work, the Confessio Amantis, Porter says: “Gower’s treatment of [...] justice stresses the crucial connection between the king’s need for ethical self-governance and the attainment of harmony within the body politic” (157).161 Only when the king makes decisions ethically will the decisions made by his delegates, legal personnel, remain uncorrupt.

Like most critics, Ferster concentrates on the Confessio Amantis and agrees with Russell Peck in seeing Book Seven as its key book.162 Ferster sums up the importance of Gower’s speculum regale in the Confessio thus: “Gower’s work...help[ed] to make the language of advice part of political discourse, honing it as an instrument for criticizing the king” (134). She historicizes the Confessio, arguing that its constant revision responded to the complex political situation of the 1380s. Although critics like Ferster and Peck examine the speculum regale in the Confessio, they rarely approach the one present in the


Vox. I suggest that a more thoroughly contextualized understanding of the earlier work and its introductory tour of the legal profession deepens our interpretation of the later text.

Addressing this critical silence, I will focus on Book Six of the Vox, which includes Gower’s critique of the legal profession as well as his letter to King Richard. Gower’s chapter was revised in two places, both possibly during the early and again in the mid-1390s when Gower made similar revisions to the Confessio Amantis: these revisions redirect criticism of the regime away from Richard’s advisors and place it squarely on the royal shoulders. Stockton and Fisher have little to say about Book Six. Stockton notes only that although Gower delivers a “violent tirade” against “everyone in any way connected with the law” (21); the poet does not advocate destroying the institution of the law itself. This overstatement demands clarification: Gower never even mentions attorneys, legal clerks, or coroners, or apprentices as such, despite the fact that attorneys, clerks, and apprentices were the most numerous groups of legal professionals in the fourteenth century. Without noting the links between the topics of the law and royal governance, Stockton praises Gower by insisting that if Richard had listened more carefully to Gower’s suggestions, his reign would have been more successful.


Gower condenses his previous comments about the legal profession when he comes to write Book Six, and by presenting the condensed critique next to the epistle to the king, Gower redirects his message. In Book Six Gower focuses more closely on how money changes hands around the law, how lawyers are paid and what they do with their earnings, than he had in the *Mirour*. Furthermore, Gower’s emphasis on pleaders becomes more pointed in the *Vox* than in the earlier text. While his cautions still apply to pleaders and apprentices practicing at the bar, for two reasons I believe that in the *Vox* Gower intends us to think very specifically of the select group of pleaders serving as serjeants-at-law of the Court of Common Pleas. First of all, in the *Vox*, pleaders are juxtaposed with judges, sheriffs, bailiffs, jurors, and finally the king himself, suggesting that Gower is using some ordering principle that culminates with the king. Secondly, this group of representative men of law are all the king’s appointed officials, and it is to the king that Gower turns after castigating his legal colleagues in the preceding *speculum causidicorum*. Ultimately, Gower’s message seems to revolve around the relationship of the king to his legal officials and the law with which they work.

165 As with his specific use of “pledour” in the *Mirour*, in the *Vox*, Gower uses “causidicus” unless he uses completely general terms for legal personnel. Although Gower never mentions the serjeants-at-law by title, in royal courts only serjeants were technically “pledours” and “causidici.” Furthermore, as I have said, most of this material is drawn from the *Mirour*, where Gower spends some time describing the process of apprentices becoming serjeants, suggesting that the pleaders he refers to are these serjeants. See *Mirour* 24349-24396.
Book Six is divided into twenty-one chapters, and the first third of them focuses on the legal profession and law as practiced in the courts. In Chapters 1-3 and Chapter 5, Gower concentrates on how law is used as a tool and a medium of exchange by lawmen. Chapter 4 reinforces this notion by demonstrating how law is controlled by lawyers and judges who may easily be swayed by bribes or intimidation. Chapter 6 expands the field of view briefly to include other men of law like sheriffs, bailiffs, and jurors. This widening focus prepares readers for Gower’s shift in the second two-thirds of the book to his admonitory letter to King Richard. The combination of a *speculum causidicorum* and a *speculum regale* makes sense; the king correctly exercises his personal decision-making power only by delegating that power to his agents in the legal system, thus allowing the law to circulate freely.

In the heading to Chapter 1, Gower introduces the problem of mediation by lawmen between their clients and justice, but at the same time introduces a slipperiness of terms which he underscores in the following lines: “iam quia unumquemque sub legis iusticia gubernari oportet...quamis tamen ipsi omnem suis cautelis iusticiam confundunt” (*Vox* preface to 1). Swiftly, the poet expands on this problem: “causidici talem poterunt dum plectere legem,/ Transformant verbis iura creata suis” (*Vox* 21-2). This


167 “For it is right that everyone be governed by the justice of the law, however much these very men confound all justice by their chicaneries” (Stockton 220).

168 “When [pleaders] can twist this kind of law, they transmute the justice begotten of their own words” (Stockton 220).
“lex sine iure/Vertit ut est velle quolibet acta die” (Vox 19-20). The meanings of the words “lex” and “ius” here are unstable, and care must be taken in decoding them. Later, Gower states further that “lex in non leges iam transmutata” (Vox 71).

Gower uses metaphors of human or natural predation that imply that the law serves as a tool for lawyers, likening the practice of the law to a fowler’s snare, a fisherman’s hook, and spider’s web (Vox 69-72, Stockton 221). Driving the point home, he adds: “causidicus cupidus pavidos de lege propinquos/ Voluit et illaqueat condicioune pari,” and then alludes to the “net of the law” (legis rethe) (Vox 83-4, 86). Moreover, the law functions as a special kind of tool: for Gower, law can be a commodity, and this sense of the law permeates Book Six. Commodities are marked by two traits, use-value and exchange-value. Commodities embody use-value due to their usefulness, and if it can function as a tool, than the law has a use. Furthermore, commodities are exchanged according to their exchange-value; Gower recognizes that clients exchange money for “law.” Therein lies a problem for Gower, however, which is both practical and

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169 “Law without justice daily devotes itself to carrying out its wishes somehow” (Stockton 220).

170 Ferster notes how an important trait of the speculum principis genre, inherited from the Secretum secretorum-tradition, is the notion that the message of the text is perfectly obvious, but at the same time hidden (49-50). This kind of screening was also practiced by authors like Chaucer in avoiding blame for political critique, as Staley demonstrates. David Aers and Lynn Staley, The Powers of the Holy, Religion, Politics, and Gender in Late Medieval English Culture, University Park, PA: Pennsylvania State University Press, 1996. For example, see p.232. The misleading parallelism between “ius” and “lex” may be an example of such a screen.

171 “[Law is] now transmuted into what are not laws” (Stockton 221).

172 “In a similar way the greedy lawyer envelopes his trembling neighbors with the law and traps them,” (Stockton 221-2).

173 The MED, laue definitions 7 a, b shows that one could “bring to law,” “put in law,” as well as “have law.” For more discussion of Gower’s insights into the law as a commodity and an example, see page 114.
theoretical; use-value and exchange-value depend on quantity, and no set standards of “amounts of law” existed. Medieval English society regulated its market quite closely, establishing by statute regular weights and measures, and sometimes even legislating prices for goods and services. The law, meanwhile, went unregulated, and as such, was a unique commodity.

Serious attempts were made after the Black Death to restrain social change through regulation of goods and services at the national level, many in an attempt to curb unjust profit. The Ordinance of Laborers (23 Edw III) and first and second Statutes of Laborers (25 Edw III, 34 Edw III) fixed wages, determined terms of service, and stipulated places for hiring. Sumptuary laws passed in 1363 (37 Edw III c10-14) carefully correlated kinds of cloth and fur worn to social status. These efforts to legislate labor and social markers were built on traditional commercial laws legislating weights and measures like the Assize of Bread and Beer (possibly 51 Hen III) and the Assize of Weights and Measures (possibly 31 Edw I). Concern over value appears again during Edward III’s reign, when Parliament passed nearly a dozen statutes or ordinances concerning prices, weights, and measures. Absent from any such regulation, however, was the law. The sole statute concerning legal misconduct dates to 1275, Westminster I, chapter 29:

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174 Even Magna Carta dealt with weights and measures; furthermore, there were also many local regulations concerning prices and measures. For more about notions of unjust profit driving market regulation, see Gwen Seabourne, “Law, Morals and Money: Royal Regulation of the Substance of Subjects’ Sales and Loans in England, 1272-1399,” *Expectations of the Law in the Middle Ages*, Ed. Anthony Musson, Woodbridge, Suffolk: Boydell, 2001, pp.117-79.

175 2 Edw III; 4 Edw III st 1 c3, c12; 14 Edw III st1 c12; 23 Edw III; 25 Edw III st2; 25 Edw III st5 c9-10; 34 Edw III c5, c9-11; 37 Edw III c3, 47 Edw III c1.
it is provided also, That if any Serjeant (sj’eaunt,) Pleader (cōtour,) or other, do any manner of Deceit or Collusion in the King’s Court, or consent [unto it,] in deceit of the Court, [or] to beguile the Court, or the Party, and thereof be attainted, he shall be imprisoned for a Year and a Day, and from thenceforth shall not be heard to plead in [that] Court for any Man; and if he be no Pleader (cotour,) he shall be imprisoned in like manner by the Space of a Year and a Day at least; and if the Trespass require greater Punishment, it shall be at the King’s Pleasure. (3EdI c29)176

Chapter thirty also specifies that officers (sj’aunz) are not to practice extortion. Although these guidelines about personal misconduct provided a kind of quality assurance, it was a partial one indeed. Importantly, the value of the lawyers’ work was never regulated; neither this nor subsequent statutes tried to restrict prices. Legal fees remained at the mercy of market forces.

In Book Six, Gower expresses serious concerns about unequal exchanges of law for money. Within the first few lines he expresses a sentiment that resonates throughout these chapters: “hic labor, hoc opus, est primo cum munere iungi” (Vox 7).177 Gower

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176 Baker shows that this statute was used to prosecute attorneys as well as serjeants and pleaders; however litigation of any kind was rare (Baker, Serjeants 46-7). In addition, Paul Brand notes that the Statute and Ordinance of Conspirators both mention lawmen, but he contends that the Statute may be a draft, and the Ordinance provides for no method of enforcement (Brand 121).

177 “[Lawyers’] work and effort are primarily to be connected with their [gifts]” (Stockton 220). A more literal translation brings out the productive nature of gifts in legal practice: “this work and this effort are brought together primarily through gifts.”
accuses the pleaders of being whores, like Mede in *Piers Plowman*, and being “as comyn as þe cartway” (C.3.167). He remarks succinctly that you may give a lawyer money, but “nil tibi retro dabit” (*Vox* 68). Hyperbole aside, a client in the wrong who wins his case seems to get more for his money than a client in the right. A lawyer’s fees either diminish a client’s profits, or increase his or her losses. Rather than charging regularized fees, according to Gower, the legal profession seems to follow an “all the market will bear” philosophy. Emphasizing the partial, personal decisions corrupt pleaders were willing to make, Gower likens lawyers to those who falsify scales in commercial transactions:

\[
\text{Pondere subtili species venduntur, vt emptor}
\]

\[
\text{Circumventus eo nesciat inde forum;}
\]

\[
\text{Est tamen ecce modo pondus subtilius, in quo}
\]

\[
\text{Venduntur verba legis in art sua. (Vox 175-78)}
\]

As I discuss above, other commodities were regulated, and measures taken to ensure prices and scales were correct. Passages like this highlight Gower’s displeasure over the law’s lack of regulation.

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179 “He will give you nothing in return” (Stockton 221).

180 “Wares are sold by delicate weighing so that the buyer, tricked by this, may not know the market value of them. But behold, now there is an even more delicate weighing process, through which the words of the law are sold in their own way” (Stockton 224). Also note that this is further evidence for the law being treated as a commodity.
Related to this concern with a profession centered on the exchange of money for law are Gower’s fears about the socially destabilizing things the lawyers were doing with their gain. This worry is visible throughout Book Six, but especially in Chapter 2. Here he first mentions lawyers procuring land with their profits. Gower does not regard this impulse towards land-ownership as the same sort of avarice that lawyers have for their fees, though. Instead, lawmen build estates for their families, although Gower is confident that these estates will not remain intact past the second generation (Vox 135-145, Stockton 223). Brigette Vale notes that in 1379, justices were assessed at the same rate as the baronage, and that a successful pleader might even apply for permission to crenellate his manorhouse.\(^{181}\) In effect, Gower claims that lawyers aspired to maintain or improve their class status, for groups like the gentry and mercantile classes could be mercenary in scheming to increase their landed estates for their heirs, despite the fact that such estates usually failed within a few generations.\(^{182}\)

The corrupting effect of maintenance on lawmen detailed in Chapter 4 also links lawyers to gentry, but during Richard’s reign, maintaining lawmen ceased to be as attractive to lords as it had been earlier. Baker calls attention to the fact that “the retainer of men of law was expressly excepted from the legislation against maintenance and liveries”; nevertheless, he suggests that by the third quarter of the century, the notion that

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\(^{182}\) Even in the city, mercantile families did not thrive more than a generation or two; once moving out into the country as gentry, their survival rates did not improve, see Sylvia Thrupp, The Merchant Class of Medieval London, Ann Arbor, MI: University of Michigan Press, 1948.
lawyers served the law itself rather than particular clients may have been developing (Baker, *Serjeants* 26). Certainly, by 1400, fewer men of law continued to be retained overtly than when Richard acceded to the throne. Maddicott finds receivers’ accounts of the 1370s demonstrating fees going to judges as well as serjeants and attorneys, while by the 1390s only the lawyers continued to be fed.  

If *Piers Plowman* demonstrated how Mede must offer to wage her affine Wrong in order to fulfil her duties as a retainer-lord, despite seeming to offer a bribe in so doing, then Gower shows how the legal profession was in a similar double bind.  Gower notes with disapproval that lawyers are paid before they accept cases, and this situation resembles that when Langland´s character Conscience points out that the problem with maintenance is that the lord pays the servant before he performs his duties, rather than after as a reward. Yet a lawyer ran into legal problems if he took his fees after a case as well. Maintaining others’ quarrels in court, or maintenance-at-law, formed a portion of the legal definition of conspiracy and Parliament specifically complained of it in 1388.  

The Ordinance of Conspirators defined and prohibited champerty, anyone suing a case for


184 See Chapter 3 for more on this topic.

185 Pearsall, *Piers Plowman*, 3.290-2, 300-4 regarding the distinction between *mede* and *mercede*. Stockton 224-5, Vox 185-6, 263-4. Palmer notes that at the county level, at least, pleaders were often granted annuities in the form of cash or land, which was certainly a sort of maintenance. Palmer 95, 100. Also see Maddicott.

someone else with their own money in return for a share in the profits of a case, as well.\(^{187}\) Gower points indirectly to the problem of unregulated legal fees, since in some ways lawyers were trapped. If a lawyer took fees after a successful case, he looked like a champertor; if he accepted fees before a case, he seemed to be maintained. In either case, by accepting remuneration, the lawyer could be construed as breaking the law. Gower seems to be implying that regularizing legal fees, as was the case with so many other services, would enable lawyers to avoid the snares of maintenance while at the same time lessening the attractiveness of champerty.

Chapters 4 through 6 broaden the blame from pleaders to the judiciary to sheriffs and their appointees, and function as a transition into the *speculum regale* of the second half of Book Six, where the king himself is considered a man of law. Corrupt judges are a particularly vicious travesty of the legal system, since they have power over life and property, and Maddicott notes that the Commons began voicing a desire to regulate the judiciary more closely beginning in the mid-1370s. In a similar way sheriffs and jurors too control life and property; sheriffs especially through selection of jurors, who swear to the rightness of a defendant’s plea and deliver presentments to the court. Nearly every Parliament of the mid-1380s expressed concern over feeing and bribing judges and jurors.\(^ {188}\) Gower emphasizes the ubiquity of the exchange of money for law, but closes his analysis of the legal community with a stern reminder that not all clients are the same; those selling justice to the wicked resemble Judas (*Vox* 445-50, Stockton 229-30).

\(^{187}\) Nevertheless, recall Brand’s cautions. See n.3 176 above.

\(^{188}\) Maddicott 61, 65.
Chapter 7 serves as a transition from the critique of the legal profession to the *speculum regale* found in Chapters 8 through 18, and this transition is bound up in the king’s role as head of the legal system which should function to keep England unified and at peace. Examination of the first few lines of revision demonstrates Gower’s shift in purpose across the revisions of this chapter. The original text of lines 547-550 runs as follows: “crimen et, vt clamat, fert maius curia maior,/ Que foret instructor, legibus extat egens./ Ad commune bonum non est <modo> lingua locuta,/ Immo petit proprii commoda quisque lucri.”

Emphasis here is on corporate greed and corruption at the highest levels of the legal system, and a blatant disregard for the common good, which would be consonant with the parliamentary complaint of the 1370s and 1380s referenced above. Compare this to Gower’s revised text: “curia que maior defendere iura tenetur,/ Nunc magis iniustas ambulat ipsa vias:/ Infirmo capite priuantur membra salute,/ Non tamen est medicus qui modo curat opus.” Here the legal profession appears wayward due to lack of sufficient royal guidance; they wander headless. As I will discuss in closing this section, this attitude corresponds closely with criticism of Richard as early as

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189 “The high court which should be our guide is lawless, and, as the voice says, it commits high crime. No tongue now speaks for the common good, but instead each man seizes upon the opportunities for his own profit” (Stockton 232).

190 “The high court which is obligated to uphold justice now [more than ever walks unjust ways itself]. When the head is weak, the bodily members are deprived of health, yet there is no physician who now takes care of our need” (Stockton 232).

191 Chapter 7 is one of the places in the *Vox Clamantis* that received serious revision in the early 1390s, demonstrating a classic shift from displaced blame on counselors to direct condemnation of Richard’s behavior. See Ferster for a discussion of how typical this strategy was in the *speculum principis*-genre (2-3).
Gower turns to emphasize the impossibility that his subjects will behave well, if the king acts unjustly. In ignoring his responsibility to practice justice, Richard was encouraging dangerous tendencies already present in an unregulated legal marketplace; when the king failed to delegate his decision-making power to the professionals, he implicitly encourages them to use their own. In this way, the emphasis turns from the legal professionals of the last six chapters to the king himself; Gower does not chastize guilty lawyers in Chapter 7, but admonishes the king or employs general terms like “legiferi.”

Beginning in Chapter 8, Gower sets out to guide Richard back into his proper role, often by reminding him of the legal role of the king, a point the poet emphasizes in his revision of the final chapter. Most of this *speculum regale* is stock material: a king should select good counselors, should be just, merciful, pious, practice just war, and humbly prepare for death. Within the first few lines of the *speculum*, however, Gower directs the king to recognize his role in the kingdom’s law: “regis et est proprium, commissam quod sibi plebem/ Dirigat, et iusta lege gubernet eam” (*Vox* 585–6). “O rex, ergo tue tua legi debita solue,” Gower pleads, “sis pius et populum dirige lege tuum” (*Vox* 1067, 1070). The king’s active participation is necessary to the healthy

192 “What is a people without law?” (Stockton 230).

193 See Macaulay p. 511, 516, Stockton 231, generally.

194 “And it is proper for the king to guide the people entrusted to him and govern it with just law” (Stockton 233).

195 “O king, perform your duties to your law,” and “be dutiful and govern your people according to law” (Stockton 245). Literally, the first quote reads as “pay your debts to the law!” We should recall that a *debitum* was the legal penalty an offender was required to pay.
functioning of the legal system, but equally crucial are members of the legal profession. I think this symbiosis, where both king and lawyer must act upon the law for the law to function, is a key element of Gower’s final message to Richard as can be seen in his revisions to the last chapter of the *speculum regale* of Book Six.

I believe Gower is making a claim that the law must move freely through the common law system, and not be controlled by the king more closely through the developing discretionary jurisdictions. As I have shown in previous chapters, the late fourteenth century witnessed a growth in discretionary jurisdictions in England like the Council and Chancery. Throughout Book Six, Gower emphasizes how the law is a tool, a commodity which circulates and can be exchanged rightly or wrongly. He demonstrates how legal officials like serjeants, judges, sheriffs, and jurors all corrupt the legal system when they make personal decisions within it, whether by charging too much or fixing a case. By making his examples royal appointees Gower further links the king’s attitude towards English law with its more humble practitioners. Using the *speculum regale*-genre, the poet is able to hammer his point home, and after 1390, in the baldest terms.

In Chapter 9, Gower asserts the dangers of the king’s personal decisions being used too directly as judicial tools, and he locates this assertion squarely within the late fourteenth-century political milieu: “iudicii signum gladius monstrare videtur,/ Proditor vt periat, rex tenet arma secus:/ Rex iubeat tales laqueo super alta leuari,/ Ne periat Regis

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196 See Chapter 3 above.
legis et ille status” (Vox 697-700). There is no doubt here that the law originates with the king: the law is specifically his, “Regis legis.” The threat to this law are those misusing both their military power and the “iudicii signum,” or “badge of justice,” which even the king could corrupt. “Signa,” the word used to designate livery badges, were a contentious issue throughout Richard’s reign. A common complaint was that retainers used their badges to facilitate intimidation and extortion, as well as more violent crimes: their swords literally became their “badges of justice” since no one dare challenge them. To combat this misuse of judicial authority, Gower insists that the forms of common law be obeyed: men who abuse the king’s law are traitors and must be hanged, not executed summarily and in an unlawful manner, even by the king. Attention to the forms of the common law protects both the status of the king and the king’s law itself. Exercise of the king’s ability to make judicial decisions appears here to be dangerous to the functioning of both the law and social order in the form of the king’s status: he “must wield his arms otherwise,” through the common law and its officials. The revised version of the end of Gower’s epistle to the king in Chapter 18 shows this to be one of Gower’s

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197 A translation more literal than Stockton’s yields an interesting alternate reading which I discuss above: “the sword is seen to make known the badge of justice,/ so that the traitor may perish, the king must wield his arms otherwise:/ the king should order such men raised up high by a noose,/ so his status and the royal law does not perish.” Stockton’s translation is looser: “the sword is understood as indicating the badge of justice; even so, a king does not lay hold of his weapons in order that a traitor may perish: a king should order such men hauled up high by a noose, lest his own position and that of the law be destroyed” (Stockton 236). My thanks to Richard Firth Green and Frank Coulson for suggestions regarding this passage.

198 For the Ricardian struggle over badges, see Nigel Saul, “The Commons and the Abolition of Badges,” Parliamentary History 9 (1990): 302-15. For more discussion concerning badges and maintenance, see Chapter 3 above.
primary messages. According to the revised version of Chapter 18, dating to sometime in the early 1390s, the king’s proper role in relationship to the law was administrative, not participatory, and the chapter focuses overwhelmingly on the king’s relationship to the common law. The poet acknowledges that the king’s personal decision-making powers were unique and necessary in the preface to the chapter; nevertheless, Gower quickly sets about curbing this privilege within the common law. Gower’s conjunctions are important in these passages, qualifying and limiting the supreme power of the king. The king’s discretion, his power to judge and make decisions, could be dangerous if it was clouded by personal concerns: “si rex sit vanus, sit auarus, sitque superbus,/ Quo regnum torquet, terra subacta dolet” (Vox 1169-70).

Instead, the king must concentrate on actively developing a just legal system: “rex sibi commissas regni componere leges/ Debet, et a nullo tollere iura viro” (Vox 1177-8).

The royal discretion must be exercised: “perdita restaures communia iura, que leges/ Ad regnum reuoca.” (Vox 1187-8, emphasis mine). The law originates with the king, but as his reference to “communia iura” demonstrates, Gower guides Richard carefully away

199 The original text wishes for a successful future for the young king and reiterates cautions against pernicious counselors.

200 This is consonant with Middleton’s opinion that late fourteenth century critics thought that law and government, in the form of parliament, not the king, should be “active” rather than “custodial” in regard to social concerns (226).

201 “If a king is vain, greedy, and haughty, so that he torments his kingdom, the land subject to him suffers” (Stockton 248).

202 “A king ought to weigh carefully the kingdom’s laws, which are entrusted to him, and he ought to withhold justice from no man” (Stockton 248).

203 “Restore our common justice, now lost; bring law back to the realm” (Stockton 249).
from exercising his discretion as a kind of law unto itself: “dumque [suas] leges mixtas pietate gubernes,/ Cuncta [sue] laudi gesta feruntur ibi” (Vox 1195-6). Gower’s concerns with how the king employed his personal discretion in public, judicial ways correspond with others’ critiques of Richard in the 1390s.

Richard II’s judicial role came under special scrutiny in the early 1390s. In 1389, he regained control of his government following the Appellant crisis of 1388, and for a time seemed to be living out Gower’s recommendations for strong administration with little direct involvement in suits himself. The king promised to provide better access to justice, and his actions of the following months seemed to prove his commitment. He reappointed Commissions of the Peace with an eye towards legal competence: judges and serjeants were appointed at the expense of lords and knights. In contrast to the Appellants’ delinquency, Richard swiftly moved to enforce the provisions regarding judicial salaries, powers of determination, size of commissions and nomination of JP’s and sheriffs made in the Statute of Cambridge of 1388. Sheriffs in 1389 were chosen by the king himself; no longer were they appointed by the chancellor, treasurer, keeper of the privy seal, and barons of the exchequer. Nevertheless, by 1390 Richard began to cave in to baronial interests and by 1391 there were rumblings of dissent once more, making the revised chapter a timely reminder of the king’s previously stated intentions.

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204 “And as long as you administer laws tempered with righteousness, your every action will redound to your praise” (Stockton 249).

205 Storey 135-142, 151. Moreover, by the 1390s, it must have begun to be obvious that most of the bench, and a large proportion of the serjeants, were in the pay of Lancaster. See Douglas Biggs, “Henry IV and His JP’s: The Lancastrianization of Justice, 1399-1413,” Traditions and Transformations in Late Medieval England, Eds. Sharon Michalove and Douglas Biggs, Boston: Brill, 2002, pp.59-79.
In fact, in the early 1390s, Richard could be said to be “fashioning [...] a more assertive, more legalistic style of governance” (Saul, Richard 237). Richard’s most recent biographer, Nigel Saul, sees him as no less obsessed by his judicial authority in the 1390s than he had been earlier, in the 1380s: “overriding all other objectives was to be the defence and maintenance of the powers of the prerogative” (Richard 239). Instead, Gower tried to cajole the king back towards a less personally active administration of the common law, promoting the delegation of royal discretion. Moreover, in setting aside his personal preferences, Richard served as a just model for those legal professionals who employed discretion that the king had delegated to them. It is in this light that we can examine a particularly legally-inflected exemplum in the Confessio Amantis as well. The story of Virginius and his unfortunate daughter, Virginia, is not a simple retelling of the preceding story of Lucrece, but makes a pointed political comment of its own. Gower edits the tale in very specific ways to make it a fit vehicle for his critique of jurisdictions dependent on a potentially tyrannous royal discretion.

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207 In the 1390s, Richard may have been very deliberately attempting to live out the supreme royal prerogative described by Giles of Rome in his speculum principis, a text steeped in the civil law of the Continent. This context throws Gower’s speculum regale, especially its revisions, into full relief; Book Six of the Vox Clamantis might function as a common law counterargument to the civilian promotion of royal authority espoused by Giles. Saul notes that contemporaries themselves noticed Richard’s interest in civil law with some concern (Saul, Richard 249). Gower does point out that doctors of civil law make good counselors, but this single positive remark seems drowned out by the body of Gower’s pro-common law argument (Vox 786, Stockton 238).
4.3. “THE SWORD IS SEEN TO MAKE KNOWN THE BADGE OF JUSTICE” (VOX 697)

Throughout Richard’s reign Gower argued increasingly that misuse of the royal discretion disrupted the just delegation of judicial authority to professional lawmen, as well as improperly encouraging them to make personal decisions in public capacities. Now I want to turn and explore one of Gower’s most puzzling exempla, the story of Virginia and the tyrannous king Apius, near the end of Book Seven of Confessio Amantis, finished about 1390, to show how these concerns offer a context for one of Confessio’s more obscure tales. Although there is no consensus of interpretation among critics of Chaucer’s roughly contemporaneous version, presented in The Physician’s Tale, I will use an analysis of this version as a supplement to Gower’s, because Chaucer’s spare tale emphasizes several important aspects of the story. Unlike other critics who have examined these stories, I argue that some of the puzzling events of the tale become more understandable when its legal implications are considered, including Gower’s decision to make Apius a corrupt king rather than a corrupt judge. This way the fixed trial occurs in a discretionary court, and implicates the king and his misused royal discretion in Virginia’s death. Denied a common law trial judged by properly employed delegated judicial authority, no one, not Virginius, his daughter, or the common people, are safe from partial decisions. Virginia’s human tragedy is a result of her treatment by a noncommon law court; I argue that the tale betrays great ambivalence towards any legal system that disregards the common law.
Briefly told as a composite of Chaucer’s and Gower’s versions, the story unfolds as follows: a knight, Virginius, has a beautiful, marriageable daughter named Virginia. The corrupt judge, Apius, who in Gower’s text is a king, resolves to possess the girl, and develops a scheme wherein a man named Claudius will enter court and assert that Virginia is his servant and has moved into Virginius’s household wrongfully. When the fraudulent case is heard, Apius quickly finds for Claudius, whereupon Virginius kills Virginia rather than deliver her alive. The people rally around Virginius and depose Apius; Claudius narrowly escapes death.

Although interrupting the progression of Amans’ confession, the speculum regale of Book Seven that includes the Virginia-exemplum stands as a focal point of the Confessio. As I mentioned earlier, Elizabeth Porter considers Book Seven to be crucial, as it demonstrates the connections between self-governance and political governance. Kathryn McKinley notes that the book breaks narrative continuity in the Confessio, and that Gower’s technique in placing Book Seven’s materials here resembles the narrative ecphrasis, or long narrative digressions expressing important themes, popular in some of Gower’s source-material. Although she notices that the Virginia-tale is one of the longest in the book, she follows critical tradition in using the Lucrece-story to illustrate Gower’s cautions to the king.

208 Fisher 197, Peck 140.
As with the *Mirour de l’Omme* and the *Vox Clamantis*, scholars of Gower’s work have little to say specifically about the Virginia-story, preferring instead the story of Lucrece nearby in Book Seven. Larry Scanlon states that the Virginia-narrative is a “flat analogue” of the Lucrece-tale (295). Scanlon sees the tale as directed at Richard, for Apius is deposed “for his failure to embody the common interest,” as well as at nonroyal audiences as an argument for chaste marriage protecting the social and gender hierarchy (295).211 There are many convincing elements to this interpretation; nevertheless, if the Lucrece-story is meant to demonstrate “the dangers of uncontrolled sexual desire in a ruler and how these desires when acted upon necessarily effect the ‘commonweal’ in destructive ways” (Scanlon 189), and the tale of Virginia accomplishes the same thing, then why include the tale of Virginia at all? Russell Peck notes simply that the Virginia-story demonstrates Gower’s concern for the “common law,” the “common right,” and the “common profit” (156-7). I agree with Peck and with part of Scanlon’s interpretation, but believe that Gower’s argument goes deeper. Including the tale of Virginia allows Gower to continue connecting the behavior of the king to the behavior of the legal profession, and to further link the abuse of royal discretion in legal matters to the travesty of the common law in the *Confessio Amantis* as he did in the *Mirour de l’Omme* and the *Vox Clamantis*.

Ferster points out that changes made from Gower’s sources for the Virginia-tale maintain the political import of the piece, but render it cautionary, rather than

revolutionary. Rather than institutional injustice, Apius’ personal injustice causes his fall. Ferster emphasizes Gower’s stress on royal counsel-taking and suggests that the people’s punishment of Apius’ council might refer to the Merciless Parliament of 1388. Ferster is absolutely correct: the personal is political (as it often is with Gower), but the personal functions in a specially legal way here, since Richard, his administration, as well as his opponents, were all experimenting with the relationship between personal decisions and public judicial authority.

Since there is more criticism of Chaucer’s version of this tale than Gower’s, I want to introduce some perspectives on the Physician’s Tale which will be useful in my own investigation of Gower’s analogue. Unlike Gower’s version of the Virginia-tale, critical appraisal of the Physician’s Tale runs a broad gamut. It has been seen as a comment on natural law, a rape-narrative, a tale of governance, a joke, a failure, a modernist tale, a display of virgin sacrifice, and a failed proverb, among other interpretations. Inherent in a number of these readings is a paradox; clearly told as a moral tale, it may, as critics like Andrew Welsh suggest, be impossible ultimately to

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212 Ferster 119-121.

moralize Virginia’s beheading.  

Recent critics of the Physician’s Tale consider it as a rape-narrative. Christine Rose emphasizes that in Chaucer’s works, “rape seems [...] not to focus on a forced sexual act and a woman’s pain, but rather on a male seizing power, a reordering of social class relations, a disempowering of the victim (or her possessor), or an act of desecration of some institution the woman represents” (30). I suggest that this comment holds true for Gower’s version of the tale as well. Other critics have also noted how harm to Virginia is harm to Virginius. Glenn Burger notes that by perverting Virginia’s sexual status and reputation, Apius also perverts her father’s; she acts as a conduit of power between men. Virginius must slay his daughter to maintain gendered social order. The connection of Virginia’s gender to the interaction between Virginius and Apius and the necessity of her death are important elements to the narrative and ones that influence my own reading of Gower’s text no less than Chaucer’s.

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214 Welsh 88.


216 Christine M. Rose, “Reading Chaucer Reading Rape,” Representing Rape in Medieval and Early Modern English Literature, Eds. Elizabeth Robertson and Christine M. Rose, New York: Palgrave, 2001, pp.21-60.

Sheila Delany and Jerome Mandel consider political angles to Chaucer’s maligned tale which are important in considering Gower’s version, where Apius is not simply a judge, but a king. Mandel suggests that the tale is about relations between the governed and the governing, claiming that both Apius and Virginius counterfeit justice. Alternatively, Delany sees Chaucer as depoliticizing his source, and in the process creating an aesthetic morass. Mandel’s recognition of the parallels between Apius and Virginius is useful, but I would further point out that a social and political tension existed between a judge and a knight, a tension that is increased when it is represented between a king and a subject, as in Gower’s version. Delany aptly proves how much political material Chaucer removes from earlier versions of the tale, but this editing may highlight portions of the text audiences subject to English law would appreciate. Furthermore, in revising his source text so that Apius is a king, Gower is clearly increasing his text’s political import rather than lessening it.

A few critics point out legal elements in the *Physician’s Tale*, but these details are generally seen as peripheral rather than central to an understanding of the tale. D. W. Robertson notes that the kinds of conspiracy, maintenance-at-law and champerty that the Physician complains of in his prologue find echoes in the tale itself. Champerty was defined in an ordinance against conspirators in 1305 and consisted of anyone suing a case

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218 Mandel 317, 321, 323.


220 Robertson 134.
for someone else in return for a share in the profits of the suit.\textsuperscript{221} Maintenance-at-law received a legal definition in the second Statute of Westminster and basically consisted of one man hiring another to prosecute his grievances.\textsuperscript{222} Robertson argues in part that Apius retains Claudius, and “false physicians...resemble conspiratorial ‘maintainers’” (137). In this unlikely place, we find Chaucer expressing concern over the legal profession in terms similar to Gower’s critique in the \textit{Mirour de l’Omme} and the \textit{Vox Clamantis}.\textsuperscript{223} I want to extend Robertson’s insights and read this concern with personal decisions and public justice through the entire tale.\textsuperscript{224}

The kind of jurisdiction in which Virginia finds herself is a matter of contention to the characters, and I believe this point of negotiation reveals the thrust of the tale. The king and Virginia’s friends disagree about whether they are operating under discretionary or common law. Moreover, as the tale progresses, I think it becomes clear that the human tragedy of this story arises from the damaging potential inherent in jurisdictions based solely on the royal discretion. The summary decision Apius makes regarding Virginia demonstrates his misuse of his royal discretion, since her death results from changes that Apius made to the law without first receiving counsel or statutory support.

\textsuperscript{221} Ordinance on Conspirators, 33 Edw I. See cautions concerning this ordinance above, n. 176.

\textsuperscript{222} West II, c.36. This is distinct from hiring an attorney or pleader, but the line between hire and maintenance could be fuzzy, as I discuss above on page 116-117.

\textsuperscript{223} \textit{Mirour} 24289ff.

\textsuperscript{224} Jay Ruud examines the \textit{Physician’s Tale} through the lens of medieval ideas of natural law, noting that the unnatural demands Apius and Virginius make necessitate Claudius’ and Virginia’s rebellions, yet these characters remain obedient. In the end, although Claudius has obviously committed a crime and should be punished, only Virginia feels the sword (40-1).
Gower forces readers to consider royal discretion by restricting the number of classes he introduces in his text. Apius is a king in Gower’s text, while Claudius is Apius’s brother, and therefore nearly a class-peer. Gower emphasizes the similarity of their behavior as well: Claudius is “a man of such riote/ Riht as the king himselfe was” (*Confessio* 5168-9). Although Gower’s characters are “rioters,” maintenance-at-law remains implied rather than explicit, since no money changes hands, unlike in Chaucer’s text where Apius is a judge who enters a “conspiracie” with a “cherl,” Claudius, for which Claudius receives “yiftes preciouse and deere” (*Physician’s* 148-9). Chaucer presents maintenance-at-law in a severe form; Claudius is maintaining Apius’s illegal lusts in court. Once inside the courtroom, both Gower and Chaucer place their characters squarely within the dynamic legal system of late fourteenth century England.

In Gower’s version, King Apius first attempts to step around common law procedure by proceeding with a trial before the defendants were present, as he might claim was his right in a discretionary jurisdiction like the Court in Council or Chancery. The audience already knows that the impartiality of the king’s decisions is not to be trusted, however, since Gower’s narrator reveals the king preparing the plaintiff:

“Claudius schal seie/ Hou [Virginia] be weie of covenant/ To his service appourtenant/
Was hol, and to non other man” (*Confessio* 5172-5). Gower distinguishes Apius’ behavior from outright tyranny, though, since he emphasizes that he and his accomplice

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225 As in previous sections, I will quote from Macaulay’s text by title and line-number. The text runs from lines 5131 to 5306. For contemporary debate about the nobility’s lawlessness, see Chapter 3, above.

follow all the forms: they arrange things “after the lawe” and summon Virginia to court

(Confessio 5180). Nevertheless, Virginia’s “frendes” come to the king and argue that
Virginius must be allowed time to come to court as well, since common law provided
protection to properties held by men serving in wartime: 227

Hire frendes.../.../

... comen to the king and seiden,

Upon the comun lawe and preiden,

So as this noble worthi knyht

Hir fader for the comun riht/.../

Lai for the profit of hem alle/

Upon the wylde feldes armed,

That he ne scholde noght ben harmed

Ne schamed, while that he were oute (Confessio 5185-6, emphasis mine)

In general, both parties to a suit had to be present in common law courts, a custom which
protected both mercantile and military interests. In this case, Virginius’ friends interpret
the law to protect a different sort of property, Virginia. Good follower of legal form that

227 It was a common law tradition that no man be condemned unheard: no one could be “surprised” by
the law. See Magna Carta clause 30 for an example.
he is, Apius acquiesces, but with the minimum required, giving Virginius two days to appear in court.\textsuperscript{228} Again, this emphasizes that, rather than being a simple tyrant, the king is abusing the powers owing to him in a discretionary court, abuses that would not happen under common law.

Despite Virginia’s friends’ insistence on the protection given to defendants under common law, and although procedure-by-bill was used extensively in common law courts, the circumstances surrounding Claudius’s bill suggest that this case is being treated as though it is under some type of discretionary jurisdiction.\textsuperscript{229} Suits in discretionary courts like the Court in Council and Chancery were all initiated by bill. In Chaucer’s version, Claudius even invokes the idea of “equitee,” (\textit{Physician’s} 181) and, as I have noted in previous chapters, by the fifteenth century the Court of Chancery was considered a court of equity.\textsuperscript{230} Claudius proposes to initiate bill-procedure in precise legalese: he asks for his right, directs the judge to his intended procedure-by-bill, and

\textsuperscript{228} In comparison, Chaucer’s Apius follows technical common law procedure of his own volition, pointing out that Virginius was not present, and proceedings would continue only with both litigants in court.

\textsuperscript{229} A detail which summarizes the point I’m making here in microcosm is the use of the word “consistorie.” Claudius appears in person before Apius in his “consistorie,” a word referring in specific cases to ecclesiastical courts, which were another type of discretionary jurisdiction, but here more generally referring to a courtroom. Certainly Chaucer was aware of the discretionary context of the term, and employed it to invoke both this connotation, as well as the contrasting definitions more generally referring to any court, as another method of leaving the exact nature of the court open, thus forcing his characters to define it in a way which best suits their needs. MED “consistorie,” definition 2.

\textsuperscript{230} This is the earliest use of the term equity in a legal context recorded in the MED; see “equite,” definition 3. Also see Chapter 3 above concerning the development of the Court of Chancery.
names the defendant (*Physician’s* 164-170). In Chaucer’s version, when Virginius arrives the document read includes the traditional elements of a bill: Claudius greets the judge, asks for law and equity, makes his complaint, and asks for a particular redress (*Physician’s* 178-189).

Moreover, the count against Virginia is also one of particular interest to the discretionary courts like the Council. Although the shape of Claudius’s complaint against Virginius can be traced back to Livy, it attains particular resonance in late medieval England. In Chaucer’s text, Claudius avowes that Virginius, a knight, “holdeth, expres agayn the wyl of me,/ My servant”: “[Virginia] nys [Virginius’] doghter nat,” and he asks for the return of his servant (*Physician’s* 182-3, 187). Although Lomperis considers this a paternity-suit, I argue instead that Claudius, and through him, Apius, imply that Virginius had violated the Statute of Laborers, and does so in such a way as to cast class-aspersions on his family. Bertha Haven Putnam documents some labor cases removed to higher courts, and notes a few cases reaching as high as the Council. Moreover, she credits the Council with extraordinary powers: “the more important functions of the council, however, are...the initiation of legislation *or of changes in the law without recourse to legislation*, and the persistent control of the legislative machinery” (Putnam, *Enforcement* 217, emphasis mine). These are exactly the sort of powers against which

231 Gower’s text does not differ substantially from Chaucer’s here.

232 Lomperis, 29.

Gower writes, and which are highlighted in the Virginius-exemplum.

Labor was a significant topic in fourteenth-century England, especially after 1381, but it had been for some time before that. The original Ordinance of Laborers of 1349 specified that anyone not engaged in commerce, a craft, or living off their landholdings must labor (23 Edw III c.1). Fundamentally, the Ordinance and later statutes were concerned with controlling laborers’ wages, but also in forcing them to fulfill their contracted duration of service with one master before moving to another (23 Edw III c2). Putnam points out that in the decades after 1359, justices enforced all the labor laws more stringently than before. According to the first Statute of Laborers, the accused were to be attached to answer the allegations in court (25 Edw III c5). Accusing Virginia of being a runaway servant subject to the Statutes of Laborers presents her as a member of the servile classes, since as Putnam notes, charges against those above the level of household servant were extremely rare. The gravity of these accusations constrained Virginia or her father to appear in court to clear themselves, but once in the high court, the corruption of the royal discretion bars them from receiving justice.

The dangers of a discretionary court are demonstrated in the next scene as well, when King Apius makes up law and procedure as he goes. In Gower’s version, Virginius seems to give “excuse” adequate to clear Virginia (Confessio 5216); nevertheless, Apius exercises his discretion boldly, just he does as in Chaucer’s text. “The lawe he torneth


235 Putnam, Enforcement 81.
out of kinde” and he sentences in favor of Claudius: “ayein him was non Appel” (Confessio 5220, 5233). Pointing out that Virginius could not appeal this decision emphasizes the appellate nature of this high court, and reinforces how unstable this kind of court could be when the unpredictable, partial decision of a single man could so easily replace the protective common law. The unnatural judgement deprives Virginius of reason, and drawing his sword, he stabs Virginia dead, making it clear to Apius that leaving her alive would destroy the knight’s honor: “for me is levere upon this thing/ To be the fader of a Maide./ Though sche be ded, than if men saide/ That in hir lif sche were schamed/ And I therof were evele named” (Confessio 5248-52). Recalling Gower’s warning in the Vox, the king misused first his royal discretion, then his metaphorical sword of justice, and Virginius followed suit, literally using his sword as a badge of justice to enact his own judicial decision.

In Gower’s version, after killing his daughter, Virginius flees the courtroom and seeks redress from a literal manifestation of the common law. He goes “ther as the pouer was/ Of Rome, and tolde hem al the cas” (Confessio 5265-6). This construction parallels a common law formula and procedure, when a defendant “puts him/herself on the power of the country” by letting a jury decide the case. Virginius argues that Apius’s corruption could harm any one of those to whom he submits; royal discretion could be a threat to good order. Gower emphasizes how unanimous the people are in supporting

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236 This line provides further proof that Gower is thinking about a royal discretionary court, since the king could not be appealed, or be a litigant at all, in his own court.

237 See page 121 and n. 197 above concerning this metaphor.

238 For a statutory example, see the Statute of Gloucester, chapter 9.
Virginius against Apius’s misuse of his discretion; they “alle swore” and are of “on acord” (*Confessio* 5380, 5282). Unanimity was expected of medieval voting bodies like juries and, functionally if not technically, parliament._apius’s use of the royal discretion is a “tirannye,” even a “prive tricherie,” with its overtones of treason (*Confessio* 5285, 5287).

The end of the story in Gower’s text reflects events of 1388 and the Merciless Parliament when the Appellants purged the administration of Richard’s supporters, executing Chief Justice Tresilian and dismissing five other judges from the bench. Following Virginius, the people take

...comun conseil of hem alle

They have here wrongfull king deposed,

And hem in whom it was supposed

The conseil stod of his ledinge

Be lawe unto the dom thei bringe  (*Confessio* 5295-5300)

Chaucer, too, exiles Claudius, while hanging “the remenant.../ That were consentant of this cursednesse” (*Physician’s* 275-6). Both tales end in solid confirmation of the moral rectitude and representative power of the common law as seen in “the power of the country.”

The struggle between common law traditions and developing prerogative jurisdictions resulted in the human tragedy of Virginia’s death. Virginia stands as the

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239 Ferster 121-2.

240 Ferster suggests this, page 122; also see Maddicott 60.
victim of the king wielding his law incorrectly, to borrow Gower’s own metaphor from the *Vox*. The story implies that, correctly employed, the common law would have rescued Virginia. Instead, a subject with his own sword, Virginius, learned from the king’s poor example, and unjustly killed his own daughter. This is certainly a cautionary tale if read in terms of the legal profession’s relationship to the king. Following Apius’ lead, Virginius acts based on a personal decision, just as his king did. Once Virginius frees the law from the control of a lone, personal decision, the “pouer of Rome” finds against Apius in a unanimity characteristic of the common law, and deposes him and his corrupt counselors in order to restore right rule under a common law.

Although Gower exhibits his concern for misused legal authority throughout the *Mirour de l’Oomme*, the *Vox Clamantis*, and the *Confessio Amantis*, he strikes these notes loudest in his last two works. The king should not attempt to control the law single-handedly, if for no other reason than it sets a poor example for lawmen further down the chain of command. Reminders that as a commodity, the common law must be free to circulate were especially necessary since the lack of basic regulation of the legal profession made exercising personal prerogative over the law, in return for cash or other incentives, all too attractive to many lawyers, judges, and jurors. Book Six of *Vox Clamantis* resembles Hoccleve’s *Regiment of Princes* in that Gower speaks to the king through it, but Richard proved to be less adept at reading Gower’s half of the dialogue than Henry was of Hoccleve’s, as we shall see in the next chapter. The Virginia-exemplum in the *Confessio Amantis* recalls Richard’s humiliation in 1388, and Gower’s
revisions to Chapter 18 of the *Vox Clamantis* demonstrate the king’s failure to take the lesson to heart. Like Apius, Richard was too willing to exercise his prerogative in the courts; as Richard Firth Green has pointed out, for a time in 1397 his Court of Chivalry began to resemble Wolsey’s notorious Start Chamber.\(^{241}\) In fact, of the 33 charges made at Richard II’s deposition, almost a half complained of the king’s meddling with the legal system, while a further five treated his threats or corruption of judicial officials like judges or sheriffs.\(^{242}\) Count 5 seems to rephrase Peace’s bill against Wrong in *Piers Plowman* when it complains of the king’s retainers assaulting and murdering people, taking their goods, provisioning themselves without paying, and raping and ravishing women. Meanwhile Counts 16 and 26 take aim directly at the king’s misuse of his royal discretion in their references to “his arbitrary will,” and that “his laws were in his mouth, [...] [or] in his breast; and that he alone could change or make the laws of his kingdom ” (Given-Wilson 177-8). Discretion, the power to make decisions and judgements, especially of the legal kind, was of profound importance for both the shapers of history in the late fourteenth to early fifteenth centuries as well as the literary authors who commented on their contemporary culture.


If the late fourteenth century found English culture in serious debate over the exercise of royal power, then 1411 demonstrated this concern in microcosm. Having deposed his predecessor, Richard II, in 1399, Henry IV fell ill in 1405, and was continuously plagued by disease for the rest of his reign, leading his son, the future Henry V, to take control of the government in late 1409. In late 1411, Henry IV resumed personal rule for the few remaining years of his life, removing his son and his son’s appointees from the Council. Some government personnel weathered these regime-changes, and pursued bureaucratic careers across several reigns.② Four such civil servant was Thomas Hoccleve, who toiled in the office of the Privy Seal from Richard II’s reign through to Henry VI’s. In 1411 he put to use the experience he had gained in years of bureaucratic work and wrote the *Regiment of Princes* for Prince Henry about the makings of a good king.

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In the wake of the Lancastrian coup and the prince’s recent experience as a *de facto* regent, it is unsurprising that the issue of the ruler’s discretion, both his ability to make decisions and his legal responsibility to do so, figure prominently in Hoccleve’s text. What is more unexpected is Hoccleve’s approach to solving the problem that drives him to write.244 Hoccleve’s repeated pleas for payment situate the *Regiment* within the traditional genre of begging-poetry, but Hoccleve desires payment for his *bureaucratic* work, not his poetic undertaking. In both direct and indirect ways throughout his text, Hoccleve repeats that a ruler must listen to the advice the experienced, professionals around him give, and must pay them promptly and regularly for their labor. For purely personal reasons, then, Hoccleve presents a solution to the puzzle plaguing authors discussed throughout this dissertation: how to reconcile maintenance with a just, functioning legal system. Hoccleve’s answer is simple: recognize maintenance for what it had become, a contractual, economically based professional relationship between an employer and an employee.245

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244 In pursuing this line of argument, I distinguish my research from Ethan Knapp’s nuanced analysis of ways in which Hoccleve’s bureaucratic background shaped his approach to writing. Fundamentally, the questions that Knapp asks of Hoccleve’s texts reveal information about the bureaucrat’s psyche, and how he inscribes himself in his texts. In contrast, I am investigating a single work, the *Regiment of Princes*, to determine what the author thought about an institution, the legal profession, of which he was part. See Ethan Knapp, *The Bureaucratic Muse. Thomas Hoccleve and the Literature of Late Medieval England*, University Park, PA: Pennsylvania State University Press, 2001, especially chapter one, “Bureaucratic Identity and the Construction of Self in Hoccleve’s *Formulary* and “La Mal Regle.” Later, in chapter three, “‘Wrytyngne no travaile is’ Scribal Labor in the Regement of Princes,” Knapp demonstrates that a project like mine is possible, but examines only short portions of the Dialogue with the Old Man; I will begin there, but then continue exploring the rest of the *Regiment.*

245 Some documentary evidence corroborates that this time saw a shift in perception of the royal clerks. For example, although Privy Seal clerks lived together in a hostel provided for them by the Keeper of the Privy Seal, it was only in 1409 that the legal fiction ceased to be maintained that this was a temporary measure until room could be found for their lodging within the king’s household. See A. L. Brown, “The Privy Seal Clerks in the Early Fifteenth Century,” *The Study of Medieval Records. Essays in Honour of Kathleen Major*, Eds. D. A. Bullough and R. L. Storey, Oxford, Clarendon Press, 1971, pp. 260-281.
The ramifications of this understanding of the maintenance relationship are broad. Modern scholars understand “maintenance” to be a relic of older, traditional feudal relationships, and the “bastard” in “bastard feudalism” refers to the shift from love to money as the basis of these relationships. I contend that Hoccleve’s plea in the *Regiment* marks our first literary example of a voice recognizing that the pendulum had finally swung, that employer-employee relationships must, both in ideology as well as in practice, be professional and based on an exchange of labor for money.

Throughout this chapter we shall see that Hoccleve employs both traditional and progressive rhetorical approaches to achieve his goal. In the Dialogue with the Old Man, Hoccleve situates himself as the voice of the new professionalism, while the Old Man gives voice to more traditional values, concerns, and problem-solving strategies. In the Prologue to the *Regiment*, Hoccleve addresses Prince Henry wittily and directly, so that he demonstrates at once his ability to write within the courtly register, and emphasizes his professionalism. In the preface, Hoccleve reveals that Henry must discern the true meaning behind the bureaucrat’s puns, just as he must discern the meaning underlying the

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247 I am using Perkins’ names for the three divisions of Hoccleve’s text as they more nearly represent textual divisions as seen in manuscript witnesses: see page 185 in Nicholas Perkins, *Hoccleve’s Regiment of Princes: Counsel and Constraint*, Cambridge: D.S. Brewer, 2001, for his defense of this terminology.
exempla of the Regiment itself. At the end of the chapter, we will discover how a number of the exempla which Hoccleve includes in his text focus on the relationship between a ruler and his employees and the judicial system surrounding them all.

Hoccleve writes in the age-old Fürstenspeigel tradition, and he cites the Secretum secretorum supposedly written by Aristotle as one of his sources. In her monograph on the genre, Judith Ferster summarizes the paradox of Fürstenspeigel with the sentence: “to rule well, the king must be ruled.” Using the Secretum secretorum as a primary example, she demonstrates that civil obedience is the real secret at the heart of the Secretum, and that the material in the text is designed to demonstrate how trustworthy counsel and justice will result in this obedience. Nevertheless, the Secretum begins in disobedience: Alexander requests that Aristotle accompany him and instead of directly complying and traveling with the king, the philosopher sends the text in his stead. According to Ferster, this founding moment of disobedience colors the entire genre, and translators of the Secretum liberally praise Aristotle in a vain attempt to screen critiques of their own monarchs. Moreover, such praise directs attention away from the dangerous foundation of the genre, for “the paradox of advice is clear: Alexander conquered the world because he was conquered by Aristotle.”

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250 Ferster 45.
radical than this, even if he sometimes employs bold rhetoric. Unlike Aristotle sending a text rather than render service, Hoccleve sends a text as a bill for royal service he has rendered in person. In the rest of the chapter, I will map out how Hoccleve describes the intersections of traditional household governance and newer, more bureaucratic styles of professional payment. Chaucer and Langland explored these areas as well, and Gower even hints at a solution to the problem of maintained men of law, but Hoccleve is the earliest, strong voice to provide the solution which continues in use today, the payment of a regular salary to professional, legal employees.  

5.1. A PENNEY FOR YOUR *THOGHT*: THE DIALOGUE WITH THE OLD MAN

Considered alone, the *Regiment* and its preface might as well be a fairly standard *Fürstenspeigel*, but the roughly 2000 line Dialogue with the Old Man sets Hoccleve’s contribution to the genre apart. I contend that Hoccleve includes this otherwise unnecessary section to introduce the terms of his problem, or, rather problems, since time and again, Hoccleve vacillates between two problems, *thoght* and money. The Dialogue with the Old Man begins in manner more reminiscent of courtly than didactic

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251 In general, I think Hoccleve stops short of Toulmie’s “poetics of extortion”: see Sarah Toulmie, “The Prive Scilence of Thomas Hoccleve,” *Studies in the Age of Chaucer* 22 (2000): 281-309. I should also note that a regular salary was not an innovation, but a method whose time had finally come; royal clerks received a regular salary under Edward III, but later this strategy fell out of use so that by Hoccleve’s time clerks were reliant upon small fees clients were supposed to pay and special royal rewards only. It should be noted that after Henry IV, few annuities were granted, and so even this source of income dried up for the clerks, who became entirely reliant on fees and favor. See Brown, “Clerks” 267.

252 Knapp does an excellent job of exploring how Hoccleve juggles this twin problem in the Dialogue with the Old Man, see pp. 94-106.
literature, with a fitful rest and a pensive walk through the fields. Both *thoght* and Hoccleve’s insomnia are closely linked to a tradition of courtly literature, and recall older, feudal traditions generally. Neither Hoccleve nor the Old Man have a good idea about how to cure Hoccleve’s busy brain; however, money woes have more contemporary bases, and both men easily identify a solution to them, payment of Hoccleve’s annuity. This struggle between *thoght* and money can be restated in political terms as an outmoded social ideology unable to fully engage with a developing professional bureaucracy, just as the Old Man never seems to fully engage Hoccleve in conversation. By the end of the Dialogue with the Old Man, Hoccleve resolves to write a text that will alert the prince to this crucial problem, and suggest a solution, or at least a solution for Hoccleve.

The relationship between the Dialogue with the Old Man and the *Regiment*-proper forms an important interpretive crux in Hoccleve criticism. One popular interpretation focuses on the confessional aspects of the section. Another reading emphasizes the economic elements in the Dialogue. Nicholas Perkins notices an economy where words are exchanged for money in the *Regiment*. He shows that this theme is explored in

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253 Knapp makes a point of this, pp.99.


255 Perkins 39.
particular in the Dialogue with the Old Man, where the Old Man points out that a beggar is only paid if he speaks out.\textsuperscript{256} Hoccleve retorts with examples from Privy Seal life demonstrating how their work prevents speech, and that the flattery of lords’ men leads to inflation in this economy of words, resulting in false exchanges of words for money.\textsuperscript{257} Perkins provides a thorough exploration of the exchange of words for money in the Dialogue with the Old Man, but does not credit Hoccleve, as a professional, with developing as unique a solution to his problems as he does.

Perkins agrees with James Simpson that, by the end of the Dialogue with the Old Man, Hoccleve has decided to eschew Boethian complaint for Aristotelian direct, political intervention, but Perkins reminds his readers that Hoccleve has, in fact, spent a large part of the Dialogue with the Old Man in a mode of complaint.\textsuperscript{258} Simpson argues that the entire Dialogue with the Old Man is a Boethian dialogue; nevertheless, by the end of the section, Hoccleve utterly rejects the Old Man’s Boethian, “dehistoricized” consolation for a course of more Aristotelian action.\textsuperscript{259} Both Boethian complaint and Aristotelian intervention bear the weight of tradition, as Simpson notes, but Hoccleve’s political intervention is much more personally direct and original a technique than

\textsuperscript{256} Perkins 45.

\textsuperscript{257} Perkins 42.

\textsuperscript{258} Perkins 47, n.115.

\textsuperscript{259} Simpson 163. Knapp also considers the Dialogue with the Old Man to have Boethian roots, but its Boethianism is handicapped from the beginning by the multiple causes of Hoccleve’s distress; the Old Man cannot help solve Hoccleve’s psychological anxiety. Knapp also argues that Hoccleve does not just change from one genre to another at the end of the Dialogue, but moves from the discursive mode of speech to one of writing: see pages 94-106.
Aristotle’s attempt to avoid campaigning with Alexander. Simpson recognizes that Hoccleve emphasizes his individual situation, even within these traditions, but the critic does not go far enough in exploring how this detail connects with the title problem of his article, that Hoccleve is “nobody’s man.” Nemo is the patron of the Privy Seal clerks, as Hoccleve and Simpson point out; clerks are nobody’s men. Yet, I argue that this is precisely the point; they are not part of a household or an affinity. Instead, the clerks, including Hoccleve, are working professionals, and the tie that binds them is the desire for a regular paycheck.

Several critics note how the Old Man seems to be a sort of “alter-ego,” to use Scanlon’s term, for Hoccleve, and I think this is a useful way of thinking about this portion of the text. I suggest that we think about Hoccleve making his characters present different kinds of solutions to his problem, solutions that might have seemed equally valid in different ways to the bureaucrat. The Hoccleve-character voices contemporary concerns, and eventually a contemporary solution, while the Old Man voices traditional, no longer viable, solutions. If we do this, we can see how Hoccleve benefits from the Boethian tradition more as a structural source than a philosophical one, and we can also vividly see the conflicting impulses pulling at the real-life bureaucrat who was trying to solve a real-life problem. Ingeniously, Hoccleve resolves the

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260 Although I agree with Simpson that Aristotelian action fails to be a solution for Hoccleve, I believe that the bureaucrat’s strategy is more direct than Simpson does.

261 Thus, I must disagree with Simpson: Hoccleve is not trying to become “Henry’s man” in the process of writing the Regement, since this form of household maintenance of bureaucrats was far outdated by this time.

262 Hasler 168, Knapp 89, and Scanlon 303.
differences between the Old Man’s suggestions and the contemporary situation that the Hoccleve-character embodies in a literary product that is at once both traditional and situated tightly within the culture of the early fifteenth century, the *Regiment of Princes*.

Hoccleve begins his text using traditional, courtly tropes, and introduces his readers to the Hoccleve-character and his two problems. Readers meet an insomniac Hoccleve, “musynge upon the restlees bysynesse” of his world (1). Unable to sleep, at dawn he rises, with “deedly colour pale and wan,” and goes to walk in the fields (113-15, 128). “Thoght” about how best to survive Fortune’s inconstancy (especially in matters of money) has kept him awake (13, 16). Thus, Hoccleve demonstrates immediately how the two problems of thought and money are linked: since Fortune is changeable, he fears for his financial stability, and these worries keep him awake at night.

Upon meeting Hoccleve, the Old Man immediately points out their age difference, and links himself to old age, wisdom, and tradition, but Hoccleve insists that the Old Man is incapable of understanding Hoccleve’s problems. “Thow nart but yong and hast but litil seen,/ And ful seelde is that yong folk wyse been,” the Old Man points out, but Hoccleve scoffs at the Old Man’s demeanor, and claims that “thow woost but litil what thow meenest,/ In thee lyth naght redresse my nuisance” because his trouble is “encombrous thoght” (146-7, 173-4, 185).
Regardless of Hoccleve’s very personal problem, the Old Man commences to deliver a series of potential solutions to Hoccleve, all of which the bureaucrat ignores. First, the Old Man recommends that Hoccleve look for help in solving his problem (197-217). Then he simply asserts that Hoccleve should stop worrying (218-231). The Old Man’s theories extend to financial woes, and troubles of the heart (237-8). Throughout his garrulous musings, the Old Man demonstrates displeasure with new practices, whether they be as serious as heresy, or as banal as fashion (281-373, 421-553).

Despite the seemingly trivial nature of recent clothing styles, the Old Man’s tirade against them, together with his next speech about age and youth, function as a transition into Hoccleve’s own account of his problems.²⁶³ “What is a lord withouten his meynee,” the Old Man asks, referring to the absence of clear delineations between ranks in clothing, but also to the relative poverty nobles found themselves in after spending so much on clothing that they could not afford to retain men: money “waastid is in outrageous array,/ So that householdes men nat holde may” (463, 496-7). To the Old Man it seems obvious that a lord should love his men more than his clothes, although in his youth he appreciated fine clothing too (568-742).

This blend of old and new seems to inspire Hoccleve: the bureaucrat becomes more talkative, and finally Hoccleve identifies a second problem to the Old Man. “Thogh” is not the issue, his unpaid annuity is: specifically, “the lak of olde mennes

²⁶³ Hoccleve’s disinterest in complaining about his clothing affirms his emphasis on the professional, rather than household, character of his work, since Privy Seal clerks received annual gifts of clothes from the king (Brown “Clerks,” 262). Nevertheless, it’s the missing cash payments, in other words, salary, that Hoccleve complains about, not missing clothing.
cherisshyne/ Is cause and ground of al myn hevynesse” (793-4). After this statement, Hoccleve continues to explain what kind of “cherisshyne” he has in mind, and it is not that of an affine. The poet is a clerk in the Office of the Privy Seal and Henry IV had granted him an annuity, but it is difficult to make sure the money is paid out (801-3, 821-2, 825). Hoccleve never mentions a household, as the Old Man had in the previous lines, but allies his profession with other skilled employees of the Crown.

Later, Hoccleve hints at similar problems faced by knights and men of arms who had been awarded annuities following campaigns. In fact, Hoccleve links these two professions closely: just as soldiers risk their bodily health in the field, so too do bureaucrats’ bodies slowly succumb to the repetitive stresses of their jobs so that neither is any longer fit for other manual labor.\(^{264}\) In a long description of his work, he points out that although some people think “that wrytynge/ No travaille is,” in reality, “it is wel gretter labour than it seemeth” (988-9, 993). Mind, eye, and hand must all work in close concert for a clerk, and unlike craftsmen, he cannot talk, sing, or play while he works; a clerk must concentrate entirely on his task at all times (997-1015). Furthermore, Hoccleve points out the physical toll that writing takes on its practitioners; stomachs, backs, and eyes all wear out in time (1019-1022).

The comparison between the miliary and bureaucracy is instructive, as in the 1410's Lancastrian administration was experimenting with a new form of military. By the fifteenth century, soldiers were normally hired on an indenture, an early form of contract, that specified the duty to be performed, length of service, and amount and timing of

\(^{264}\) See Toulmie 287-8, 291 and Perkins 149 for related discussions.
payment. Remuneration was supposed to be regular. In the 1410's and 1420's Henry V lead efforts to tighten this system, in part by developing a system of muster and review which allowed contract terms of payment to be better met by both soldiers and commanders. We should consider how professional Lancastrian armies were (or were supposed to be) when we speculate about the expectations bureaucrats like Hoccleve might have had of their employers.

The problem was really one of “identity economics”; Hoccleve and the bureaucrats in government service, like the soldiers in Henry’s armies, would have been considered part of the king’s household just generations before. Yet, by the fifteenth century, tradition no longer reflected economic or social reality, and maintenance was failing to provide adequate remuneration for these men. As Hoccleve says, “service [...] is noon heritage” (841). It was known that Henry IV granted more annuities than the Exchequer could cover. Although the system was still attempting to follow traditions of payment based on the household, Hoccleve portrays himself as a professional.

The Old Man’s reply to Hoccleve’s description of the bureaucratic profession is to give a speech about patient poverty, but this is not the solution Hoccleve is looking for, and no other suggestion the Old Man makes is sufficient in the early fifteenth century. The traditional solution of the clergy is unavailable to Hoccleve; he had hoped for a

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266 J. L. Kirby, *Henry IV of England*, London: Archon Books, 1971. Kirby notes that the issue of Henry’s unpaid annuities was so pressing that, until the 1407 parliament, it had been his policy to pay the oldest first, but then in 1407 he determined to pay those held by his day-to-day employees first, and the rest if there were funds (217).
benefice, but failing to find one, married (1444-1453). Moreover, the system of benefices no longer affords reliable income in general, as Hoccleve points out with bitter irony when he jokes that clerks’ only patron (in finding a benefice, among other things) is Nemo (Nobody) (1487).

The subject of patronage leads Hoccleve to complain about a common practice in the Privy Seal that demonstrates how the clerks were dependant on collecting small fees from clients, and how maintenance put the clerks at a disadvantage. If a plaintiff decides to take a case to court, he or she will find “sum lorde man” to sue it out for them (1500). This retainer comes to the Privy Seal and has the clerks write up the necessary forms, but then, instead of paying them the fees tradition required, he turns to another traditional form of payment, favor (1501-3). The retainer insists that his lord will thank the clerks, for “if [the clerks] han to sue to the kyng,/ His lord may there have al his axyng./ [The clerks] shul be sped as fer as that [their] bille/ Wole specifie th’effect of [their] wille” (1509-12). Hoccleve understands that these offers function more as threats than as rewards, since any complaint the retainer makes will be believed, regardless of its veracity, and “hard is be holden suspect with the grete” (1515, 1517-18).

The Old Man seems to ignore this entire speech about difficulties faced by Privy Seal clerks, as his conversational turn to conjugal relations attests, and he continues to offer traditional remedies to Hoccleve. For his part, Hoccleve turns down each suggestion based on his experience working in the contemporary bureaucracy of the Privy Seal until the end of the Dialogue with the Old Man. When Hoccleve reminds the Old Man that his trouble is not with his wife, but with “thoght,” the pair return to the
the poet’s annuity. First, the Old Man suggests composing a complaint to Prince Henry in the prestige languages French or Latin, but Hoccleve denies his competency to compose in those tongues. As the poet’s own formulary demonstrates, by the early fifteenth century, a clerk would be aided by a thorough knowledge of Latin and French, but the documents clerks wrote up were formulaic enough that great skill was not absolutely required. Then the Old Man suggests requesting that Henry move payment of the annuity from the Exchequer to the hanaper, but as of 1410, this tactic was no longer legal, a fact which Hoccleve points out swiftly. In fact, the crown had put an end to this practice because people were doing just as the Old Man recommended; seeking a faster means of payment, they sought their money at the hanaper, rather than the Exchequer. Henry’s government was so impoverished that the cash simply did not exist to pay much of what it owed to people, and so the hanaper loophole was closed in order to control royal spending as much as possible, even of small amounts owed to individuals. Finally, the Old Man recommends that Hoccleve attempt “a goodly tale or two,/ On which [the prince] may desporten him by nyght” which doubles as a “tretice/ Growndid on his estates holsumnesse” that will cause the prince’s “free grace” to land upon Hoccleve (1902-3, 1949-50). Hoccleve assents to this plan; however, given his pattern of revising the Old Man’s suggestions to bring them up to date, we must not assume that the bureaucrat is planning on following this traditional remedy to the letter. In fact, in the next section, when Hoccleve addresses Prince Henry directly, we see that he has a much more complex text planned.
Hoccleve uses the Dialogue with the Old Man to establish the tensions which pull at the entire text. As much as the Old Man, and perhaps the author himself, wish that traditional solutions to social and financial problems would work, both recognize that they no longer do. Hoccleve works throughout the rest of his text to manipulate traditional genres and traditional means of remuneration to hit his new, contemporary needs.

5.2. WISDOM FROM THE PEN OF A PAWN: *DE LUDO SCACCORUM*

In the Dialogue with the Old Man, the author presents traditional solutions, then rejects them as obsolete. In the Prologue to the *Regiment*, Hoccleve introduces ideas with traditional rhetoric, but then shifts into a more updated idiom in order to present his own perspective. In the Prologue, Hoccleve bases his right to address the prince on two authorities, one traditional and one very new. The bureaucrat claims that his practical experience working at the Privy Seal authorizes his work; as the same time, quite traditionally, he argues for his place within a literary genealogy as a means of authorizing his writing. Here, Hoccleve extolls first Henry’s virtues, then eulogizes Aristotle, Giles of Rome, and Chaucer; nevertheless, in his praise of previous authors, Hoccleve begins to displace these august figures. This process exemplifies the “aggressive self-denigration” which Knapp finds characteristic of the bureaucrat’s poetry.\(^{267}\) Although Hoccleve says that he bases his text on Giles of Rome’s *De regimine principum* and pseudo-Aristotle’s

\(^{267}\) Knapp 39.
Secreta Secretorum, he borrows not only the majority of his exempla from Jacobus de Cessolis’ work De ludo scaccorum, but also much of his structure. In the process of submitting to the authority of his literary forebears, Hoccleve claims himself as an heir to Chaucer, but also speaks with Aristotle’s own authority, and ultimately founds his authority as a Fürstenspeigel-writer on his own bureaucratic experience.

Hoccleve’s prostration to Henry in the early stanzas takes a significant turn in the fourth stanza of the Prologue, when he enumerates his sources, and thereby establishes a traditional foundation for his authority. Hoccleve begins his list of sources by asking Henry to remember Aristotle’s Secretum secretorum, but I believe that in this passage Hoccleve appropriates laudable characteristics of Aristotle’s work in order to praise his own Regiment. Hoccleve emphasizes that the Secretum was founded in “treewe entente,” and its sole purpose was to ensure Alexander’s “honour” as a “worthy conquerour,” all elements which could be equally applied to Hoccleve and Henry as Aristotle and Alexander (2041, 2042-3). Furthermore, by the following stanza Hoccleve’s voice has completely displaced any discussion of Aristotle.

The tendre love and fervent cheertee

That this worthy clerk ay to this kyng beer,.../

Unto his herte stak and sat so neer,

268 Hoccleve uses each of his sources in a distinct way: De ludo scaccorum provided most of Hoccleve’s exemplary stories, whereas De regminine principum yielded mostly thematic and structural units together with some proverbs, and the Secretum secretorum furnished little more than the borrowed authority of a work seminal to the genre. For a more extended discussion of this breakdown, see Perkins 97-8.

269 For the centrality of entente to Hoccleve’s work, see Perkins 74 n.70.
That by wrytyng his conseil gaf he cleer

Unto his lord to keepe him fro nuisance,

As witnesseth his book of governance; (2045-51)

Devotion leads a “worthy clerk,” not the “moost famous philosophre” Aristotle, to write a “book of governance” to “keepe [this kyng] fro nuisance,” rather than the “epistles,” mentioned twice in the previous stanza (2038, 2046, 2050-1). Both the “worthy clerk” and the “book of governance” recall Hoccleve and his project more so than they do Aristotle, “the moost famous philosophre” and his. In this way, the passage simultaneously subsumes Hoccleve’s work under a genealogy of Fürstenspeigel-writers and advertises the bureaucrat’s own literary product.

In the next stanza Hoccleve recalls his second source, Giles of Rome, and openly discusses his project, “of [the Secretum], and of Gyles of Regiment/ Of Princes, plotmeel thynke I to translate,” (2052-3) rather than referring to it obliquely as he had in the previous section. The rest of the stanza hardly inspires confidence in his ability to accomplish this, however. Not only is the translation to be “plotmeel” and will “noon ordre holde,” but Hoccleve’s mind is “symple,” “dull,” and “childissh” (2053-4, 2057-9, 2061). All this hyperbole suggests that the day “whan wit and I be met/... and han us freendly kist” will never happen (2063-4). Hoccleve suggests, then, that the day will never come when “deskevere I wole that now is nat wist” (2065). Important here are the multiple meanings of “deskevere.” It is tempting to see Hoccleve again referring to his

supposed ignorance and voicing the hope that someday he will have more, discover more, knowledge than he has now in relation to his dullness-trope, but this is an anachronistic definition of discover. Witnessed in both the fourteenth and fifteenth centuries, the dominant meaning is critical here. Meaning “to reveal, show,” the use of “deskevere” suggests that Hoccleve knows material that he is unable or unwilling to communicate, and this effectively places his own “dul conceit” squarely next to Aristotle, for a second time effectively displacing the auctor.271

Hoccleve’s passage amounts to an ironic and bold direct citation of the Secretum, when Aristotle explains to Alexander that the secrets of which he writes are too esoteric to adequately convey in writing.272 Hoccleve claims that he cannot convey his material on account of dullness, however, and the implied comparison between the sage Aristotle and the bumbling Hoccleve is humorous. Nevertheless, the joke screens Hoccleve’s displacement of Aristotle, since the “secrets” that were too important for the philosopher Aristotle to be able to convey are the same that the “childissh” clerk Hoccleve finds impossible to organize. Meanwhile, the ostensible subject of the stanza, Giles of Rome, has been completely abandoned.

271 Knapp’s comment regarding another Hocclevean text, the La Male Regle, that, “it is often in the most apparently abject moments that we discover an aggressive, and even acerbic, tone in Hoccleve,” holds true in Regiment of Princes, too (42).

Hoccleve performs a similar slight-of-hand when he submits to “maistir” Chaucer. Knapp demonstrates how Hoccleve uses this eulogy to construct a literary genealogy through which the bureaucrat could authorize his own poetry.\textsuperscript{273} Hoccleve dramatically mourns Chaucer’s death, proving his right to inheritance. Nevertheless, Knapp also shows how Hoccleve destabilizes the notion of mastery by relating it to death and the “losel” of line 2097. By showing that death and the “losel” are masters, just like Chaucer, Hoccleve demonstrates the instability of this category.\textsuperscript{274} This instability gives the bureaucrat room to insinuate himself into a literary tradition. But Hoccleve does not manage this feat only in the present stanza, as I have already shown. In fact, the Chaucer eulogy echoes Hoccleve’s stanzas on the \textit{Secretum secretorum}, the first \textit{auctor} the bureaucrat cites. Hoccleve’s covert assertion that he himself “sum man... egal to thee [Chaucer] be,” is not the first such (2102). When Hoccleve suggests that Chaucer is Aristotle’s heir in his question “also who was heir in philosophie/ To Aristotle in our tongue but thow,” he refers back to his earlier appropriations of Aristotle’s authority in the \textit{Secretum} passage that I discussed earlier (2088-9, 2063-5). In this way, the bureaucrat’s linking Aristotle, Chaucer, and himself in the middle stanzas recalls his relating Aristotle to himself directly in the earlier passages. Again and again, Hoccleve appropriates the authority of earlier writers; only later in his section on the \textit{De ludo} does he reveal a more immediate basis for his powers of discernment.

\textsuperscript{273} For this argument, see Knapp’s chapter four, “Eulogies and Usurpations: Father Chaucer in the \textit{Regement of Princes},” pp. 107-127.

\textsuperscript{274} Knapp 116-18.
The game of chess, the *De ludo* asserts, was devised by a philosopher, Philometer, charged with advising the monstrous king Evylmerodach. Realizing that his life was endangered by his role as advisor, Philometer developed a game that would amuse the king and simultaneously teach him morals and ethics. Consequently, in de Cessolís’ text, each of the chess pieces is identified with a social class or political office and invested with moral and ethical traits. Evylmerodach takes to the game so much that he mends his ways, and he and his people can live happily ever after, thanks to chess and the manual that accompanies it, the *De ludo scaccorum*. The premise for writing a *Fürstenspiegel* or devising a new game are more similar for Philometer and Hoccleve than for Hoccleve and Aristotle or Giles of Rome. Unlike Aristotle and Giles, Hoccleve is *not* delivering advice at the request of a monarch. His textbook of advice must reach Henry without irritating him, just as Philometer had to avoid angering Evylmerodach. Recent critics have noticed the verbal play with which Hoccleve stocks his stanza on chess. Nevertheless, little research has been done on the way Hoccleve not only cites de Cessolís’ text, but also appropriates his strategy by using chess-puns to express radical ideas throughout these later stanzas. The puns Hoccleve employs are fun and playful, but like moves in chess, carefully controlled, and calculated to achieve a specific goal.

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275 See the Prologus of *De ludo*. All citations to the *De ludo* refer to pages and line numbers in Burt’s dissertation. Sr. Marie Anita Burt, *Jacobus de Cessolís: Libellus de Moribus Hominum et Offices Nobilum ac Popularium Super Ludo Scachorum*, Diss. Austin: University of Texas, 1957.

Hoccleve plays the game literally, implicitly placing himself upon Jacobus de Cessolis’ chess board. Important to the present discussion is the piece called the Anphilus, or Judge, whose duty it is to advise the king and make laws. The Judge carries two pawns, and the right-hand one stands for the offices of notaries because this profession mediates between the common people and the Judge. Although the two professions differed substantially in institutional ways, fourteenth-century continental notaries labored at basically the same sort of copying tasks that Hoccleve did, and Caxton’s translation gives evidence that the two professions were considered to be related when he translates the mnemonic, accessorized figura of this pawn as a “clerk.”

Probity was important in notaries and others in charge of bureaucratic writing because, correctly accomplished, their writing had the ability to work for the common profit. As linked as the notaries are to the Judge, it is not surprising that common profit bears a legislative edge for de Cessolus. Notable, however, when we consider Hoccleve’s citation of de Cessolus, is the direct relationship the notaries have to legislative reform: “statuta civitatum cum continuo perlegant atque sciant, considerent si contra deum et iura ea esse

277 De ludo p. 31, l.8. “Regi consulere, leges de mandato principis condere,” [to counsel the king, [and] to preserve/write the laws on the order of the prince].

278 De ludo p.85, l.3, 10-12, p.86, l.6-15. Interesting in view of the Le mal regle, the sinister pawn is that of hostellers, taverners, and innkeepers (De Ludo Book 3, Chapter Six). Incidentally, de Cessolus also links the right-hand pawn to clothworkers, because like the clerks, they also deal in leather and parchment.

279 William Caxton, Game and Playe of Chesse, 1474. STC 4920. Citations to this edition refer to the .pdf page available on the web site Early English Books Online.

280 De ludo p.86, l.8-10.
confecta noverint populum atque rectores aliciant ad mutandum.”

Here one of Hoccleve’s *auctores*, and his primary source, explicitly authorizes clerical counselling of superiors, and makes this authority dependant on bureaucratic experience. As a clerk in the Privy Seal, Hoccleve is already on a chessboard, and Henry will meet him there as soon as he is crowned.

Turning to the text, we can see Hoccleve redeploying the chess analogy to further authorize his own work:

And al be it that in that place sqwaar

Of the listes — I meene th’eschequeer —

A man may lerne to be wys and waar,

I that have adventured many a yeer

My wit therein, but lyte am I the neer,

Sauf that I sumwhat knowe a kynges draght;

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281 *De ludo* p. 86, ll.12-14. Caxton captures the Latin adequately as:

And also ought they to rede visite and to knowe the statutes. Ordenances and the lawes... And they ought to considere yf ther be ony thynge therin conteyned ayenst right and reson and yf they fynde ony thinge contraire they ought to admoneste and warne them that governe that suche thynges may be chaããged into better astate.

It is interesting to note that this knowledge of the laws is mentioned *only* as a function of notaries. De Cessolis does not include it as a requirement of the Anphilus. Moreover, in the Latin, the bad laws are not against “right and reson,” but against “God and Justice,” further reinforcing how important de Cessolis considers the notary’s job to be.

282 In fact, Henry may already be on the board. Perkins notes that Hoccleve mined de Cessolis’ section on rooks more heavily than any other section. Furthermore, “rooks exercise authority on behalf of the king,” and the attributes rooks carry, “justicia, pietas, humilitas, patientia, voluntaria paupertas, et liberalitas,” correspond rather closely to the thematic and structural divisions of the *Regiment* (Perkins 97). To me, this suggests parallels between Prince Henry and the rook, especially after the prince’s veritable regency during his father’s recent illness. See *De ludo* p.55, ll.13-14.
Of othir draghtes lerned have I naght. (2115-2121)

The pun on chess/ the Exchequer is obvious, and a place to begin dissecting what follows.283 On one level, Hoccleve belittles his own intellect; he has learned nothing of either the game of chess or the Exchequer. Although he is a clerk of the Privy Seal, not the Exchequer, the kind of copying work he did there would have made Hoccleve familiar with Exchequer procedures as well. In addition, as he points out earlier to the Old Man, Hoccleve had dealings with the Exchequer in trying to collect his annuity.

Characteristically, what Hoccleve does know is phrased negatively, “but lyte am I the neer,” and “sauf, that I sumwhat knowe a kynges draght,” for example (2119-20).

“Draght” turns out to be a term with a wide range of meanings.284 The third of the MED’s main definition is the foundation of the pun here: a movement, especially in chess. A “kynges draght” can equally refer to less common definition of “draght,” however: “that which is drawn or written; a line, drawing, design, character....a copy or draft of a writing, a treatise.” A related definition I would like to propose hanging on “kynges draght” at this point is ascribed by the MED only to the Wycliffite Bible, perhaps an odd place to look for Hocclevean-vocabulary. As a clerk of the Privy Seal however, Hoccleve had spent “three and twenti yeer and more” making “cop[ies] and draft[s] of a

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283 Although this use would predate the first use attested in the MED, Hoccleve’s use of “liste” may pun on our modern use of “list” to mean a listing of things, and he may also be punning on the medieval meaning of “liste” to denote “an instance of adroitness or cunning; as skill, an art; trick, stratagem (MED liste n.2, def. 3, liste n.1 def. b). In his discussion on page 41 and in p.41 n. 106, Perkins discusses only jousting lists, tricks, and strips of cloth or vellum which he hypothesizes may refer to the rolls upon which Exchequer receipts were kept; he also points out that our modern use of list postdates the Regiment.

284 The following sections rely on the Middle English Dictionary, draght, definitions 3b, 3c, 3e, 7a, 9a, 9c, 9d. Perkins focuses on 3a, 3b, 9a, 9d, but in less detail than I do: see 41 n.107.
writing” for the king (1023). He admits to having literally “sumwhat” experience with “king’s draghts,” or copies, and “naught” of the Exchequer’s. Another definition of draght, meaning education or training, plays on the absurdity of a similar ignorance. For an author or compiler of a speculum principis to deny having knowledge of royal deportment is as foolish as a Privy Seal clerk denying experience with royal correspondence. By maintaining a punning tone, Hoccleve calls attention to his experience with bureaucratic documents while skirting the serious advisory role Jacobus de Cessolis indicated for clerks in the source text. Hoccleve here resembles the parti-colored fool speaking wisdom to a prince from a parti-colored chessboard.

In the following stanza, Hoccleve becomes a bit more explicit about his wishes for Prince Henry. The bureaucrat begins to use his punning to assert that Henry ought to read the Regiment, thereby entering Hoccleve’s game of chess:

And for that among the draghtes echone/..../

Is noon so needful unto your persone

To knowe as that of cheertee verray

That I have had unto your noblesse ay,

And shal, if your pleasaunce it be to heere,

A kynges draght reporte I shal now heere. (2123-2128)

The most important move for a king, the poet puns, is “to knowe as that of the cheertee verray” (2125). This line boldly alludes to Hoccleve’s desire for payment, but such a reading is quickly forestalled in 2126, “that I have unto your noblesse ay.” This line itself is none too simple, however, since if “cheertee” in 2125 refers to giving as much as it
does caritas, then Hoccleve must imply giving something significant to Henry in 2126. A parallel construction earlier in 2045 suggests an answer; Aristotle bears “tendre love and the fervent cheertee” to Alexander. This “cheertee” is directly linked in these lines to Aristotle’s “wrytyng,” the Secretum secretorum (2045-51 and see p.15 below). The answer to the pun appears to be confirmed in the following lines, and it is the Regiment itself. The poet offers “a kynges draght,” a treatise on the moves of a king; if, it should be noted, Henry wishes it, “if your plesaunce it be” (2127-8).

This striking presumption calls forth an entire stanza of self-deprecation. Hoccleve’s self-image is at the nadir when he affirms that Henry has already read and thoroughly understood all three of his source-texts in lines 2129-30. Nevertheless, the passage fails to convincingly prove that Henry does not need the Regiment, since Hoccleve pointed out in the preceding stanzas that a fourth auctor exists, himself, and that his authority rests on his experience in the workings of royal government. Moreover, since Henry has already read and digested de Cessolis’ text, according to Hoccleve, the prince knows that it is the duty of experienced clerks to report legislative shortcomings to their superiors; Henry should already be aware of Hoccleve’s strategy. In the following stanzas, the poet continues to cloak this authority in the habiliments of a pastime, however. In 2131, Hoccleve’s text is “sentence,” but by 2138, it is “stories” that “been good for to dryve foorth the nyght” (2141).

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285 For more about Hoccleve as an auctor, see p. 157ff above.
Drinks are another way to “dryve foorth the nyght,” and in the following stanza Hoccleve uses a final valance of “draght” to suggest that he is literally wading in his work.

To your hynesse thynke it nat to longe,
Thogh in that draght I sumwhat wade deepe,
The thewes vertuous that to it longe
Wacchen my goost and letten him to slepe. (2143-6)\textsuperscript{286}

This passage emphasizes the intimacy of the author-reader relationship Hoccleve proposes. As the author of the “draght” or drink that will entertain Henry, the poet simply attributes healing strength to it, “thewes vertuous” (2145). At the same time, Hoccleve links his \textit{productive} authorial sleeplessness here with his previous use of “wade,” when he “herte-deep gan wade” in his woeful \textit{thoght} after a long and frustratingly sleepless night (118).

This literary lullaby ends with a traditional, “now God in vertu yow maynteene and keepe,” but this line too carries multiple levels (2147). “Vertu” here recalls the “thewes virtuous” of line 2145, and suggests that Hoccleve’s book of advice is holy work, but in the following lines Hoccleve moves away from a dominant to a subordinate position, and the text moves back to an economic register. The line “and I byseeche your magnificence/ Geve unto me benigne audience” suggests that the poet’s benediction emphasizes the final words that beg Henry to maintain (his retainers and employees)

\textsuperscript{286} Although Toulmie’s reading of these lines is provocative, I am unconvinced that Hoccleve here means to threaten Henry directly by pointing out how his clerical “wading” transforms the royal will into legal document. Toulmie 299.
virtuously by patronizing, and paying them (2148-9).

Finally, at the very end of the Prologue, Hoccleve gestures towards just how far he is going in his attempts to assist the prince: he likens the process to judicial torture. Hoccleve ends his preface with a veritable tour de force of double entendre:

For though I to the steppes clergial
Of thise clerkes thre nat may atteyne,
Yit for to putte in prees my conceit smal,
Good wil me artith take on me the peyne.
But sore in me ther qwappith every veyne,
So dreedful am I of myn ignorance;
The Crois of Cryst my werk speede and avance. (2150-6)

First, Hoccleve submits to the auctoritas of his sources, admitting that he can not presume to reach Aristotle’s, Giles’, or de Cessolis’ great heights (2150-1). In a literal sense, his predecessors are all dead, and Hoccleve can not follow them in life. Furthermore, in the Dialogue with the Old Man, Hoccleve mentioned being married, so he cannot become clergy. Nevertheless, he has cleverly exposed his willingness to pick up where these men left off numerous times previously, and these lines in the final stanza of the Prologue reinforce this willingness.

In the final lines, the double-entendre ultimately raises questions about the ability of the Fürstenspeigel system to result in good advice. Considered alone, “to putte in prees my conceit smal,” could be read as the Regiment, placed properly in a book press (a storage trunk for books) (2152). Together with the next line, “good wil me artith take on
me the peye,” however, the pair conjures up legal analogies by invoking a torture legally termed *peine forte et dure*, or pressing (2152-3). Moreover, this reference emphasizes the responsibility Hoccleve, as the Anphilus’s pawn, bears to speak what he knows through experience; *peine forte et dure* was the punishment given to suspect-felons who refused to enter a plea by remaining silent. The pressing lasted until a plea was made, or until the subject died; the poet must coerce his “conceit” into yielding what it knows.

The double-entendre continues in the legal vein of the previous lines when Hoccleve complains that he is afraid of his own ignorance. As if afraid part of him will not easily divulge what it knows, the poet offers to undergo a juridical procedure to extract these secrets for Henry, but will what the bureaucrat knows be enough? Will this process, the same one that produces the *Regiment*, be enough to accomplish Hoccleve’s goal of getting his point across and getting paid? The answer would only become clear once Henry had played the game; that is, once he had read the rest of the *Regiment*.

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287 For the thirteenth- and early fourteenth-century development of this procedure, see H. R. T. Summerson, “The Early Development of the Peine Forte et Dure,” *Law, Litigants, and the Legal Profession*, Eds. E. W. Ives and A. H. Manchester, London: Royal Historical Society, 1983, pp.116-125. The MED contains no definitions connecting *peine forte et dure* and pressing, and the OED cites 1554 as the first usage of the term to denote torture related to *peine forte et dure*. Nevertheless, the OED does give evidence that the *peine* was known by the later term in the fourteenth century. In *Cleaness*, during Nebuzardan’s massacre of the Hebrews, his soldiers hacked open babies’ skulls and carved open women’s wombs, among other things, but “prestes & prelates þay presed to deþe,” suggesting a potentially lethal torture meant to avoid spilling clerical blood (1248-50). Richard Morris, ed. *Early English Alliterative Poems*, EETS 1 (1864). Moreover, fifteenth-century legists considered torture, at least in theory, to be a particularly suitable method of proof when the subject was poor (Landman 19). At this point in the *Regiment*, Hoccleve has spent considerable time bemoaning his poverty, and this allusion to pressing and truth-finding is therefore suggestive. James Landman, “Proving Constant: Torture and The Man of Law’s Tale,” *Studies in the Age of Chaucer* 20 (1998): 1-39.
5.3. HOCCLEVE DOES HIS JOB

The *exempla* in any *Fürstenspeigel* tend to highlight the behavior of kings or other ruling men, but a number of the stories that Hoccleve chooses to tell focus particularly on the interactions of a king or ruler with the judicial system, or with one of his employees or retainers. Hoccleve borrows most of his *exempla* from Jacobus de Cessolis’ *De ludo scaccorum*, and de Cessolis’ stories fit Hoccleve’s message well. Jacobus de Cessolis emphasizes the importance of communication between ruler and ruled in his chess analogy, and I believe that Hoccleve does the same. Moreover, as de Cessolis makes clear, due to their experiences as subjects, the ruled may be privy to knowledge that their superiors are not, and have a duty to express that knowledge to them. Finally, the king must use his discretion in rewarding subjects with payment for their services. The context of new bureaucratic professionalism which Hoccleve has established since the beginning of his text focuses de Cessolis’ *exempla* on bureaucrats and legal personnel especially.

In this final section, I will discuss five of Hoccleve’s *exempla*. Beginning with the Judgement of Cambyses, I will move to the story of the Phalarean Bull, and then examine the following dialogue between a king, a fool, and a recidivist homicide, before considering a knight demanding recompense from Caesar. I will finish by looking at the longest *exemplum* in the *Regiment*, the story of John of Canace. In different ways, all five
stories demonstrate ways that a ruler pays his employees, and emphasize judgement or legal institutions. The last two exempla pursue this exploration furthest by considering the issue of recompense directly, and both contain an implied threat of rebellion if the mutual obligations between a ruler and those with financial dependance on him are not kept.

For a story centered on a king punishing an unjust judge, little has been written about the Judgement of Cambyses-exemplum, one of the final stories in the section On Justice, in relation to the legal profession. Scanlon deals briefly with Gower’s version of the story, presented in Confessio Amantis, by saying: “in this tale, the rule of law becomes identical to the king’s unlimited capacity to carry out punishments in its name” (286). Dealing with Hoccleve’s version of the tale, Perkins notices the exemplum’s emphasis on the body, where “ruptures in the body politic find solutions...in the physical bodies of its members” In fact, no one has discussed how this exemplum represents the problem of remuneration of legal personnel, despite the fact that Hoccleve continues to discuss the problem for six stanzas before beginning another exemplum.

The story is a short one. A persian judge develops a personal hatred of a particular man, and sentences him to death. When the king (unnamed in the Regement, but called Cambyses in other versions) hears about this travesty, he orders the judge flayed alive, and his skin is used to cover the seat where the malicious judge’s successor, his own son, was to sit in judgement.288

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288 In the late fifteenth century, this story provided the material for two large panel-paintings by Gerard David for the council room of Bruges. It is notable that in David’s version, the judge explicitly takes a bribe. For an illustration of these panels, see James Snyder, Northern Renaissance Art: Paintings.
By implication, this exemplum begins an investigation into the remuneration of the judiciary.\(^{289}\) Although the judge is motivated by “wratthe and hate and the irous talent,” the greater context in which Hoccleve situates the story may have reminded readers that in other versions, the judge accepted a bribe before handing down his final sentence (2677).\(^{290}\) That judges were taking fees from litigants is proven by Hoccleve’s assumption that a judge might either take a bribe to decide a case for a litigant, or expect to receive money after passing impartial judgement; both were wrong in the bureaucrat’s eyes (2696-8, 2703-4).\(^{291}\) As in Gower’s work, the implication of Hoccleve’s condemnation of judicial fee-taking is that the judges need to receive a regularly paid, adequate salary, and that the judges must be held accountable for the impartiality of their decisions.

The section On Pity follows the segment On Justice, and the first two exempla
blend the two notions before the stories turn to issues of war and soldiering. While the second story, of the king, the fool, and the recidivist, has received no critical attention, the initial tale, of the Phalarean Bull, has attracted some interest. Briefly told, a wicked smith thinks to please a “tirant despitous” by crafting a most ingenious execution-machine for him (3004). He makes a large, hollow, brass bull into which prisoners could be put. A fire was built under the bull’s belly, and the prisoners were roasted alive, their cries reverberating like a bull’s bellow rather than the screams of men. In reward, the smith is the first killed in his creation.

Critical discussion of this tale focuses on the relationship between the king and the smith, but different critics consider these interrelations from different angles. Perkins notes Hoccleve’s concern for intention: the smith’s intentions are unjust, unpitying, and the bull ultimately destroys the smith, rendering his flattering voice into incoherent roars. Instead of flattery, Larry Scanlon focuses on how prerogative is demonstrated in the tale, seeing “the ideological efficacy of royal authority [as located] squarely in the royal voice.” Scanlon shows how Hoccleve borrows from both Gower’s and de Cessolis’ versions of the story to emphasize how completely the bull dominates its prisoners, including the smith. Scanlon’s comments about how carefully the king negotiates the display of his prerogative deserves to be quoted at length:

...if [the king] simply accepts [the bull], he concedes the absoluteness of his prerogative. If he rejects it entirely, he

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292 Perkins 74-5, especially 74 n.70, 104.

293 Scanlon 317.
gives up the claim to cruelty which most effectively demonstrates that prerogative. So he turns the machine against its maker by having the last word, by acknowledging the Bull as a version of his voice, and then reclaiming that voice as his own. 294

The precise understanding that the king has concerning how his prerogative functions is important here, but I believe that Hoccleve shows that subjects, too, comprehend the complexity of royal authority, and that they share in its functioning.

Although Scanlon noted the importance of the prisoners’ being denied their voices, 295 critics miss the significance of gift-giving in this exemplum. For example, it serves as an anti-parallel to the relationship between Hoccleve and Henry. Like the Regiment, the bull is not the result of a direct request from the monarch. Nor are either typical gifts for a monarch, as each was made by the giver himself rather than commissioned. Like Hoccleve, the smith is an expert in his field, “a sotil werkman in craft of metal,” and designs his gift using his expertise (3009). Each craftsman hopes that his gift will be positively rewarded. Like the Regiment, the bull is designed to help the king rule; it serves as a means of executing prisoners “that stood in dethes cas” (3015). Moreover, each gift is calculated to reaffirm the monarch’s ruling style; the bull helps the tyrant be cruel, and the Regiment reinforces principles of good kingship with which Henry is already familiar, as Hoccleve states in his Prologue.

294 Scanlon 318.

295 Scanlon 318.
Nevertheless, the story highlights the differences between good gifts and bad. Bad gifts silence dialogue between a king and his people: the bull is designed “for to meeve/ [the king] the lesse unto pitee” by transforming the prisoners’ voices into unintelligible roars (3018-19). Scanlon correctly notes the power of the royal voice here, but the bull’s characterization as a bad gift stems from its silencing of subjects’ voices, suggesting that their speech is critical, too. Scanlon argues that in the story, to punish the smith for silencing dialogue, the king makes sure that the smith is the first to be so silenced. In contrast, Hoccleve in the Regiment, no less than Philometer in the game of chess, crafts a gift which seeks to open and maintain dialogue between the king and his people. Evylerodach’s chess-playing facilitated a dialogue between he and Philometer that led to his becoming a good monarch. Similarly, Hoccleve hopes that Henry will read his text and respond by being a better lord than his father, and also by paying the poet’s annuity. That is, he hopes to engage the prince in a kind of dialogue.

Hoccleve models such a dialogue in the next exemplum of the king, the fool, and the recidivist. He begins by correcting a bit of Aristotle: “that for noon ire [Alexander] nevere be so hoot/ Blood of man shede” (3112-13). Instead of making this an enjoinder against emotional outbursts, however, Hoccleve corrects it on legal grounds: “but this nat ment is by the cours of lawe/ That putte a man to deeth for cryme” (3116-17). The specific lines that refute Aristotle and upon which Hoccleve expands for his following exemplum are “and if a kyng do swiche murdhrs grace/ Of lyf, he boldith hem eft to trespace” (3121-22). A Latin marginal heading to this exemplum locates its force directly

296 Scanlon 318.
in contemporary legal politics. The marginal “nota contra concessiones cartarum
pardonationum de murdris” makes specific reference to the notorious charters of pardon
which could be purchased by and for criminals.²⁹⁷ Like the Phalarean Bull, these
documents acted as a kind of silencing of protest; communities could use the legal system
to convict criminals, but could not always make convictions stick. The murderer in the
story had gotten a pardon for his first homicide, and then committed another. Claiming
that his highly-placed friends can win the king’s pardon for him again, the recidivist brags
that “and they that now annoyen me or greeve;/ I shal hem qwyte heereafter, as I leeve”
(3135-6). As long as a criminal could repeatedly receive royal pardons, he could
“qwyte,” or settle with, his adversaries in any way he saw fit, legal or not.

When the recidivist arrives to request a charter of pardon from the king, the “fool
sage” standing by the king denies that the criminal killed a second time. Rather, the fool
asserts that, “he slow him nat, for yee yourself him slow” (3149). The fool points out that
“if that the lawe mighte his cours han had;/ This man heere had been for the first man
deed,” and the second would never have been killed, and finally, that an unpunished felon
would likely kill again (3151-2). The king sees the wisdom in his fool, and denies the
recidivist a second pardon: “the lawe him gaf that longid to his meede” (3161).

²⁹⁷ “Note against the granting of charter of pardon for murders.” Richard, of course, had been famous for
selling pardons. See Chapter 3, n. 142 above for more on Ricardian pardons. Nevertheless, the number of
pardons for felonies rose after 1399, probably because they were lucrative for Henry’s cash-strapped
regime; in fact, Henry encouraged pardon-seekers by issuing a number of general pardons. The number of
pardons issued fell in the reigns of Henry V and VI. See J. G. Bellamy, *The Criminal Trial in Later
Once again, Hoccleve pens an *exemplum* which models a king receiving and acting on good counsel delivered by a royal servant with special insight into human nature granted to him by his career. Hoccleve himself can be considered a “fool sage.” Hoccleve spends many lines of the Prologue and *Regiment* proper bemoaning his foolishness, but, as his chess-analogy gently reminds us, he does know his business, and that means bureaucratic business. Moreover, the problem of excessive pardons would be one of which Hoccleve would have special knowledge: charters of pardon were issued from the Chancery, but the royal warrants that ordered the Chancery to write up a charter were issued by the Privy Seal normally.298 Thus, a Privy Seal clerk may well have recognized recidivists as their names repeatedly came under his pen, and certainly he would have been aware of the number of pardons being issued.

Emphasizing the significance of this problem, Hoccleve spends an additional four stanzas commenting on charters of pardon. He reiterates that unpunished criminals are likely to commit further crime. Furthermore, executing a single murderer can save more than one life, so that more honor accrues to the legal system sentencing him than to a sovereign pardoning him. Generally, pardons “al to lightly passe and goon,” helped on their way by powerful men (3182). According to Hoccleve, only in the case of “oon be by malice of his foos/ Endited” can a king demonstrate true pity and pardon a homicide honorably (3191-2).

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298 Bellamy, *Trial* 139. See also T. F. Tout, *Chapters in the Administrative History of Mediaeval England*, Manchester: Manchester University Press, 1930, volume 5, pp. 57-58, for a more extended explanation of the Privy Seal’s role in issuing warrants.
The contemporary specificity of the story of the king, the fool, and the recidivist forces us to more closely examine other exempla which seem to contradict it and promote royal meddling in the law. A few stories later, in the final exemplum of the section On Pity, Hoccleve tells of a knight of Caesar’s who finds himself about to be sentenced to death by a judge (3270). The knight cries out “with an hy vois, for to save his heed,/ To his lord Cesar.../ Byseechynge him that, of his gracious might,/ He wolde him helpe and reewe on his estat” (3272-7). The knight thus invokes Caesar’s obligation as the knight’s lord, and hopes as well to trade on his power over the law. Caesar initially acts as the sage fool of the earlier exemplum would have wished: he sends the knight “a good advocat,” or lawyer (3276). The knight is not content with this, however, and speaks insubordinately to Caesar, reminding him of how much he has helped the emperor in his campaigns. “And advocat ne sente I noon to yow,” the knight says; critical here is the role of the attorney as a proxy for the litigant in English law (3284). Just as a victim would display his or her wounds, the knight bears his scars in open court to prove his loyalty, to prove that his own body stood for the emperor’s.

Caesar grants the knight his point, and serves as the knight’s advocate himself: “thus [Caesar] this knyght his deeth saved fro” (3297). So what makes Caesar’s actions appropriate, and the earlier king’s unwise? Hoccleve does not point out the knight’s innocence, merely that he escapes execution. The answer, I think, is twofold. Caesar is not misusing the royal judicial powers as the other king was: he steps in as an attorney, a

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299 In Middle English, advocat could mean either an attorney or a pleader (barrister); however, given the context here, when Caesar literally stands up in court for the knight: “advocat wole I be in my persone/ For thee,” I suggest that attorney is the intended meaning (3295-6).
regular member of courtroom procedure.\textsuperscript{300} Justice is not being sold in this story as pardons were. In addition, I think this later \textit{exemplum} demonstrates some of the power relations Hoccleve advocates between lord and subject. The knight is successful in getting the king to recognize his duty to his employee. The knight’s experience as a loyal soldier results in his ability to pressure Caesar into helping him directly in court. The knight’s service to Caesar is written on his body, and gives him some claim to his lord’s attention. Hoccleve, too, notes how his own body has been marked in his bureaucratic service. Service begets service, as Caesar in turn \textit{serves} as his knight’s attorney, as his proxy.\textsuperscript{301} Fulfilling his side of the mutual obligation proves to “the peple” that Caesar is not “a proud man” or “ungentil” (3299-3300).\textsuperscript{302} At the same time, Hoccleve has already drawn parallels between bureaucratic work and military labor. Moreover, he’s demonstrated how the courts favored nobles and gentry to the prejudice of bureaucrats. With this \textit{exemplum}, Hoccleve suggests that his work for the Lancastrian Privy Seal has earned him his employer’s assistance in fulfilling a financial need that may require legal

\textsuperscript{300} True, few juries would be likely to convict anyone represented by the emperor, but legal forms are being kept more strictly here. It should be noted that, however, that as an attorney Ceasar would have a more minimal presence in court than would the pleader for the knight’s case. For more on attorneys and pleaders, see Chapter 4.

\textsuperscript{301} See Toulmie for a discussion of Hoccleve as a “bureaucratic warrior” and the parallels Hoccleve makes between soldiering and clerking as well as how bureaucratic work embodied the royal will (287-8, 291). Also consider Perkins’ discussion of the parallel between the knight’s showing of his wounds and Hoccleve’s body (149). For my own discussion of this parallel, see above, page 150-151.

\textsuperscript{302} It is also worth noting that an analogue of this tale exists in Gower’s \textit{Confessio Amantis}, Book 7, lines 2061-2114. In this, the knight is suing to recover his right, and is in no danger of execution. Caesar appoints him legal counsel, but does not appear to take his turn as an attorney. Instead he “tok his cause on honde” and gave the knight a living of some sort: “he yaf him good ynough to spende/ For evere unto his lives ende” (CA 7.2103, 2105-6). Unlike Hoccleve, Gower here advocates traditional means of remuneration, at least for the military.
The final exemplum I want to discuss is the last in the Regiment itself, and by far the longest. In brief, although both of his daughters are married, John of Canace continues to share his wealth with them up to the point of impoverishing himself. Facing destitution, John concocts a ruse in which his daughters see him counting a large sum of money and putting it in a chest. Convinced of his financial stability and hoping to gain access to the box, the daughters take John into their homes and support him until his death. When the chest is opened, it is empty save for a sergeant’s mace bearing a monitory exhortation.

Many critics weigh in with interpretations of the John of Canace story because of its position in the text, its length, and the fact that Hoccleve makes his direct plea to Henry for money directly following this exemplum. Strohm emphasizes the constructed nature of authority in this tale, which “is undeniably shrewd, but also cynical, in its perception that even an empty or vacuous center of authority can constitute subjects as good citizens so long as it engages their desires.”303 For Perkins, the tale speaks to Hoccleve’s preoccupation with the process of interpretation, and the exchange of words for money. Hoccleve revises de Cessolis’ text warning against financial foolishness into one about “rulers [who] cannot afford to ignore the welfare of their people.”304 Scanlon also weighs in on the John of Canace exemplum, seeing it as demonstrating the


304 Perkins 75, 113.
interdependence of subjects and the royal prerogative, “demonstrating kingship’s dependence on its own ideology and those, like Hoccleve, who maintain that ideology.”  

John recognizes that his position as patriarch is constructed, and is thus able to manipulate his daughters into continuing to care for him despite his personal poverty. Importantly, Scanlon argues that Hoccleve expects both Henry and his audience, the “nobility and urban patrichiate,” to understand that this interdependence works in their favor. As I argue throughout this chapter, Scanlon’s point about interdependence is key to understanding the Regiment; however, like Perkins, I must question whether or not this celebrates an absolute monarchy. The fact that the kind of power relations that Hoccleve represents here are constructed, as Strohm asserts, ensures that the monarch’s powers are limited, and not absolute as Scanlon claims. Henry and the nobility can understand that they benefit from this set of mutual obligations, but I argue Hoccleve and other bureaucrats in his audience can understand that bureaucrats gain from it also.

The mace and its inscription demonstrate this limitation. When John’s daughters finally open the chest, they

...fond right noght

But a passyngly greet sergeantes mace

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305 Scanlon 319.

306 Scanlon 321.


308 Scanlon notes that Hoccleve’s audience would have consisted of “the nobility and urban patrichiate-the audience of the Chaucerian tradition,” but manuscript evidence alone suggests a wider readership, including bureaucrats (Scanlon 319, Perkins 174). Furthermore, each side could construct a reading preferential to their own group; as Simpson says, “power predetermines interpretation” (Simpson 155).
In which ther gayly maad was and ywroght

This same scripture: “I, John of Canace,

Make swich testament heere in this place:

Who berith charge of othir men and is

Of hem despyside, slayn be he with this. 4348-54

This inscription models how power relations are interdependent elsewhere in this exemplum, and in the Regiment as a whole. What critics fail to note is its direction at multiple targets; both John and his daughters have “charge of othir men.” Initially, John supports his daughters despite their affluent marriages, and his daughters “despyse” him for his efforts: “they wax unkynde unto him anoon” (4204). Later on, John’s daughters have charge of John, and he definitely despises them for it: “hir berdes shaved he right smoothe and cleene” (4340).

If the message in the box applies equally to John and his daughters, then what does the mace represent? Strohm’s opinion deserves to be quoted at length:

...the mace is an emblem of constituted civil authority, and thus sits two-sidedly in the narration, as an admonition to the prince as well as his subjects. To “bear charge,” in this case, has an obviously double meaning: not just to pay the costs but to bear responsibility, the latter the province of the prince.309

This convincing interpretation fails to carry its populism far enough, however; both the prince and his subjects have responsibilities; both pay the costs. Scanlon reminds us that

309 Strohm 210.
a mace was carried by the sergeant of the House of Commons; nevertheless, he considers this mace a reminder of the real power wielded by rulers. I disagree because the parties carrying maces simultaneously benefitted from delegated royal power and were confident and successful in defying the king when it suited their own interests, as the Commons and London did frequently in the late fourteenth and fifteenth centuries. The mace points more towards the limitations on royal power, then, rather than to a reminder of unquestioned royal prerogative. Power relations were complex, not unidirectional, and Henry could be depicted as a strong (future) monarch at the same time he was shown to have obligations to people lower on the social scale.

Hoccleve’s plea to Henry for payment of his annuity bears out this interpretation. Directly following the opening of John of Canace’s chest, Hoccleve returns to the position he occupied in the Dialogue with the Old Man, similar to the role of the profligate John. This passage closely resembles the Prologue in the way in which Hoccleve is by turns submissive and bold, and it betrays a relationship between Hoccleve and Henry that belies the gap depicted between the two. “I, Hoccleve, in swich cas am gilty,” the poet laments, calling himself in the same stanza “indigent” and “fool” (4360). In the next stanza, he calls attention to the social distance between himself and the prince: “I nevere were of hy degree./ Ne hadde mochil good ne greet richesse” (4362-3). This is all reminiscent of his submissive posturing in the Prologue. Yet, behind all this social distancing lie parallels, for each man’s financial problems can be the same: “he that but

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310 Scanlon 320-1. I would like to point out that the Mayor of London also carried a ceremonial mace, and his discretionary court, the London Mayor’s Court, parallels the king’s powers in royal discretionary courts like Council, Chancery, and later Star Chamber, closely.
lytil hath may doon excesse/ In his degree as wel as may the ryche” (4366-7). Just as both John and his daughters might bear charge of other men, so both Hoccleve and Henry may share financial obligations.

The next three stanzas represent another cycle of traditional and radical rhetoric. Hoccleve’s purse is empty, and he does not know from whence relief shall come “but it proceeede of your hynesse” (4375). This direct plea for aid could not be more abject, as the following line emphasizes with self-abnegating, confessional vocabulary: “I me repente of my misreuled lyf” (4376). Nevertheless, in the next stanza, Hoccleve changes tone again. He lays out for Henry why he has no money, and suddenly it has nothing to do with profligacy, but everything to do with his professional position in royal government: “my yearly guerdoun, myn annuitee./ That was me grantid for my long labour./ Is al behynde- I may nat payed be;/ Which causith me to lyven in langour” (4383-6). “Guerdoun” reinforces “annuitee,” as both bore connotations of reward or recompense, and Hoccleve highlights this again by noting his “long labour.” Together the terms begin the stanza by highlighting that Hoccleve has worked, just as Ceasar’s knight has, and that he is owed something, in short, that whoever “berith charge” of his annuity has not done his job. In the context of the Canace-exemplum, this comment takes on a warning tone. For, as the John of Canace exemplum states, “who berith charge of othir men and is/ Of hem despysed, slayne be he” with the mace, the symbol of royal power delegated to, and sometimes resisted by, the communities (4353-4).

This outburst of “des pysinge” is followed in traditional style by two stanzas of

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311 MED guerdoun, annuitee
outright flattery and toadying. Hoccleve proclaims his love for the prince and reassures him of his desire for Henry’s honor, wealth, and soul’s health (4390-96). He asserts that “in al my book yee shul nat see ne fynde/ That I youre deedes lakke or hem dispreise” (4397-8). Hoccleve can be “of goode herte and treewe in feith” even given the proceeding exhortation, since Henry is technically not directly responsible for the payment of Hoccleve’s annuity (4403).

Nevertheless, once again Hoccleve turns up the heat, and this time he does not let up. Immediately following his two flattering stanzas, Hoccleve begins anew with “what kyng that dooth more excessyf despenses/ Than his land may to souffyse or atteyne/ Shal be destroyed” (4404-6). This is exactly the kind of profligacy to which the John of Canace exemplum speaks. As I pointed out earlier, Henry IV had granted more annuities than the Exchequer could cover, and Hoccleve’s lines here seem to be a direct indictment of his monarch, and a direct warning to his crown prince. People dependant on monies drawn on the royal coffers spent their earnings, and had no way to refill their pockets if the royal treasury was empty (4411-17).

Hoccleve’s next stanza, about a tiler who cannot make a living, is given radical context in the following stanzas. ‘Nat speke I ageyn eides utterly,’” he says, but the poet had not mentioned taxes in any of the previous stanzas (4425). “The pot so longe to the watir gooth/ That hoom it cometh at the laste ybroke” serves as a homely preamble to Hoccleve’s dark hint that “[the people] thynkith that they over ny been soke,/ What harm of that to kynges hath betid,/ Scriptures tellen” (4436-8). If earlier stanzas had castigated Henry IV’s inability to pay all the annuities he had granted, in these stanzas, Hoccleve
may be reaching back further, to Wat Tyler and the Peasant’s Revolt, sparked by excessive taxation.

The bureaucrat sounds a stern note of warning to his prince with these historical references. Hoccleve suggests that civil unrest might be caused by a kind of breach-of-contract that occurs when people, like himself, go unremunerated for service rendered. Additionally, Hoccleve points to the Commons’ control over taxation by noting that displeasure over taxes increased “if they been despendid in contrarie/ Of that they grauntid of the peple were,” that is, if the government breaks its obligation to put tax-money to the use for which it was levied (4429-31). Furthermore, reference to the Commons here reflects directly back to the inscription on John of Canace’s mace, and also the fact that unpopularity really did slay Richard, in the end.

Simply put, Richard failed to uphold his end of the social bargain. Caesar and his soldier, the king and the fool, John and his daughters each held a responsibility to the other. Subordinates used their expertise for the benefit of the ruler, while the rulers were to demonstrate their appreciation for this labor by recognizing their servants.

In the *Regiment of Princes*, Hoccleve uses his experience as a clerk of the Privy Seal to authorize his teaching Prince Henry about one appropriate use of the royal discretion: paying employees regularly. To do so, he first uses a dialogic, Boethian format to demonstrate that traditional methods of remuneration, and even age-old means of recalling remuneration to a prince’s mind, are out of date. Then Hoccleve reminds the prince wittily how important bureaucrats are to him, before finally illustrating a variety of
cases in which discretion was directed at employees, especially in matters of their recompense.

Hoccleve’s tentative step towards recognizing a new bureaucratic profession and its needs through poetry is the final stage in a series of literary moments studied in this dissertation. In the *Tale of Melibee*, Chaucer recognized how maintenance corrupted decisions, and therefore justice, even outside the courts. Ambivalence towards maintenance is a topic in Langland’s *Piers Plowman*, as well. After demonstrating that maintenance was an inevitable element of society in the Prologue, Langland goes on to demonstrate how it could influence even the royal discretion, and though it, degrade the foundation of legal institutions, within which legal personnel were particularly vulnerable. Gower demonstrates a significant interest in financial problems of the legal profession in texts such as *Mirour de l’Oemme*, *Vox Clamantis*, and *Confessio Amantis*, and he refined his sense of a legal profession over time. Like Melibee, lawmen could misuse their decision-making powers, and Gower points out that their station made this a grievous offense because their discretion was delegated directly from the king’s own. Unfortunately, maintenance and other corrupt practices that influenced legal decisions were alluring to legal personnel, given the irregular means of their payment and the lack of professional oversight. Hoccleve stands at the beginning of the fifteenth century, and already predicts solutions to the problems of paying legal professionals that would be common, and functioning, practice just a hundred years later.


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