

**Beggary, vagabondage, and poor relief:  
English statutes in the urban context,  
1495 - 1572**

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### **Statement of Authorship**

I, Nicholas Dean Brodie, hereby state that this thesis contains no material that has been accepted for a degree or diploma by the University or any other institution, except by way of background information and duly acknowledged in the thesis, and to the best of my knowledge and belief no material previously published or written by another person except where due acknowledgement is made in the text of the thesis.

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## **Abstract**

This thesis revises the late medieval and early modern legislative foundation of public welfare in England, and many parts of the English-speaking world, which was later known as the old poor law. This thesis argues that the Elizabethan codification of legislation at the threshold of the seventeenth century was part of a much more stable statutory system than has hitherto been accepted. Examining the period between 1495 and 1572, this thesis charts the legislative system that provided for the punishment of vagabondage, the regulation of beggary and the relief of the poor. No study until now has questioned the statutory framework as it was understood in the mid-nineteenth century. This revision demonstrates the foundations of English statutory systems of poor relief to be a clear product of the Reformation, with continuity of concept and practice from the 1530s through until the Elizabethan codifications of 1598 and 1601. Similarly, this thesis demonstrates the continuities and anomalies in the statutory regulations for the punishment of vagabondage, and through a focus on beggary, refocuses scholarly attention on the specificity of these statutes within their contemporary context, without the lens of the mid nineteenth-century reformers whose histories of this period have influenced scholars for a century and a half.

Complementing this revision of the statutory regime for the punishment of vagabondage, the regulation of beggary and the relief of the poor is a specific examination of the impact of these statutes within the urban context through a study of the four county towns of York, Norwich, Exeter and Bristol. This has the twofold purpose of determining whether the urban experimentation model of statutory development, first outlined by E. M.

Leonard in 1900, can be maintained as a viable explanatory model for the development of specific statutory mechanisms, and to what degree towns such as these followed statutory regulations. The result of these explorations is a newfound appreciation of the intersection of various levels of government within Tudor England, which encompass the roles of legislation, urban officials and even parishioners within the urban context. This thesis not only argues that local government action needs to be understood within the contemporary statutory system and that statutory regulation needs to be appreciated in relation to local activities, but also that there was a greater degree of conformity with statutory regulations within four of the largest towns in England between 1495 and 1572 than has been generally acknowledged. As such, this thesis produces a dramatically new view of a systemically integrated polity in Tudor England.

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To those archivists who tolerated my intense stream of requests for accounts and memoranda, I am sincerely appreciative of their professionalism and help. I hope that the English government will facilitate the continued access to professional archives services for researchers visiting for short but intense periods. Similarly, I never cease to be

amazed by the proficiency in tracking down obscure books that is the hallmark of the UTAS document delivery service, and I thank the staff for likewise tolerating a constant stream of requests and facilitating research of this sort in the antipodes.

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<sup>1</sup> 5&6 Edw.VI.c.2, SR 4, 131: from the title given to this statute



#### Abbreviations:

<i>[Year] Act</i>	See Note on Statutes below
BI	Borthwick Institute
BL	British library
BRO	Bristol Record Office
CDRO	Cornwall and Devonshire Record Office
<i>LP</i>	<i>Letters and papers, foreign and domestic, Henry VIII</i>
NRO	Norfolk Record Office
<i>RCN</i>	<i>The records of the city of Norwich</i>
<i>SR</i>	<i>The statutes of the realm</i>
<i>TRP</i>	<i>Tudor royal proclamations</i>
YCA	York City Archives
<i>YCR</i>	<i>York civic records</i>

#### Key to Abbreviations:

Numbers following abbreviation refer to volume number. For instance ‘*YCR 4*’ is the fourth volume of the York Civic Records and ‘*SR 2*’ is the second volume of *Statutes of the Realm*.

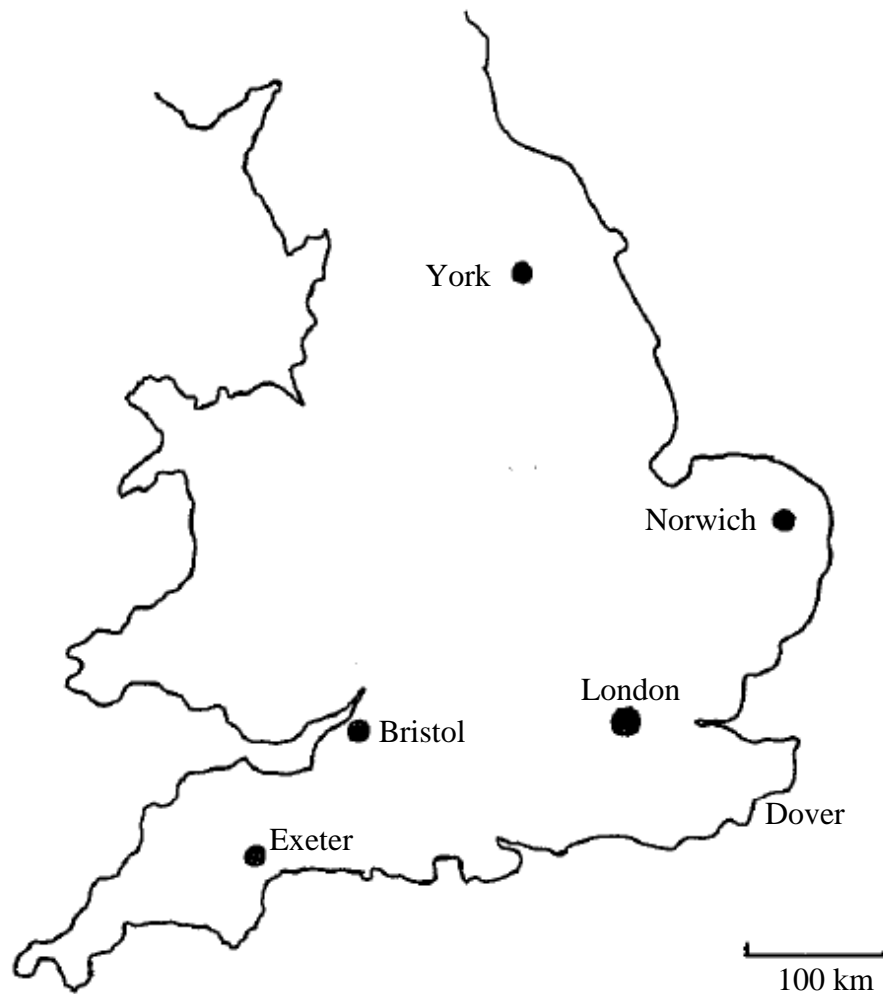
#### Note on statutes:

Statutes are identified by year of proclamation within the text of the dissertation in italics. For instance, 22 Hen.VIII.c.12 is rendered as the *1531 Act*. Only statutes related to beggary, vagabondage and poor relief are rendered this way. No two statutes share the same year of proclamation between 1495 and 1572, making this approach feasible. A list of relevant statutes can be found in Appendix 1 and a schematic representation of the statutory regime in Appendix 2. In some literature these statutes may be dated differently, generally by regnal years or for an earlier year (i.e. the *1536 Act* being referred to as being from 1535 due to the old style dating), but the dates used conform to statute proclamation at the end of parliament which therefore more closely approximated the point at which these became law.

So as to provide more specific reference to particular portions of statutes, a paragraph identifier is added to the footnote reference when appropriate. By this, the second paragraph of the *1531 Act* is rendered as 22 Hen.VIII.c.12.2, as per the numeration of paragraphs in the *Statutes of the Realm* edition of the statute. Multiple numbers after the statute chapter simply refer to multiple paragraphs as for page numbers (e.g. 22 Hen.VIII.c.12.1-3, 5 covers paragraphs one to three, and five).

### Note on dating:

Wherever possible, dates have been modified to conform to the present calendar with the year commencing on 1 January. Some dates however cannot be rendered in this way due to contemporary divisions of the year for accounting practices, in which case dates are rendered as a year spread (e.g. 1534-5).



Key locations mentioned in text

## Introduction

In 1531, the English parliament enacted a statute that provided for certain subjects of the realm to have been whipped ‘tyll his Body be bloody by reason of suche whyppynge’.<sup>1</sup> Even by the standards of medieval justice, it was a major departure from the earlier placement of vagabonds in the stocks, even if the punishment still shared conceptual elements of the former approach.<sup>2</sup> Complementing this, the statute of 1531 also contained requirements that persons carry documentation proving their eligibility to beg upon pain of similar punishment if found begging without a license to beg. Such concern with documentary proof of movement and activity seems familiar to those living in an age of terrorist bombings and international travel. Such documentation was required to avoid summary punishment at the discretion of magistrates empowered to inflict punishment without the inconvenience of a trial at quarter sessions. Half a decade later, in the final session of that same parliament spanning the first half of the 1530s, another statute was passed that provided a mechanism for the relief of the local poor through weekly contributions from neighbours.<sup>3</sup> This system of collective responsibility for the poor formed the basis of English welfare for centuries to come. Despite the ostensible brutality of the former, and the seeming charitable objective of the latter, these statutes were intended to operate in tandem. These and similar statutes, dotted across the Tudor period, form the focus of this study.

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<sup>1</sup> 22 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>2</sup> 11 Hen.VII.c.2, *SR* 2, 569; 19 Hen.VII.c.12, *SR* 2, 656-657.

<sup>3</sup> 27 Hen.VIII.c.25, *SR* 3, 558-562.

There are at least four broad explanations regarding the origins of these various statutes, yet scholars have only principally addressed two. These first two explanations are the economic and intellectual contexts respectively, and studies have been directed to these issues by the economic and intellectual historical fascinations of the mid and late twentieth century.<sup>4</sup> The various narrative accounts of the development of the vagrancy legislation, or the old poor law, depending on the perspectives of the individual researchers, have generally been framed with respect to one or a combination of these two forces, that is, economic or intellectual change. However, two other explanations provide a more immediate context for the particularities of parliamentary action and legislative mechanisms. These are the political context of each individual parliament and, even more importantly, the statutory context itself.<sup>5</sup>

The present dissertation has two main objectives. The first objective is purely revisionist, seeking to re-examine the English statutes regarding beggars, vagabonds and the relief of the poor in the late fifteenth century and the first three-quarters of the sixteenth century. Time alone provides sufficient justification for this, as not since Leonard's *Early history of English poor relief* of 1900 has a comprehensive treatment of the Tudor statutes for the prohibition of beggary, the punishment of vagabondage and the relief of the poor been attempted.<sup>6</sup> The chronological parameters of this study also provide the basis of a revisionist agenda, as few histories have treated this period, albeit generally

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<sup>4</sup> See Chapter One for a detailed treatment of relevant historiography.

<sup>5</sup> The parliamentary context has received some scholarly attention for later parliaments, due to better documentation of parliamentary proceedings. See for instance P. Slack, *Poverty and policy in Tudor and Stuart England* (London and New York, 1988), and P. Slack, *The English poor law, 1531-1782* (Cambridge, 1995) for discussion of parliamentary manoeuvring with respect to the late Elizabethan legislation in the 1590s.

<sup>6</sup> E. M. Leonard, *The early history of English poor relief* (Cambridge, 1900).

acknowledged as a formative one, on its own terms. The statutes of the 1530s to the 1570s have generally featured as the ending point of medieval studies or the starting point of studies concerned with the early modern period, with only limited crossover.<sup>7</sup> This is the product of an artificial sub-disciplinary boundary that requires bridging with period-specific studies such as this. If, as Smith has suggested, ‘the conventional division between [...] periods is often drawn more from habit than premeditation’, then this dissertation aims to break that habit quite deliberately.<sup>8</sup>

Yet the need for revision goes beyond timelines. The contemporary impact of the statutes has been a contested issue for over a century of scholarship, as scholars have measured statutory regulation and directives against local implementation and independent actions.<sup>9</sup> Therefore as its second principal objective, this thesis seeks to chart policy relationships between parliament, local government, and parishes. Thus, whilst maintaining a focus on the specificities of policies regarding beggary, vagabondage and poor relief, this thesis also serves as a case study of the wider relationships between different levels of government within the polity of Tudor England. This facilitates the emergence of a

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<sup>7</sup> For instance even *longue durée* histories, such as P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006), divide chapters chronologically in conformity with this trend. McIntosh and Slack have been two prominent exceptions, each having contributed to the study of the field on either side of the mid-Tudor division: see M. K. McIntosh, *Controlling misbehaviour in England, 1370-1600* (Cambridge, 1998); M. K. McIntosh, ‘Local responses to the poor in late medieval and Tudor England’, *Continuity and change*, 3 (1988), 209-245; M. K. McIntosh, ‘Poverty, charity, and coercion in Elizabethan England’, *Journal of interdisciplinary history*, 35 (2005), 457-479; Slack, *Poverty and policy*; Slack, *The English poor law*.

<sup>8</sup> R. Smith, ‘Periods, structures and regimes in early modern demographic history’, *History workshop journal*, 63 (2007), 202.

<sup>9</sup> Prominent examples of this trend include Leonard, *The early history of English poor relief*; S. Webb and B. Webb, *English local government: English poor law history: part I, the old poor law* (London, 1927); J. Pound, *Poverty and vagrancy in Tudor England* (London, 1971); A. L. Beier, *Masterless men: the vagrancy problem in England 1560-1640* (London, 1985); A. L. Beier, *The problem of the poor in Tudor and early Stuart England* (London and New York, 1983); A. L. Beier, ‘Poverty and progress in early modern England’, in A. L. Beier, D. Cannadine and J. M. Rosenheim (eds.), *The first modern society, essays in English history in honour of Lawrence Stone* (Cambridge, 1989), 201-239; and the work of McIntosh and Slack as cited above.

clearer picture of the degree to which statutes were obeyed or understood beyond Westminster, and will as a result enable future exploration of relationships between policy-makers and policy-implementers to be undertaken on a firmer systemic contextual footing.

This might at first seem well-worn ground, as despite Elton's claim that '[i]t is the essence of the poor that they do not appear in history' there is a voluminous body of literature on poverty and the poor in the late medieval and early modern past, to which research is contributed regularly with astonishing speed, as any survey of recent journals can attest.<sup>10</sup> The historical poor, at present, are big business it seems. Whilst broad surveys of the legislation and national and local (usually urban) policy dominated late nineteenth-century and early twentieth-century scholarship, in more recent decades historians have explored social, cultural and intellectual histories of the poor and state policy respecting them.<sup>11</sup> Regional and micro studies of particular localities, periods or people have also tended to dominate the current generation of scholarship, which, whilst

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<sup>10</sup> G. R. Elton, *England under the Tudors* (London, 1971), 259.

<sup>11</sup> Prominent examples again include those already cited for Leonard, the Webbs, McIntosh and Slack. Also prominent here has been the work of Fideler in arguing for a humanist origin to Tudor legislation: P. A. Fideler, 'Christian humanism and poor law reform in early Tudor England', *Societas*, 4 (1974), 269-285; P. A. Fideler, 'Introduction: impressions of a century of historiography', *Albion*, 32 (2000), 381-407; P. A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 194-222; and most recently P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006). There has been a growing tendency to study the poor as historical agents, rather than just objects of legislative regulation, but there have been some studies principally addressing the perspectives or experiences of the poor that have maintained a legislative or legal aspect including S. Hindle, "'Good, godly and charitable uses': endowed charity and the relief of poverty in rural England, c. 1550-1750", in A. Goldgar and R. I. Frost (eds.), *Institutional culture in early modern society* (Leiden, 2004), 164-88; F. M. Page, 'The customary poor-law of three Cambridgeshire manors', *Cambridge historical journal*, 3 (1930), 125-133; and M. Williams, "'Our poore people in tumults arose': living in poverty in Earls Colne, Essex, 1560-1640", *Rural History*, 13 (2002), 123-143; also of interest as an unusual and revealing cultural study of poverty in the sixteenth century is T. Nichols, *The art of poverty: irony and ideal in sixteenth-century beggar imagery* (Manchester and New York, 2007).

adding much detail to current understanding about the poor in late medieval and early modern Europe, have not greatly revised the understanding of legislative framework for the late fifteenth century and early sixteenth century established by earlier scholars.<sup>12</sup> The net result is that there are significant assumptions that have become orthodoxy, such as a persistent belief that there was an increasing problem with beggary and vagabondage at the root of local and state action peculiar to this period, or the notion that localities experimented with policies on which legislation was later modelled.<sup>13</sup> These assumptions result in a model of national legislative development, where legislative initiative and inspiration is principally local. This thesis critiques such orthodoxies, not necessarily to argue for their abandonment in every instance, but to suggest that the argument has not been adequately proved in a number of cases. This engagement with seemingly settled

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<sup>12</sup> Examples of detailed micro-studies include L. Botelho, 'Aged and impotent: parish relief of the aged poor in early modern Suffolk', in M. Daunton (ed.), *Charity, self-interest and welfare in the English past* (London and New York, 1996), 91-111; J. Boulton, 'The poor among the rich: paupers and the parish in the West End, 1600-1724', in P. Griffiths and M. S. R. Jenner (eds.), *Londinopolis, essays in the cultural and social history of early modern London* (Manchester and New York, 2000), 197-225; P. Clark, 'The migrant in Kentish towns 1580-1640', in P. Clark and P. Slack (eds.), *Crisis and order in English towns 1500-1700: essays in urban history* (London, 1972), 117-163; P. Horden, 'Small beer? The parish and the poor and sick in later medieval England', in C. Burgess and E. Duffy (eds.), *The parish in late medieval England* (Donington, 2006), 339-364; McIntosh, *Controlling misbehaviour*; McIntosh, 'Local responses to the poor'; McIntosh, 'Poverty, charity, and coercion'; S. Hindle, *On the parish? The micro-politics of poor relief in rural England c. 1550-1750* (Oxford, 2004); W. K. Jordan, *Philanthropy in England 1480-1660* (London, 1959); W. K. Jordan, *The charities of London 1480-1660* (London, 1960); W. K. Jordan, *The charities of rural England 1480-1660* (Westport, 1961); W. K. Jordan, 'The forming of the charitable institutions of the west of England: a study of the changing pattern of social aspirations in Bristol and Somerset, 1480-1660', *Transactions of the American Philosophical Society*, new series, 50 (1960), 1-99. To this category of research can be added a number of more general local histories that bear on the study of poverty, welfare and social relations; prominent examples of which include: P. Clark and P. Slack, *English towns in transition 1500-1700* (Oxford, 1976); C. Phythian-Adams, *Desolation of a city, Coventry and the urban crisis of the late middle ages* (Cambridge, 1979); S. Rappaport, *Worlds within worlds: structures of life in sixteenth-century London* (Cambridge, 1989); K. Wrightson and D. Levine, *Poverty and piety in an English village: Terling, 1525-1700* (New York, 1979).

<sup>13</sup> A detailed historiographical survey of the origins and developments of these orthodoxies is presented in Chapter One. A tangential impact on wider fields of study can be seen in the way that assumptions regarding vagrancy and poverty in the sixteenth century have translated into the study of literary history and rogue literature. Prominent recent examples include: W. C. Carroll, *Fat king, lean beggar: representations of poverty in the age of Shakespeare* (Ithaca and London, 1996); A. Bayman, 'Rogues, conycatching and the scribbling crew', *History workshop journal*, 63 (2007), 1-17; and relevant chapters in C. Dione and S. Mentz (eds.), *Rogues and early modern English culture* (Ann Arbor, 2004).

theories opens the field to new questions and avenues of research that shall be explored in the conclusion.

Such systemic revision necessitates engagement with a number of particular schools of historical enquiry that often overlap. As fundamentally directed by a query into a particular body of statute law, this is clearly legal history. It is also policy history in so far as legislation can be considered state policy and organisational precepts at the local level may be indicative of local policy. It can therefore also be considered local history in so far as it ascertains the degree to which local action and policy reflected, preceded, complemented or contrasted with such state policy through a focus on the four towns of York, Norwich, Exeter and Bristol. It is more particularly urban history, in that there is a focus on the urban environment, yet it is also parochial history due to engagement with the urban parish as a unit of administration and as a focus of contemporary religious devotion. Another denotation could be administrative history because it is in the administrative details and mechanisms of the legislation that change and continuity can be mapped out. The list could go on. However, despite all of these competing approaches there are two great methodological continuities that make 'systemic revision' an appropriate label for the kind of history presented in this dissertation. The first of these are the statutes. The statutes dominate the research questions and form the most important continuous body of primary evidence. It is the one source that binds the thesis, as



whatever the similarities or differences between towns, parishes and period, each shared the same statutes.<sup>14</sup>

The second continuity lies with the four corporate towns, and their constituent parishes, that form an historical ‘testing range’ for the statutes. Whilst some commentary, evidence and digressions will be drawn from other areas, it is the towns of York, Norwich, Exeter and Bristol that provide the geographical parameters of this thesis. There are several principal reasons for an exploration of the statutes for the regulation of beggary, the punishment of vagabondage and the relief of the poor within these centres. Each was a county town, which is a county unto itself, and therefore had a high degree of jurisdictional independence.<sup>15</sup> The mayor acted as a local magistrate, thus presiding over

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<sup>14</sup> As noted on the Abbreviations page, the statutes were examined in the volumes of the *Statutes of the realm*, and a particular referencing style adapted from the paragraph denotation in those volumes has been deployed to increase the specificity of statutory referencing.

<sup>15</sup> Incorporation as counties occurred in 1373 (Bristol – confirmed 1373 and 1488), 1396 (York), 1404 (Norwich), and 1537 (Exeter): Relevant literature relating to these towns can be found in the following: for York: G. Benson, *An account of the city and county of the city of York, volume I* (York, 1968 [compiled reprint]); D. M. Palliser, *Tudor York* (Oxford, 1979); for Norwich: M.C. McClendon, *The quiet reformation, magistrates and the emergence of Protestantism in Tudor Norwich* (Stanford, 1999); J. Pound, ‘The social and trade structure of Norwich 1525-1575’, *Past and present*, 34 (1966), 49-69; J. Pound, *Tudor and Stuart Norwich* (Chichester, 1988); there are also a number of relevant contributions in C. Rawcliffe and R. Wilson (eds.), *Medieval Norwich* (London and New York, 2004); for Exeter: C. S. Evans, ‘Poverty and social control in early modern England: Exeter, 1558-1625’, PhD thesis, Louisiana State University, 1987; C. S. Evans, ‘“An echo of the multitude”: the intersection of governmental and private poverty initiatives in early modern Exeter’, *Albion*, 32 (2000), 408-428; W. T. MacCaffrey, *Exeter, 1540-1640: the growth of an English county town* (Cambridge, 1958); for Bristol: D. H. Sacks, *Trade, society and politics in Bristol 1500-1640, volume 1* (New York and London, 1985); D. H. Sacks, *Trade, society and politics in Bristol 1500-1640, volume 2* (New York and London, 1985); M. C. Skeeters, *Community and clergy, Bristol and the Reformation c. 1530 – c. 1570* (Oxford, 1993). More general literature pertinent to these and similar towns includes: Clark and Slack, *English towns in transition*; see also a number of relevant chapters in their edited volume: P. Clark and P. Slack, (eds.), *Crisis and order in English towns 1500-1700: essays in urban history* (London, 1972); P. Clark, ‘Improvement, policy and Tudor towns’ in G.W. Bernard and S.J. Gunn (eds.), *Authority and consent in Tudor England: essays presented to C. S. L. Davies* (Aldershot, 2002), 233-247; N. R. Goose, ‘In search of the urban variable: towns and the English economy, 1500-1650’, *The economic history review*, new series, 39 (1986), 165-185; W. G. Hoskins, ‘English provincial towns in the early sixteenth century’, *Transactions of the royal historical society*, fifth series, 6 (1956), 1-19; D. M. Palliser, ‘Urban society’, in R. Horrox (ed.), *Fifteenth-century attitudes: perceptions of society in late medieval England* (Cambridge, 1994), 132-149; Phythian-Adams, *Desolation of a city*; P. Slack, *From reformation to improvement, public welfare in early modern England* (Oxford,

a mayoral court, often having duties specifically outlined and stipulated in relevant statutes, highlighting the judicial authority behind corporate policy.<sup>16</sup> There were also bealdes and constables that could enforce the mayor's orders and decisions, underlining the capacity of the mayor's judicial authority to be translated into action. Each was a walled city, albeit with walls in varying stages of repair, which contained a self-aware and independent identity and population. The corporation or city government of each was composed of a council, which is a body of aldermen and commoners with authority to make local ordinances, headed by a mayor, whose collective decisions were often recorded in various books of memoranda, thus providing a convenient body of source material regarding local policy. These four towns, despite differing economic histories in the lead up to and throughout the sixteenth century, held an approximate parity of size and importance with respect to each other and their respective regions, and have been labelled by Clark and Slack as being 'provincial towns' during the late fifteenth and sixteenth centuries, that is, larger and more important than smaller county towns such as Salisbury or Hull for instance.<sup>17</sup> York, Norwich, Exeter and Bristol were each a regional centre of economic and administrative importance. All were trading and manufacturing centres, each had or gained a cathedral and each had a number of monastic and secular

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1999); Slack, *Poverty and policy*; J. H. Thomas, *Town government in the sixteenth century* (London, 1933); R. Tittler, 'Reformation, resources and authority in English towns: an overview', in P. Collinson and J. Craig (eds.), *The Reformation in English towns, 1500-1640* (London, 1998), 190-201; R. Tittler, 'The emergence of urban policy', in J. Loach and R. Tittler (eds.), *The mid-Tudor polity c. 1540-1560* (London, 1980), 74-93; L. Attreed, 'Urban identity in medieval English towns', *Journal of interdisciplinary history*, 32 (2002), 571-92. Finally of course there are a number of relevant chapters in both D. M. Palliser (ed.), *The Cambridge urban history of Britain, volume I, 600-1540* (Cambridge, 2000) and P. Clark (ed.), *The Cambridge urban history of Britain, volume II, 1540-1840* (Cambridge, 2000).

<sup>16</sup> See: Thomas, *Town government in the sixteenth century*.

<sup>17</sup> Clark and Slack, *English towns in transition*, 46-47.

religious buildings.<sup>18</sup> Yet perhaps what makes them most interesting and necessary for any revision of the statutory regime is that all of them, Norwich in particular, featured in Leonard's *Early history* and therefore revision of these particular towns is a necessary aspect of a full revision of earlier scholarship.<sup>19</sup>

Four were chosen as constituting a reasonable sample size with which to address the key research questions regarding statutory implementation and policy development. Four large towns provided a large body of primary material, both published and in manuscript. In some instances this material facilitated inter-town comparisons, there being surviving memoranda of various sorts from all four.<sup>20</sup> The comparison of four towns is particularly useful, as the scholarship of urban policy has been influenced by the particularities of urban histories and the reliance on local scholarship has resulted in a focus on local conditions at the expense of royal or parliamentary directives.<sup>21</sup> Similarly, national activities have been seen to have had a close relationship with certain localities based largely on the predilections of particular urban historians whose work has been adopted by those interested in the national developments. For instance, Norwich has featured heavily in most accounts of Tudor poor relief due to the detailed attention given it by Pound.<sup>22</sup> Yet Exeter and York, despite having a similar body of material, featured far less

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<sup>18</sup> Bristol only gained a Cathedral in 1542. The various religious institutions (with foundation and dissolution dates) for these towns can be found listed in D. Knowles and R. N. Hadcock, *Medieval religious houses: England and Wales* (London, 1971).

<sup>19</sup> Leonard, *The early history of English poor relief*.

<sup>20</sup> Memoranda are vastly different in terms of volume and focus however, with York having the most surviving memoranda and generally the most detailed for instance. See below for further details. A full list of references, manuscript and print, is available in the bibliography.

<sup>21</sup> For instance the Norwich development of a compulsory collection in the late 1540s is related to Kett's rebellion, but not related to other towns or the wider statutory context. See Chapter Five.

<sup>22</sup> *The Norwich census of the poor 1570*, ed. John Pound, Norfolk Record Society, 40, (Norwich, 1971); Pound, 'The social and trade structure of Norwich'; Pound, *Tudor and Stuart Norwich*; This 'Norwich-

in previous general surveys of urban approaches to poor relief or the development of legislative systems.

However, the focus of this dissertation is not that of the usual regional survey or comparative study, despite the use of a four town sample. The primary focus is not to see whether and how these towns differed from each other, or particularly to chart their respective policies and find explanations for all actions and concepts, but rather to use these four towns as sample environments in which to explore the contemporary effect and operation of the statutes for the regulation of beggary, the punishment of vagabondage and the relief of the poor. This approach therefore translates into a thematic treatment of the statutes and their application in all towns at once, rather than a town-by-town analysis. As such, because of greater or lesser volume of primary material with which to analyse certain issues, not all towns necessarily feature in every discussion. The absence of any town in subsequent discussion therefore has to be taken as the result of a lack of primary evidence capable of sustaining discussion, not as necessarily reflecting a lack of corporate action. It is easier to assert that a town was acting, than to assert confidently that it was not.

Despite concerns about the variation in sources between towns, the spectrum of different sources surviving in each has proved invaluable in utilising all four towns to study the impact of statutes. For instance the corporate memoranda of York, much of them edited

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*isation*’ of Tudor poor relief history has also been a function of the intense research undertaken with the use of the Norwich census of the poor. See for instance M. Pelling, ‘Healing the sick poor: social policy and disability in Norwich 1550-1640’, *Medical history*, 29 (1985), 115-137; M. Pelling, ‘Old age, poverty, and disability in early modern Norwich: work, remarriage, and other expedients’, in M. Pelling and R. M. Smith (eds.), *Life, death, and the elderly: historical perspectives* (London, 1991), 74-101.

by Angelo Raine and published in the record series of the *Yorkshire Archaeological Society*, are rich in detail.<sup>23</sup> In contrast, *The ordinances of Bristol* contain relatively little of note and are at times frustratingly terse.<sup>24</sup> In Norwich, the survival of the mayoral court records provides a different corporate perspective, providing details of individual cases lacking in the York memoranda.<sup>25</sup> Furthermore, financial accounts from these corporations, and parishes within them, have provided a valuable and novel means of exploring statutorily-derived behaviour and policy.<sup>26</sup> Similarly, whilst exploring the evidence available in churchwarden accounts in parishes is time-consuming, hundreds of pages were examined in search of terse notes regarding minor indicators of parochial activity such as, for instance, the purchase of poor box locks and keys.<sup>27</sup> This approach has proved extremely valuable, enabling the relationship between Westminster, corporation and parish to be more fully explored. However, this methodology encouraged the use of a four-town study, due to the need for a restricted sample of source material.

These towns conveniently provide geographical parameters for the study, with corporate policy dictated by corporate jurisdiction, despite some contested liberties. However the chronological parameters prove more difficult to neatly define. As already noted, one of

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<sup>23</sup> These volumes have been supplemented with examination of some of the manuscripts on which these volumes are based, from which some key memoranda not featured in the published volumes are addressed.

<sup>24</sup> *The ordinances of Bristol 1506-1598*, ed. Maureen Stanford, Bristol Record Society, 41 (Gloucester, 1990).

<sup>25</sup> Again a combination of printed and manuscript memoranda have been examined for Norwich. One peculiarity of Norwich is that multiple manuscript copies of some memoranda still survive, thus producing the occasional double manuscript references that will feature with respect to this town.

<sup>26</sup> The corporate accounts of Bristol held in the Bristol Record Office, for instance, have been of particular value in enabling research into that memoranda-poor city. Other city accounts have also provided a means of confirming that some memoranda decisions were enforced, or providing other details not featured in memoranda.

<sup>27</sup> These accounts were examined for connections with legislative policy, in line with the research-agenda of this dissertation, and therefore the relationship of churchwarden accounts with the national legislative framework should not be thought to indicate the entirety of the parochial welfare framework, there was after all much parochial charitable activity not necessarily related to statute law.

the features of past scholarship has been a tendency towards treating the 1530s, sometimes extending this to the 1570s, as a dividing period between medieval and early-modern studies.<sup>28</sup> Even scholars who have covered broader spectrums of time such as Slack and McIntosh have perpetuated chronological parameters that demonstrate a division being maintained between policy and practices before the 1530s and apparently different policies and practices from the 1570s.<sup>29</sup> Indeed, as will be seen, some justification exists for treating this period as one of particular change, but a greater degree of precision about what changed and when will be possible as a result of this dissertation.

There is clearly a greater volume of studies addressing late Tudor policy and poverty than for the earlier Tudor or medieval context. Whether the result of greater historical interest or more widely available source material, it has produced a scholarly distortion where the sixteenth century is seen as a particularly dynamic or important period in contrast to earlier periods. Yet historical dynamism is often a product not so much of contemporary context as of modern scholarly commentary. This is particularly highlighted by the fact that the statutes of Henry VII have rarely been discussed yet those of Henry VIII have received much more scholarly attention. Similarly, most research into the statutes of the 1530s has focused more on the intellectual context than on the statutes themselves or the wider statutory context, including the statutory relationship between the legislation of the 1530s and the 1490s. Few specific studies of the policies of the 1530s have addressed

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<sup>28</sup> See above.

<sup>29</sup> Whilst Slack and McIntosh have published across these boundaries, the individual publications often matched these chronological parameters such as: P. Slack, 'Poverty and politics in Salisbury 1597-1666', in P. Clark and P. Slack (eds.), *Crisis and order in English towns 1500-1700: essays in urban history* (London, 1972), 164-203; P. Slack, 'Poverty and social regulation in Elizabethan England', in C. Haigh (ed.), *The reign of Elizabeth I* (Basingstoke and London, 1984), 221-241; Slack, *The English poor law*; Slack, Paul, 'Poverty and social regulation in Elizabethan England', in C. Haigh (ed.), *The reign of Elizabeth I* (Basingstoke and London, 1984), 221-241 and McIntosh, 'Poverty, charity, and coercion'.

*actual* policy and implementation as most scholars have focused instead on the supposed intellectual background of *potential* policy.<sup>30</sup> It is telling that in no major journal have any studies appeared which addressed any statute for the regulation of beggary, the prohibition of vagabondage or the relief of the poor in the sixteenth century, bar one.<sup>31</sup> That was published in 1966. Three however have been published addressing a draft statute of 1535 which was never fully implemented in its draft form.<sup>32</sup> No study has actually focused on the content and outcome of the *1536 Act*. It was simply assumed to have had no importance except as a failed experiment.

As just indicated, a simple enough argument of the need for further scholarship in this area is that histories of beggary, vagabondage and poor relief have been largely written without reference to the statutes of Henry VII as if these were either ineffectual or unimportant. Yet discussion of later initiatives such as those of the 1530s, even if principally focused on the intellectual context, obviously requires a full appreciation of what the statutory context prior to those initiatives actually was. This thesis seeks to revise the Tudor statutory regime, and it does so within particular parameters derived from the earliest Tudor onwards. The period from 1495 to 1572 can be considered the formal limits of the statutory revision undertaken in this dissertation. The reason for the

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<sup>30</sup> This appears to be a product of 'the legislative question' being thought to have been settled in the earliest scholarship.

<sup>31</sup> C. S. L. Davies, 'Slavery and protector Somerset: the vagrancy act of 1547', *The economic history review*, new series, 19 (1966), 533-549; Other studies have addressed parliamentary drafts, and occasionally their relationship with a particular statute such as G. R. Elton, 'An early Tudor poor law', *The economic history review*, new series, 6 (1953), 55-67; Another tangential study of legislation includes the 1572 one, but this addressed the statute only from a highly particular standpoint, leaving a revision of the rest of the statute untouched: P. Roberts, 'Elizabethan players and minstrels and the legislation of 1572 against retainers and vagabonds', in A. Fletcher and P. Roberts (eds.), *Religion, culture and society in early modern Britain* (Cambridge, 1994), 29-55.

<sup>32</sup> Elton, 'An early Tudor poor law'; P. A. Fideler, 'Christian humanism and poor law reform in early Tudor England', *Societas*, 4 (1974), 269-285; N. L. Kunze, 'The origins of modern social legislation: the Henrician poor law of 1536', *Albion*, 3 (1971) 9-20.

commencement date is the fact that *11 Hen.VII.c.2* of 1495 is the first statute in English law to explicitly treat beggary and vagabondage together.<sup>33</sup> The 1572 end date was chosen because *14 Eliz.I.c.5* was the first Elizabethan attempt at legislative consolidation, whereby several statutes were replaced with one document.<sup>34</sup> 1572 also marks the commencement of a period in which legislative continuity and constancy have been more widely acknowledged within existing scholarship.<sup>35</sup> Yet in a sense these are arbitrary dates and for that reason, when appropriate, the discussion ranges well beyond these parameters, especially considering legislation from earlier centuries or digressing to follow particular concepts of importance further into or beyond the Elizabethan period. In this way it is hoped that a simple teleological approach, charting the development of the final Elizabethan codification of 1598 and 1601, will be avoided, and that the disciplinary divide between medieval and early modern studies will be more effectively bridged.

However it is also crucial to appreciate that the 1530s, 1540s and 1550s were indeed decades of particular importance in the development and implementation of the old poor law. The legislation consolidated at the end of Elizabeth I's reign persisted relatively unchanged for centuries thereafter as the basis of state policy regarding beggary, vagabondage and poor relief. However the identification of the final Elizabethan consolidations of 1598 and 1601 as the moment of key importance is partially a historiographical (rather than a historical) construction. Critically important for an appreciation of the course and development of state and local policy regarding beggary,

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<sup>33</sup> *11 Hen.VII.c.2, SR 2, 569.*

<sup>34</sup> *14 Eliz.I.c.5, SR 4, 590-598.*

<sup>35</sup> Slack, *Poverty and policy*; Slack, *The English poor law*.



vagabondage and poor relief, the 1530s through to the early 1560s can be considered of particular importance in this thesis and therefore the core focal decades. Whilst hoping to avoid a teleological approach focused on the late 1590s, the degree of consistency and continuity and the degree and nature of statutory change in these decades is important to achieving a full appreciation of the origin of the old poor law.

Essentially the parameters of this thesis are designed to examine the structural approaches to vagabondage, beggary and poor relief, between a period recognisably medieval, and another period recognisably early modern. The differences are clear, with even the statutes in the former period dominated by petitions to the king, whilst in the latter the statutes were generally a product of governmental initiative or oversight and were authored by persons of a legalistic persuasion, as is suggested by a dramatic rise in the number and length of statutes between the two periods.<sup>36</sup> The Reformation Parliament, in particular, was an important part of a change in the nature of the English parliament from something resembling a council of the King, to a much more active maker of law.<sup>37</sup>

The social and economic contexts before and after the period addressed in this dissertation form part of a continuum of social and economic malaise starting from the mid fourteenth century and the disruptions of the Black Death. An increasing mobility of wage-earning labourers might reflect a period of better conditions for labourers, but this

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<sup>36</sup> The simple fact that the statutes of the reign of Henry VIII filled the third volume of the *Statutes of the realm*, whilst those of all his predecessors only filled two volumes, most clearly articulates the dramatic rise in the volume of statutes passed at this time.

<sup>37</sup> For a detailed reappraisal of earlier scholarship, including elaboration of the importance of parliamentary action in the 1530s in particular, see: Elton, *England under the Tudors*, 165-175. Also in general on this subject, see G. R. Elton, *Reform and renewal: Thomas Cromwell and the common weal* (Cambridge, 1973); S. E. Lehmborg, *The Reformation Parliament, 1529-1536* (Cambridge, 1970).

may in turn have encouraged the regulation of movement evident in vagrancy regulations of the latter decades of the fourteenth century.<sup>38</sup> Regardless of original cause, however, thenceforth magistrates and landlords had legislative sanction for discouraging movement amongst the non-landholding classes and by the start of the sixteenth century the principle that vagrancy was punishable by statute was certainly well established. Concern amongst governors and policy-makers with respect to vagrancy, landless labourers, idleness, beggary, poverty and social order were not new or unique to the period between the 1530s and the 1570s, and did not disappear in the wake of legislative or local action.<sup>39</sup>

In a macro sense there were no major conceptual shifts between the medieval and early modern periods. The poor were provided for and vagrancy was discouraged. Yet shifts in the details of systems of relief, regulation and punishment and the responsibility for administering these systems clearly occurred. Through the parish collection, the state assumed responsibility for overseeing the relief of the poor, something that was principally the role of the church before the Reformation.

Prior to the Reformation, the charitable landscape of England contained a number of means by which the poor could obtain charity. The principal of these were certainly associated with the monasteries of the realm. Through almonries, or distributions of alms, an unknown, but certainly significant, number of poor were supported by great and small houses of religious through the provision of food, accommodation, or money. A

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<sup>38</sup> For a detailed discussion of the economic context see Chapter One. For a brief synopsis of the impact of the Black Death and the development of labour regulations see M. Keen, *English society in the later middle ages, 1348-1500* (London, 1990), 27-39.

<sup>39</sup> Slack, *Poverty and policy*.

longstanding assumption that the monasteries did little to support the poor has been revised and overturned, highlighting that in some instances a significant proportion of monastic income was directed to poor relief.<sup>40</sup> Another support of the pre-Reformation poor was the medieval English hospital. Although representing a spectrum of institutions from religious houses where inmates lived by a rule, to lazar houses for the infected, to almshouses for the elderly, the importance of English hospitals in supporting many poor has likewise been revised, placing English hospitals, with the monasteries, at the forefront of pre-reformation charitable care.<sup>41</sup> Such institutions supported the poor out of a religious imperative, drawn from biblical injunction and canon law.<sup>42</sup> Such a religious context clearly motivated the deathbed charity common to the late fifteenth and early sixteenth century, where funeral doles, and alms in return for prayers, were a regular feature of testamentary bequests and were considered signs of piety.<sup>43</sup> Other forms of charitable relief at the community level have also been discerned, such as parish help-ales, which highlight that much undocumented charity must have taken place at the village or parish level long before the advent of state-orchestrated parish collections.<sup>44</sup>

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<sup>40</sup> See in particular: N. Rushton, 'Monastic charitable provision in Tudor England: quantifying and qualifying poor relief in the early sixteenth century', *Continuity and change*, 16 (2001), 9-44; N. Rushton, 'Spatial aspects of the almonry site and the changing priorities of poor relief at Westminster Abbey c. 1290-1540', *Architectural history*, 45 (2002), 66-91; N. Rushton and W. Sigle-Rushton, 'Monastic poor relief in sixteenth-century England', *Journal of interdisciplinary history*, 32 (2001), 193-217.

<sup>41</sup> For a good synopsis of the breath of English hospitals see N. Orme, *The English hospital, 1070-1570* (New Haven, 1995). See also E. Prescott, *The English medieval hospital, 1050-1640* (Melksham, 1992), and S. Sweetinburgh, *The role of the hospital in medieval England: gift-giving and the spiritual economy* (Dublin, 2004).

<sup>42</sup> B. Tierney, *Medieval poor law: a sketch of canonical theory and its application in England* (Berkeley and Los Angeles, 1959).

<sup>43</sup> C. Burgess, 'By quick and by dead': wills and pious provision in late medieval Bristol', *The English historical review*, new series, 102 (1987), 837-858.

<sup>44</sup> J. Bennett, 'Conviviality and charity in medieval and early modern England', *Past and present*, 134 (1993), 19-41; J. Bennett, 'Conviviality and charity in medieval and early modern England: reply', *Past and present*, 154 (1997), 235-242.

Yet acknowledging the probability of local relief does not diminish the importance of the Tudor statutes. The great level of administrative and mechanical detail in Tudor statutes encouraged a uniformity of behaviour on the part of the magistracy of the realm, and expressed the growing tension between local autonomy and centralised directives. As will be seen, in a remarkable way these statutes mirrored the development of the English state. Whilst statutes have often been used as indicative of contemporary pressures, problems or programs, it is important to recall their role in contemporary society.<sup>45</sup> Statutes then, as now, were intended to limit or authorise contemporary behaviour. This thesis will explore how a particular collection of statutes intended to affect and effect behaviour in a given historical context, whether and to what degree they achieved this, and how far this may have reflected already extant behaviour. Five chapters address in turn the fundamental elements of a revision of these statutes.

Chapter One discusses the historiography of the sixteenth-century statutes for the punishment of vagabondage, the regulation of beggary and the relief of the poor, highlighting the great antiquity of many current scholarly assumptions. Discontinuity is a particular theme which has been applied to the mid sixteenth-century statutes since the first histories of the old poor law were written, assumptions which have not been queried or critiqued in any comprehensive fashion until now. Similarly, this review of over a century of scholarship raises questions of causality behind legislative and urban initiatives with respect to vagabonds, beggars and the poor, and so the chapter then examines the demographic and economic context of the realm of England, and the

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<sup>45</sup> This *prima facie* approach to Tudor statutes is a feature of the earliest histories of the period. See Chapter One for a detailed discussion of the establishment of this approach.

associations between this changing context and the statutory regime. This also serves to introduce in more depth the particular towns addressed throughout the remainder of the thesis and to destabilise currently held assumptions regarding the primary role of urban experimentation in the development of the national legislative framework.

Having questioned the context and the literature, Chapter Two commences the revision of the statutory regime (the chronological and structural sequence of the relevant laws in force and their relationship with each other). This chapter provides a detailed examination of the statutes at a macro-level of systemic operation, noting what they broadly addressed, and when and for how long each statute was law. Through this, a comprehensive picture of what statutes were law at any given moment is achieved, thus providing a firmer foundation for investigation of statutory implementation and effect in localities. From this, the subsequent critique in later chapters of notions of urban experimentation before statutory developments can be appropriately undertaken. To complement this revision of the statutes and their duration, the extent of knowledge concerning current legislation available within provincial urban centres is also addressed, such that the details and timing of local activities can be framed with respect to a reasonable appreciation of contemporary local understandings of statute law.

Chapters Three, Four and Five address the three core aspects of the sixteenth-century English statutory framework addressed by these particular statutes. Beggary, vagabondage and the poor, respectively, were the subject matter of these statutes. Whilst acknowledging some probable overlap between the individuals subsumed under these

concepts this thesis retains what were, to contemporaries, clear distinctions so as to avoid the mistake of assuming them to be the same.<sup>46</sup> In order to examine each in turn, the administrative and mechanical details of the legislation are examined so as to appropriately discern change and continuity across time. Complementing this, the provincial urban records are explored for evidence of conformity with, adaptation to or from, legislative schema. This is done with reference to the relative timing of statutory and urban action or policy containing such concepts or elements. This enables a more nuanced appreciation of the relationship between varying concepts and forms of prescribed and proscribed practice to emerge, restoring the detail and depth of the statutes to future scholarly discussion of them.

Chapter Three addresses the regulation of beggary by statute and compares this with urban practices and developments. This highlights continuities of practice and concept, and the relationship between statutory mechanisms and urban practices, therefore building on the arguments developed in the previous chapter. Complementing this focus is an investigation of the office of master beggar, an important urban feature of the sixteenth century, but one that did not have statutory sanction. These figures provide a means of analysing further the relationship between town and statute, notions of development and the origins of concepts and practices that featured in statutes and urban policy.

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<sup>46</sup> Vagabonds, beggars and paupers were treated as distinct categories. No contemporary would have concatenated vagabonds and beggars as a type of unworthy pauper in the way that nineteenth-century and twentieth-century scholars have tended to do. The simplest reason is that one did not have to be poor to be a vagabond or beggar. Likewise being a beggar did not make one a vagabond.

Chapter Four investigates the punishment of vagabondage and the notion of penal labour, with a particular focus on two prominent, but anomalous, parts of the statutory regime. This involves a brief digression into the important role played by the 1530s attempts to repair the harbour at Dover in the development of a draft bill of 1535, which, although never implemented, has featured in much discussion of the intellectual context behind statutory developments. This is complemented with a discussion of the conceptual continuities evident in and beyond the notorious slavery statute of 1547, which had instituted slavery as a punishment for vagabondage. Whilst generally seen as interesting, this statute has been seen as having little practical importance, a perception no longer tenable.

The importance of the year 1547 is brought into particular relief by the focus of Chapter Five. This chapter examines the development and implementation of the parish collection in statutes and the provincial urban environment. The development and implementation of urban collections are examined with reference to the legislation of the 1530s. The apparently independent and widespread urban activity of the late 1540s and early 1550s is contextualised with reference to the statutory regime. This in turn requires a revision of the whole concept of the parish collection as understood as a secular phenomenon. Discussion of the relationship between statutory and liturgical change in this chapter provides a novel appreciation of the origin and impact of the collection, resulting in a firmer appreciation of the development of one of the core components of the old poor law.

All chapters share a number of common themes, such as conceptual and mechanical continuity across statutes, urban experimentation and particularity versus statutory conformity, and the relationship between provincial urban source material and contemporary statutory requirements. These themes will naturally be brought together in the concluding section of the thesis, but they also demonstrate the degree to which relatively simple or innocuous revisions of statutory minutiae can cause major change in current perceptions of a complex historical system. Rather ironically perhaps, in order to change those current scholarly perceptions and determine the contemporary effect and significance of the fact that the *1531 Act* enabled a person to be whipped ‘tyll his Body be bloody by reason of suche whyppyng’, the place to start is not in the 1530s, but rather with a re-examination of what significance such statutes held for scholars of the nineteenth century.<sup>47</sup>

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<sup>47</sup> 22 Hen.VIII.c.12.3, SR 3, 329.



## Chapter One: ‘...in great & excessyve nombres’<sup>1</sup>: quantifying the problem

It was a legal fact, insofar as most Tudor vagrancy legislation was concerned, that there was a multitude of beggars and vagabonds within the realm of England. The *1531 Act* asserted that ‘Vacabundes & Beggars have of longe tyme increased & dayly do increase in great & excessyve nombres’.<sup>2</sup> The *1547 Act* suggested that ‘the multitude of people given therto hath allwaies been here wthin this Realm verie greate and more in nombre as it maye appere then in other Regions’ thus signifying a particularly acute problem within England.<sup>3</sup> The *1550 Act* continued the theme, and affirmed that ‘it is notoriously seen and knowen, that Vacabonds and Beggars doo daiely encrease within this the Kings Highnes Realme in to very great nombres’.<sup>4</sup> Finally, the *1572 Act* replaced this formula with the not dissimilar claim that ‘all the partes of this Realme of England and Wales be p[re]sentlye with Roges Vacabonds and Sturdy Beggars excedinglye pestred’.<sup>5</sup> Thus throughout these decades the law of the realm asserted that there was either an increasing, or that there was at the least an excessive, number of beggars and vagabonds. This chapter examines this legal fact for historical veracity as part of a wider contextual introduction to the thesis and some of the particular historical problems addressed in subsequent chapters. Prior to detailed examination of the specific legislative provisions that regulated beggary and vagabondage that features in later chapters, it is important to reassess the fundamentals of the historical context. Three particular elements of that historical context require such discussion: the historiographical context within which the

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<sup>1</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>2</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>3</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>4</sup> 3&4 Edw.VI.c.16.1, *SR* 4, 115.

<sup>5</sup> 14 Eliz.I.c.5.1, *SR* 4, 590.

histories of this subject have been written and their relationship to earlier scholarship, the contemporary economic context in which Tudor governments operated, and the documentary context of the statutes upon which historical research has relied. This chapter addresses each of these in turn.

Before addressing the increase of beggars and vagabonds, however, it is important to note a number of subsidiary legal facts evident in connection with the former. The first was, as the *1531 Act* stated, that there ‘dayle insurgeth & spryngeth contynuall theftes murders & other haynous offences & great enormytes’ as a result of increased numbers of beggars and vagabonds.<sup>6</sup> Each of these four statutes noted that criminal activity was a concomitant of the increase of vagabonds and beggars, either directly as in the *1572 Act*, or, as in the *1531*, *1549*, and *1550 Acts*, a product of the ‘ydernes’ which was the ‘mother & rote of all vyces’ which such persons were supposedly inclined towards or products of.<sup>7</sup> Thus beggars and vagabonds were statutorily held to be responsible for crime, and between 1531 and 1572 idleness was also held as a direct cause of crime. These statutes thus presented a fairly consistent theory in which idleness led to an upsurge in beggary and vagabondage, which in turn increased the levels of criminal and immoral activity within the realm. All of this led, as the *1531 Act* held, ‘to the high displeasure of God the inquyetacon & damage of the Kyngs People & to the marvaylous disturbance of the Comon Weale of this Realme’.<sup>8</sup> The *1547 Act* asserted that the result was ‘the great

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<sup>6</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>7</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328; 1 Edw.VI.c.3.1, *SR* 4, 5; 3&4 Edw.VI.c.16.1, *SR* 4, 115; 14 Eliz.I.c.5.1, *SR* 4, 590.

<sup>8</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

Impouverishment of the Realme and daunger of the Kings Highnes Subjects'.<sup>9</sup> Thus beggars and vagabonds and the crimes they committed were legally held to be nuisances to God, the subjects of the realm, and the realm of England itself or the community thereof. The vagrancy law was thus framed as a means of protecting the realm, the people of the realm, and as an attempt at appeasing the deity.

Yet the *1531 Act* was not the first of the Tudor statutes regarding beggary and vagabondage. First in 1495, and again in 1504, parliaments called by Henry VII had passed statutes specifically addressing beggars and vagabonds.<sup>10</sup> However these had only spoken of how

the Kyngis g[ra]ce moost entierly desireth amonges all erthly thingis the  
p[ro]sp[er]ite and restfulnes of this his land and his subgettis of the same to [leve]  
quietly and [surefully] to the plesure of God and according to his lawes [...]<sup>11</sup>

There were obvious parallels here, for although the language was not as heated as that of the *1531 Act*, the language framed the King's desire to maintain peace and God's good pleasure. As already noted, scholars have suggested that the shift in language between 1504 and 1531 is indicative of something significant having indeed happened in the interim. Whilst the drafter of the statutes of Henry VII suggested contemporary concern and problems, later drafters were not so subtle.

Yet it is curious that only the *1547 Act* spoke of poverty, because it has become almost a truism of scholarly literature regarding the sixteenth century that one of the key aspects of

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<sup>9</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>10</sup> 11 Hen.VII.c.2, *SR* 2, 569; 19 Hen.VII.c.12, *SR* 2, 656-657.

<sup>11</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; 19 Hen.VII.c.12.1, *SR* 2, 656.

that century was an increase in poverty. Based upon the ‘likely trends indicated’ by his economic assessment of the period in *Poverty and Policy in Tudor and Stuart England*, which is still the standard text on this subject in this century, P. Slack suggested ‘that a larger proportion of the population was poor in 1570 than in 1500’.<sup>12</sup> Slack noted that ‘the growth in contemporary comment on the problem over that period supports the hypothesis; but it cannot be conclusively established’, thus indicating his reliance on commentary such as that provided by statute in support of his position that conditions had worsened.<sup>13</sup> Later in the same work, Slack asserted that ‘the facts so far surveyed [...] are not serious enough to support an argument that the radical response was an obvious reaction to an overwhelming need.’<sup>14</sup> It was this belief that economic conditions did not necessarily explain the nature of, even if they explained the fact of, action undertaken and policies adopted by Tudor authorities which Slack focused on in his analysis. He tempered his argument however when he suggested that ‘crisis circumstances often stimulated action’ even if they did not explain the nature of the response.<sup>15</sup> Thus Slack held that in the contemporary scene there had been a worsening of conditions, but that the state response was driven by changing ideas as much as by economic conditions.

Slack did not suggest that the fact of action was not related to a worsening problem, only that the forms of such action cannot be explained simply through reference to the then conditions. Such a view, however, has not always been dominant amongst scholars. An examination of the historiographical tradition reveals a number of pertinent themes

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<sup>12</sup> P. Slack, *Poverty and policy in Tudor and Stuart England* (London and New York, 1988), 61.

<sup>13</sup> Slack, *Poverty and policy*, 61.

<sup>14</sup> Slack, *Poverty and policy*, 113.

<sup>15</sup> Slack, *Poverty and policy*, 113.

relevant to an assessment of the origins, application and success of the sixteenth-century statutes for beggars and vagabonds, whilst also demonstrating a long-held belief in the veracity of the aforementioned statutory fact. The grand narrative of the development of the old poor law has held state action to have been directly connected to economic conditions in a highly deterministic fashion exactly as the statutes indicated. This examination also reveals a century and a half of continuity in a belief that there was indeed, as the statutes suggested, an increase in beggary and vagabondage, and that such an increase was the key reason why the state acted when it did with statutes and proclamations. Within this, there is also a century of the urban experimentation model developed by E. Leonard in *The Early History of English Poor Relief*, which in 1900 suggested that sixteenth-century state policy was generally preceded by local experimentation, which explained the nature of the statutory responses.<sup>16</sup>

Commencing with a detailed historiographical review of the development of the sixteenth-century statutory regime pertinent to beggars and vagabonds and the development of the old poor law, this chapter seeks to highlight the reliance placed upon statutory assertions in early scholarship, and the acceptance of the earliest legislative analyses by later scholars. A discussion of the economic context relevant to assessments of poverty follows this, highlighting a number of the factors believed to have contributed to contemporary concerns and therefore action. An examination of demographic change, manufacture and trade provides a mechanism for reassessing scholarly models and querying contemporary statutory assertions. This examination of the economic context also serves as a further introduction to the four towns with which this thesis is engaged,

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<sup>16</sup> E. M. Leonard, *The early history of English poor relief* (Cambridge, 1900), 293-294.

providing an assessment of the background to the local policies and initiatives more fully discussed in subsequent chapters. Finally, an evaluation of the statutory claims within the context of statutory drafting concludes this chapter, which suggests a need for historians to pay attention to statutory form when using statutes as documentary evidence of widespread social or economic phenomena.

***Historiographical review: the grand narrative of the development of the old poor law in sixteenth-century England***

The research interests of the earliest historians of poverty in the English past, in particular those addressing the sixteenth century, were derived from the desired and effected revision of what then was, or had recently been, the law of the land. It is important to assess such early histories in order to fully appreciate the position held by historians of the twentieth and twenty-first centuries, despite their having been relatively neglected in more recent historiographical discussions, as their assessments, assumptions and methodologies have to varying degrees been maintained in scholarly approaches to the field.<sup>17</sup> Space does not permit of a truly detailed survey of this proto-scholarly literature in this instance, but some comment can be briefly made upon its main attributes and scholarly effects.

Two sources are worthy of particular note in this respect, the *Report of the Royal Commission on the Poor Laws* of 1834 and Sir G. Nicholls' *A History of the English*

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<sup>17</sup> Fideler did not discuss the nineteenth-century scholarship at all. A. Fideler, 'Introduction: impressions of a century of historiography', *Albion* 32 (2000), 382. Slack indicated the existence of a long tradition of historical discourse, but did so only briefly; Slack, *Poverty and policy*, 1.

*Poor Law* of 1854.<sup>18</sup> Both of these are grounded in a period of reform of the old poor law in the mid nineteenth century and thus have an administrative and legislative focus derived from such a context. For instance, the clearly articulated purpose behind the compilation of 1834 *Report* was to examine the laws then operating and to determine whether any improvements could be made.<sup>19</sup> As part of this endeavour, the commissioners examined the development of the Elizabethan code because they felt that ‘they [the constituent statutes] throw great light on the intentions of the framers.’<sup>20</sup> The Commissioners described how ‘[t]he great object of our early pauper legislation seems to have been the restraint of vagrancy.’<sup>21</sup> This opinion was shared by Nicholls, who was also involved in poor law reform and administration.<sup>22</sup> Nicholls provided some theoretical foundation for his examinations, having noted that

The statutes, taken as a whole, may be regarded as expositors of public opinion, and as affording the best criterion for judging of the character of the times in which they were enacted.<sup>23</sup>

On this basis he concluded that Tudor legislation was directed at ‘the suppression of vagabondage and violence’.<sup>24</sup> For Nicholls and the Commissioners, therefore, the statutes themselves, without any complementary sources, were evidence both of social and economic phenomena and therefore demonstrative of a state response to those phenomena. These early forays into the legislation produced an unqualified teleological approach to the law and legislative change whereby the Tudor statutes represented

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<sup>18</sup> *The poor law report of 1834*, ed. S. G. Checkland and E. O. A. Checkland (Harmondsworth, 1974); G. Nicholls, *A history of the English poor law, revised edition, volume 1* (London, 1854: 1967 reprint).

<sup>19</sup> *The poor law report of 1834*, 67.

<sup>20</sup> *The poor law report of 1834*, 73.

<sup>21</sup> *The poor law report of 1834*, 73.

<sup>22</sup> Nicholls, *A history of the English poor law*, ii.

<sup>23</sup> Nicholls, *A history of the English poor law*, 10.

<sup>24</sup> Nicholls, *A history of the English poor law*, 7.

incremental steps towards the final Elizabethan codification at the turn of the sixteenth and seventeenth centuries.

Modern historical scholarship in the field of poverty in the sixteenth century is usually first attributed to Leonard and S. and B. Webb, all of whom demonstrate the retention of earlier notions. For instance, the developmental focus of the earlier authorities is evident in Leonard's *The early history of English poor relief* of 1900, but without the obvious reforming connection on the part of the author which the Webbs had.<sup>25</sup> Leonard's avowed objective was 'to trace the growth of this system,' which was undertaken through an examination of a variety of administrative sources.<sup>26</sup> Contrary to a popular misconception, Leonard's thesis was not based on a detailed reappraisal of the legislative system as then understood and so the teleological model was adopted as a result.<sup>27</sup>

Leonard elaborated the legislative story with a thesis that in the sixteenth century there were independent and sporadic urban actions which preceded legislative enactments, and that nationally the system was irregularly enforced until later.<sup>28</sup> Leonard's urban experimentation model thus held that many operational elements of the old poor law had their origin in the sixteenth-century urban environment and were subsequently translated into legislative enactments.

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<sup>25</sup> Leonard, *The early history of English poor relief*. See also A. J. Kidd, 'Historians or polemicists? How the Webbs wrote their history of the English poor laws', *The economic history review*, new series, 40 (1987) 400-417.

<sup>26</sup> Leonard, *The early history of English poor relief*, vii, 1: Leonard examined municipal records of London and Norwich, reports from justices of the peace, and Privy Council registers.

<sup>27</sup> Leonard cited statutes, but not the source for those statutes, leaving open the possibility that reliance for statutory information was placed upon works which were largely synopses such as Nicholls.

<sup>28</sup> Leonard, *The early history of English poor relief*, 293-294.



The Webbs, like Nicholls beforehand, were involved with poor law reform and this focus informed their research intentions.<sup>29</sup> The Webbs claimed ‘to present a complete historical study of the development of the English system of Poor Relief in their study of the Old Poor Law.’<sup>30</sup> The Webbs did not offer any specifically novel theses for the sixteenth century as they relied heavily on Leonard for this section of their research and their primary source analysis was restricted ‘mainly to the eighteenth century’ which again highlights that the earliest of the ‘modern’ historians were not engaged with a revision of the legislative schema.<sup>31</sup> Thus even despite having a broadly socialist agenda informing their research, the Webbs did not differ substantially in their interpretation of the sixteenth century from the position offered by Leonard. What, however, they did provide was a broad overview of the field as it then stood, wherein the bulk of the middle portion of the sixteenth century was represented as one ‘in which the public relief of the destitute was inaugurated’ and they drew explicit attention to the tension of interest between state repression of vagrancy and introduction of public welfare.<sup>32</sup>

The connection between sixteenth-century state actions against vagrancy and the development of a social welfare system was cemented in the scholarly tradition by F. Aydelotte, whose *Elizabethan Rogues and Vagabonds* was published between the two above-mentioned works.<sup>33</sup> Aydelotte’s research was principally focused upon Elizabethan rogue literature, but he also discussed the legislative developments of the

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<sup>29</sup> S. Webb and B. Webb, *English local government: English poor law history: part I, the old poor law* (London, 1927), vii.

<sup>30</sup> Webb and Webb, *English local government*, vi.

<sup>31</sup> Webb and Webb, *English local government*, vi, 1; Kidd, ‘Historians or polemicists?’, 403.

<sup>32</sup> Webb and Webb, *English local government*, 398.

<sup>33</sup> F. Aydelotte, *Elizabethan rogues and vagabonds* (Oxford, 1913).

century as a means of contextualising his study.<sup>34</sup> Thus the statutes were utilised as a means of contextualising the literature, wherein the statutory assertions about significant numbers of beggars and vagabonds were taken at face value.<sup>35</sup> This work was however the first scholarly work in this field principally concerned with the sixteenth century rather than a longer history of the old poor law, even if having an Elizabethan focus that many smaller-period studies would later adopt.

Through not having revised the sixteenth-century incremental and developmental model of the old poor law, Aydelotte tacitly confirmed the role and form of the sixteenth century in the ‘grand narrative’ of English historical poverty studies as a period of ad hoc, incremental, and irregularly administered development culminating in the stability of the final Elizabethan codification. Another prominent historian from this early period of pertinent scholarly enquiry, R.H. Tawney, reiterated a view similar to the Webbs that the old poor law was developed as a ‘police measure’ directed at mobile unemployed labour.<sup>36</sup> Tawney thus adhered to a general thesis of poor law development in the sixteenth century as being a state response to vagrancy amongst the labouring classes, in part driven by a Marxist research agenda which in many respects followed on from that of the Webbs. In its earliest manifestations the grand narrative thus adopted what shall be termed the *response-to-phenomena* model. Under this model the Tudor legislation was responding to a need for such legislation. In other words, legislation against beggars and

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<sup>34</sup> Aydelotte, *Elizabethan rogues and vagabonds*, 1, 56.

<sup>35</sup> Aydelotte, *Elizabethan rogues and vagabonds*, 17.

<sup>36</sup> Tawney, R. H., *The agrarian problem in the sixteenth century* (New York, 1912: 1967 reprint), 272; R. H. Tawney, *Religion and the rise of capitalism* (London, 1926), 262-263.

vagabonds appeared because there was a problem with beggars and vagabonds that required remedy.

G.R. Elton confirmed this model of responsive legislation and termed vagrancy ‘the outstanding social problem of the day,’ one derived from economic conditions new to the sixteenth century, which elicited what he characterised as a paternalistic response from Tudor governments.<sup>37</sup> Elton thus attempted to paint a kindlier face on the Tudor legislators that had so horrified the Webbs and Tawney, part of a wider reaction to that earlier scholarship, but it was his reference to the economic context that demonstrates the trajectory scholarly research was to then follow. Throughout the middle of the twentieth century, research into sixteenth-century economics seemed to support the grand narrative of poverty policy as understood several decades earlier. Whilst no specific studies addressing the entirety of the subject appeared at this time, both Elton and C.S.L. Davies undertook examinations of two of the most pronounced statutes of the narrative. Davies examined the famed ‘slavery act’ of 1547, and despite highlighting the intellectual and cultural context and the possible influences of these upon state action, Davies still placed the statute’s inception and purpose within the framework of pressing economic conditions.<sup>38</sup> Elton highlighted and expounded upon a draft of the 1536 statute in which he argued that the draft demonstrated an advanced administrative response (albeit never implemented) to the social and economic problems of the day.<sup>39</sup> This subtly complemented his other arguments pertaining to the administrative reforms of Thomas

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<sup>37</sup> Elton, *England under the Tudors*, 188-190, 260-261.

<sup>38</sup> C.S.L. Davies, ‘Slavery and protector Somerset; the vagrancy act of 1547’, *The economic history review*, new series, 19 (1966), 537-545.

<sup>39</sup> G.R. Elton, ‘An early Tudor poor law’, *The economic history review*, new series, 6 (1953), 55-67.

Cromwell and the novel use of statute law in the 1530s.<sup>40</sup> In this analysis Elton drew attention to the impact of humanist thinking in the development and implementation of the form of this policy.<sup>41</sup> Elton's wider arguments about Cromwell's role in a change in the constitutional arrangements of the Tudor state were immediately questioned and have not gained universal scholarly acceptance.<sup>42</sup> However, Elton's and Davies's studies were the first detailed examinations of proposed and implemented elements of the vagrancy legislation and they effectively remain the only poverty and vagrancy single-statute studies to date for this period in England.<sup>43</sup> Both demonstrate a growing discussion within scholarly literature at that time about the causes behind the legislative action in which contemporary economic conditions were significant determinants of inception and format.

During the later half of the twentieth century, much of the scholarly research in the field of sixteenth-century historical poverty was directed at addressing whether the Tudor development of a national poor relief system was solely in response to economic phenomena, or whether a fundamental shift in attitude towards either the poor or the problem of poverty occurred. In what could be described as a synthesis of then current scholarly literature W.R.D. Jones' 1970 study of Tudor 'Commonwealth' thought

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<sup>40</sup> Such as: G. R. Elton, *The Tudor revolution in government: administrative changes in the reign of Henry VIII* (Cambridge, 1969); G. R. Elton, 'State planning in early-Tudor England', *The economic history review*, new series, 13 (1961) 433-434.

<sup>41</sup> Elton, 'An early Tudor poor law', 65.

<sup>42</sup> See the series of critiques and responses in *Past and present*, particularly G. L. Harriss, 'Medieval government and statecraft', *Past and present*, 25 (1963), 8-39; J. P. Cooper, 'A revolution in Tudor history?', *Past and present*, 26 (1963), 110-112; G. R. Elton, 'The Tudor revolution: A reply', *Past and present*, 29 (1964), 26-49; and G. L. Harriss and P. Williams, 'Debates: A revolution in Tudor history?', *Past and present*, 31 (1965), 87-96.

<sup>43</sup> A noted exception is P. Roberts, 'Elizabethan players and minstrels and the legislation of 1572 against retainers and vagabonds', in A. Fletcher and P. Roberts (eds.), *Religion, culture and society in early modern Britain* (Cambridge, 1994), 29-55, but it is primarily focused upon the player and minstrel aspects of the statute.

highlighted how economic history seemed to have unearthed conditions conducive to an increase in the problems of poverty which led him to describe ‘social and economic problems’ as an ‘undoubted fact’.<sup>44</sup> These conditions were principally derived from enclosure, population increase, monetary inflation and associated declining real wages, unemployment, underemployment, and the failure of agriculture to expand, and there was presumed to have been an associated increase in a mobile wage-dependant population due to these problems.<sup>45</sup> However Jones also argued that a Tudor re-thinking of the problem and its causes was also part of the rationale behind action and argued that the state assumed responsibility for the poor.<sup>46</sup> This implicitly supported Elton’s Tudor paternalism model, acknowledged the impact of a possible mid-century cultural shift such as that propounded in part by Davies, and placed these in conjunction with the old ‘police measures’ model of the older narratives as applied to the first two-thirds of the sixteenth century, thus highlighting a multiplicity of causal factors but nonetheless maintaining much the same model. Thus state action appeared to this generation of historians to have been principally a response to economic phenomena and any change in the intellectual approach evident in the legislation was at least partially derived from the social and cultural impact of those phenomena. The fact of the Tudor legislative program, irrespective of its form, was thus understood as almost inevitable in such an economic context.

In 1971 J. Pound questioned the perception of a great and rapid increase in poverty in the sixteenth century and, whilst admitting of the possibility of some increase in vagrancy,

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<sup>44</sup> W. D. Jones, *The Tudor commonwealth 1529-1559* (London, 1970), 5.

<sup>45</sup> Jones, *The Tudor commonwealth 1529-1559*, 114-117.

<sup>46</sup> Jones, *The Tudor commonwealth 1529-1559*, 4, 114.

did not believe there was a significant incremental increase in the percentage of the population in poverty throughout the century.<sup>47</sup> Pound argued that ‘[t]he problem was never more than an intermittent one, even in the larger provincial towns.’<sup>48</sup> Pound suggested that for the period before 1570 the towns were concerned with the problems of poverty whilst the state was principally concerned with the repression of vagrancy, thus implicitly rejecting the role of intellectual or cultural shifts playing significant roles in any national agenda.<sup>49</sup> Pound’s research into Norwich’s 1570 scheme for the poor led him to explicitly reassert Leonard’s urban experimentation model.<sup>50</sup> This reasserted the importance of the larger towns to an appreciation of the causes and development of the national system. Whilst Pound’s work can be seen as a synthesis, it proved instructive of the way in which academic debate was to become centred on the twin aspects of the quantification of poverty and the role of epistemological change in explaining Tudor policy regarding poverty and vagrancy. For example Pound’s contemporary A.L. Beier held much the opposite view regarding the increase in the problem in the sixteenth century and argued that there was definitely an increase in the vagrant population.<sup>51</sup> He also argued that ‘[w]hat was involved in the sixteenth century was a more vigorous attack on the problem as it worsened, rather than a fundamental reorientation in thinking.’<sup>52</sup> Whilst Pound and Beier thus differed on the degree or constancy of the problem, however, both placed government action, whether urban or national, as essentially responsive.

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<sup>47</sup> J. Pound, *Poverty and vagrancy in Tudor England* (London, 1971), 35-36.

<sup>48</sup> Pound, *Poverty and vagrancy in Tudor England*, 35.

<sup>49</sup> Pound, *Poverty and vagrancy in Tudor England*, 58.

<sup>50</sup> *The Norwich census of the poor 1570*, ed. John Pound, Norfolk Record Society, 40 (Norwich, 1971), 21.

<sup>51</sup> A. L. Beier, *Masterless men: the vagrancy problem in England 1560-1640* (London, 1985), 5, 16.

<sup>52</sup> Beier, *Masterless men*, 5.

M. McIntosh was one of a number of historians who attempted to draw poverty historiography away from significant urban or national settings and a particular chronological focus on the late Elizabethan legislation, towards a more thorough understanding of the poor and local responses to the problem of poverty.<sup>53</sup> McIntosh pursued the history of the old poor law back into the late medieval period and thus attempted to cross the period-specialist divide between medieval and early modern. However McIntosh still attempted to explain the inception of the eventual development and origin of the Elizabethan codification and in doing so confirmed a *response-to-phenomena* model with respect to local as well as national action, whilst also arguing for some limited impact of contemporary intellectual currents.<sup>54</sup>

In 1988 P. Slack produced the most significant revision of the scholarship pertaining to the field of historical poverty studies for the sixteenth and seventeenth centuries in his still influential monograph.<sup>55</sup> Slack addressed a longer period than either Pound or Beier, one which was nearly identical to Leonard's original study. However, whereas Leonard's analytical approach had been principally chronologically-derived Slack's focus and approach was fundamentally a period-wide conceptual one. Slack's avowed purpose was to chart the quantitative changes in poverty and contemporary attitudes towards the poor, and to analyse the development, implementation and modification of systems of relief.<sup>56</sup>

The principal result of this work with respect to English scholarship has been an

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<sup>53</sup> M. K. McIntosh, 'Local responses to the poor in late medieval and Tudor England', *Continuity and change*, 3 (1988), 209.

<sup>54</sup> McIntosh, 'Local responses to the poor', 234-235.

<sup>55</sup> Slack, *Poverty and policy*.

<sup>56</sup> Slack, *Poverty and policy*, 2.

admission that poverty is a relative concept (though Slack addressed only what he termed ‘the dependant poor’ in this work), a more nuanced synthesis of the urban experimentation model and the development of poor relief measures, and a more thorough engagement with the intellectual context within which action was taken and developments made. Overall, however, the work was still essentially a discontinuity thesis, one which presented the sixteenth century as a period of particularly pronounced policy development which was grounded in the commencement of social, economic, and intellectual changes of that period. Slack’s adoption of a long period approach in search of long-term trends allowed him to move away from some of the teleological assumptions of the earlier scholarship. However, he still essentially adhered to the grand narrative formulations of incremental and responsive legislative development, pre-statutory urban experimentation, and although he clearly articulated a thesis in which attitudinal change by elites was given a prominent causal role in policy development, the fact of action and policy development was still predicated upon the economic context.

Two recent authorities in the field have praised Slack’s achievement and claim descent from his line of historical enquiry. P. Fidler claimed that Slack’s focus on ideologies and perceptions was what ‘distinguished his narrative from those of Leonard, the Webbs, and Pound’ and highlighted the importance of Slack’s ‘meditation on crucial matters of definition, context, and comparison.’<sup>57</sup> Fidler’s initial research into the role of humanism in the development of the Tudor welfare apparatus has recently been expanded into a *longue durée* history of welfare from the Black Death to the end of the old poor law, which was framed throughout as a tension between contemporary notions he termed

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<sup>57</sup> Fidler, ‘Impressions of a century of historiography’, 399.



*societas* and *civitas*, a monograph closely aligned to the old poor law histories of Nicholls in scope of period if not in intent.<sup>58</sup> Fideler's approach has highlighted and expounded upon the possibility of conceptual continuity across the often arbitrary chronological boundaries utilised by historians as a part of their craft. However, despite framing his discussion in these terms Fideler still effectively maintained much of the grand narrative with respect to the sixteenth century and the late medieval and early modern period-junction.<sup>59</sup> He discussed the role of changing ideologies and perceptions, but still predicated action and the realignment of thought within a context of deteriorating economic conditions and incremental administrative development often prefaced by local experimentation.<sup>60</sup> In a 1992 article Fideler asserted that 'we have no comprehensive study of the intellectual fabric from which the Old Poor Law was fashioned'.<sup>61</sup> Fideler's monograph may have been an attempt to remedy this as he claimed to 'work on a Tudor canvas, not just a Henrician, Edwardian or Elizabethan one'.<sup>62</sup> However Fideler's focus regarding the Tudor statutes was to highlight the role of humanism in the development of such statutory action through an examination of Thomas More's *Utopia*. Fideler thus addressed the earlier debates about the role of attitudinal, intellectual and cultural shifts in formulating the nature of the response, not the fact of the statutory response itself.

Another prominent recent authority in the field, S. Hindle, claimed that his monograph 'stands in the shadow of a great one', referring to Slack's *Poverty and Policy*, and

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<sup>58</sup> P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006), 1.

<sup>59</sup> Fideler, *Social welfare in pre-industrial England*, 101.

<sup>60</sup> Fideler, *Social welfare in pre-industrial England*, 1, 66-69, 101-102.

<sup>61</sup> P. A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 194.

<sup>62</sup> Fideler, 'Poverty, policy and providence', 195: Fideler however did not address in any detail the statutes of the first Tudor monarch.

described how his own book '*On the Parish?*' is therefore in some respects a companion volume to *Poverty and Policy*,<sup>63</sup> as its purpose was to reflect the micro level of poverty studies in order to complement Slack's macro approach.<sup>63</sup> Hindle focused on a specific period, in this instance a two-century study from the mid sixteenth to the mid eighteenth centuries. Hindle's study follows a tradition of local studies of social interaction such as McIntosh's and M. Rubin's detailed examination of medieval Cambridge, concerned with the implementation and operation of policy and its social function and significance as much as its theoretical development.<sup>64</sup> Hindle described it as 'a study seeking to characterize the nature and quality of social relations' and thus not principally concerned with those formal aspects of the poor law such as the collection, but more concerned with agency on the part of the poor and their interaction with the wider social context.<sup>65</sup> Hindle's research interests beyond the scope of statute serve as an example of how statute has become a settled question.

Yet this discussion suggests a heavy dependence on the early studies, which whilst often dismissed as legislatively or nationally focused, have been elaborated upon but not specifically revised. The framework of discussion of statutory action has thus tended towards a developmental approach. J. Youings has indicated the historians' occasional temptation to treat the study of the sixteenth century as an examination into the root causes of the English civil wars of the following century.<sup>66</sup> The same could almost be said of poverty studies in the sixteenth century. Few historians have questioned the old

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<sup>63</sup> S. Hindle, *On the parish? The micro-politics of poor relief in rural England c. 1550-1750* (Oxford, 2004), 1, 6.

<sup>64</sup> M. Rubin, *Charity and community in medieval Cambridge* (Cambridge, 1987).

<sup>65</sup> Hindle, *On the parish?*, 8-9.

<sup>66</sup> J. Youings, *Sixteenth-century England* (London, 1984), 22-3.

assumptions regarding the inception of statutory action in Tudor England as being driven by economic necessity, even though recent decades of scholarship have tended towards the view that there was an attitudinal shift and cultural and intellectual currents which may explain the nature of that statutory action.<sup>67</sup> In other words, the literature still holds that *acute* economic malaise prompted what was a *necessary* government action. The key difference between positions adopted by earlier and later historians is the degree to which the statutes have come to be seen as a premeditated government program of social reform, rather than a knee-jerk crackdown on perceived symptoms of poverty.

Whilst later chapters examine the details of the statutory framework, issues such as the degree to which there was local experimentation before statutory action, the role of attitudinal and intellectual shifts, and the degree of stability in the statutory regime, the next section of this chapter contextualises the statutory claims regarding the number of beggars and vagabonds through reference to the economic context. As already indicated, this also serves as an introduction to the state of the realm and the four towns of particular interest. When taken in totality, the economic context appears to have been reasonably grim during much of the sixteenth century. Yet this survey also serves to illustrate that the particularities of any given year or decade are less clear than has at times been assumed.

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<sup>67</sup> Tronrud argued that a polarization of wealth was the key issue, rather than a worsening of poverty, but in so doing also maintained a focus on economic change. T. J. Tronrud, 'Dispelling the gloom. The extent of poverty in Tudor and early Stuart Towns: some Kentish evidence', *Canadian journal of history/Annales Canadiennes d'histoire* 20 (1958) 1-21.

### *A multitude of beggars and vagabonds?: the economic context*

The economic context bears a heavy burden because there is little direct evidence with which to reconstruct the contemporary scale of beggary and vagabondage for the first two-thirds of the sixteenth century. This is particularly true for the experiences of the 1520s and 1530s that ostensibly precipitated legislative action. It is beyond the capacity for one thesis to fully examine in totality the claim of the *1572 Act* that ‘all the partes of this Realme of England and Wales be p[re]sentlye with Roges Vacabonds and Sturdy Beggars excedinglye pestred’.<sup>68</sup> All of the realm would, after all, require decades of detailed archival research. Yet it is important, when engaging in a study of policies and projects, to attempt to grapple with the scale of the phenomena which governments and authorities were attempting to regulate and remedy. A brief survey of the literature and source material informing scholarly appreciation of the contemporary scene serves to illustrate the breadth of the assumptions made based on what is very limited evidence. This is not to suggest that such assumptions are necessarily misplaced, but rather to destabilise any notion that this is a definitively settled question, and to highlight that such assumptions should not act as blocks to other lines of enquiry. Therefore in the following reassessment a more critical engagement with the economic context of the towns of York, Norwich, Exeter and Bristol is undertaken, which further explores the nature of the problems of poverty, beggary and vagabondage within those centres.

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<sup>68</sup> 14 Eliz.I.c.5.1, *SR* 4, 590.

The statutes noted at the commencement of the chapter were not alone in suggesting a sizable vagrant or begging element within the English population. A number of literary comments are demonstrative of a contemporary belief in the poverty of the realm during the 1530s and 1540s. *A Supplicacyon for the Beggars* of 1529, for instance, described how the number of poor ‘is daily so sore encreased’ and that ‘there be nowe so many beggers, theues, and ydell people’.<sup>69</sup> Yet this was as much a rhetorical device as a statement of contemporary fact, as it was used to bolster Fish’s complaints about elements of the clergy. Fish’s claim that beggary was increased by the clergy was specifically refuted by Thomas More, who indicated that

For in all that hole booke [the Bible] shall he [Fish] neyther fynde that there was at that tyme fewe pore people, nor that pore people at that time begged not. For of trouth there were pore people and beggars, ydle people, and theeues too, good plentye bothe then and alwaye before, sence almoste as longe as Noyes floude [...]<sup>70</sup>

Yet More himself had indicated a decade and a half earlier in *Utopia* how enclosure of fields and the avarice of landlords could lead to widespread poverty, beggary, and thieving.<sup>71</sup>

A ‘grete multitude of beggarys’ was a point on which both Pole and Lupset could agree in their fictionalised conversation.<sup>72</sup> Indeed it was noted that ‘in no cuntrey of

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<sup>69</sup> S. Fish, *A supplicacyon for the beggers*, ed. J. Meadows Cowper, Early English Text Society, extra series, 13 (London, 1871), 1, 8.

<sup>70</sup> *The workes of Sir Thomas More knyght, sometime Lorde Chauncellor of England, written by him in the Englysh tonge. 1557, volume one*, ed. K. J. Wilson (London, 1978), 311.

<sup>71</sup> *The Utopia of Sir Thomas More, in Latin from the edition of march 1518, and in English from the first edition of Ralph Robynson’s translation in 1551*, ed. J. H. Lupton (Oxford, 1895), 46-57.

Chrystundome, for the nombur of pepul, you schal fynd so many beggaryse as be here in England' which resembled the later statutory claims that the problem of beggary was particularly acute in England.<sup>73</sup> Within England, according to the literary evidence, London was particularly troubled by the numbers of beggars. The author of *The Lamentacyon of a Christen Agaynst the Cytte of London* noted of that city that it 'hath so manye, yea innumerable of poore people forced to go from dore to dore, and to syt openly in the stretes a beggyng'.<sup>74</sup> Similarly, an artificer who wrote to the monarch in 1538 indicated that 'they [beggars] daily increase in number'.<sup>75</sup> In 1519 a search of the city had caught over fifty idle, suspicious and vagrant persons, but this is perhaps a surprisingly small number considering the size of the city.<sup>76</sup> If this number was increased by population growth and economic decline over the following decade, then there is no clear evidence to indicate a dramatic increase beyond such complaints already noted. Indeed, in 1532 the city authorities indicated that there were 'but few vagabonds, which was of our works', a situation perhaps facilitated by the whipping campaign prompted by proclamation in 1530 and statute in 1531, but nonetheless not indicating an overwhelming problem.<sup>77</sup> Yet in *The hye way to the Spyttell hous*, Copeland described the seasonal fluctuations in the numbers of beggars, indicating that in winter there were many who 'lodge without', who in summer roamed the country.<sup>78</sup> There is thus a

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<sup>72</sup> T. Starkey, *A dialogue between Cardinal Pole and Thomas Lupset*, ed J. M. Cowper, Early English Text Society, extra series, 12 (London, 1898), 89-91.

<sup>73</sup> Starkey, *A dialogue between Cardinal Pole and Thomas Lupset*, 89.

<sup>74</sup> Henry Brinklow's *complaynt of Roderyck Mors*, and *The lamentacyon of a Cristen agaynst the cytte of London*, made by Roderigo Mors, ed. J. Meadows Cowper, Early English Text Society, extra series, 22 (London, 1875), 90.

<sup>75</sup> *LP* 13(2), no. 1229.

<sup>76</sup> *LP* 3, no. 365.

<sup>77</sup> *LP* 5, no. 1472.

<sup>78</sup> R. Copeland, *The hye way to the spyttell hous*, Robert Copeland (London, 1536) STC (2nd ed.) / 5732, f.A.iv; also printed in Judges, A.V., *The Elizabethan underworld* (London, 1965), 4.

multitude of evidence which indicates the great fluctuations of poor within London by month, year and decade. Little of this can be accurately determined or charted by the historian.

There is little comment in contemporary literary sources to suggest whether the same variability was true for the provincial towns under examination. All four were walled towns, with perhaps a better capacity to restrict entry than London, which may have better controlled access from external groups of persons. The action taken by urban authorities may indicate a response to a problem, but as detailed in subsequent chapters, this is not necessarily the case in all centres, as such action could be inspired by legislation and proclamation as much as by local issues. Urban action could also be preventative rather than necessarily reactionary. As will be seen throughout this thesis, there is little direct evidence from these four towns which can be utilised to quantify the number of contemporary beggars and vagabonds in any systematic fashion capable of revealing changing trends.

Despite such a lack of direct evidence listing the numbers of beggars and vagabonds, other sources can provide some quantifiable data, particularly those associated with the prosecution of vagrancy. For instance in an examination of the Norwich mayoral court rolls M. McClendon found that in that city vagrancy was 'a rarely heard offence' in the early to mid sixteenth century, and only in the 1560s was it more apparent in the records; a shift which she attributed to magisterial interests rather than necessarily a change in

vagrancy rates.<sup>79</sup> However the statutory assertion of a theory whereby idleness led to beggary and vagabondage, which in turn led to theft, opens another avenue of examining contemporary beggary and vagabondage. If this theory was contemporaneously accurate, then there should during that early period have been a notable increase in criminal activity generally if the assumption can be sustained that increased criminality would have led to increased prosecution rates. This assumption, considering the paucity of data available, obviously cannot be sustained or refuted.

Unfortunately, as significant assize records do not survive for the first part of the sixteenth century, it is difficult to address this question empirically.<sup>80</sup> An increasing trend of criminal activity, using prosecution as the measure, might be detectable in Elizabethan England.<sup>81</sup> However that period had experienced sustained inflation and the data may be distorted by the proximity to London. The Elizabethan experience does not, therefore, aid in any appreciation of the scene of the 1520s and 1530s.

Yet the assizes were not the only courts in which vagrancy may have arisen. Whilst administrative breaches were generally addressed in quarter sessions, and various moral offences could be dealt with by church courts, many local courts dealt with the beggars and vagabonds that pestered the neighbourhoods of early sixteenth-century England.<sup>82</sup>

Localised issues of misbehaviour, including thefts, violence and vagrancy, were prosecuted in manorial leet courts, but much work remains to be done here before

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<sup>79</sup> M. C. McClendon, *The quiet reformation, magistrates and the emergence of Protestantism in Tudor Norwich* (Stanford, 1999), 218-219.

<sup>80</sup> Youings, *Sixteenth-century England*, 222.

<sup>81</sup> Youings, *Sixteenth-century England*, 222.

<sup>82</sup> J. A. Sharpe, *Crime in early modern England 1550-1750* (London, 1984), 49-50.



national generalisations can be made. However no analysis yet undertaken has identified a significant scale of vagrancy prosecution in the 1520s and 1530s.<sup>83</sup> McIntosh's study of misbehaviour in England between the late fourteenth and late sixteenth centuries suggests that the late fifteenth and early sixteenth centuries had the greatest levels of offences being reported concerning vagrancy and idleness, but the percentage of such offences in the courts examined is still relatively low and not dramatically different from the background average of offences addressed.<sup>84</sup>

Despite all of these qualifications, it remained a seemingly popularly-held belief that the realm was pestered by beggars and vagabonds and this belief should therefore not be entirely discounted. Whilst the House of Lords indicated that cardinal Wolsey was responsible for this problem there was some who held that poverty was at its root.<sup>85</sup> In his argument with Lupset, the fictionalised Pole suggested that the great number of beggars 'arguth playn grete pouerty' and the author of the *Lamentation* had indicated that the beggars in London were 'poore people forced to' beg.<sup>86</sup> As the effect or presence of a multitude of beggars is difficult to detect within the historical record, historians have turned to the economic context in order to assess the extent of the contemporary problems which may have produced an increase in beggary and vagabondage. What follows is a reassessment of the core elements of the economic context relevant to a determination of the degree of contemporary poverty, and the relationship of such a context with the

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<sup>83</sup> Sharpe, *Crime in early modern England*, 51.

<sup>84</sup> M. K. McIntosh, *Controlling misbehaviour in England, 1370-1600* (Cambridge, 1998), 82 Graph 3.8: These offences also contained presentments for what otherwise may have been 'customary acts of charity' as McIntosh noted, and are thus perhaps more indicative of changing attitudes and practices than numbers of vagabonds.

<sup>85</sup> *LP* 4(3), no. 6075.

<sup>86</sup> Starkey, *A dialogue between Cardinal Pole and Thomas Lupset*, 89; *Henry Brinklow's complaynt of Roderyck Mors, and the lamentacyon of a Cristen agaynst the cytye of London*, 90.

timing of and inspiration behind statutory action. This section also serves to provide an economic and demographic introduction to the four towns that form a key component of this study, whose experiences are thought to have been particularly important in the development and implementation of national systems for dealing with beggars, vagabonds and the poor. It is therefore crucial to ascertain, insofar as is possible, the degree to which these towns had discernible problems or pressures that may bear on this study.

*More people = more poor people? Demographic pressures*

Slack has asserted that in the 1520s and the 1530s there was an increase in the problem of poverty concomitant with, and in part due to, population increase within the realm.<sup>87</sup>

There is little doubt that there were more English men, women and children at the close of the sixteenth century than there were at its commencement. Population growth as a feature of this century has long been a historiographical given, but has become a subject of more particular examination, from the mid sixteenth century, largely as a result of Wrigley and Schofield's voluminous *The Population History of England 1541-1871*.<sup>88</sup>

Their data and analysis indicates a population rise from some 2.774 to 4.110 million persons in the sixty years between 1541 and 1601.<sup>89</sup> With the exception of a late 1550s

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<sup>87</sup> Slack, *Poverty and policy*, 44.

<sup>88</sup> E. A. Wrigley and R. S. Schofield, *The population history of England, 1541-1871: a reconstruction* (London, 1981).

<sup>89</sup> Wrigley and Schofield, *The population history of England*, 210.

mortality crisis, where population decrease is evident, the picture is one of varied rates of sustained population growth.<sup>90</sup>

Palliser highlighted however that this has often been translated uncritically into the mainstream literature, where population growth has become an important element of any explanation for social and economic developments and changes.<sup>91</sup> What is of principal importance to this thesis is the rate of population increase throughout the sixteenth century as a whole and how any acceleration of demographic growth is accounted for and utilised in broader socio-economic scholastic discourse. Of particular concern is the presumption that a rapid increase in the population of England in the 1520s and the 1530s resulted in an increase in poverty which in turn precipitated a statutory response.<sup>92</sup>

The rate of population increase throughout the early part of the sixteenth century is dependent on the quantification of the 1520s base population derived from surveys and assessments from the middle of that decade. This 1520s population can then be compared with later decades to determine gross population change. Various figures, generally in the same order of magnitude, have been given for the population of the mid 1520s based upon tax assessments and military surveys, ranging from Wrigley and Schofield's 'low-estimate' of 2.259 million, to Hoskins' 2.36 million and Wrightson's c.2.4 million.<sup>93</sup>

These however are derived from educated estimation and extrapolation regarding the

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<sup>90</sup> Wrigley and Schofield, *The population history of England*, 208-9 (table 7.8), 210.

<sup>91</sup> D. M. Palliser, 'Tawney's century: brave new world or Malthusian trap?', *The economic history review*, new series, 35 (1982), 340.

<sup>92</sup> Slack, *Poverty and policy*, 44.

<sup>93</sup> W. G. Hoskins, *The age of plunder: the England of Henry VIII, 1500-1547* (London, 1976), 5 (table 3) 122; Wrigley and Schofield, *The population history of England*, 568; K. Wrightson, *Earthly necessities: economic lives in early modern Britain* (New Haven, 2000), 122 (table 3).

percentage of the population not represented in these sources. By comparing these figures to the 1541 Wrigley and Schofield population, an approximate rate of national demographic growth can be determined for the intervening period. However there are essentially two scenarios for the 1520s population, one low and one high. There is no doubt that the 1520s and 1530s witnessed a period of relatively rapid population growth, ranging from population increase in the order of fifteen to twenty-two percent, but if the lower estimates for the 1520s are accepted then the rate of population growth is clearly extreme.<sup>94</sup> The margin for error here is considerable due to the source material being used, but what is clear is that the difference between these projected growth rates is great when it is considered that the applied period of demographic expansion is some fifteen to twenty years.

Wrigley and Schofield described this potential for a period of exceptionally rapid population growth in the 1520s provided that the muster and tax returns accurately reflect the number of males in the population (giving a population of some 2.259 million).<sup>95</sup> However, they then critically analysed the muster and tax surveys and provided an alternative scenario, one of relatively rapid population growth at the same rate as the decade and a half post-1541.<sup>96</sup> Indeed, through applying ‘back projection’ based upon the 1540s rate, they identified a potential population of 2.384 million.<sup>97</sup> This would present a

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<sup>94</sup> Derived by dividing Wrigley’s and Schofield’s 1541 population by three estimates: Wrigley’s 2.4 million, Hoskins’s 2.36 million, and Wrigley’s and Schofield’s Low-estimate 2.259 million; these yielded 15.58%, 17.54% and 22.79% respectively.

<sup>95</sup> Wrigley and Schofield, *The population history of England*, 568.

<sup>96</sup> Wrigley and Schofield, *The population history of England*, 568-569.

<sup>97</sup> Wrigley and Schofield, *The population history of England*, 568.

still considerable, yet less dramatic, national population expansion throughout the 1520s and 1530s.

Whilst both of these scenarios present a high rate of population increase, Slack presented the extreme picture derived from low 1520s estimates as the probable representation of national population growth throughout the 1520s and 1530s in a contextual discussion of the sixteenth century.<sup>98</sup> Considering Slack's assertion that population growth increased the problems of poverty and vagrancy attention must be given to the role of a percentage-poor assumption in formulating the 1520s figures.<sup>99</sup> As Wrigley and Schofield outlined, the tax and muster derived figures required an estimation of that percentage of the population unrepresented in the sources, a major group of which is the poor.<sup>100</sup> Whilst the estimations are to some respect informed by the variations in muster and tax returns, these may present regional variation, or differing qualifications of poverty. If poverty assumptions inform estimates of population then it is tenuous to draw conclusions about the rate of poverty change based upon population figures derived from such estimates. There is a circular logic that is self-informing and whilst the theory might be held to be correct in principle, a direct correlate is unlikely and so the theory is an unstable platform for assertions about dramatic change, especially when applied within a limited period.

More recent population determinations made by John Moore also suggest a higher 1520s population and serve to highlight that population dynamics is still a far from settled

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<sup>98</sup> Slack, *Poverty and policy*, 44.

<sup>99</sup> Slack, *Poverty and policy*, 44.

<sup>100</sup> Wrigley and Schofield, *The population history of England*, 568.

question.<sup>101</sup> This means that the 1520s and 1530s should not be seen as a period of unusually rapid population growth. It may have been more rapid after the 1520s, but those rates continued through the 1540s and early 1550s and thus negate the uniqueness of the 1520s and 1530s experience. Indeed Wrigley and Schofield suggested that the assumed 1520s acceleration point of population growth cannot even be definitively placed on the basis of the 1520s tax returns and musters.<sup>102</sup> Even the turnaround point, where the population began to increase steadily after a late medieval stagnation or decline, is still debated and generally placed from the 1480s to the 1510s.<sup>103</sup> Gottfried's analysis of Bury St Edmunds may suggest that some towns were capable of positive growth as early as the mid-fifteenth century depending on individual mortality regimes.<sup>104</sup>

Whilst it might be agreed that population growth did accelerate sometime around the 1520s it should be borne in mind that an early turnaround point would suggest a higher 1520s population, thus strengthening any argument that the 1520s tax and muster derived figures are under-estimates. A higher figure is perhaps more likely if the upward revision of medieval population estimates is also considered, which could thus limit the net effect of the late medieval population slump.<sup>105</sup> Furthering this view that population increase in the 1520s and 1530s was not particularly marked is the literary evidence cited by Palliser

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<sup>101</sup> The Author wishes to thank John Moore for access to a manuscript copy of his forthcoming volume addressing population in this period. Whilst not featuring in this discussion, this serves to highlight the continued importance of further research in what is too often assumed a well-settled area.

<sup>102</sup> Wrigley and Schofield, *The population history of England*, 568-569.

<sup>103</sup> Wrigley and Schofield, *The population history of England*, 566.

<sup>104</sup> R. S. Gottfried, 'Bury St. Edmunds and the population of late medieval English towns, 1270-1530', *The journal of British studies*, 20 (1980), 30.

<sup>105</sup> Palliser, 'Tawney's century', 343.

that suggested a common belief in de-population.<sup>106</sup> Writers from the 1530s and 1540s like Starkey, Hales, and Coke were more concerned with an insufficient than a surplus population.<sup>107</sup>

What all of this suggests is that sometime in the late fifteenth century the English population began to rise in a more sustained way than it had for a century and a half. There was possibly some acceleration around the 1520s, but, whilst reasonably sustained, this particular bi-decadal period was not particularly exceptional. This does not negate the possibility that there was indeed an increase in the problem of poverty or disprove the theory that population increase can facilitate a worsening situation, but it does suggest that the 1530s legislation was not necessarily developed within an unusual demographic crisis.

The English population expansion continued on a similar trend until the late 1550s mortality crisis precipitated a population decline. Population increase then operated at an accelerated rate until the last decade or so of the sixteenth century when, despite continued positive demographic growth, the rate of increase declined. Thus the 1530s legislation came after a period of growth, as did that of the 1550s, but the *1563 Act* came immediately after the greatest decline in population discernable in the period. Indeed the late 1590s consolidation of legislation also came on the tails of population decline. When consideration is given to the full history of the old poor law, it is tempting to see population growth of the sixteenth century as the probable cause behind the development

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<sup>106</sup> D. M. Palliser, *The age of Elizabeth: England under the later Tudors, 1547-1603* (London, 1983), 39-40.

<sup>107</sup> Palliser, *The age of Elizabeth*, 39-40.

of policy and legislation. Yet when focusing on the century in detail, whilst gross population change may have been a contributory factor, it remains an unsatisfactory explanation for particular legislative action or policy developments on its own.

*Within the walls: urban demography*

An examination of the urban situation is similarly instructive of the difficulties in attributing policy initiatives to population dynamics. Insofar as the source material and the estimations and calculations of current authorities allow, the national population expansion did not necessarily translate into an equivalent urban population expansion in the first three-quarters of the sixteenth century in what was still a primarily agricultural society. This is important considering the role attributed to urban centres in developing mechanisms which were translated into national legislation.

In his examination of English provincial towns Hoskins calculated population estimates based on the tax assessments of 1524.<sup>108</sup> In descending order he estimated the population of Norwich at 12,500, Bristol at 10,000 and both Exeter and York at about 8,000 persons respectively.<sup>109</sup> For comparative purposes he gave a London population of some 60,000 persons, which, it should be noted, is larger than these four centres combined.<sup>110</sup> The same figures were accepted and utilised by Clark and Slack with the exception of

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<sup>108</sup> W. G. Hoskins, 'English provincial towns in the early sixteenth century', *Transactions of the royal historical society*, fifth series, 6 (1956), 5-6 see footnote 3: The Norwich estimate was derived from the Exeter figures and comparative economy.

<sup>109</sup> Hoskins, *The age of plunder*, 5: upper figures used due to greater potential for under-assessment as discussed above.

<sup>110</sup> Hoskins, *The age of plunder*, 5.



Norwich, where they opted for a figure of 12,000 persons.<sup>111</sup> However in his monograph on Norwich, Pound inclined towards smaller figures of Norwich at 8,500, Bristol at 6,500, Exeter at 4,600 and York at 5,250 persons each.<sup>112</sup> Despite this, the Hoskins and Clark and Slack figures should be considered a better reflection due to the likely underestimation of populations derived from the 1520s material already discussed above, a position reflected in Pound's admission that his figures were minima.<sup>113</sup>

With limited local population data available throughout the century for these cities, extensive demographic reconstruction is still pending further research. Clark and Slack have provided comparative population figures for the end of Elizabeth I's reign, which are as follows: Norwich at 15,000; Bristol at 12,000; York at 11,000; and Exeter at 9,000 persons each.<sup>114</sup> According to these figures Norwich and Bristol did not, considering the period represented, experience a dramatic growth in their respective gross populations. York had a more pronounced growth than any of the others, which may suggest rapid population growth during Elizabeth's reign considering Palliser's suggestion that the city population could have been reduced by a third in two mid-century epidemics.<sup>115</sup> MacCaffrey has already commented that Exeter's population in the 1570s was 'not perceptibly larger' than that of the 1520s, further strengthening a model of minimal expansion throughout the century for that city.<sup>116</sup>

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<sup>111</sup> P. Clark and P. Slack, *English towns in transition 1500-1700* (Oxford, 1976), 83, table 1.

<sup>112</sup> Pound, *Tudor and Stuart Norwich*, 28.

<sup>113</sup> Pound, *Tudor and Stuart Norwich*, 28.

<sup>114</sup> Clark and Slack, *English towns in transition*, 83, table 1.

<sup>115</sup> Palliser, *Tudor York*, 124, 127.

<sup>116</sup> W. T. MacCaffrey, *Exeter, 1540-1640: the growth of an English county town* (Cambridge, 1958), 11.

Representing almost a century these figures are only rough guides, as great mortality events and various fluctuations would make any steady trend unlikely. On the basis of this rudimentary analysis it is apparent that the population increase in these towns was considerably less pronounced than in the population as a whole throughout the same period.

Table: Urban population differential c.1520-1600<sup>117</sup>

Town	1520s population	c.1600 population	Growth (1600/1520s)
Norwich	12500	15000	1.2
Bristol	10000	12000	1.2
York	8000	11000	1.375
Exeter	8000	9000	1.125
London	60000	200000	3.333
National	2400000	4109981	1.712

As can be seen in the above table, Norwich and Bristol both increased by some twenty per cent, York by nearly forty per cent and Exeter by just over ten per cent, whereas nationally there was perhaps a seventy per cent increase in population. Wrigley addressed this issue of town growth and demonstrated that sixteenth-century urban growth was largely confined to London.<sup>118</sup> Wrigley thus provided an average of eighteen per cent growth for the old regional centres (including York, Norwich and Exeter), which

<sup>117</sup> Figures derived by dividing the end-of-century figure by the 1520s figure. For national population the 1601 figures in Wrigley and Schofield have been used, and a c.2.4 million 1520s population used. Lower 1520s population estimate of 2.3million yields 1.786.

<sup>118</sup> E. A. Wrigley, 'Urban growth and agricultural change: England and the continent in the early modern period', *Journal of interdisciplinary history*, 15 (1985), 685.

conforms to the above table.<sup>119</sup> Indeed he highlighted that the percentage increase of the urban population in England during the century was a function of his methodology, whereby more towns passed the 5000 person threshold, thus ‘appearing’ within the aggregate analysis during the course of this period.<sup>120</sup> England was thus not experiencing a period in intense urbanisation outside of London within this century.

It is particularly important to grasp this potential lag in provincial urban growth compared to national expansion, as some academic literature remains uncertain as to the specifics of population dynamics in the towns. Clark and Slack suggest that the period 1500-1700 was one of intense urbanisation, but that includes another century of demographic growth and figures in the considerable expansion of London, which was threefold in the sixteenth century alone.<sup>121</sup> Indeed these same authors have drawn particular attention to complaints of empty houses in Bristol, York and Norwich that suggest ‘few signs of demographic growth in the generation before the great influenza epidemic of 1558-9.’<sup>122</sup> Pound has highlighted that the population of Norwich appears to have maintained a relatively static level between the 1520s and the 1570s when the population could again be estimated.<sup>123</sup>

However these towns were probably far from demographically stable places. Repeated mortality events and the potential for immigration fluctuations would suggest that the demographic profile of these towns was potentially rather volatile. Slack’s study of

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<sup>119</sup> Wrigley, ‘Urban growth and agricultural change’, 693 (table 3).

<sup>120</sup> Wrigley, ‘Urban growth and agricultural change’, 684-685.

<sup>121</sup> Clark and Slack, *English towns in transition*, 83.

<sup>122</sup> Clark and Slack, *English towns in transition*, 84.

<sup>123</sup> Pound, *Tudor and Stuart Norwich*, 59.

mortality crises indicates that the net effect of all but the most sustained epidemics would have minimal effects on long-term trends; a picture which Palliser asserted was also true for York.<sup>124</sup> Yet when Palliser examined parish records in York he discovered that the 1540s and 1550s witnessed a surplus of burials over baptisms and concluded on that basis that the city must have experienced ‘massive immigration’ to account for later population growth.<sup>125</sup> This highlights a long-standing assumption that towns depended on immigration for positive demographic expansion. Clark and Slack have contended that

The paradoxical coincidence of years of high mortality with a long-term increase in number was made possible only by [...] a rapid and sustained migration from countryside to town [...]<sup>126</sup>

This sustained immigration to the towns unfortunately can seem somewhat exaggerated due to the tendency to treat the period within wider chronological parameters. For example Pound suggested that Norwich, Bristol and Exeter all doubled in size between 1520 and 1670, even accounting for the smaller figures he used for the 1520s; however the very expanse of the period makes population growth appear more considerable than a smaller periodisation would warrant.<sup>127</sup> The apparent doubling in size is largely due to the growth of the seventeenth century. Furthermore, in a detailed examination of the demographic model of early modern York, Galley suggested that whilst immigration was a ‘crucial variable’ in determining the rate of population change, in later sixteenth-

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<sup>124</sup> P. Slack, ‘Mortality crises and epidemic disease in England 1485-1610’, in C. Webster (ed.) *Health, medicine and mortality in the sixteenth century* (Cambridge, 1979), 187; D. M. Palliser, ‘Epidemics in Tudor York’, *Northern history*, 8 (1973), 62.

<sup>125</sup> Palliser, *Tudor York*, 125, 127.

<sup>126</sup> Clark and Slack, *English towns in transition*, 82.

<sup>127</sup> Pound, *Tudor and Stuart Norwich*, 30.

century York the migration levels were fairly restrained.<sup>128</sup> Similarly in Norwich, the regional population distribution does not suggest an increasingly urbanised population in the sixteenth century.<sup>129</sup>

Clark and Slack were careful to state that: '[a]ll that we can say definitely about urban demography in the sixteenth and seventeenth centuries is that our figures flounder in uncertainty.'<sup>130</sup> Mortality and immigration were clearly fluctuating variables rarely quantifiable with any degree of accuracy, especially in the first four decades of the century before the registration of births and deaths. It thus appears that whilst provincial urban populations expanded over the century, there is no strong statistical evidence available to definitively indicate any period of extreme population growth in York, Norwich, Exeter or Bristol in the sixteenth century. The specificities of urban demography remain too uncertain to confidently assert whether there was, on that basis alone, an increase in poverty, beggary or vagabondage within the city walls such that urban governments were forced to respond with policy initiatives. Yet there clearly were pressures on urban economies which may have contributed to a proportional increase in the number of those facing economic hardship. The following examination of the economic context, through a discussion of inflation, manufacture and trade, provides a means of further contextualising the towns subject to analysis in this thesis. It also provides scope for determining how far such factors may also have contributed to the

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<sup>128</sup> C. Galley, 'A model of early modern urban demography', *The economic history review*, new series, 48 (1995), 460, 468.

<sup>129</sup> J. Patten, 'Population distribution in Norfolk and Suffolk during the sixteenth and seventeenth Centuries', *Transactions of the institute of British geographers*, 65 (1975), 58.

<sup>130</sup> P. Clark and P. Slack, 'Introduction', in P. Clark and P. Slack (eds.) *Crisis and order in English towns 1500-1700: Essays in urban history* (London, 1972), 16.

degree of poverty faced by legislators which may support the statutory claim that ‘Vacabundes & Beggars have of longe tyme increased & dayly do increase in great & excessyve nombres’.<sup>131</sup>

### *Economies in crisis?*

There are five variables, other than demographic change, which will have been of particular importance to the economies of corporate towns and their inhabitants in sixteenth-century England. The inflation of prices, the decline in real wages, the decline in manufacture, some decline in trade, and the effects of enclosing of common fields each contributed to what is difficult to see as anything other than a worsening economic context. Each of these is discussed in turn, in order to facilitate a more comprehensive appreciation of the contemporary scene and the evidentiary basis for scholarly opinions of that scene. This will highlight some of the similarities and differences between the four survey towns and provide some scope for measuring the relative fortunes of each.

Ramsay highlighted that sixteenth-century demographic change and inflation were thought to have been directly related until recently.<sup>132</sup> This connection was furthered because the inflation experienced in the sixteenth century was not unique to England but was, like population growth, a European phenomenon.<sup>133</sup> Within England the Phelps-Brown and Hopkins index developed in the 1950s remains the main measure of inflation

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<sup>131</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>132</sup> P. H. Ramsey, ‘Editor’s introduction’, in P. H. Ramsey (ed.) *The price revolution in sixteenth-century England* (London, 1971), 11.

<sup>133</sup> I. Hammarström, ‘The price revolution of the sixteenth century: some Swedish evidence’, in P. H. Ramsey (ed.) *The price revolution in sixteenth-century England* (London, 1971), 44.

from Tudor times to the early twentieth century.<sup>134</sup> This index was developed from the systematic collation of prices on the basis of a ‘basket of consumables,’ which is composed of items, mostly food, that wage earners probably procured with regularity. This suggested that prices maintained higher than average levels in the 1520s and 1530s, indicating the commencement of what has become known as the great inflation.<sup>135</sup> These higher averages were followed in the 1540s and 1550s with a marked increase in average and peak prices, some reversion of levels in the late 1550s and early 1560s, but followed by a continuation of the upwards trend until the closing years of the century. Contemporary inflation was thus most pronounced during the 1540s and 1550s and increased consistently throughout most of the second half of the sixteenth century.

Whilst the fact of an inflationary trend appears certain, some qualifications should be made of the existing inflation index for the early Tudor period. Both Gould and Challis have drawn attention to the problems of utilising large amounts of statistical data to construct causative arguments about prices and currency.<sup>136</sup> Regarding the Phelps-Brown and Hopkins index, for instance, the basket of consumables approach was primarily dependant on the wheat prices of the first half of the sixteenth century due to the absence of price data for other major consumables.<sup>137</sup> Further, the index does not represent

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<sup>134</sup> E. H. Phelps Brown and S. V. Hopkins, ‘Seven centuries of the prices of consumables, compared with builders’ wage rates’, *Economica*, 92 (1956) 296-314.

<sup>135</sup> R. B. Outhwaite, *Inflation in Tudor and early Stuart England* (London, 1969), 13.

<sup>136</sup> C. E. Challis, ‘Currency and the economy in mid-Tudor England’, *The economic history review*, new series, 25 (1972), 313; J. D. Gould, ‘The price revolution reconsidered’, *The economic history review*, new series, 17 (1964), 249.

<sup>137</sup> Rye, beef, cheese and butter all lack price series for part, or all, of the early sixteenth century (Phelps Brown and Hopkins, ‘Seven centuries of the prices of consumables’, 307-309); Clark has also indicated that the data with which real wages can be reconstructed is sparse between 1460 and 1530, thus placing a greater reliance on grain prices. G. Clark, ‘The long march of history: Farm wages, population, and economic growth, England 1209-1869’, *The economic history review*, 60 (2007), 101.

regional variations, but is rather a nationalised amalgam of surviving material. This was a necessary approach for the original study, concerned as it was to examine long-term trends, but made short-term and regional variations difficult to assert with confidence.

However, of itself, inflation does not necessitate an increase in any problem of poverty. Only if the income of a person or group fails to 'inflate' with the cost of consumables does inflation become problematic. It seems clear however that such a problem may have developed during the sixteenth century. Wages remained relatively static throughout these decades, insofar as the income of the labouring classes can be accurately determined. Therefore there was, concomitant with increasing inflation, a decline in real wages throughout the sixteenth century. For instance, a survey of labourers' wages revealed through the churchwarden accounts of All Saints and St Michael Spurriergate parishes in Bristol and York respectively indicate that wages for labour remained at an average of four pence per day in the first half of the century.<sup>138</sup> Such a reduction in the buying power of households dependent upon wages could have encouraged the adoption of begging as a supplement or replacement of work. Yet the extent of wage labour in corporate towns remains relatively unknown.

The manufacture of cloth was an important industry that probably supported, at least in part, many households. York and Norwich were both what have often been termed 'cloth

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<sup>138</sup> Survey based upon wages paid to persons listed as 'labourer': *The pre-Reformation records of All Saints' church, Bristol: the churchwardens' accounts*, ed. Clive Burgess, Bristol Record Society (Bristol, 2000), 159, 165, 202-203, 274, 276-278, 295-297, 313-317, 361-363; *The churchwardens' accounts of St Michael, Spurriergate, York 1518-1548, volume I, 1518-1537*, ed. C. C. Webb, Borthwick Texts and Calendars, 20 (York, 1997), 71, 89-90, 95-97, 108-109, 111, 117, 119, 130-131, 136, 142, 148-149, 155, 164-166, 174, 180; *The churchwardens' accounts of St Michael, Spurriergate, York 1518-1548, volume II, 1538-1548*, ed. C. C. Webb, Borthwick Texts and Calendars, 20 (York, 1997), 199-200, 209, 212-214, 221, 225, 227, 234, 237, 249, 253, 266, 280-283, 295-6, 309, 217, 320-321, 323, 331, 334-337.



towns.’ However Pound has asserted that such a designation for Norwich needs revision.<sup>139</sup> Palliser’s discussion of York likewise indicates that the application of such a label in that city would be an over-simplification.<sup>140</sup> Nevertheless both were established centres of cloth manufacture where a significant percentage of their respective populations had been engaged in, and therefore, were at least partially dependent on, that industry in the sixteenth century. Pound claimed that even at the lowest point in the city’s ‘textile’ fortunes, Norwich had twenty per cent of its working population involved in the textile industry.<sup>141</sup> Hoskins provided comparable occupational divisions where York had approximately twenty-five per cent of its population engaged in either textile or clothing production, whilst for Norwich he suggested a much higher figure of just fewer than forty per cent.<sup>142</sup> However the sixteenth century witnessed the relocation of cloth manufacture to other regions such as the West Riding of Yorkshire which diminished the manufacturing role of the older towns, particularly York.<sup>143</sup> This decline in York’s importance as an export centre of raw wool and of cloth can be seen in the decline in volume of such material being shipped out of nearby Hull.<sup>144</sup> Neither Exeter nor Bristol had been significant centres of cloth production, so this trend did not affect them in the same way as York and Norwich, which are supposed to have suffered a decline in employment for their respective residents.<sup>145</sup> This decline in the production of cloth within the towns for export, with a resulting employment crisis further exacerbated by

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<sup>139</sup> J. Pound, ‘The social and trade structure of Norwich 1525-1575’, *Past and present*, 34 (1966), 55.

<sup>140</sup> Palliser, *Tudor York*, 209.

<sup>141</sup> Pound, *Tudor and Stuart Norwich*, 152.

<sup>142</sup> Hoskins, *The age of plunder*, 94 (table 4.1).

<sup>143</sup> Palliser, *Tudor York*, 208.

<sup>144</sup> E. M. Carus-Wilson and Olive Coleman, *England’s export trade: 1275-1547* (Oxford, 1963), 129, 147.

<sup>145</sup> Palliser, *Tudor York*, 208-212; Pound, *Tudor and Stuart Norwich*, 54: Jack has cautioned against a too-straightforward assumption regarding the decline or success of the cloth trade as indicated by quantity of exports as being necessarily indicative of the employment experience of all the many sectors within the industry: S. M. Jack, *Trade and industry in Tudor and Stuart England* (London, 1977), 102.

immigration, has been argued to have been only remedied with renewed production on a significant scale in a later period.<sup>146</sup>

A decline in cloth manufacture may have particularly affected York and Norwich, but all four towns remained important centres for export and local trade throughout the century.<sup>147</sup> A significant amount of the trade of these towns was probably what MacCaffrey termed their 'distributive function.'<sup>148</sup> However, lacking the material to comment on this, historians have focused their attention on analysis of the export industry. It should therefore be borne in mind that local and regional trade may have had different trends.

Through an examination of customs accounts Hoskins demonstrated that cloth and wool combined formed four-fifths of all England's export trade.<sup>149</sup> Approximately seventy per cent of this trade was directed through London which means that the remaining centres may have suffered for its dominance.<sup>150</sup> Palliser argued that a decline in York's long-distance trade in the late fifteenth and early sixteenth centuries contributed to the city's economic decline at that time.<sup>151</sup> The nearby port of Hull probably represents York's export cloth trade most clearly, and there was no major rise in exports from that port until the second half of the sixteenth century, suggesting therefore a limited cloth export trade in York until the mid century.<sup>152</sup> Sacks argued that Bristol experienced a decline in cloth

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<sup>146</sup> Palliser, *Tudor York*, 195-199; Pound, *Tudor and Stuart Norwich*, 55.

<sup>147</sup> Palliser, *Tudor York*, 200.

<sup>148</sup> MacCaffrey, *Exeter, 1540-1640*, 173.

<sup>149</sup> Hoskins, *The age of plunder*, 178.

<sup>150</sup> Hoskins, *The age of plunder*, 178.

<sup>151</sup> Palliser, *Tudor York*, 199.

<sup>152</sup> Hoskins, *The age of plunder*, 181.

export at the expense of Exeter.<sup>153</sup> MacCaffrey described Exeter as having had ‘no dramatic changes, but a healthy growth fostered by the expansion and specialisation of the Devon cloth industry.’<sup>154</sup> Hoskins was less tentative, describing a cloth export ‘boom’ in Exeter between 1500 and the 1540s, but supporting the general picture of low exports through Bristol with a contrasting growth of trade volume through Exeter.<sup>155</sup>

Thus the general picture of cloth trade in these centres is one of stagnation or decline until at least the mid century with some recovery thereafter, with the exception being Exeter insofar as it experienced an increase in its export role. Such a clear decline in the cloth industry, if treated in isolation, would suggest a picture of severe economic misfortune for these towns, but the decline in export or manufacture of a particular commodity is not definitive evidence of a general decline in trade. Palliser demonstrated that the merchants of York had largely shifted from trading in cloth to lead by the early sixteenth century.<sup>156</sup> Pound highlighted the ‘phenomenal rise of the grocers’ in Norwich, evident in admissions to the freedom of the city, which in turn suggests a buoyant trade in luxury goods.<sup>157</sup> Hoskins suggested that the wine trade was possibly sufficiently prominent in Bristol to offset limited cloth trading, which might prefigure the shift to an ‘import-driven pattern of commerce’ which Sacks argued occurred in Bristol by the last quarter of the century.<sup>158</sup>

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<sup>153</sup> D. H. Sacks, *Trade, society and politics in Bristol 1500-1640, volume 1* (New York and London, 1985), 25-26 table 3.

<sup>154</sup> MacCaffrey, *Exeter, 1540-1640*, 173.

<sup>155</sup> Hoskins, *The age of plunder*, 181.

<sup>156</sup> Palliser, *Tudor York*, 209.

<sup>157</sup> Pound, *Tudor and Stuart Norwich*, 56.

<sup>158</sup> Hoskins, *The age of plunder*, 181; Sacks, *Trade, society and politics*, 36.

Yet whilst having developed into large centres of international trade, these towns remained market towns, whereby they played an important part in the contemporary agricultural economy. The harvest-cycle was of paramount economic importance to the realm, and these towns were no exception. Yet, in terms of contemporary belief about a worsening economic climate for the poorer classes of people, the enclosure of fields and commons for grazing was an important point of discussion. Indeed, such was the contemporary concern, the central government provided a cluster of measures designed to curb enclosure between the 1480s and the 1530s.<sup>159</sup> However, whilst the enclosing of commons or fields for pasture may have reduced the livelihoods of small farmers or agricultural labourers in this period, the scale and effect of such enclosure is not generally thought to have been as bad as some contemporary commentary would at first suggest.<sup>160</sup> Blanchard has also drawn attention to a relative lack of contemporary complaints about enclosure concomitant with state action.<sup>161</sup> Enclosure may have reduced opportunities of agricultural employment, but the degree to which this produced an influx of beggars in the four survey towns is impossible to determine. The best that can be said is that regardless of the degree or scale of enclosure, enclosure remained one of the key contemporary explanations for general discussions suggesting economic and social malaise.

Overall, the contemporary economic context could indeed provide scope for an increase in the problems of poverty within these towns but, as research into enclosure indicates,

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<sup>159</sup> J. A. Yelling, *Common field and enclosure in England 1450-1850* (London, 1977), 20.

<sup>160</sup> Yelling, *Common field and enclosure*, 21; J. Thirsk, *Tudor enclosures* (London, 1959), 20.

<sup>161</sup> I. Blanchard, 'Population change, enclosure, and the early Tudor economy', *The economic history review*, new series, 23 (1970), 438.

there is a danger is taking contemporary complaints as definitive, especially with respect to timing. The anti-enclosure measures may have come in the generation after the most detrimental enclosing activities, for instance.<sup>162</sup> However, whilst population increase may not have been as dramatic as often assumed, there was certainly a decline in real wages brought about by a significant inflationary trend from the 1520s. Local export trading in cloth may have disadvantaged many people unable to diversify their role in trading or producing that commodity. Slack's assessment that there were conditions conducive to an increase in poverty therefore seems to stand.

Yet despite this, the 1531 statutory claim that beggars and vagabonds 'dayly do increase in great & excessyve nombres' still seems exaggerated.<sup>163</sup> Whilst the broader economic context may provide a satisfactory explanation for the fact of state and corporate activities and policies respecting beggars and vagabonds within the wider period, it provides no clue as to why that statutory claim was made in 1531 and not 1529 when that parliament first sat.<sup>164</sup> The economic discussion above suggests long term deterioration and fluctuations, but does not strongly indicate a crisis in the late 1520s and early 1530s sufficient to justify the statutory claim or explain the specificities and timing of that and later statutory action. The *1531 Act* cannot, therefore, be seen as necessarily being a response to a particular acute economic crisis. Later chapters will more fully address the timing, impetus and inspiration of statutory and urban action in this regard. The

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<sup>162</sup> Yelling, *Common field and enclosure*, 21.

<sup>163</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>164</sup> Even if the specific nature of the *1531 Act* is thought of as having grown out of the momentum that grew from 1529 into the Reformation Parliament, surely a statute along the lines of 1495 or 1504 could reasonably be expected to have featured in 1529 or the earlier Henrician parliaments of the sixteenth century were the problem really so pressing?

remainder of this chapter will, however, address the statutory context of the statutory claim, commencing an engagement with the thesis-long premise that the statutes regarding beggars and vagabonds need to be assessed on their own terms as statutory documents.

### ***Statutory assertions***

Even the briefest of surveys of Tudor statutes suggests that the statutory explanation was an almost ubiquitous aspect of Tudor legislation. Most statutes commenced with a statement, however brief, explaining the reason for their being made law. Simply put, Tudor legislation was inherently remedial. Having grown out of petitions to the monarch, practically all statutes were predicated upon some necessity. Even as late as 1571 when John Hooker compiled *The Order and vsage of the keeping of a Parlement in England* he indicated that a parliament should only be summoned ‘but for weightie & great causes, and in which he [the King] of necessitie ought to haue the aduise and counsel of all the estates of his Realme’.<sup>165</sup> Hooker then indicated the types of function performed by a parliament, noting ‘the making and establishing of good and wholesome Lawes, or the repealing and debarring of former Lawes’.<sup>166</sup> Therefore the statutory assertions need to be seen within this contemporary theoretical paradigm.

For instance, in the 1531 session of the Reformation parliament in which the *1531 Act* was passed, twenty-three proposed bills were made law. Of these, only one printed in the

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<sup>165</sup> J. Hooker, *The order and vsage of keeping of the parlements in England*, J. Charleswood (London, 1972) STC (2nd ed.) / 24886.7, f. 20.

<sup>166</sup> Hooker, *The order and vsage of keeping of the parlements in England*, f. 21.

*Statutes of the Realm* did not provide an explanation for its passing into law.<sup>167</sup> Five dealt with individuals and their disputes and thus remedied or moderated these disputes.<sup>168</sup> Of the remainder, seven were ostensibly required because previous legislation had expired, been inadequate for the purpose, or been irregularly enforced.<sup>169</sup> Two dealt with the impact of water upon the realm, one noting the ‘outeragiousnes of the ryver of Thamys’, another required the administration of justice, and a further addressed requirements of financial support for the town of Southampton.<sup>170</sup> A statute regarding butchers indicated how they ‘make moche false untrue and deceyvable Lether, sellynge the same in the greate deceyte of the Kynges pore subjectes’.<sup>171</sup> According to statutes of that session, Egyptians ‘deceyve the people’, poisoning was ‘abhominable’, the ‘strength and power of this realme ys gretely mynyshed’ by the use of sanctuaries, and foreign denizens ‘encreased to great and notable substaunce and ryches and the naturall subjectes of our sayd soveign Lorde and his realme [were] greatly empoverysshed’ as a result.<sup>172</sup> Amongst all of these claims was the statute which claimed that ‘Vacabundes & Beggars have of longe tyme increased & dayly do increase in great & excessyve nombres’.<sup>173</sup> Therefore this claim needs to be seen as part of the standard procedure of statute-making in Tudor England.

As the claimed increase of foreign denizens indicates, beggars and vagabonds were not the only entities to have been statutorily considered to have been on the rise. A few years

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<sup>167</sup> 22 Hen.VIII.c.5, *SR* 3, 321-323.

<sup>168</sup> 22 Hen.VIII.cc.17, 19, 21, 22, 23, *SR* 3, 338-344, 349-351, 352-361.

<sup>169</sup> 22 Hen.VIII.cc.1, 2, 4, 7, 13, 16, 18, *SR* 3, 318-319, 321, 323-325, 332, 338, 345-348.

<sup>170</sup> 22 Hen.VIII.cc.3, 11, 15, 20, *SR* 3, 320-321, 327-328, 334-338, 351-352.

<sup>171</sup> 22 Hen.VIII.c.6, *SR* 3, 323.

<sup>172</sup> 22 Hen.VIII.cc.8, 9, 10, 14, *SR* 3, 325-327, 332-334.

<sup>173</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

later another statute noted that ‘innumerable nombre of Rookes Crowes and Choughes do daily brede and increase throughout this Realme’.<sup>174</sup> Such was the reason that the subjects of the realm were given for their new statutory responsibility ‘to kill and utterly destroye’ any of the unfortunate birds found on their property.<sup>175</sup> This is not to suggest that the claim of birdlife expansion was unfounded, any more than the vagabond increase was necessarily a fabrication of the legislature, but the explanation given conformed to the dramatic response the legislation required for the problem. The statutory preamble presents a statutory truth, not *necessarily* an historical one. The fact that legislation was introduced on this topic means that as a document the statute would be framed in terms of a contemporary problem. Therefore the historian should be careful of reading too much into those framing lines about the nature and scope of that problem. Yet initially, the early historians of the old poor law did just that, and framed their assertions of a contemporary problem around these statutory assertions, particularly that of 1531. Whilst later research into the economic context lends credence to these statutory assertions in a general contextual sense within a particular theoretical framework, as the above discussion illustrates, such research also fails to precisely confirm these particular statutory assertions.

What the explanations regarding an increasing or dramatic problem did was not so much explain the need for legislative action, but also explain the need for individuals reading or hearing the legislation to enforce and obey the injunctions contained within such statutes. The *1531 Act* required magistrates to have persons whipped ‘tyll his Body be blody by

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<sup>174</sup> 24 Hen.VIII.c.10, SR 3, 425.

<sup>175</sup> 24 Hen.VIII.c.10, SR 3, 425.



reason of suche whyppyng'.<sup>176</sup> Whilst modern scholars are inclined to see such persons as the poor, begging and wandering through necessity, the legislation was concerned to present these as persons who incited 'the high displeasure of God the inquyetacon & dameage of the Kyngs People & to the marvaylous disturbance of the Comon Weale of this Realme.'<sup>177</sup>

Yet the animosity of the statutory explanation and the violence of the punishment suggest that something dramatic had happened since the last statutes addressing beggary and vagabondage. The first two Tudor statutes regarding beggars and vagabonds made no claims that the numbers of beggars or vagabonds were on the rise.<sup>178</sup> The explanation given in the *1495 Act* for a new statute was to ensure 'the p[ro]sp[er]ite and restfulness' of the realm by 'softer meanes then by such extreme rigour' as by the then current statute of Richard II.<sup>179</sup> At first look this may seem to support the notion that there was a dramatic increase in the problem in the first three decades of the sixteenth century. The legislators of 1495 and 1504 did not mention a problem that had not yet reached crisis levels, whereas those of 1531 faced a serious problem. However the mitigation of the penalty for vagabondage which was ostensibly the purpose of the *1495 Act* could be seen as a statutory attempt to provide a more appropriate response to a more common problem. Similarly, the desire for peace and prosperity could imply a context wherein beggary and vagabondage were problematic.

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<sup>176</sup> 22 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>177</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>178</sup> 11 Hen.VII.c.2, *SR* 2, 569-570; 19 Hen.VII.12, *SR* 2, 656-657.

<sup>179</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; The *1504 Act* had the same explanation: 19 Hen.VII.12, *SR* 2, 656.

Yet the economic context is not sufficiently clear for any definitive assertion that particular statutes had responded to particular economic stress periods. Population increase, inflation, real wage decline, and the shifts in the mercantile and agricultural sectors all may have contributed to a worsening situation. It is hard to avoid the assumption that the 1530s were somehow particularly special in the history of the development of the old poor law, and a crucial decade in the Tudor approach to beggary and vagabondage. This will be borne out in later chapters. Yet the historiographical discussion above has indicated that the scholarly perception that the statutory story was one of an increasing response to an increasing problem has not been revised for a century, and that the *1531 Act* in particular should not necessarily be seen as a response to a crisis. Clearly the economic context provides one macro explanation for the fact of urban and state activities in a general sense, but the micro details of the statutory development and implementation remain only partially explored. The following chapter explores the statutory framework and its relationship with the survey towns, providing a systemic analysis which complements the historiographical and economic contexts outlined above. This provides a firm platform wherein the conceptual elements of the old poor law can be more fully explored in the succeeding chapters.

## Chapter Two: A confusion of laws

After decades of legislation addressing beggars and vagabonds and the relief of the poor there was, as a parliamentary drafter noted within the *1572 Act*, ‘Confusion by reason of numbers of Lawes’.<sup>1</sup> As demonstrated in the previous chapter, such Tudor statutes have been discussed with respect to Tudor paternalism, social control, economic phenomena, and changing epistemologies or ideologies. Whilst some historians such as Slack have analysed the legislative context within studies of the entirety of the old poor law, as yet no systematic examination of the sixteenth-century legislative framework has been undertaken.<sup>2</sup> This chapter explores this legislative context of the Tudor statutes for the punishment of beggars and vagabonds and the relief of the poor.

Such an examination of the legislative context seems at odds with the claim ‘that there has been too much concentration on the poor law’.<sup>3</sup> Recent historians have tended towards a view that the earliest histories which addressed the old poor law and the Tudor treatment of beggars, vagabonds and the poor were legislatively focused. McIntosh, for instance, has argued that much research has been ‘shaped’ by the late Elizabethan legislation, which indicates the degree to which it is the final legislative compilation of the sixteenth and early seventeenth centuries that has most influenced research.<sup>4</sup> Fideler has similarly contended that research into the poor law has primarily focused on ‘the

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<sup>1</sup> 14 Eliz.I.c.5.1, *SR* 4, 590.

<sup>2</sup> P. Slack, *The English poor law, 1531-1782* (Cambridge, 1995).

<sup>3</sup> O. Anderson, ‘Some concluding reflections’, in M. Daunt (ed.), *Charity, self-interest and welfare in the English past* (London and New York, 1996), 251.

<sup>4</sup> M. K. McIntosh, ‘Local responses to the poor in late medieval and Tudor England’, *Continuity and change*, 3 (1988), 209.

process of legislative and institutional change'.<sup>5</sup> Yet as demonstrated in the previous chapter, the earliest historians in the field had not engaged in any detailed examination of the legislative context beyond description of the general trends and changes. Leonard's *The Early History Of English Poor Relief* analysed change and policy principally through an administrative lens.<sup>6</sup> More recent historians such as Fideler and Slack have addressed the legislative framework in their respective analyses of sixteenth-century approaches to beggary, vagabondage and poor relief.<sup>7</sup> However due to the difficulties in resolving the legislative framework of statutes enacted, continued and repealed, plus a long tradition based on early descriptions of the course of legislative change during the sixteenth century, these have maintained, albeit with some modifications, a similar schema for the statutory regime to that of Leonard.

In revising the legislative framework and context two issues are of particular importance and these dictate the shape of the following discussion. The first section of this chapter provides a systematic survey of the statutory regime. This is essentially an examination of the commencement and duration of each statute and its relationship with other relevant statutes.<sup>8</sup> This entails some discussion of the major elements of each respective statute in order to provide a more meaningful appreciation of what the statutory regime (the duration of, and relationship between, statutes) entailed at any given moment. Such an examination of the chronological parameters of these statutes facilitates the exploration

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<sup>5</sup> P. A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 272.

<sup>6</sup> E. M. Leonard, *The early history of English poor relief* (Cambridge, 1900).

<sup>7</sup> P. Slack, *Poverty and policy in Tudor and Stuart England* (London and New York, 1988); Slack, *The English poor law*; P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006).

<sup>8</sup> Appendix 1 contains a list of the statutes constituting the statutory regime discussed in this dissertation. Appendix 2 details a schematic view of the statutory regime in this same period.

of specific attributes and concepts embedded within the legislative framework that is the focus of later chapters. The second issue addressed below is that of the degree of local access to information about then current legislation, essential to any examination of the application and influence of statute law within the urban context. This issue is addressed in two portions, the first detailing the mechanisms whereby legislative information could be disseminated, and the second addressing the reception of such legislative knowledge within the urban contexts of the four survey towns. This provides information crucial to the micro-analyses of later chapters on the extent to which urban centres could have known, or were expected to have known, about the statutory regime.

### *The statutory regime*

The respective reigns of every Tudor monarch saw at least one new statute regarding either beggars and vagabonds or the relief of the poor. Yet the concatenation of statutes specifically addressing beggars and vagabonds was something new to the Tudor period. This is apparent through even a brief discussion of the pre-Tudor statutes that touched upon these issues. This survey of earlier legislation also highlights the degree to which beggary and vagabondage were regulated by statute in the pre-Tudor period. Whilst manorial, church and customary laws and traditions will have dealt with many of the issues later to be addressed by Tudor statutes, the following discussion of the provisions of earlier statutes serves to highlight the extent of Tudor regulation and administrative detail evident in later statutes, particularly those from 1531 onwards.

Although the *Statute of Winchester* of 1285 contained an injunction that towns were to keep note of strangers lodging within their suburbs and arrest any strangers or suspicious persons who passed through the night watch, it was the 1349 *Statute of Labourers* that provided perhaps the first injunction in English statute law which directly pertained to beggars.<sup>9</sup> According to this statute no person was to give support to a beggar who was capable of labour, upon pain of imprisonment. Yet this statute only regulated beggary indirectly, as beggars were not subject to its provisions; it was those who supported them who were to have been subjected to punishment for breach of the statute. Whilst the binding of persons to service and the punishments for failure to do so were all in earlier clauses of the same statute, these were concerned with controlling wages and maintaining a labour supply.<sup>10</sup> At no point in these clauses was begging mentioned, it was apparently only a peripheral issue, and thus regulation of beggary, as opposed to labour, had to wait for the legislation of a subsequent monarch.

The *1383 Act* (7 Ric.II.c.5) confirmed the powers of justices and sheriffs to enquire into the extent and activity of vagabonds and, where appropriate, punish them.<sup>11</sup> In addition the *1383 Act* gave to officers and ‘the Mayors, Bailiffs, Constables, and other Governors of Towns’ the authority to detain and gaol any vagabonds who could not provide surety of good behaviour until the next appropriate session in which they could be convicted.<sup>12</sup> This legislation appears to have been levelled against dangerous people due to the necessity of surety and the clause is prefaced with an injunction to uphold and keep

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<sup>9</sup> 13 Edw.I.Stat.Wynton.c.4, *SR* 1, 97; 23 Edw.III.c.7, *SR* 1, 308.

<sup>10</sup> 23 Edw.III.c.1-6, *SR* 1, 307-308.

<sup>11</sup> 7 Ric.II.c.5, *SR* 2, 32-33.

<sup>12</sup> 7 Ric.II.c.5, *SR* 2, 32-33

previous legislation against ‘Roberdsmen.’<sup>13</sup> It is worth noting that the terminology utilised is that of the ‘vagabond.’ Neither ‘beggar’ nor ‘mighty beggar’ appears in the text of this statute, further suggesting a concern with violent or dangerous people, not with beggary.

In the *1388 Act* (12 Ric.II.c.7-10) any persons capable of labouring were forbidden to beg unless they had letters testimonial that proved justifiable cause for begging such as religious vocation, the undertaking of a pilgrimage or current university studies.<sup>14</sup>

According to the statute those beggars unable to labour for their living were to have remained and be sustained where they were at the time of its proclamation, unless the locality would not support them, in which case they were to have returned to their place of birth.<sup>15</sup> Thus the notion of licensed begging, local support for beggars, and even required stasis on the part of locally accepted beggars, were clearly elements of the statutory regime at this point. Note, however, that within this clause the term ‘vagabond’ did not appear, just as ‘beggar’ was not used in the previous statute. Whilst the term ‘vagabond’ was utilised in clause nine, it was in conjunction with ‘Servants and Labourers’ in addition to ‘Beggars’, and it was clearly used because the various statutes were to have been applied at the same sessions. Whilst this might imply some connection between the issues, it was principally the administrative sections of the law, rather than any legal definitions, which brought them together.

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<sup>13</sup> The statute mentioned is 5 Ed.III.c.14, *SR* 1, 268.

<sup>14</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>15</sup> 12 Ric.II.c.7, *SR* 2, 58.

Tierney has already noted that canon law had injunctions which compelled support of the parochial poor by the parish clergy.<sup>16</sup> It is in defence of this tradition of church law that the *1391 Act* (15 Ric.II.c.6) ordered that upon the appropriation of a parish living, whereby institutions such as monasteries could assume clerical responsibilities in a parish in return for the income which would otherwise have gone to the priest, a set amount of that parochial income was to have been redirected back to the support of the parish poor through annual payments.<sup>17</sup> This statute provides a model whereby statute law could facilitate the continued operation of contemporary practices or the requirements of other courts or jurisdictions. Thus whilst by the close of the fourteenth century the statutory regime provided some administrative parameters and requirements regarding the support of parish poor, the regulation and licensing of begging, and the punishment of mighty beggars and vagabonds, these were not necessarily novel concepts. It would be difficult to believe that action was not taken against dangerous figures before the *1383 Act*, or that testimonial letters for certain beggars were invented with the *1388 Act*. Yet in the Tudor period, a comprehensive body of legislation was introduced which regulated beggary, vagabondage and poor relief. In order to appreciate why this may have been, what effect this may have had, and how this came about, it is necessary to turn to a detailed examination of that statutory regime.

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<sup>16</sup> B. Tierney, *Medieval poor law: a sketch of canonical theory and its application in England* (Berkeley and Los Angeles, 1959).

<sup>17</sup> 15 Ric.II.c.6, *SR* 2, 80.



### *Early Tudor legislation: 1495-1547*

The introduction of statutes which substantially addressed both beggars and vagabonds represents a major departure from earlier practice. The *1495 Act* (11 Hen.VII.c.2), ‘An acte against vacabounds and beggers’, represents a much more significant legislative event than has been hitherto allowed.<sup>18</sup> Beggary and vagabondage were both subjected to particular statutory injunctions within the same document, highlighting a legislative difference between beggary and vagabondage, but also indicating an administrative relationship between the two. Vagabonds were to be initially punished by being ‘sette in stokes, ther to remayne by the space of iij daies and iij nyghtes and ther to have noon other sustenaunce but brede and water’.<sup>19</sup> They would then be expelled from the town.<sup>20</sup> Beggars would be sent towards their homes, and ‘punysshed as is beforeseid’ for vagabonds if they would not go.<sup>21</sup> It was also significant because, whilst ostensibly reducing the harm caused by the placing of vagabonds in gaols whilst waiting for sessions by punishment in the stocks instead, it made the punishment of vagabonds a matter that was authorised without the necessity for sessions. This also left the alleged vagabond without the possibility of any defence being mounted.

The *1495 Act* was superseded almost a decade later by the nearly identical *1504 Act* (19 Hen.VII.c.12).<sup>22</sup> Neither statute has a continuation or commencement clause, as this practice does not appear to have been common at the time. The *1504 Act* seems to have

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<sup>18</sup> 11 Hen.VII.c.2, *SR* 2, 569.

<sup>19</sup> 11 Hen.VII.c.2.1, *SR* 2, 569.

<sup>20</sup> 11 Hen.VII.c.2.1, *SR* 2, 569.

<sup>21</sup> 11 Hen.VII.c.2.2, *SR* 2, 569.

<sup>22</sup> 19 Hen.VII.c.12, *SR* 2, 656-657.

been an extended version of the former. The main difference was that the latter statute authorised senior judicial figures of the realm to enquire into its execution.<sup>23</sup> These statutes may therefore represent an attempt by the royal government to enforce a greater uniformity of action with respect to beggary and vagabondage throughout the realm. Yet, if so, a desire for uniformity would also indicate that despite authorising action predicated on traditional concepts, for at least some localities these statutes had introduced novel administrative features.

There was no legislative action regarding beggars or vagabonds from the commencement of the sixteenth century until its fourth decade. No statutes are extant concerning beggars or vagabonds in any of the six sessions of the first four parliaments of Henry VIII, and nothing was done in the first session of the fifth.<sup>24</sup> Royal initiative regarding beggary and vagabondage in this period is represented by at least two proclamations, first in 1517, then another a decade later in 1527. The 1517 proclamation, a surviving copy of which was directed to the city of London because of riots, ordered the enforcement of various acts, including those pertaining to ‘vagabonds’, but was not specific as to which particular statute, so presumably the connection was to the *1504 Act*.<sup>25</sup> The 1527 proclamation required the enforcement of statutes ‘concerning beggars, vagabonds, unlawful games, suspect inns and alehouses’.<sup>26</sup> Not only did the *1504 Act* contain a clear connection between beggars and vagabonds, it also contained a provision that addressed ‘unlawefull gamys’, stipulated that games could be only be played in ‘duelling house[s]’

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<sup>23</sup> 19 Hen.VII.c.12.5, 6, *SR* 2, 656.

<sup>24</sup> See: *SR* 3, v-xv.

<sup>25</sup> *TRP* 1, no. 80 (p. 127).

<sup>26</sup> *TRP* 1, no. 118 (p. 174).

with royal license, and required close supervision by local authorities of ‘Ale Howses’.<sup>27</sup> In other words the proclamation of 1527 contained the constituent elements of the *1504 Act*. These two proclamations therefore compelled the application of the then current statute, the *1504 Act*, which serves to illustrate that the royal government expected its provisions to have been executed. It also underlines the continued importance of these statutes into the early decades of the sixteenth century, an importance that has generally been overlooked by historians of the vagabondage and beggary legislation.

As has been seen, most royal proclamations did not make substantive regulations with respect to beggars and vagabonds, but rather simply ordered the performance of statutory responsibilities and regulations.<sup>28</sup> Only one proclamation, dated to 1530, demonstrated the use of proclamation to compel a significantly different regulatory regime.<sup>29</sup> That proclamation instituted a system of billets (or authorised letters) to compel and facilitate the return of vagabonds and mighty beggars to their homes immediately after the proclamation. It also instituted whipping as a punishment for those beggars and vagabonds who failed to comply with the order to return home or the conditions of their billet. If it was actually issued in a year without a parliamentary session (1530), the proclamation remains unusual for requiring a change to administrative procedure. However, as it was followed by a statute in the following year which authorised the same kinds of activities, and the printing date does not necessarily confirm the date of

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<sup>27</sup> 19 Hen.VII.c.12.7, *SR* 2, 657.

<sup>28</sup> Two prominent potential exceptions are one of 1530 which instituted whipping as a punishment ahead of the *1531 Act*, and one of 1545 according to which vagabonds were to have been sent to the galleys (this was however not necessarily at odds with the legislative regime); *TRP* 1, no. 250 (pp. 352-353). A missing proclamation of 1542 also detailed galley service for Scots and may have been framed in terms of vagabondage: *The proclamations of the Tudor kings*, ed. R. W. Heinze (Melbourne, 1976), 303.

<sup>29</sup> *TRP* 1, no.128 (pp. 191-193).

proclamation, the proclamation may have been intended to have corresponded with the new statute of 1531 anyway.<sup>30</sup> As Heinze has noted, the proclamation may have been intended as a stop-gap measure until the new statute had been put in force (the proclamation coming in a year without a parliamentary session), and that whilst its provisions were novel at law, as far as London practice was concerned, whipping of vagabonds seems to have already been practiced at this time.<sup>31</sup>

The *1531 Act* (22 Hen.VIII.c.12), or *An Act concerning punishment of Beggars and Vagabonds*, was passed through the second session of the Reformation Parliament and is one of the most long-lived of the Tudor statutes regarding the treatment of beggars and vagabonds.<sup>32</sup> The *1531 Act* has been deemed important by historians as it clearly represented a shift in statutory regulatory practice in that it required beggars to be licensed and authorised whipping as the main mode of punishment for a breach of its regulations.<sup>33</sup> Historians have seen in the *1531 Act* a harshening of attitudes towards the poor on the part of legislators and governors.<sup>34</sup> Yet whilst discussion of the purpose, origin and effect of the *1531 Act* must await later chapters, it is clear that it was statutorily different from its predecessors.

The *1531 Act* was the first of the statutes regarding beggars and vagabonds to have been given a finite lifespan, one of a number of statutes that mark the increased trend towards

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<sup>30</sup> See below for a discussion of the role this proclamation may have played in disseminating information about the regulations of the *1531 Act* as well as complementing and facilitating its introduction.

<sup>31</sup> R. W. Heinze, *The proclamations of the Tudor kings* (Cambridge, 1976), 118.

<sup>32</sup> 22 Hen.VIII.c.12, *SR* 3, 328-332.

<sup>33</sup> Slack, *Poverty and policy*, 26, 118.

<sup>34</sup> G. R. Elton, *Reform and reformation: England, 1509-1558* (Cambridge, 1977), 225.

this approach to legislation from the Reformation Parliament onwards.<sup>35</sup> According to its provisions, it was ‘to endure unto the last daye of the next parliament,’ meaning it was only intended to have operated for a short period.<sup>36</sup> This was part of wider parliamentary trend towards limited legislation whereby if such legislation was not given explicit continuation in the next parliament it would lapse and be of no legal force at the termination of that subsequent parliament. This feature necessitated the development of continuation statutes that explicitly identified and continued existing statutes. These recited the statutes to be continued, through reference to previous continuation statutes where appropriate, and then provided for their continued operation, usually until the subsequent parliament. This adoption of a limited lifespan may explain why the *1531 Act* did not repeal any of the earlier legislation which had no such limitations placed upon them. The intention may have been that the *1504 Act* was to have been reverted to once the *1531 Act* had fulfilled its purpose. Yet whether intended to have lapsed or not, an examination of the continuation history of the *1531 Act* reveals that it was in force from proclamation until repealed in 1547, that it was restored again in 1550, and repealed once more in 1572.<sup>37</sup> Legislatively, therefore, the *1531 Act* marked a transition to a period when those responsible for the administration of such legislation needed to be aware of when, and for how long, these statutes were operational.<sup>38</sup>

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<sup>35</sup> See G. R. Elton, *The parliament of England, 1559-1581* (Cambridge, 1986), 134-147 for a discussion of this trend.

<sup>36</sup> 22 Hen.VIII.c.12, *SR* 3, 332 (also mentioned at page 331 footnote 2 in regards to the position of this clause in the original document).

<sup>37</sup> See below.

<sup>38</sup> This became common practice at this time and is not an exclusive feature of these statutes.

The legislative situation could be further complicated when multiple statutes were in concurrent operation. The *1536 Act* (27 Hen.VIII.c.25), which was intended to operate in conjunction with the *1531 Act*, was a case in point.<sup>39</sup> Yet before addressing the period for which the *1536 Act* was in force, which has been a point of some confusion, it is worth digressing briefly to note its unusual introduction to parliament. There is a surviving manuscript copy of a draft parliamentary bill which Elton considered to have been the origin of the *1536 Act*.<sup>40</sup> Whilst probably not the actual document presented to parliament, it contains sufficient elements to make some positive identification that it was at least a version of the bill presented to parliament.<sup>41</sup> Yet as unusual as the survival of a draft bill from this time is, it is not the fact of its survival which makes it unique, but rather the manner in which the bill was initially presented to the parliament.

In 1536, in the last session of the Reformation Parliament that passed the first legislation to dissolve the smaller monasteries, a remarkable event occurred:

On Saturday in the Ember week the King came in among the burgesses in the Parliament, and delivered them a Bill, which he desired them to weigh in conscience, and not to pass it because he gave it in, but to see if it be for the common weal of his subjects.<sup>42</sup>

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<sup>39</sup> 27 Hen.VIII.c.25, *SR* 3, 558-562.

<sup>40</sup> The draft is BL, Royal MS 18 c vi; There is some transcription and discussion in G. R. Elton, 'An early Tudor poor law', *The economic history review*, new series, 6 (1953), 55-67.

<sup>41</sup> Such as plans to put vagabonds to work at Dover harbor.

<sup>42</sup> *LP* 10, no. 462 (p. 190): from a contemporary letter from Thomas Dorset. The letter is printed in full in *Three chapters of letters relating to the suppression of monasteries*, ed. Thomas Wright, Camden Society, first series, 46 (London, 1843), 36-39.

Whilst utilising this and other descriptions of the presentation of the bill to link it to the *1536 Act*, Kunze did not fully appreciate the parliamentary significance of this event.<sup>43</sup> If this description is accurate, then the monarch personally presented a bill to the House of Commons.<sup>44</sup> It is a commonplace that when exercising his right to sit in parliament the king would usually have attended the House of Lords. The Wriothesley Manuscript depiction of parliament showed the commons attending upon the King-in-parliament in the corner of the image.<sup>45</sup> This incident therefore potentially provides a unique example of the monarch taking an active role in the house of parliament with which his person is not usually associated. Whilst it is possible that this description was meant to indicate a quiet word between the King and some of the important members of parliament, the language of the description suggests a very public event, suggesting that indeed this was probably a royal visit to the House of Commons in session. This event therefore needs to be integrated into historical analysis of the increasing role and importance of the House of Commons in the sixteenth century.<sup>46</sup>

The *1536 Act* which was passed bore little resemblance to the copy of the bill which survives, suggesting that in weighing it, parliament may have significantly changed it.<sup>47</sup>

Yet it shared with the bill a mechanism for the collection of funds for charitable use,

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<sup>43</sup> N. L. Kunze, 'The origins of modern social legislation: the Henrician poor law of 1536', *Albion*, 3 (1971), 14-15.

<sup>44</sup> Dorset was not a member of parliament and this was not a first-hand account: *LP* 10, no. 462 (p. 190); *Three chapters of letters*, 39. Chapuys says Henry VIII 'has proposed to Parliament a law' which could indicate, but does not explicitly confirm, the royal presence: *LP* 10, no. 494 (p. 200).

<sup>45</sup> Wriothesley Manuscript, quire B. Royal Library of Windsor Castle: it can be seen online at <http://www.royalcollection.org.uk/egallery>.

<sup>46</sup> J. Loach, 'The House of Commons, 1528-1603', in R. Smith and J. S. Moore (eds.), *The House of Commons: seven hundred years of British tradition* (London, 1996), 72.

<sup>47</sup> Lehmborg noted that the significant number of provisos attached to the document 'probably indicates lively debate in both Houses.' S. E. Lehmborg, *The Reformation Parliament, 1529-1536* (Cambridge, 1970), 233.

which in the *1536 Act* version provided the first statutory authorisation for urban and parish collections for the relief of the poor. Yet whilst the *1536 Act* has usually been discussed as the first attempt to implement statutory charity, it is generally categorised as a failed one.

This image of failure results from widespread belief amongst historians in the non-application, lapse, and discontinuation of the *1536 Act*. Early scholars were not interested in ‘what statutes have been repealed, or permitted to expire’ as ‘[t]his was not necessary for our purpose’.<sup>48</sup> Nicholls, for instance, asserted that the *1536 Act* repealed the *1531 Act* despite a specific clause that actually provided for its continuation.<sup>49</sup> Leonard discussed the 1530s Acts without reference to their lifespan, whilst noting briefly the continuation of some of the 1550s legislation.<sup>50</sup> The Webbs mentioned some continuation of the *1531 Act* in a footnote, but made no such mention regarding the *1536 Act*.<sup>51</sup> Slack addressed the repeal, lapse or revival of some statutes but due to the length of his period of study did not attempt a full schema of all legislative changes in the sixteenth-century statutory regime.<sup>52</sup>

Such a specific belief regarding the non-continuance of the *1536 Act* appears, however, to have been the result of an editorial mistake made by the compilers of the *Statutes of the Realm*. A number of these mistakes have gone unnoticed as Tudor statutory continuation

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<sup>48</sup> G. Nicholls, *A history of the English poor law, revised edition, volume 1* (London, 1854: 1967 reprint), 10-11.

<sup>49</sup> Nicholls, *A history of the English poor law*, 120; 27 Hen.VIII.c.25.20, SR 3, 561: The *1536 Act* was ‘to be putt in execucion with the forsaid formare Acte’.

<sup>50</sup> Leonard, *The early history of English poor relief*, 53-58.

<sup>51</sup> S. Webb and B. Webb *English local government: English poor law history: part I, the old poor law* (London, 1927), 45 (footnote 2), 46.

<sup>52</sup> Slack, *The English poor law*, 51-53.



practices have rarely been addressed in detail and marginalia appear to have been relied on for salient points about the textually dense statutory regime. Even those few historians to have closely addressed the *1536 Act* have not overcome the perception of an ineffectual statute, a view which has become historical orthodoxy. Elton, whilst not specifically mentioning the continuation of the *1536 Act* in his examination of the draft, referred to the *1536 Act* as ‘ineffective,’ suggesting that he adhered to the prevailing view.<sup>53</sup> Slack, in his law-focused study of the old poor law in its entirety, described how ‘[t]he statute lapsed soon after it was passed.’<sup>54</sup> Slack indicated that this was because ‘[t]his Act technically lapsed when not renewed later in 1536’, in apparent agreement with Fideler’s argument that the *1536 Act* was not continued in the subsequent parliament of 1536.<sup>55</sup>

This belief thus hinges on the action of the second 1536 parliament. The Reformation Parliament that had been first called in 1529 was dissolved in April 1536 and a new emergency parliament was called which first sat about two months later.<sup>56</sup> This second parliament of 1536 passed what will for convenience be termed the *1536 continuation statute* (28 Hen.VIII.c.6), which quite explicitly continued the *1531 Act*.<sup>57</sup> This was achieved through specific reference within the text of the statute to the session of parliament in which the *1531 Act* was passed.<sup>58</sup> The failure of the *1536 continuation*

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<sup>53</sup> Elton, ‘An early Tudor poor law’, 64.

<sup>54</sup> Slack, *The English poor law*, 9.

<sup>55</sup> Slack, *The English poor law*, 51; P. A. Fideler, ‘Poverty, policy and providence: the Tudors and the poor’, in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 202; Fideler, *Social welfare in pre-industrial England*, 59.

<sup>56</sup> M. A. R. Graves, *The Tudor parliaments: crown, lords, and commons, 1485-1603* (London, 1985), 159.

<sup>57</sup> 28 Hen.VIII.c.6, SR 3, 655.

<sup>58</sup> 28 Hen.VIII.c.6, SR 3, 655 Thus the *1531 Act* was continued until end of next parliament.

*statute* to mention the *1536 Act* within its text, or the non-existence of another continuation statute from that parliament specifically for the *1536 Act*, is at first viewing a good argument in favour of its non-continuance as Fideler has suggested.<sup>59</sup> However, close reading of the *1536 Act* reveals a commencement clause, which states that

It is ordained and established by the authority aforesaid that this present Act shall begin to take effect and to be put in execution with the aforesaid former Act the morrow after the day of Saint Michael the Archangel next coming, and shall continue until the last day of the next parliament [...]<sup>60</sup>

This indicates that the *1536 Act* was not to have come into force until the day after the feast of St Michael (29 September), which means the act would not be technically valid until 30 September. This is important because this means the *1536 Act* did not come into force until after the second 1536 parliament had been dissolved. The *1536 Act* was not continued by the *1536 continuation statute* because as an act that was not yet in force it did not require continuation.

The commencement date of the *1536 Act* is not the only available evidence to indicate that it was considered legally in force after the dissolution of the Reformation Parliament. The Norwich Mayoral Court Book reveals that ‘At this day [5 July 1536] it is commoned how the act for beggars made in the xxvii year of the reign of our sovereign lord should be put in execution’.<sup>61</sup> Parishes were instructed to gather alms on Sundays and Holydays

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<sup>59</sup> Lehmberg has noted the ‘haphazard, piecemeal approach’ to continuation of earlier statutes in this particular parliament, which may explain the *1536 Act* not having even been mentioned; although, as the following discussion demonstrates, the failure to mention the Act could just as easily be a product of a very precise awareness of the *1536 Act*’s situation. See S. E. Lehmberg, *The later parliaments of Henry VIII, 1536-1547* (Cambridge, 1977), 18.

<sup>60</sup> 27 Hen.VIII.c.25.20, SR 3, 561.

<sup>61</sup> RCN 2, p. 167.

and ‘euery pore person that shall be admitted to receive almes to all ententes of the acte shall weekly have vjd.’<sup>62</sup> There can be no confusion that this was anything other than the decision to implement the *1536 Act* in England’s second largest city shortly after it passed through parliament. Even though the *1536 Act* was technically not to have come into force until September, the implementation of its provisions before this date suggests that it was fully expected to have been binding, without any action required by the then current second 1536 parliament. Furthermore, the *1536 Act* actually provided for the commencement of collections in August, before it was fully operational.<sup>63</sup>

A probable adoption of the *1536 Act* by York in 1538 also lends weight to the argument that the *1536 Act* was considered in force after the dissolution of the second 1536 parliament. A city government memorandum records the decision ‘that the Kings statute of beggars shalbe put in due execution with effect.’<sup>64</sup> The text of this memorandum reveals orders for beggars that included the compilation of parish registers, a prohibition of public begging, and the administration of charitable collections on behalf of the poor. These details match key elements of the *1536 Act*, particularly the collections, which certainly cannot be construed as coming under the *1531 Act* as it had no such provision for collections. Thus it appears that the *1536 Act* was adopted in York in 1538, further highlighting that it was considered as being in force after the respective dissolutions of both 1536 parliaments. It may even have been adopted in York earlier and only rehabilitated in 1538 ‘with effect’ due to the plague at that time. City memoranda do not

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<sup>62</sup> *RCN* 2, p. 167.

<sup>63</sup> 27 Hen.VIII.c.25.19, *SR* 3, 561.

<sup>64</sup> *YCR* 6, 30.

contain extant material for the months during which the *1536 Act* was supposed to have been implemented.

An extant ‘official’ account of the Henrician Reformation thought to be from early 1539 noted that

The States of the realm have, by a law, provided to avoid idle people and vagabonds, to cherish and sustain the poor impotent, and live so that the works of charity are observed better than ever.<sup>65</sup>

This is possibly a reference to the parochial charity legislated for by the *1536 Act*. If so, it further highlights that in 1539 the *1536 Act* was deemed by the author a living witness to the Reformation Parliament. However it would not be unreasonable for this phrase to have been applied to the *1531 Act* considering the similarity with the description of the *1531 Act* in various continuation statutes.

In the parliament of 1539-40 the *1536 Act* was therefore due for its first continuation. Fideler has noted that the *1536 Act* was not renewed in 1539, but that is in part derived from the common belief that it had lapsed, and that as a result it required renewal rather than continuation.<sup>66</sup> Although the title of the small *1539 continuation statute* (31 Hen.VIII.c.7), *An Act for Beggars and Vagabonds*, could indicate that the *1536 Act* was to have been continued, this was apparently not the case.<sup>67</sup> In a footnote to his discussion of the non-continuance of the *1536 Act*, Fideler noted that ‘the 1536 statute was listed in the margin of the 1539 continuation statute, but only the 1531 statute was discussed in the

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<sup>65</sup> *LP* 14(1), no. 402 (p. 154).

<sup>66</sup> Fideler, *Social welfare in pre-industrial England*, 59.

<sup>67</sup> 31 Hen.VIII.c.7, *SR* 3, 725.

text'.<sup>68</sup> Indeed the *1531 Act* was the only beggary statute mentioned in the *1539 continuation statute* and the same is true for continuation statutes of 1542 and 1545.<sup>69</sup> As continuation statutes generally recited the statutes to have been continued, as well as their previous continuations, it is clear that the statute continued at this time was indeed only the *1531 Act*.<sup>70</sup> The absence of any specific mention of the *1536 Act* indicates that it was not continued through the *1539 continuation statute*. Nor was it continued or revived through any subsequent legislation. Yet according to its provisions, the *1536 Act* lapsed not through default of continuation in 1539, but because it was not specifically continued in the 1539-40 parliament. This means it lapsed with the dissolution of Parliament in 1540.

This revision indicates that whilst historians have been correct in noting that the *1536 Act* lapsed, that lapse was later than has been accepted. On the basis of a 1539 remembrance, or 'to-do' list, Fideler suggested that Cromwell may have thought of attempting to re-implement the original bill.<sup>71</sup> However, rather than indicating revival, Cromwell's 1539 remembrance for 'A device in the Parliament for the poor people in this realm', if taken to be a reference to the *1536 Act*, simply fits the need to continue the *1536 Act* specifically in that parliament.<sup>72</sup> It could however simply have been a reference to the *1531 Act*, or to some other project, for such a brief note leaves no certainty that this reference was to the *1536 Act*.

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<sup>68</sup> Fideler, 'Poverty, policy and providence', 219 (footnote no. 46).

<sup>69</sup> 31 Hen.VIII.c.7, *SR* 3, 725; 33 Hen.VIII.c.17, *SR* 3, 853; 37 Hen.VIII.c.23, *SR* 3, 1014-1015.

<sup>70</sup> The margin notations in the *Statutes of the realm* are therefore erroneous.

<sup>71</sup> Fideler, *Social welfare in pre-industrial England*, 59.

<sup>72</sup> *LP* 14(1), no. 655.

Slack suggested that ‘oversight’ was potentially the best explanation for the non-continuation of the *1536 Act*.<sup>73</sup> Slack did not explicitly state what he may have meant, but another explanatory option in this vein, though rather conjectural, is that the *1536 Act* was a casualty of Cromwell’s fall. Whilst it was usual for continuation statutes to be passed in the first session of parliament in the 1530s and 1540s, it was not essential.<sup>74</sup> If he had intended to see the Act continued in a later parliamentary session, Cromwell may simply have been otherwise detained from so doing by his fall from power and prompt execution.

Yet there is also the possibility that the government did not intend to continue the *1536 Act* beyond its initial period of operation. The extant draft of 1535 provided for a public works scheme to continue until ‘the yere of ovr lorde god m D xl’.<sup>75</sup> Whilst these works provisions were not included in the final statute it is remarkably coincidental that the *1536 Act* lapsed in that very year. Another extant draft bill from 1540 which appears to have provided for putting idle persons to work ‘on linen’ may indicate that the *1536 Act* was going to be replaced, rather than continued as it stood.<sup>76</sup> This 1540 draft could even be the ‘device’ from Cromwell’s earlier remembrance.<sup>77</sup> The language of these remembrances suggests that ‘device’ meant new legislation. For instance, Cromwell also listed a remembrance for ‘A device in the Parliament for the unity in religion’, which

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<sup>73</sup> Slack, *Poverty and policy*, 119.

<sup>74</sup> There was, for instance, a continuation statute within the 1540 session of the 1539-1540 parliament: 32 Hen.VIII.c.3, *SR* 3, 749.

<sup>75</sup> BL, Royal MS 18 C vi, f. 3v.

<sup>76</sup> *LP* 14(1), no. 872.

<sup>77</sup> *LP* 14(1), no. 655; the remembrance note could also reasonably be attributed to a draft bill extant for this period which placed charitable responsibilities on the governors of religious houses.

could easily be interpreted as ‘An Acte abolishing diversity in Opynyons’ passed in 1539.<sup>78</sup>

Regardless of the reason for its lapse, the *1536 Act* was utilised in at least two of the most significant provincial urban centres in the realm in the years following its inception. The *1536 Act* can therefore no longer be categorically dismissed as a failure. This highlights the importance of detailed examination of the legislative regime and is an important revision of a key aspect of the currently understood legislative regime. Whilst this does not necessarily prove universal adoption of all of the Act’s provisions throughout the realm, it nonetheless demonstrates that a statute originally presented to parliament by the monarch did not go unacted upon.

#### *The slavery anomaly: 1547-50*

In the sixteenth-century statutory provision for beggars and vagabonds, perhaps few statutes are as unusual as the *1547 Act* (1 Edw.VI.c.3).<sup>79</sup> The *1547 Act* clearly stated ‘that all Statutes and Actes of Parlament from hensfurth made for the punishment of vagabonds and sturdie beggers and all articles comprised in the same shalbe from hensfurth repealed voyde and of noe effect’.<sup>80</sup> This was the first time that all previous legislation respecting beggary and vagabondage had been repealed, although in this respect this statute was part of a wider repeal of Henrician legislation which occurred

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<sup>78</sup> *LP* 14(1), no. 655; 31 Hen.VIII.c.14, *SR* 3, 739-743.

<sup>79</sup> 1 Edw.VI.c.3, *SR* 4, 5-8; For a discussion of the act see C.S.L. Davies, ‘Slavery and protector Somerset: the vagrancy act of 1547’, *The economic history review*, new series, 19 (1966), 533-549.

<sup>80</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

with the accession of the new King, Edward VI. Yet the *1547 Act* is notable because it ushered in an anomalous period when, for the only time in the sixteenth century, slavery was statutorily authorised as a punishment for beggars and vagabonds. Ostensibly, this harsh punishment was the reason it was repealed in 1550, as few were willing to inflict such a punishment.

*The 1530s revisited and expanded: 1550-1572*

The slavery interlude in the statutory regime ended with the explicit repeal of the *1547 Act* by the *1550 Act* (3&4 Edw.VI.c.16).<sup>81</sup> The *1550 Act* specifically revived the *1531 Act*, but no other legislation, and provided that the *1531 Act* ‘shall contynewe and remayne a parfytt Act of Parlament for ever’.<sup>82</sup> This was the first time that any attempt was made to make a statute regarding beggars and vagabonds perpetual. Yet, perhaps unusually considering this action regarding the *1531 Act*, the *1550 Act* made no assertion regarding its own inception or duration. The *1550 Act* generally reiterated or elaborated upon the concepts and provisions of the *1531 Act*, thereby demonstrating a return to the legislative approach of the 1530s.

Two years later the *1552 Act* (5&6 Edw.VI.c.2) was passed which further elaborated upon the general principles of the 1530s legislative program through the reintroduction of statutory sanction and administrative mechanisms for urban and parochial collections for

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<sup>81</sup> 3&4 Edw.VI.c.16, SR 4, 115-117: This act even contained a later clause specifically noting the repeal of the *1547 Act* and the reinstitution of the *1531 Act* to reinforce the point: 3&4 Edw.VI.c.16.9, SR 4, 116.

<sup>82</sup> 3&4 Edw.VI.c.16.1, SR 4, 115.



the relief of the poor.<sup>83</sup> The *1552 Act* confirmed the *1531* and *1550 Acts* as being in force except as modified by the then present statute.<sup>84</sup> As with the *1550 Act*, no commencement or lifespan clauses were included in the *1552 Act*, which is demonstrative of some departure from earlier practice. Yet whilst the *1550* and *1552 Acts* did not place lifespan conditions upon themselves, this may have been a traditional inference by this point in the century. In the second Edwardian parliament (1553) a continuation statute was passed that covered the *1552 Act*, and thus also the *1531 Act* and the *1550 Act*, both of which were continued though the *1552 Act*.<sup>85</sup> These laws were thus continued until the end of the next parliament. There is a tension here however between the assertion of perpetual legality for the *1531 Act* and the lack of any continuation or lifespan instructions for the *1550 Act* which made such assertions. Considering the by then usual recourse to continuation clauses as standard statutory mechanisms, which even the *1547 Act* contained, it is surprising that these Acts do not contain such elements and yet were nonetheless subject to continuation activity.

The first two Marian parliaments maintained the late-Edwardian statutory regime through specific reference to the *1552 Act* in continuation statutes of 1553 and 1554.<sup>86</sup> However, in the third Marian Parliament none of the beggary, vagrancy or poor relief statutes then comprising the statutory regime received any continuation. There was a continuation statute from that parliament, but it did not explicitly mention any of these statutes, which

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<sup>83</sup> 5&6 Edw.VI.c.2, *SR* 4, 131-132.

<sup>84</sup> 5&6 Edw.VI.c.2, *SR* 4, 131.

<sup>85</sup> 7 Edw.VI.c.11, *SR* 4, 175.

<sup>86</sup> 1 *Mariae*, St.2.c.13, *SR* 4, 215; 1 *Mariae*, St.3.c.12, *SR* 4, 236.

means that the legislative package will have lapsed in early 1555.<sup>87</sup> Whether the *1531 Act* was considered indeed to have been permanent, and thus law, is questionable. The recent continuation statutes certainly suggest that contemporaries did not believe the *1552 Act* to have been perpetual. Slack noted that the *1552 Act* had not been continued and suggested this was ‘perhaps because the government was contemplating some revision’, but the more obvious explanation would surely be that minor changes present in a later statute were undertaken as a result of the law having lapsed.<sup>88</sup> It was, after all, not necessarily only the *1552 Act* that lapsed, but depending upon the accepted legality of the perpetual enactment by an Act itself then being void, probably also the *1550* and *1531 Acts*.

Later in 1555 the statutory regime was revived through the *1555 Act* (2&3 Phil. & Mar.c.5).<sup>89</sup> The *1531* and *1550 Acts* were explicitly confirmed, subject only to the amendments of the *1555 Act*.<sup>90</sup> The differences between the *1552* and *1555 Acts* have been partially explained through changes in prevailing ideologies, but the simplest explanation for new legislation in 1555 is that there was no equivalent legislation when the 1555 parliament was summoned.<sup>91</sup>

This still does not fully explain the lapse of the previous statute, but considering the textual similarities between the *1552* and *1555 Acts* and the lack of any significant differences between the two, it seems unlikely that the statute was allowed to lapse for

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<sup>87</sup> 1&2 Phil.&Mar.c.16, *SR* 4, 263: This parliament was dissolved on 16 Jan 1555, which is the date on which the statutory regime will have technically lapsed.

<sup>88</sup> P. Slack, ‘Social policy and the constraints of government, 1547-58’, in J. Loach and R. Tittler (eds.), *The mid-Tudor polity c. 1540-1560* (London, 1980), 103-104.

<sup>89</sup> 2&3 Phil.&Mar.c.5, *SR* 4, 280-281.

<sup>90</sup> 2&3 Phil.&Mar.c.5.1, *SR* 4, 280.

<sup>91</sup> The differences relate to beggary and alms collection provisions, and are addressed in Chapters Three and Five.

the sake of what were ultimately only minor changes. In contrast with the recent Edwardian legislation, the *1555 Act* contained a continuation clause which in this case specified that it was ‘tendure to the latter ende of the first Sessyon of the next Parlyament’.<sup>92</sup> This clearly meant that it required continuation in the first session of the subsequent parliament and may have been a response to the lapsing of the previous legislation through non-continuance. This was a breach of the then usual practice of requiring the continuation of legislation by the end of the subsequent parliament, suggesting perhaps that the drafter of the *1555 Act* was aware that the statutory regime had been allowed to lapse several months earlier through non-continuation. Such continuation was duly given the *1555 Act* in 1558, with a return to the traditional formula ‘untill the laste daye of the nexte Parliament.’<sup>93</sup>

The *1555 Act* was again continued by the first Elizabethan Parliament of 1559 because it ‘ys good and benefyciall to the Common welthe of this Realm’.<sup>94</sup> In 1563, however, the *1555 Act* was replaced with a new statute, the *1563 Act* (5 Eliz.I.c.3).<sup>95</sup> The *1563 Act*, like the *1555 Act*, specifically confirmed the *1531 Act* and the *1550 Act*, but neglected to make mention of the *1555 Act* and thus presumably allowed it to lapse through default of continuation.<sup>96</sup> Again, apparently borrowing conceptually from the *1555 Act*, the *1563 Act* had a continuation provision that made it law ‘to the latter ende of the first Session of the next Parlyment’.<sup>97</sup>

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<sup>92</sup> 2&3 Phil.&Mar.c.5.10, *SR* 4, 281.

<sup>93</sup> 4&5 Phil.&Mar.c.9.3, *SR* 4, 331.

<sup>94</sup> 1 Eliz.I.c.18.2, *SR* 4, 380.

<sup>95</sup> 5 Eliz.I.c.3, *SR* 4, 411-414.

<sup>96</sup> 5 Eliz.I.c.3.1, *SR* 4, 411.

<sup>97</sup> 5 Eliz.I.c.3.3, *SR* 4, 414.

The legislative chain may have been broken again, however, in that there is a possibility that the *1563 Act* may have provided only for continuation through and until the end of that same parliament despite the text of the surviving documentation.<sup>98</sup> In *An Act for the reviving and continuance of certain Statutes* of 1571, the *1563 Act* was specifically mentioned as having lapsed due to being ‘dyscontinued and lost theyr force & effect for defect of further contynuanee’.<sup>99</sup> The reason given was that the *1563 Act* had been only continued ‘to thend of the next Session of the same Parlyament, and then also to thend of the said Parlyament’.<sup>100</sup> This is at odds with the continuing clause in the *1563 Act* as reproduced in the *Statutes of the Realm* edition. There is also, at least within the *Statutes of the Realm*, no relevant continuing statute within the second session of that parliament which provides such continuation.<sup>101</sup> Finally there were only two sessions of that parliament, which would make continuation from the second session until the end of the parliament somewhat redundant. The parliamentary sessions being discussed here are 11 January – 10 April 1563 and 30 September 1566 – 2 January 1567 for the first parliament, and 2 April – 29 May 1571 for the following parliament.<sup>102</sup> Thus if the *1563 Act* were indeed to endure to the end of the *next* parliament, then it would be in force when continued in 1571. However, if the error was simply a notation error in the copy of the *1563 Act*, ‘next’ simply being where ‘same’ should have been, then the act would have become void in 1567. If it was a notation error then the same error must have been made in an Act concerning Tillage of 1563 which was also continued in 1571 for the

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<sup>98</sup> 5 Eliz.I.c.3.13, *SR* 4, 414.

<sup>99</sup> 13 Eliz.I.c.25.2, *SR* 4, 561.

<sup>100</sup> 13 Eliz.I.c.25.2, *SR* 4, 561.

<sup>101</sup> See: *SR* 4, 483-524.

<sup>102</sup> Graves, *The Tudor parliaments*, 160.

same reasons, yet according to the text of its continuation clause it should also have still been in force until 1571.<sup>103</sup> It would appear that the framers of 1571 continuing and reviving Act may have been mistaken in presuming that the *1563 Act* and a number of others had been discontinued. It was indeed due for, and received, continuance in the 1571 parliamentary session, but would still have been in force until that parliament was dissolved if the surviving text is accurate. Either way, the *1563 Act*, along with the *1531* and *1550 Acts* also still in force via the *1563 Act*, were in force for only another year as they were dissolved by statute in 1572.<sup>104</sup>

There were thus a number of periods of error or confusion concerning statutory continuity. The lapse of statutes, changes in continuation practice and the sincere belief in a lapse which it seems did not technically happen provide adequate explanation for the first of the Elizabethan consolidations of the statutory regime. In 1572, ostensibly in part ‘for avoydinge Confusion by reason of numbers of Lawes [...] standing in force togeather’, the *1531*, *1550* and *1563 Acts* were explicitly repealed and replaced by a single statute, the *1572 Act* (14 Eliz.I.c.5).<sup>105</sup> This new Act was given a specific lifespan ‘to endure for Seven yeres, and from thence to the end of the next Parlyament then next followinge’, and was an apparent attempt to clarify the situation after the 1567-1571 debacle.<sup>106</sup> This also removed some of the obvious confusion which had arisen from the statutory regime having been composed of multiple statutes. Yet, despite this intention to make a single comprehensive statute, in the second session of that same parliament in

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<sup>103</sup> 5 Eliz.I.c.2.2, SR 4, 406-10 The Tillage Act states: ‘This Act to endure to the end of the next Session of Parliament’.

<sup>104</sup> 14 Eliz.I.c.5, SR 4, 590-598.

<sup>105</sup> 14 Eliz.I.c.5, SR 4, 590-598.

<sup>106</sup> 14 Eliz.I.c.5.43, SR 4, 598.

1576 the *1572 Act* was joined and amended by the new *1576 Act* (18 Eliz.I.c.3).<sup>107</sup> The *1576 Act* had a continuation clause which made both it and the *1572 Act* law for seven years ‘and from thence until the ende of the next Parlyament then followinge.’<sup>108</sup>

Whilst extending beyond the primary focal period of this study, it is worth noting that the two 1570s Acts were continued by statute in 1585.<sup>109</sup> Both were again continued in 1587, 1589 and 1593, although with some modifications made in the latter continuation event.<sup>110</sup> Existing legislation was however repealed in 1598.<sup>111</sup> Throughout the parliaments of 1598 and 1601 a number of statutes were passed and continued, forming the basis of the old poor law, with some modifications, until the reform of the old poor law in the mid nineteenth century.<sup>112</sup>

Yet the Elizabethan achievement may need to be revised and seen as a Henrician achievement. The *1495* and *1504 Acts* brought beggary and vagabondage under the one statutory heading, and it was the legislation of the 1530s that provided the core conceptual mechanisms upon which the old poor law was founded. Whilst there were periods of confusion and statutory lapse there was also a greater degree of continuity than has been allowed. For instance the *1531 Act* replaced the *1504 Act*, but excepting the brief 1547-1550 interlude, was not replaced itself until *1572*. There was thus decades of

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<sup>107</sup> 18 Eliz.I.c.3, *SR* 4, 610-613.

<sup>108</sup> 18 Eliz.I.c.3.13, *SR* 4, 613.

<sup>109</sup> 27 Eliz.I.c.11, *SR* 4, 718-719.

<sup>110</sup> 29 Eliz.I.c.5, *SR* 4, 769-770; 31 Eliz.I.c.10, *SR* 4, 808-809; 35 Eliz.I.c.7, *SR* 4, 854-856 (the modifications are found in clauses 6 and 7 on page 855).

<sup>111</sup> 39 Eliz.I.c.4.1, *SR* 4, 899.

<sup>112</sup> 39 Eliz.I.c.3, *SR* 4, 896-899; 39 Eliz.I.c.4, *SR* 4, 899-902; 39 Eliz.I.c.5, *SR* 4, 902-903; 39 Eliz.I.c.6, *SR* 4, 903-904; 39 Eliz.I.c.21, *SR* 4, 923-924; 43 Eliz.I.c.2, *SR* 4, 962-965; 43 Eliz.I.c.3, *SR* 4, 966-968; 43 Eliz.I.c.4, *SR* 4, 968-970; 43 Eliz.I.c.9, *SR* 4, 973-974.

continuity, not only of concepts, but of individual statutes. It is true that '[s]tatute succeeded statute throughout the sixteenth century', but for the most part, these were the same statute.<sup>113</sup> The succession of statutes in the middle decades of the century which conjures this impression did not encompass dramatic conceptual or administrative change. Whilst technically each was a new statute, the *1552*, *1555* and *1563 Acts* were all almost verbatim. This period saw the repeated introduction of practically the same text.

This revision of the statutory regime also goes some way to explaining legislative activity, in that a number of statutes can be seen to have been responses to the statutory context. The *1555* and *1572 Acts* each represent clear responses to particular statutory contexts, which diminish the need for explanatory recourse to ideological or economic changes. This in turn illuminates the importance of periods of statutory change which lack such statutory explanations. These are thus subjected to more detailed assessment in subsequent chapters. The statutory changes wrought by the 1530s are a case in point, as are the disparities between the collections mechanisms of 1536 and the 1550s.

Yet the above revision of the statutory regime is more than an academic abstraction, as it forms the basis of an assessment of contemporary provincial understandings of statutory regulations and responsibilities. In order to assess the impact and application of the statutory regime, it is necessary to determine how well contemporaries within the provincial urban context were aware of the statutory regime and its various provisions. The mechanisms whereby knowledge of Tudor statutes was transmitted to those expected to enforce them have not been subject to sufficiently detailed analysis. Thus, whilst

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<sup>113</sup> Leonard, *The early history of English poor relief*, viii.

restricted to an examination of the statutes pertaining to beggary, vagabondage and the relief of the poor which constituted the statutory regime discussed above, the following discussion has wider implications. The remainder of this chapter addresses the issue of contemporary knowledge about statutes in two parts. The first section examines the various mechanisms for the dissemination of information about statutes, paying particular attention to the role of the state in transmitting such knowledge. The second section examines the other end of the process, uncovering evidence for the reception of statutory knowledge within the provincial urban context. Together, these sections thus demonstrate the degree to which contemporary governors were aware of the statutory regime and their responsibilities therein.

### *Statutory information part 1: dispersion and distribution*

A number of statutes contained injunctions that required them to be read periodically at judicial sessions. The regular public reading of statutes was legislated for as early as 1383, with the apparent intention ‘that no Man shall excuse himself by Ignorance of the same Statute’.<sup>114</sup> Of the sixteenth-century legislation pertaining to beggary, vagabondage and the relief of the poor, two acts clearly stipulated regular and public reading of the legislation. The *1531 Act* provided for annual reading ‘in the open Sessions to thentent that the sayde estatute shall be the more feared & the better put in execution’.<sup>115</sup> When it was repealed and replaced in 1547, however, the new statute ordered open proclamation twice a year ‘in everie Citie Corporate Towne and Markett Towne, uppon the Markett

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<sup>114</sup> 7 Ric.II.c.6, SR 2, 33.

<sup>115</sup> 22 Hen.VIII.c.12.6, SR 3, 330.



daie'.<sup>116</sup> Whilst not required by the Act itself, in York the *1572 Act* 'was redd and perused', which indicates at least one recorded case of a city government familiarising itself with legislation though what appears to have been an at least semi-public reading.<sup>117</sup> How much the statutory provisions concerning regular public recitation were obeyed may be unknowable, but it is clear that knowledge of the legislation on the part of the wider public was intended.

Any such public reading of legislation may have been facilitated through the use of printed copies. For instance, a collection of printed statutes from the late fifteenth century included the *1495 Act*, and demonstrates the use of printing technology for the reproduction of legislation from an early point.<sup>118</sup> A surviving print of the *1536 Act*, part of a larger collection of statutes from that session of parliament, was published in 1557.<sup>119</sup> This appears to be a reprint of an earlier collection. The title of the volume suggests authorship contemporary with the legislation contained therein:

Actes made in the session of this present parliament holden upon prorogacion at westm, the .iiii. daie of frebruarye, in the . xxvii. Yere of the reygne of our moste drad soueraygne lorde kynge HENRI the . VIII. [...]<sup>120</sup>

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<sup>116</sup> 1 Edw.VI c.3.17, SR 4, 8.

<sup>117</sup> YCR 7, 52.

<sup>118</sup> *The statutes concernynge the comon wele made in the parliament holden at westmynster the xiii day of October in the reygne of oure souereyne lorde the kynge: kynge henry the seuenthe: eleuenth yere*, Richerd Pynson (London, 1496[?]) STC (2nd ed.) / 1355, ff. A.iii.v-A.iii.v.

<sup>119</sup> *Anno XXVII Henrici VIII actes made in the session of this present Parliament holden vpon prorogacion at Westm[inster], the .iiii. daie of Februarye, in the xxvii. yere of the reygne of our moste drad soueraygne lorde Kynge Henri the VIII. and there continued and kepte till the XIII. day of Apryll next ensuing, to the honour of God, and for the common weale and profite of this realme*, Thomas Powell (London, 1557) STC (2nd ed.) / 9392.5.

<sup>120</sup> *Ibid.*

Whilst this is clearly a later volume of legislation, perhaps for a specifically legal readership rather than justices or other administrative officers, it nonetheless indicates that such collections may have been printed after each session of parliament and that reprinting was possible. One such contemporary collection is evidently the *Statutes made in the Parliamente [...]* which was a collection of the statutes of the 1547 session of the first Edwardian parliament published in 1548.<sup>121</sup> This contained a copy of the *1547 Act*.

Elton has indicated that sessional printing of statutes was an early feature of the reign of Henry VIII and can probably be considered the application of the new technology to the earlier practice of sessional manuscripts production.<sup>122</sup> With the use of printing therefore it is clearly possible that information about legislation could be distributed widely and rapidly. Thus even the rarely discussed late fifteenth-century legislation may have been relatively accessible to officers responsible for its administration. Elton suggested that these sessional prints ‘came to be a part of the government’s running of parliamentary affairs’ from at least the 1510s and certainly by the 1530s.<sup>123</sup> Elton’s contention can be further explored with reference to the vagrancy legislation but whilst the government may have utilised and facilitated the spread of sessional prints of legislation, this was not the only source of legal material available for dispersal.

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<sup>121</sup> *Statutes made in the Parliamente, begon at Westminster the fourthe daie of Nouembre, in the first yere of the reigne of our moste dread souereigne Lorde Edvard the. VI. By the grace of God, kyng of Englande, Fraunce, and Irelande, defendor of the faith, and of the Churche of Englande, and also of Irelandes, in yearthe [sic] the supreme hed: and from thence continued to the xiii. Daie of Decembre, then next ensuing, that is to saie, in the first session of the same Parliamente, as foloweth*, Richardi Graftoni (London, 1548) STC (2nd ed.) / 9421.1.

<sup>122</sup> G. R. Elton, ‘The sessional printing of statutes, 1484-1547’, in E.W. Ives, R. J. Knecht and J. J. Scarisbrick (eds.), *Wealth and power in Tudor England: essays presented to S. T. Bindoff* (London, 1978), 70-74.

<sup>123</sup> Elton, ‘The sessional printing of statutes’, 76.

During the course of a letter to Lord Lisle in 1539, John Husee indicated that the Lord Chancellor had received ‘1,500 books of the statutes’ from the ‘King’s Printer’, which is seemingly indicative of central government purchase and distribution of legislation.<sup>124</sup> A surviving 1534 collection of statutes printed by Thomas Bertholet contains a copy of the *1531 Act*, for instance, and is probably indicative of the type of collection that may have been distributed to such officers as justices of the peace.<sup>125</sup> This was included within a larger volume apparently collated in 1539 which included *The Boke For a Iustice of Peace*, which gave instruction as to what responsibilities justices had and from what statutes these responsibilities were derived, including the *1531 Act*.<sup>126</sup> This larger collection of earlier books, printed in 1539 by Berthelot who was the king’s printer, may indeed have been the volume to which Husee referred. It is thus possible that the government utilised means of conveying legislative information other than sessional prints.

This makes the assessment of locally-available information somewhat more complicated. There is clear evidence that the *1531 Act* was printed and therefore probably distributed by the central government. However the 1539 collection noted above does not mention or contain a copy of the *1536 Act*. The nature of the volume goes some way to explaining this in that the section in which the *1531 Act* was printed was a reprint of a 1534 book.

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<sup>124</sup> *LP* 14(1), no. 1227.

<sup>125</sup> *The boke for a iustice of peace the boke that teacheth to kepe a courte baron or a lete : the boke teaching to kepe a courte hundred : the boke called Returna breuium : the boke called Carta feodi conteyning the forme of dedes, releases, indentures, obligations, acquytaunces, letters of attorney, letters of permutation, testaments, and other thynges : the boke of theordynance to be obserued by the officers of the Kynges Eschequer, for fees takynge : a boke conteynyng those statutes at lengthe, which iustices of peace, mayres, sheryffes, baylyffes, constables, and other offycers were of late commaunded by the Kynges Maiestie to put in execution*, Thomae Bethleti (London, 1539) STC (2nd ed.) / 1929:03, ff. B-B.iii.

<sup>126</sup> *The boke for a iustice of peace* (1539), 15v-16.

The requirements of the *1536 Act* also can explain somewhat this lack as the *1536 Act* did not place as many duties upon justices of the peace as the *1531 Act* had. The other likelihood is that this provides further evidence that the *1536 Act* was intentionally allowed to lapse.

The lack of a volume within the period in which the *1536 Act* was law makes it difficult to ascertain how widespread knowledge of that particular statute may have been. What is clear from an examination of various books of the justices of the peace throughout the century is that they were not updated with respect to beggary, vagabondage and poor relief legislation in line with all legislative changes. These books for justices of the peace were a common phenomenon. Despite this, there as yet appears to be no detailed examination of these texts with respect to the legislation for beggary, vagabondage and poor relief.

An examination of several of these books, published in 1505, 1521, 1539, 1544, 1546, 1559 and 1574 respectively, provides a cross-section of a number of legislative changes and enables these sources to be tested against the statutory regime.<sup>127</sup> This can be used to

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<sup>127</sup> A. Fitzherbert, *The boke of iustices of peas the charge with all the processe of the cessions, warrantes supersedias [and] all that longeth to any iustyce to make endytements of haute treason felonyes appeles trespass vpon statutes, trespass contra regis pacem nocumentis with dyuers thynges more as it appereth in the kalender of the same boke*, Richard Pynson (London, 1505) STC (2nd ed.) / 14862; *The boke of iustices of peas the charge w[ith] all the processe of the cessyons, warrantes supersedias and all that longeth to any iustyce to make endytementes of haute treason, petyt treason, felonyes, appeles, trespas vpon statutes, trespas contra regis pacem nocume[n]tis with dyuers thynges more as it apperyth in the kalender of the same boke*, John Skot (London, 1521) STC (2nd ed.) / 14866; *The boke for a iustice of peace the boke that teacheth to kepe a courte baron or a lete : the boke teaching to kepe a courte hundred : the boke called Returna breuium : the boke called Carta feodi conteyning the forme of dedes, releases, indentures, obligations, acquytaunces, letters of attorney, letters of permutation, testaments, and other thynges : the boke of theordynance to be obserued by the officers of the Kynges Eschequer, for fees takynge : a boke conteynynge those statutes at lengthe, which iustices of peace, mayres, sheryffes, baylyffes, constables, and other offycers were of late commaunded by the Kynges Maiestie to put in execution*, Thomae Beteleti

assess the currency and reliability of the information available to the reader. The 1505 book noted two main duties of justices with respect to beggars, the first being that those beggars who were capable of labour required a royal licence in order to beg as per the *1388 Act*.<sup>128</sup> The other statutory injunction the 1505 book noted was that alms were not to be given to those capable of labour per the 1349 *Statute of Labourers*.<sup>129</sup> Throughout the remaining books the injunction about not giving alms was repeated in each volume.<sup>130</sup> In the 1539 volume and from thenceforth the responsibilities of justices to licence the poor and impotent also appeared, and the *1531 Act* was cited as the point of reference for further responsibilities.<sup>131</sup>

Thus any justice who relied upon these books exclusively will not have had a full appreciation of his duties or a detailed awareness of the legislation. The 1530s, 1540s and 1550s books not only fail to contain the *1536 Act*, they also leave out the *1550 Act*, the

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(London, 1539) STC (2nd ed.) / 1929:03; *The boke for a justyce of peace neuer so well and dylygently set forthe*, Wilhelmi Middilton (London, 1544) STC (2nd ed.) / 14878.3; *The boke for a justyce of peace neuer so well and diligently set forthe*, Richardi Kele (London, 1546) STC (2nd ed.) / 14879.5; A. Fitzherbert, *The contentes of this boke Fyrst the booke for a justice of peace. The boke that teacheth to kepe a courte baron, or a lete. The boke teachynge to kepe a courte hundred. The boke called returna breuium. The boke called carta feodi, conteynynge the forme of dedes, releasses, indentures, obligacions, acquitaunces, letters of attorney, letters of permutacion, testaments, and other thynges. And the boke of the ordinaunce to be obserued by the offycers of the Kynges Eschequer for fees taking*, Richard Tottill (London, 1559) STC (2nd ed.) / 14882; A. Fitzherbert, *The contentes of this booke first the booke for a justice of peace. The booke that teacheth to keepe a courte baron or a leet. The booke called charta feodi, conteininge the fourme of dedeed, releases, indentures obligations, acquitances, letters of attorney, letters of permutation, testaments, [and] other thinges. And the booke of the ordinance to be obserued by the officers of the kinges Eschequer for fees takinge*, Richarde Tottyl (London, 1574) STC (2nd ed.) / 14885.

<sup>128</sup> Fitzherbert, *The boke of iustices of peas* (1505), ff. B.iii-B.iv.

<sup>129</sup> *Ibid.*, f. B.iv.

<sup>130</sup> *The boke of iustices of peas* (1521), f. B.i; *The boke for a iustice of peace* (1539), f. 16; *The boke for a justyce of peace* (1544), f. 16; *The boke for a justyce of peace* (1546), f. 16; Fitzherbert, *The contentes of this boke Fyrst the booke for a justice of peace* (1559), f. 16; Fitzherbert, *The contentes of this booke first the booke for a justice of peace* (1574), f. 16: note how even the page numbers remain the same, attesting to close copying having taken place.

<sup>131</sup> *The boke for a iustice of peace* (1539), ff. 15-16; *The boke for a justyce of peace* (1544), ff. 15-16; *The boke for a justyce of peace* (1546), ff. 15v-16; Fitzherbert, *The contentes of this boke Fyrst the booke for a justice of peace* (1559), f.16; Fitzherbert, *The contentes of this booke first the booke for a justice of peace* (1574), f. 16.

*1552 Act*, and the *1555 Act*, all of which were to various of these books contemporary legislation. Whilst the lack of the *1536 Act* in the 1539 volume can be explained through reference to its possibly imminent and intentional discontinuance in 1540, no similar explanation is evident for the later omissions. Perhaps what is most interesting is that, with the exception of the *1550 Act*, these were those statutes which contained parish collection injunctions. This again may have been a function of responsibility, but it is most likely a lack of accuracy and updating on the part of the volume compilers. This is most clearly articulated by the 1574 book not containing the *1572 Act* and still containing the *1531 Act* which had been repealed.<sup>132</sup> Thus these books fail to mention significant pieces of legislation entirely.

The copying of earlier volumes will have caused further problems. The text of these respective sections addressing beggary, vagabondage and poor relief are practically identical throughout the various volumes and the earlier mistakes were carried throughout. The way that mistakes were transmitted through copying can be clearly illustrated with reference to the two 1540s books where the 1546 printer diligently copied what was presumably a printing mistake in the 1544 book. Despite being edited by different persons, the latter referred to the *1531 Act* as being from ‘32 H.8’ as did the former, instead of 22 Henry VIII.<sup>133</sup> Indeed every one of these books refers to the royal licenses required under the *1388 Act* as being derived from 21 Ric. II c. 6.<sup>134</sup> This

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<sup>132</sup> *The boke for a justyce of peace* (1544), f. 6; *The boke for a justyce of peace* (1546), f. 16.

<sup>133</sup> *The boke for a justyce of peace* (1544), f. 16; *The boke for a justyce of peace* (1546), f. 16.

<sup>134</sup> Fitzherbert, *The boke of iustices of peas* (1505), ff. B.iii-B.iv; *The boke of iustices of peas* (1521), f. B.i; *The boke for a iustice of peace* (1539), ff. 15-16; *The boke for a justyce of peace* (1544), f. 15-16; *The boke for a justyce of peace* (1546), f. 15v-16; Fitzherbert, *The contentes of this boke Fyrst the booke for a justice of peace* (1559), f. 16; Fitzherbert, *The contentes of this booke first the booke for a justice of peace* (1574), f. 16.

reference however points the reader to a statute and clause that was actually concerned with ‘Issues Males’ of attainted persons.<sup>135</sup> The editors presumably wanted 12 Ric.II.c.7-8 (the *1388 Act*), which contained injunctions concerning beggars and royal licenses.<sup>136</sup> That this mistake was repeated for three quarters of a century at least would suggest no detailed revision by the editors.

Yet some revision is evident between the 1521 and the 1539 publications, not only because of the introduction of the *1531 Act*, but also because the almsgiving instructions referred to as 23 Ed.III c. 6 in the 1505 and 1521 books were remedied to the correct 23 Ed III c. 7 from 1539 onwards.<sup>137</sup> This 1539 book is significant, in that having been published by the King’s Printer Thomas Berthelot and having referred in the title to the laws ‘late commaunded by the kynges maiestie, to put in execution’, it was possibly an official revision of sorts.<sup>138</sup> Therefore this further strengthens the argument that this particular edition was the royally instigated exercise indicated in Husee’s letter, as it is the only time in this series of books that there appears to have been any revision of the text.

Information of this sort was not always dispersed through these books and sessional printing of statutes, however. In addition to sessional printing of statutes, there were occasional collections of statutes with a specific focus. Any reader who relied upon a

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<sup>135</sup> 21 Ric.II.c.6, *SR* 2, 99.

<sup>136</sup> 12 Ric.II.c.7-8, *SR* 2, 58.

<sup>137</sup> Fitzherbert, *The boke of iustices of peas* (1505), f. B.iv; *The boke of iustices of peas* (1521), f. B.i; *The boke for a iustice of peace* (1539), f. 16; *The boke for a justyce of peace* (1544), f. 16; *The boke for a justyce of peace* (1546), f. 16; (1559), f. 16; (1574), f. 16.

<sup>138</sup> *The boke for a iustice of peace* (1539), cover page.

1562 guide to *The Statutes or ordinaunces concernynge artificers, seruauntes, and labourers [...]* would however be mistakenly pointed to the 1547 Act, which by then had been repealed for a decade.<sup>139</sup> This all highlights that whilst there were accurate copies of legislation available shortly after being made law, there was also a peripheral literature which was frequently incorrect and if relied upon exclusively will have provided much misinformation.

With the letter he sent, Husee also included copies of a number of proclamations recently made regarding current statutes, including one pertaining to vagabonds.<sup>140</sup> Most proclamations pertinent to beggary, vagabondage and poor relief throughout the period made only general injunctions about upholding and executing the ‘many good and profitable statutes’ or the ‘laws of the realm’.<sup>141</sup> This is why proclamations, despite being an important aspect of the legal framework of Tudor England, do not bear significantly on this survey. Yet an examination of relevant proclamations throughout this period provides a mechanism whereby the assumptions of the central government as to knowledge of legislation amongst its subject officers can be assessed. Some contemporary proclamations made specific references to various statutes, and these can be utilised to examine the central governmental assumptions about contemporary legislative knowledge. For instance, two proclamations from 1531 both referred to the

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<sup>139</sup> *The statutes or ordinaunces concernynge artificers, serauntes, and labourers, iourneymen[n] and prentises drawn out of the common lawes of this realme, sith the tyme of Edward the fyrst, vntyll the thyrde and fourth yere of oure dread soueraygne lorde Kynge Edward the .vi. wyth the statute and order of the measuryng of landes*, Iohn Tysdale (London, 1562) STC (2nd ed.) / 9344, ff. 25-26.

<sup>140</sup> LP 14(1), no. 1227.

<sup>141</sup> TRP 1, no. 274 (p. 377); TRP 2, no. 396 (pp. 18-19); see also TRP 1, nos. 141 (pp. 211-212), 250 (p. 352-353); TRP 2, nos. 416 (pp. 46-48), 445 (pp. 92-93), 483 (p. 173), 622 (pp. 415-417); see also *A proclamation concernynge apparayle, mayntenaunce of archerye, punysshemente of beggers, and unlawfull games*, Tho. Berthelet (London, 1536[?]) STC (2nd ed.) / 7788.



*1531 Act*.<sup>142</sup> Dated to only a few weeks after the prorogation of parliament, these both mentioned some of the injunctions of the recent statute. These were addressed to the Mayor and Sheriffs of the city of London specifically, indicating that these officers were expected to have immediate knowledge of the new legislation and to act upon it accordingly.<sup>143</sup>

Two later proclamations from the early 1550s note a three year residency qualification ‘according to the tenor, form, and effect of the statute [...] lately made and provided’.<sup>144</sup> Whilst this could have meant the *1531 Act*, as it contained such a residential criterion, it is more likely to have been a reference to the then recent *1550 Act*, which contained a similar requirement.<sup>145</sup> That the 1550 proclamation was another directed specifically to the officers of London again suggests that they were expected to have been informed of novel legislative requirements relatively rapidly.

Another group of persons who on the basis of proclamations seem to have been expected to have had knowledge of recent legislation were those who attended the royal court. In a proclamation of 1542 ordering ‘that all vagabonds, mighty beggars, and other idle persons which do haunt and follow the court, do depart from thence within 24 hours after

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<sup>142</sup> *TRP* 1, no. 132 (pp. 198-199).

<sup>143</sup> *TRP* 1, no. 132 (pp. 198-199). These proclamations may have been ‘courtesy’ documents, more a means of reminding officers of responsibilities, and facilitating the publication of powers these officers may have been granted by statute to a wider audience, than necessarily being the means by which they became informed of new law. Nonetheless, the point remains that these attest to relatively contemporary expectations that such officers *would* know about the law.

<sup>144</sup> *TRP* 1, nos. 356 (pp. 489-490), 371 (pp. 514-518).

<sup>145</sup> 22 Hen VIII c.12.3, *SR* 3, 329; 3&4 Edw.VI.c.16.4, *SR* 4, 115; Hughes and Larkin give the statute as 1 Edw.VI.c.3 (the *1547 Act*) but that had by that time been explicitly repealed.

this proclamation', reference was clearly made to the *1542 continuation statute*.<sup>146</sup> This suggests that even the renewal or continuation of certain laws was something which may have been publicly known beyond the confines of parliament or the legal profession.

Whilst the rapidity with which a new act was more widely dispersed and its injunctions advertised is difficult to assess, it is possible to somewhat examine the implementation of a government measure through reference to a proclamation dated to 1530.<sup>147</sup> There is an extant record of payment from the treasury of the King's Chamber to Thomas Berthelot 'for printing 1,600 papers and books of proclamation for ordering and punishing sundry beggars and vacabundes'.<sup>148</sup> This provides some sense of the scale of at least one proclamation event. Assuming that this payment was in part for the 1530 proclamation which has survived then it can be seen as an outline of the main duties of justices, mayors, and constables which would soon follow under the *1531 Act*. There is no certainty as to the date of actual proclamation, despite the printing date, but it could perhaps be assumed that this was intended to complement, or perhaps even preface, the new legislation. That it was written before the legislation, or was intended to be proclaimed ahead of the *1531 Act*, may be inferred from the difference in licence formula between that in the proclamation and that given for the same purpose in the provisions of the *1531 Act*, as well as the early printing date.<sup>149</sup> These formulae stipulated the format of the documents given persons, such as that detailing when beggars had been punished and

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<sup>146</sup> *TRP* 1, no. 204 (p. 303). Note that the date given by Hughes and Larkin is too early. The proclamation referred a statute that post-dated 16 January 1542: 33 Hen.VIII.c.17, SR 3, 853.

<sup>147</sup> *TRP* 1, no. 128 (pp. 191-193); note that at footnote 1 on page 191 the editors have incorrectly added the statute 22 Hen .VIII.c.12 and given the date as 1530 instead of 1531 which is more usual.

<sup>148</sup> *LP* 5, no. 686 (p. 322); the payment was also for 'dampnyng of books containing certain errors' which may indicate close government supervision of the particular message being delivered.

<sup>149</sup> *TRP* 1, no. 128 (p. 193); 22 Hen.VIII.c.12.9, SR 3, 331.

the conditions of their return home. What seems likely therefore is that these copies of the proclamation were distributed throughout the realm at government expense and were intended to inform officers of new duties as well as demand their performance. This 1530 proclamation, however, is of a sort that is different from many other surviving proclamations, which, through limited discussion of required activities within the texts, generally imply therefore that the knowledge of those requirements is evident. The 1530 proclamation does not appear to have made any such presumption and is therefore somewhat anomalous.

In addition to proclamations, letters from the monarch to his or her officials may also have instructed readers in their legal duties. Like proclamations, for the most part these seem to be general injunctions that the law be enforced, such as that directed to sheriffs of the realm in 1516, without necessarily demonstrating what that law was thought to have been for the benefit of the modern historian.<sup>150</sup> Two that were directed to justices throughout the county of Norfolk in 1537 indicate that the readers were probably presumed by the author to have been familiar with the *1531 Act*.<sup>151</sup> On at least one occasion the public reading of such a letter was reported to have occurred, which highlights that such letters were possibly intended as a means of disseminating general legislative information, if not the specific injunctions contained in such legislation.<sup>152</sup>

The above discussion indicates that legislative information was disseminated through a number of channels and indicates that copies or abridgements of legislation were widely

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<sup>150</sup> *LP* 2(1), no. 2579.

<sup>151</sup> *SP* 1/121, 25-26 [*LP* 12(2), no. 14 (ii & iii)].

<sup>152</sup> *LP* 17, no. 303.

available, although the latter were not always accurate. Sessional copies and thematic or general compilations of statutes were available for justices to acquire either through purchase or at government expense. Twice in the 1530s it seems that the central government facilitated the dissemination of such information through the distribution of proclamations in the early 1530s and books for justices of the peace later in the decade. Yet in these instances the central government may have been unusually involved in the widespread dissemination of legislative information. It is unlikely that the central government facilitated the regular distribution of such volumes as there is insufficient evidence to conclusively demonstrate that such regular distribution occurred. There is thus an important connection, which requires later exploration, between the legislative novelty apparent in the 1530s and the effort taken by the central government to ensure that the new legislation was widely advertised and available.

Yet, as already noted, the central government was not necessarily restricted to widespread distributions of legislative information. A 1561 memorandum from York indicated that ‘one booke in prynte of diverse lawes and statuts [...] was annexed to the said Commyssion’ that the city had recently received, highlighting that later in the century the central government at least occasionally distributed legislative information to specific audiences.<sup>153</sup> Letters of commission such as those sent to York in the 1560s and early 1570s highlight a further, direct form of government instruction, which in the 1561 case, at least, provided the city with complementary legislative information.<sup>154</sup> However, these

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<sup>153</sup> *YCR* 6, 23.

<sup>154</sup> *YCR* 6, 23, 65, 86, 127; *YCR* 7, 35.

commissions also highlight how the dissemination of legislative information is only half of the story.

### ***Statutory information part 2: local reception***

The various magistrates and officers of Tudor England thus appear to have had access to information about their statutory responsibilities and authority from various sources.

They may have purchased compilations of statutes, either by session of parliament, or as thematic volumes, or they may have acquired books for justices of the peace. In some instances they may have received some of these sources of statutory information at royal expense. Yet, in order to properly assess the implementation of statutes within the urban context, it is necessary to attempt to ascertain how far this statutory information which was available actually reached the governments of Tudor towns. As noted, York received some book of laws, but it is necessary to investigate how well informed urban governments were as to their statutory responsibilities and authority and how current their statutory knowledge was. In larger and older towns such as these, the collation of statutory information was probably part of older habits of governance. What the present discussion facilitates, however, is an understanding of the degree of statutory information available to these towns throughout this particular period. This will in turn facilitate more detailed assessments of the role of those statutes which addressed beggary, vagabondage and the relief of the poor in the sixteenth-century urban context.

The financial records of urban corporations provide a considerable amount of information with which to examine the contemporary reception of legislation. Details of the acquisition of statutes remain in many corporate accounts, which can demonstrate the currency of information about legislation available to those particular corporations. For instance, in 1536 the corporation of Norwich purchased ‘a bocke of the newe actes’ at a cost of ten shillings.<sup>155</sup> Whether this was a book of statutes from a particular session or from an entire parliament is difficult to determine, but it suggests urban concern to maintain current legislative knowledge. The fact that this was a book of ‘newe actes’ probably suggests it was a sessional compilation. The case of Bristol is much clearer. There are payments for books of statutes in the surviving mayoral audit books which indicate a regular supply of legislative documentation throughout the 1530s, 1540s and 1550s.<sup>156</sup> A number of these specifically noted that they were ‘the Statutis of the last p[ar]lyament’ such as that in 1543, which forms strong evidence that this town at least was not simply replacing old books or buying miscellaneous collections, but was providing itself with the most current legislation possible.<sup>157</sup> Like Norwich, Bristol seems to have been in the business of purchasing sessional compilations of statutes as soon as they were available. Whilst detailed information is not available for all centres, it seems likely that this was a regular activity in such places, one only highlighted through the survival of detailed records from Bristol.

Indeed information about statutes was not only evident in the context of urban government. In 1552 the churchwardens of St Ewen’s parish in Exeter purchased ‘a

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<sup>155</sup> NRO NCR Case 18a/5 f. 131v.

<sup>156</sup> BRO F/Au/1/2 ff. 69, 34; F/Au/1/3 ff. 204, 312, 321, 420; F/Au/1/5 f. 331.

<sup>157</sup> BRO F/Au/1/3 ff. 204, 312, 321.

booke of statutes'.<sup>158</sup> Whilst the purchase of statutes by parishes may not have been as common as that undertaken by urban corporations, this record indicates that even at the parish level information regarding current statute law could be available. It also highlights that it was possible for parishioners to want to know their statutory obligations and responsibilities, possibly in order to fulfil them fully as good subjects of the realm, or as minimally as the statutory provisions allowed.

Both Bristol and Norwich bought copies in 1551 and 1555 respectively of 'the whole statutes of englonde' which were in at least two volumes.<sup>159</sup> York also seemed keen at about this time to make sure it was properly informed of all relevant legislation when, in 1556

Apon the motion of Maister Recorder it was aggreed that a tytlyng of remembrance of such acts of Parliament as be lakkyng within this Chambre shalbe made and delivered to some honest persone of thie Citie goyng to London and he to get all the sayd actes soo wanting fayer bounden togiders there in one booke and bought of the Chambre chardgs to remayne within this hows ready at all tymes for the Citie matters.<sup>160</sup>

This is further evidence that towns were consciously constructing repositories of legal knowledge which will have informed them about their legislatively-derived responsibilities. Bristol also purchased 'the bridgemente of the statutis' in late 1551, which might demonstrate an effort to make legal knowledge accessible to more people

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<sup>158</sup> *The church book of St. Ewen's, Bristol 1454-1584*, eds. Betty R. Masters and Elizabeth Ralph (London and Ashford, 1967), 187.

<sup>159</sup> BRO F/Au/1/3 f. 420; NRO NCR Case 18a/8 f. 58.

<sup>160</sup> YCR 5, 148.

within the government and the urban setting.<sup>161</sup> This activity on the part of urban governments not only indicates that they maintained repositories of legislation, but also that they seem to have broadly conceived of it as their responsibility to maintain a familiarity with current legislation through the creation and maintenance of such repositories. Whilst on some specific occasions the royal government may have provided them with statutory information, this concern on the part of urban governments to maintain current statutory information seems to suggest that the central government did not regularly provide them with copies of all new legislation.

It is worth noting that the level of knowledge of legislation an urban government may have had was potentially bolstered by retaining lawyers. Extant annual payments in York for the ‘ffeyes of lerneyd men’ throughout the 1530s, 1540s, 1550s, and 1560s shows that this town had access to plenty of expert legal advice were it wanted.<sup>162</sup> Norwich too has clear evidence of men ‘learned in the lawe reteyned of the counsel of the said citie’ in the 1530s and 1540s.<sup>163</sup> Whilst the men were for the most part probably retained for legal disputes in which the city was a participant, it is possible that this legal expertise could have been deployed in the service of the legislation concerned with beggary, vagabondage and the relief of the poor. Although not indicative of statutory documentation, the survival of a copy of a mayoral order concerning ‘vacabundes or travelyng men or beggers’ in the records of the Plymouth lawyer Simon Carswylle indicates that even before the sixteenth century such retainers could indeed have been involved in the drafting of local orders and, by implication, the interpretation of

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<sup>161</sup> BRO F/Au/1/3 f. 420.

<sup>162</sup> YCA YC/FA cc.3 f. 133; YC/FA cc.4 ff. 81, 118; YC/FA cc.5 ff. 54v, 104.

<sup>163</sup> NRO NCR Case 18a/5 f. 9v; NCR Case 18a/6 f. 176v.



legislation.<sup>164</sup> This is therefore a pointed reminder that the towns under study were not necessarily in the dark as to their legal obligations and responsibilities.

Perhaps the most effective mode of assessing corporate access to legislative injunctions however is through detailed examination of the actions taken by town governments.

Whilst there are plenty of examples of towns performing actions that fit within legislative parameters, it is instructive to focus solely upon those urban government actions which are done with explicit reference to the statutory regime. For instance, in York in 1505

my lord Maier comaunded every wardeyn in his ward and every constable in his pariche to voyd all beggers and vacabunds according to the Acte of Parliament therupon proclamed.<sup>165</sup>

Thus the authority of statute law was invoked within the city records with respect to action taken towards beggars and vagabonds. Throughout the first three-quarters of the sixteenth century there was a common formula expressed in the York records where action was to be performed ‘according to the statuts’ such as in 1515, ‘accordyng to the kyngs acts’ in 1543, or with ‘dew execucon of the statuts’ in 1563.<sup>166</sup> Indeed a search of relevant volumes of *York Civic Records* reveals at least twenty-one specific entries concerning beggars or vagabonds which use such formulae from 1505 to 1572.<sup>167</sup> Thus the York authorities appear to have been not only aware of statutory requirements, but also keen to demonstrate within their records that they derived their authority to act in

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<sup>164</sup> *Calendar of the Plymouth municipal records*, ed. R. N. Worth (Plymouth, 1893), 70: Probably c. 1486-7, this record ordered imprisonment for such persons and therefore reflects some of the provisions of then current legislation.

<sup>165</sup> *YCR* 3, 11.

<sup>166</sup> *YCR* 3, 46; *YCR* 4, 93; *YCR* 6, 60.

<sup>167</sup> *YCR* 3, 11, 46, 133; *YCR* 4, 30, 93, 124; *YCR* 5, 33, 71, 114, 141; *YCR* 6, 14, 54, 60, 61, 109, 111, 138, 141; *YCR* 7, 2, 5, 53.

such manner from statute law. Norwich also used the formula ‘accordyng to the said statute’ in 1536 and ‘accordyng to the statute’ in 1551.<sup>168</sup> This highlights a similar practice to York in that in the context of local government decision-making there was documentary reference to, and therefore reliance on, legislation regarding beggary, vagabondage and the relief of the poor. Even the *Exeter Act Books*, which contained relatively little record of urban action regarding beggars or vagabonds, noted statutory authority for some punitive action undertaken.<sup>169</sup>

The date and nature of any urban government measures can be tested against the known statutory regime in order to gain an insight into the strict statutory legality of urban action. For instance the date and content of the 1505 memorandum from York just noted, having referred as it did to a singular act for beggars and vagabonds, suggests the *1504 Act* was that referenced.<sup>170</sup> Such an analysis helps to provide evidence of the knowledge of the statutory regime on the part of the urban governments which supplements the above discussion. For example the entry just noted strongly suggests that in 1505 the York government had access to, or knowledge of, the *1504 Act*. A proper analysis of the timing of urban and statutory actions and injunctions necessitates some revision of the urban experimentation model. Urban action can furthermore be placed within a statutory framework, not only of legislation as standing, but of legislation as understood in a provincial urban setting.

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<sup>168</sup> *RCN* 2,167, 175.

<sup>169</sup> *CDRO AB IV*, ff. 2, 12v.

<sup>170</sup> *YCR* 3, 11.

As noted above in the discussion of the continuation history of the *1536 Act*, the Norwich mayoral court explicitly noted ‘the acte for beggers made in the xxvij yeer’ in an order of 5 July 1536, which is a rare instance of a particular statute being mentioned in urban records from this survey.<sup>171</sup> This would suggest that Norwich had access to a copy of the *1536 Act*, or at least knew of the general injunctions, in approximately three months after the dissolution of the parliament in which the *1536 Act* was made. This may indicate that the Norwich Members of Parliament had brought copies of new statutes home with them. That the York government implemented the *1536 Act* in 1538 has already been demonstrated, which highlights the knowledge of the provisions of that statute within the northern provincial centre, two years after being made law.<sup>172</sup>

In 1570, after perhaps a generation, the York government attempted to make the idle work and invoked the authority of the ‘statuts in such cases provyded’, which were given as ‘*anno* xxiiij Hen. viij et *anno* i Ed. vi’.<sup>173</sup> There is however no relevant or even vaguely relevant act from the twenty-fourth year of Henry VIII’s reign so presumably this is scribal error, the intended statute being the *1531 Act*; whilst the Edwardian act was presumably the *1547 Act*, long since repealed. This fits with the suggestion within the preamble to the *1572 Act* that there was some confusion as to the particular laws in force between the late 1560s and early 1570s.<sup>174</sup>

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<sup>171</sup> *RCN* 2, 167.

<sup>172</sup> *YCR* 4, 30, 93, 124.

<sup>173</sup> *YCR* 7, 2.

<sup>174</sup> 14 Eliz.I.c5.1, *SR* 4, 590.

The notation of statutory injunctions or authority within the York records provides a particularly revealing challenge to the urban experimentation model with respect to urban collections for the relief of the poor. As noted, the *1536 Act* was apparently implemented in York and Norwich in the 1530s. However the usual date given by historians for the commencement of urban collections within English towns is the middle years of the century.<sup>175</sup> This may however have been a product of the lack of legislative provision, whereby towns asserted their own legal authority when statutorily-authorised urban collections were absent between 1540 and the 1552. The margin notes in the *Statutes of the Realm* edition of the *1547 Act* note parochial collections and Davies in his discussion of the statute affirmed such an element, but the relevant clause made no such provision.<sup>176</sup> The *1547 Act* did not authorise parish collections on the 1536 model but simply called, as did its predecessor, for the clergy to exhort their parishioners to charity on a regular basis. Close analysis of the records of York and Norwich appear to confirm this assertion that civic rather than statutory authority was deployed with respect to mid-century urban collections in the wake of the *1547 Act*.

In early 1550 the York government ordered weekly collections for the sick and poor.<sup>177</sup>

As part of this it instructed

the constables and the hede beggars of every warde forthwith to avoyde all  
straunge beggars accordyng to the Kyngs Acts and Statuts therof had and  
provided.<sup>178</sup>

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<sup>175</sup> P. Slack, 'Great and good towns 1540-1700', in P. Clark (ed.), *The Cambridge urban history of Britain volume 2 1540-1840* (Cambridge, 2000), 365.

<sup>176</sup> 1 Edw.VI.c.3.12, SR 4, 8; Davies, 'Slavery and protector Somerset', 536. See Chapter Five for a detailed discussion of collections.

<sup>177</sup> YCR 5, 33-34.

Thus the statutory regime was invoked for punitive action. However the city did not refer to the authority of statute law in detailing the collections. Indeed, two other memoranda from this period when the legislation did not provide for collections contained no reference to statutory authority when ordering collections to have been undertaken.<sup>179</sup> Another memorandum from early 1552, which predates the reintroduction of statutory collections in that year, noted statutory authority but again did so only with respect to punishment.<sup>180</sup> It is worth noting that two of the collection memoranda from 1550 and 1551 used a similar textual formulation that noted how ‘The sayd presens dyd tayke one order’ for relief of the infected and poor.<sup>181</sup> This apparently meant that the city had invoked the corporate authority of the city government to draw funds from the inhabitants in such a manner.

An argument that the city of York had effectively passed its own by-law enabling collections is further strengthened when these memoranda are examined within the wider sequence of specific collection memoranda and the ability of towns to make such by-laws. In 1538, the city had invoked statutory authority to institute collections for the sick and poor similar to those of the early 1550s.<sup>182</sup> Furthermore, once statutory authority for collections had been restored, the city clearly noted those who were ‘to be relieved accordyng to the statuts’ in 1555, that ‘gatheryng shall contynewe for relief of the poor of the same accordyng to the statut’ in 1561, and ‘that collection shalbe made weekly in

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<sup>178</sup> *YCR* 5, 33.

<sup>179</sup> *YCR* 5, 35, 50-51.

<sup>180</sup> *YCR* 5, 71.

<sup>181</sup> *YCR* 5, 33, 50.

<sup>182</sup> See above.

every parich for relefe of the poore, as hath ben, accordyng to the statute' in 1563.<sup>183</sup> This clearly indicates that reference was made within the text of corporate memoranda to statutory authority when such was available.

When the Norwich Assembly 'enacted' assessment and collections for the poor in 1549 it did so without any reference to statutory authority.<sup>184</sup> When the entry cited the 'ffull power and auctorytie by this acte' to authorise action taken against those who refused assessment, the language may seem to hint at statutory authority, but only conforms to the standard phrasing of city ordinances.<sup>185</sup> In this case the 'acte' was simply the city ordinance itself. This was not the first instance of collections in Norwich within this period, however. In 1548, a little over a month after the *1547 Act* had not provided for collections as had the *1536 Act*, the Norwich Mayoral Court gave instruction 'that euery Alderman shall procure and exhorte euery dweller in ther warde to giffe to the mayntenaunce, sustentacion and releeff of the pore'.<sup>186</sup> Whilst in 1551 the Mayor cited statutory authority for conducting 'a perfect serche of all shuche poore peopull as ben resydente', no such reference was made within the same entry for the certification of those 'chargeable to the relief of the poore'.<sup>187</sup> Thus Norwich too seems to have invoked its corporate authority at this time to implement collections despite clear reference to statutory authority when possible.

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<sup>183</sup> *YCR* 5, 114; *YCR* 6, 14, 54.

<sup>184</sup> *RCN* 2, 126.

<sup>185</sup> *RCN* 2, 126: By 'acte' the city meant their decision, which was a frequent use of the term. In this case it was therefore not a reference to an act of parliament. Statutes were generally mentioned with explicit reference to parliament.

<sup>186</sup> *RCN* 2, 173.

<sup>187</sup> *RCN* 2, 175.

The implementation of what resembled past statutory injunctions by urban authorities in the mid sixteenth century provides an explanation as to why there was a grouping of such recorded urban action in England within a few short years. Yet considering the above revision of the effect of the *1536 Act* it is worth considering whether records such as these indicate the commencement of corporate activity or simply the first available evidence. In York and Norwich there had clearly been corporate activity related to the *1536 Act* which preceded their mid-century collections. Further investigation of the implementation of the provisions of the statutory regime in York, Norwich, Exeter and Bristol follows in subsequent chapters. This examination has highlighted that the relationship between parliamentary and corporate authority was a complex one. Corporate authority could be invoked where parliamentary sanction was lacking, yet at the same time it was necessary for urban corporations to stay acquainted with the statutory regime and to demonstrate their application of it where possible. The above revision of the statutory regime has also highlighted, despite short periods of confusion, a greater continuity throughout the sixteenth century than has generally been granted. This in turn provides a more stable statutory context within which the provisions of these statutes were to have been implemented. This thesis now turns to address the main elements of that statutory regime regarding beggary, vagabondage and the relief of the poor by addressing each of those elements in turn.

### Chapter Three: ‘...he ys authorysed to begge’<sup>1</sup>: The regulation of beggary

This chapter examines the statutory regulation of beggary in England in the first three quarters of the sixteenth century. Such regulation had two main aspects: the authorisation of beggary in certain circumstances, and the provision of mechanisms of punishment for unauthorised beggars. In this broad sense there was nothing conceptually new in the Tudor statutes. As early as the *1388 Act* statute law had provided for the punishment of beggars, yet had also sanctioned some forms of begging.<sup>2</sup> Those beggars to have been punished under the provisions of the *1388 Act* were those that ‘goeth begging, and is able to serve or labour’.<sup>3</sup> Yet the *1388 Act* also provided for two broad exceptions to this principle. The first was that beggars were not to have been punished if they were a local impotent person.<sup>4</sup> This left a presumption that the local aged, sick and crippled would have been allowed to beg. Because the capacity to labour was an essential requirement of the application of punishment, it was such persons who were unable to labour who were allowed to beg within their home locality. The other means by which beggars were exempted from punishment under the *1388 Act* was through the possession of appropriate ‘Letters testimonial’ of their superiors.<sup>5</sup> These were documentary attestation of the bearers’ status as religious, pilgrims, or ‘Men travelled out of the Realm’ who had been imprisoned in other countries and were begging their way home or for a ransom.<sup>6</sup>

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<sup>1</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>2</sup> 12 Ric.II.c.7-10, *SR* 2, 58.

<sup>3</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>4</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>5</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>6</sup> 12 Ric.II.c.7-8, *SR* 2, 58.



This broadly-conceived regulatory construction of beggary was retained in the *1495* and *1504 Acts*, whereby authorised begging was still restricted to the local infirm or those with authorising letters.<sup>7</sup> According to this schema in place at the commencement of the sixteenth century, beggars had a burden of proof to bear in order to avoid punishment. They could achieve this through two ways: they had to demonstrate infirmity and local residency, or they had to provide documentary evidence in support of their claimed right to beg. This binary treatment of beggars evident in these statutes, whereby beggars were allowed to beg or were punished, seems to support a general scholarly agreement that in late medieval and early modern Europe there was a contemporary distinction made by policy-makers between the worthy and the unworthy poor.<sup>8</sup> However, the attribution of a division between worthy and unworthy *paupers* to sixteenth-century statutes that regulated *beggary* is methodologically problematic as it is to apply terms that were not part of the contemporary vocabulary.

During the sixteenth century some forms of what had been authorised begging lost statutory sanction, yet begging was not completely prohibited by statute during the period addressed in this thesis. The changes in the regulatory approaches to beggary evident in these statutes are addressed in this chapter so as to redress the scholarly perception that '[s]ixteenth-century policy-makers seem to have been very inconsistent with their attitude to begging' and that beggary was 'enveloped by legal ambiguity'.<sup>9</sup> Indeed, analysis of the

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<sup>7</sup> 11 Hen.VII.c.2.2, *SR* 2, 569; 19 Hen.VII.c.12.2, *SR* 2, 656.

<sup>8</sup> P. Slack, *Poverty and policy in Tudor and Stuart England* (London and New York, 1988), 17-32; C. S. L. Davies, 'Slavery and protector Somerset: the vagrancy act of 1547', *The economic history review*, new series, 19 (1966), 533-49.

<sup>9</sup> S. Hindle, *On the parish? The micro-politics of poor relief in rural England c. 1550-1750* (Oxford, 2004), 67.

details of the administrative approaches to beggary detailed in the legislation indicates a significant degree of consistency as demonstrated below.

It has long been thought that various statutory regulations had local precedents in the larger provincial towns.<sup>10</sup> This chapter addresses the degree to which statutory changes with respect to beggary were indicative of contemporary practice in the provincial towns of York, Norwich, Exeter and Bristol. In so doing, it also provides scope for analyses of the effect of statutory changes within these towns, especially considering the apparent willingness to abide by statutory injunctions detailed in the previous chapter.

These aims are addressed through a discussion of the principal statutory concepts in turn. The role of the statutes in defining what constituted acceptable beggary is discussed first. This is done through reference to the sanction given explicitly or implicitly to certain forms of beggary and mechanisms detailed in the legislation and adopted in towns with respect to such beggars. This is followed by a discussion of the second statutory approach to beggary, which was the provision of mechanisms for the punishment of unauthorised beggars. This provides a means of further assessing the relationship between the statutory regime and the policies implemented in the urban context. Finally, the chapter addresses the master beggars of the sixteenth-century town, who provide a unique and rarely considered means of addressing local approaches and attitudes towards beggary within the urban context. These figures are important to any appreciation of the relationship

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<sup>10</sup> E. M. Leonard, *The early history of English poor relief* (Cambridge, 1900). See Chapter One for a discussion of this historiographical tradition.

between statutory action and urban policy, as well as the degree to which urban policy reflected traditional practices and statutory policy was derived from urban approaches.

### *Authorised beggary*

Prior to any changes wrought to the statutory regulation of beggary by the legislation of the 1530s there were two forms of authorised beggary. A beggar could, for instance, avoid punishment by having documentation to attest his status as a scholar. Alternatively, they could be a local infirm person, and thus entitled to beg by virtue of their situation. According to the *1531 Act*, however, all of these local infirm persons forming the second group of authorised beggars were to be given ‘a letter conteynyng the name of suche ympotent person & wytnesseng that he ys authorysed to begge & the lymyttes within whiche he ys apoynted to begge’, signed, and with a particular seal affixed.<sup>11</sup> Therefore, from that point, beggary was no longer authorised by document or convention, but rather only by document.

In this instance the statute law seems to have adopted some of the concepts of contemporary urban practice. Badges had been used for beggars in a number of towns prior to the 1530s as will be addressed shortly. Yet the *1531 Act* clearly had an impact on local practice in at least one town. In June 1531 a memorandum from the mayoral court in Norwich described the form of a seal for impotent persons authorised to beg, three

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<sup>11</sup> 22 Hen.VIII.c.12.1, SR 3, 328.

months after the passing of the *1531 Act*.<sup>12</sup> The seal was to have contained the arms of the city and the label:

THE CITIE OF NORWICH

IMPOTENT PERSONS<sup>13</sup>

The *1531 Act* had instructed that the seals used to authenticate begging licenses ‘be engraved wyth the names of the Hundreds Rapes Wapentakes Cyties Buroughes Townes or Places’ and so the Norwich form of seal appears to have been a response to these requirements.<sup>14</sup> Thus it is clear that in Norwich at least, the new requirements of the *1531 Act* were indeed implemented. That the city beggars were instructed to ‘beg after the olde custome as thei haue done before’ strongly suggests that such authorised begging was already a feature of the city, even if the city may have adopted a novel form of authorisation in response to new legislation.<sup>15</sup> However, rather than documentary licenses, urban beggary seems to have been generally regulated before and after the *1531 Act* through the provision of badges for the authorisation of local beggars.

### *Beggar badges*

As early as 1515 the government of York had instructed ‘that every beger that is not able to labour have a token upon his sholder of his overmost garment that he may be knowen’.<sup>16</sup> These tokens were apparently intended to facilitate the following instruction in the same memorandum ‘that all other beggers be punysshed according to the statuts for

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<sup>12</sup> *RCN* 2, 161; NRO NCR Case 16a/2, f. 243/286.

<sup>13</sup> *RCN* 2, 161; NRO NCR Case 16a/2, f. 243/286.

<sup>14</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>15</sup> *RCN* 2, 161; NRO NCR Case 16a/2, f. 243/286.

<sup>16</sup> *YCR* 3, 46.

this made.’<sup>17</sup> This too demonstrates the effect of statutory provision for the regulation of beggary. The use of badges was a means of facilitating the distinction between authorised and unauthorised beggars, where the badge fulfilled the function of identifying the localness of the beggar in question. Subsequent memoranda noted tokens in 1518 and 1528, and such authorisation of beggary can be confidently inferred for 1530.<sup>18</sup> Other towns also appear to have utilised tokens at this time. London, for instance, was reported by Leonard as having deployed ‘Tokens of pure white tin’.<sup>19</sup> Thomas noted the use of cloth badges in Shrewsbury in 1517, and the provision of badges in Gloucester as early as 1504, possibly connected to application of the statute of that year.<sup>20</sup>

This use of tokens and badges pre-dates the *1531 Act* and traditions of use may have reached back centuries. Some historians such as Wood have noted that beggars’ badges were instituted in the sixteenth century as a response to, or as a countermeasure to potential, social disorder.<sup>21</sup> Others, such as Clark and Slack, have indicated that the institution of badges ‘[i]n the early Tudor era’ was designed ‘to preserve the façade’ of an urban community’s notion of itself, or at least that notion held by the city elites, in the face of changing circumstances, before collections were introduced in response to ‘the friction of overwhelming poverty.’<sup>22</sup> Whilst such suggestions bear some relevance to the specifically sixteenth-century use of these badges, these explanations are forward-looking in that they are focused on what was perceived to have been a contemporary desire to

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<sup>17</sup> YCR 3, 46.

<sup>18</sup> YCR 3, 66, 111, 133.

<sup>19</sup> Leonard, *The early history of English poor relief*, 26.

<sup>20</sup> J. H. Thomas, *Town government in the sixteenth century* (London, 1933), 115.

<sup>21</sup> A. Wood, ‘Kett’s rebellion’, in C. Rawcliffe and R. Wilson (eds.), *Medieval Norwich* (London and New York, 2004), 294.

<sup>22</sup> P. Clark and P. Slack, ‘Introduction’, in P. Clark and P. Slack (eds.), *Crisis and order in English towns 1500-1700: essays in urban history* (London, 1972), 19.

restrict relief. Yet such badges need to be seen on their own terms, not just as potential prototypes for later policies regarding parish relief and the division between worthy or unworthy paupers, especially considering that a detailed examination of the use of beggars' badges indicates that they were used in urban contexts well into the period in which urban collections were undertaken, and were thus complementary to the later practices regarding the provision of relief. There is evidence from both York and Norwich which indicates the use of beggars' badges during the 1540s and 1550s and in York until at least the late 1560s.<sup>23</sup>

Likewise, the apparent appearance of badges in the source material from the early sixteenth century is not definitive proof that such items had not existed earlier. Indeed, when examined from a material standpoint these badges may have longer traditions of use than is generally allowed them. In a discussion of 'charity tokens', which was essentially metallic coinage with some perceptible or reasonably extrapolated charitable function, Courtenay suggested they were probably a feature of the thirteenth-century world.<sup>24</sup> Although Courtenay's discussion indicates that he understood token coinage to have a recognitive function through possession, presentation or exchange, the wearing of such tokens was not something he addressed.<sup>25</sup> Courtenay perceived an increase in the use of charity tokens in the fourteenth and fifteenth centuries.<sup>26</sup> Urban badges and tokens authenticating beggary are possibly an evolution of such medieval charity tokens.

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<sup>23</sup> YCR 4, 62, 145; YCA House Book vol. 15, ff. 41-41v; YCR 5, 116; YCR 6, 150-151; NRO NCR Case 18a/6, ff. 114-114v; NCR Case 16d/3, f. 43v; NCR Case 16c/3, f. 95; RCN 2, 132-133.

<sup>24</sup> W. J. Courtenay, 'Token coinage and the administration of poor relief during the late middle ages', *Journal of interdisciplinary history*, 3 (1972), 282.

<sup>25</sup> Courtenay, 'Token coinage', 280.

<sup>26</sup> Courtenay, 'Token coinage', 290.

Badges were a convenient means of visually authenticating a beggar and it is telling that some of the earliest memoranda which detailed badges for beggars did so with reference to statutory punishments. The badges made in York in 1555 were to ‘be made on shields’, which indicates their visual role.<sup>27</sup> In discussion of the phenomenon Thomas stressed this advertising function of the badge ‘whereby the authorized beggar could be instantly recognized’.<sup>28</sup> An earlier York requirement that the tokens in use be worn on ‘the sholder of his overmost garment’ further indicates their role in identification, something not required by the licensing provisions of the *1531 Act*, but which may indicate contemporary or traditional practice.<sup>29</sup> There had been a long tradition of servants of lords and pilgrims wearing badges of course from which such practices may have borrowed when applied to local beggars. Yet whilst the badges used in Shrewsbury were of cloth, those of most other centres appear to have been metallic, which supports an argument that they may have developed from medieval token coinage in addition to the borrowing of wider social customs.<sup>30</sup> Badges were made of lead in York and tin in Norwich, and this material durability indicates why city records did not often mention them, as they would probably not have required frequent replacement.<sup>31</sup>

The mention of badges for beggars in a 1541 York memorandum demonstrates the continued importance of badges in urban regulation of beggary beyond the *1531 Act*. This ordered

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<sup>27</sup> *YCR* 5, 116.

<sup>28</sup> Thomas, *Town government in the sixteenth century*, 115.

<sup>29</sup> *YCR* 3, 46.

<sup>30</sup> Thomas, *Town government in the sixteenth century*, 115.

<sup>31</sup> *YCR* 6, 150; NRO NCR Case 18a/6, ff. 114-114v.

that no beggers from nowfurth goe of beggyng, but suche as shalbe admytted and to have badgs<sup>32</sup>

Clearly some begging was still allowed and badges continued to be the main means by which the local beggars were authenticated in some urban contexts. Likewise, the manufacture of ‘newe badges’ in 1555 in York indicate that badges continued to feature into the period when urban collections were being undertaken.<sup>33</sup> When York provided new badges in 1555 and likewise in 1556, these were however ‘for suche the poore as be admytted to have releif’, suggesting that perhaps beggars’ badges had been replaced with ‘pauper’ badges for those on parish relief.<sup>34</sup> Yet this may not have been such a contradiction as it might seem to those who see the collection for the poor as a system which replaced authorised beggary.<sup>35</sup> Badges distributed in 1569 in York were ‘for the poor of this Citie admytted to begg’, and even in 1557 Norwich was clearly deploying badges for ‘poore folkes’ which facilitated their having gone ‘about a begging’.<sup>36</sup> Beggars’ badges did not therefore directly give way to paupers’ badges any more than authorised beggary was abandoned with the advent of urban collections for the relief of the poor.

The post-1531 statutory use of licenses for beggars is a complex issue which will be addressed shortly; suffice however to note that begging was in various forms still sanctioned by statute. The use of urban beggars’ badges in York was clearly not greatly

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<sup>32</sup> YCR 4, 62.

<sup>33</sup> YCR 5, 116.

<sup>34</sup> YCR 5, 116, 141.

<sup>35</sup> Whilst most scholars recognize that beggary was authorised occasionally from the mid 1550s, there still remains a suggestion that the late 1540s and early 1550s statutes *intended* to prohibit beggary and that the later licensing was a concession to necessity, yet this is something not borne out by the legislative provisions: Slack, *Poverty and policy*, 123.

<sup>36</sup> YCR 6, 151; RCN 2, 133.



affected by the legislative changes of the 1530s, however, as the notion of licensing local beggars had already been put in practice. The same is true for a number of towns in England at that time, as already mentioned. York memoranda from 1555 and 1569 indicated that the city badges used in York by those points were to have been ward-specific.<sup>37</sup> Earlier references, such as that from 1518, instructed ‘that the poremen beggars of this Citie shall have tokens giffen to be knowen and delivered by the wardeyns of every warde’, which may indicate ward-based divisions much earlier.<sup>38</sup> This use of wardens may have simply been the distributive mechanism at that point, however, and cannot confirm ward-specific badges. The 1531 Norwich seal for beggars’ licenses was explicitly for the whole city and may indicate that authenticated beggars within Norwich were not restricted in such a way.<sup>39</sup> However, as that seal was not necessarily related to the badges later used, such ward-based division may have been possible in subsequent years. Ward-based divisions reflect the structure of urban government, but also indicate that the population granted authorisation to beg by the city were in some sense resident, which again highlights the role of these badges as authenticators through providing evidence of localness. The badges will have enabled city officers and potential donors of charity to identify a beggar as belonging to a particular area. Yet the apparent sense of this system did not translate into statutory action in the *1531 Act*, which whilst providing for licenses, did not provide for badges.

Yet badges appeared in the statutory regime eventually. The *1555* and *1563 Acts* provided that badges could be provided to urban beggars who were authorised to beg

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<sup>37</sup> *YCR* 5, 116; *YCR* 6, 150-151.

<sup>38</sup> *YCR* 3, 66; see also *YCR* 3, 111.

<sup>39</sup> *RCN* 2, 161; NRO NCR Case 16a/2, f. 243/286.

beyond the city limits.<sup>40</sup> This was clearly a departure from what had been urban practice, however.<sup>41</sup> All earlier use of badges for beggars within an urban context acted to authenticate the local beggars within a local context, not to authenticate beggars within a different context. No licensing of urban beggars for extra-urban beggary has been uncovered for any of the survey towns in this period. Whilst an examination of beggars' badges in the urban context highlights the conceptual operation of local authentication on an urban level prior to the stipulations of the *1531 Act* requiring licenses, the fact that badges were not utilised in the legislation for this purpose may suggest that the legislation was not simply responding to urban practices.

Indeed, as already indicated, there was a tradition of documentary licensing evident long before badges, upon which the *1531 Act* seems to have built. It is thus necessary to turn to the documentary license as used prior to the *1531 Act*, and the stipulations regarding authenticated beggary thereafter. Whilst the late introduction of badges into the statutory regime indicates that legislation was not necessarily closely modelled on urban practice in particular, it does highlight that the legislation was concerned not only to regulate local practices, but to regulate beggary across jurisdictional boundaries.

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<sup>40</sup> 2&3 Phil.&Mar.c.5.10, *SR* 4, 281; 5 Eliz.I.c.3.13, *SR* 4, 413-414.

<sup>41</sup> Carroll believed that use of badges became a 'national policy' for all licensed beggars with the *1563 Act*, but that is clearly based on the terse and misleading marginalia in the *Statutes of the realm*; the statute did not require all licensed beggars to have badges: W. C. Carroll, 'Semiotic slippage: identity and authority in the English renaissance', *The European legacy*, 2 (1997), 212-216.

## *Licensed beggary*

In the late fourteenth century the *1388 Act* was concerned with just this problem of wandering beggars.<sup>42</sup> Whilst urban badges indicated localness, the letters and testimonials which scholars, pilgrims, sailors and others were required to carry enabled them to avoid punishment for begging beyond home territory. These documents also demonstrate that the notion that begging was the primarily conferred on the infirm is not accurate.

Because of the assumption that local infirm persons were entitled to beg without license prior to 1531, most of the limited evidence pertaining to licenses in the early decades of the century was not concerned with persons who would necessarily be considered poor. For instance in 1514 the parishioners of St. Mary Axe in London were granted license to gather alms for the repair of their church.<sup>43</sup> The following year a London grocer named Thomas Cressy was granted licence ‘to ask alms in England for paying his ransom of 250 cr., having been taken prisoner whilst conveying stores to the King’s army in France’.<sup>44</sup> Later in that same year one John Hopton, a gentleman usher of the chamber, was granted a three-year license to gather alms ‘to ransom thirty persons imprisoned at Tonneys, in Barbary, who had been taken prisoners by the Moors’.<sup>45</sup> These licenses were derived from royal letters patent and demonstrate that it was royal authority which in these instances authorised beggary in breach of the default conditions of infirmity and residency. Yet in the late medieval context there were a number of different sources from which beggars could gain authorisation for their begging. The *1388*, *1495* and *1504 Acts*

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<sup>42</sup> 12 Ric.II.c.7-8, *SR* 2, 58; 11 Hen.VII.c.2.2, *SR* 2, 569; 19 Hen.VII.c.12.2, *SR* 2, 656.

<sup>43</sup> *LP* 1, no. 4993.

<sup>44</sup> *LP* 2(1), no. 354.

<sup>45</sup> *LP* 2(1), no. 811.

had stipulated that religious superiors could issue licenses for religious persons.<sup>46</sup> Persons who begged under the heading of religion were an important aspect of the contemporary begging scene often overlooked in surveys of the statutes for the regulation of beggary.

Perhaps the best example of this phenomenon was the mendicant friar. Rubin has noted that in the late fourteenth century ‘the friars were likened to the able-bodied beggar’, but it is important to realise that within the contemporary secular legal framework friars were able bodied beggars.<sup>47</sup> Friars were popular alms-recipients from donors until the dissolution in England in 1538.<sup>48</sup> Like most county towns, each of the four towns surveyed in this thesis had resident friars, with a house each of the Dominican and Franciscan orders, all of which were dissolved in 1538.<sup>49</sup> Although lacking a hospital proctor’s specific alms-gathering function, through their mendicancy friars can be, and were, likened to other institutional proxy-beggars. Friars at least nominally begged on the behalf of their house and derived authority to have done so from their order and the bishop. Even if friars did not carry licenses authorising them to collect alms, their distinctive clothing may have performed a similar function to the badges of the urban beggars described above. Whilst Simon Fish’s *Supplication of the Beggars* of 1529 may have been a heated assault on the clergy, his comment about ‘the infinite nombre of

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<sup>46</sup> 12 Ric.II.c.7, SR 2, 58; 11 Hen.VII.c.2.2, SR 2, 569; 19 Hen.VII.c.12.2, SR 2, 656.

<sup>47</sup> M. Rubin, ‘The poor’, in R. Horrox (ed.), *Fifteenth-century attitudes: perceptions of society in late medieval England* (Cambridge, 1994), 173; Southern has noted that the initial tendency of mendicant friars to live in towns was linked to their dependence on alms and beggary: R. W. Southern, *Western society and the church in the middle ages* (London, 1970), 286-288.

<sup>48</sup> F. A. Gasquet, *Henry VIII and the English monasteries* (London, 1899), 310-330; D. Knowles, *Bare ruined choirs: the dissolution of the English monasteries* (Cambridge, 1976), 245-250.

<sup>49</sup> D. Knowles and R. N. Hadcock, *Medieval religious houses: England and Wales* (London, 1971), 213-214, 222-223.

begging freres' is suggestive of their ubiquity as well as of his disapproval.<sup>50</sup> Whilst friars were not specifically mentioned in the *1531 Act*, the *1536 Act* had a particular clause which permitted friars to continue as highly-mobile beggars despite tighter regulation of begging practices at that time.<sup>51</sup> The inclusion of this proviso at the end of the statute is suggestive of some parliamentary discussion of the effect upon mendicant friars of the vagrancy legislation.<sup>52</sup> In other words, the impact of such legislation on the friars may have been discussed and then factored into the legislation. That friars were not mentioned in subsequent legislation is a fact derived from the dissolution of the mendicant orders in 1538. Yet despite the apparent insignificance of a small provision regarding friars, its inclusion late in the *1536 Act* is instructive of what effect the *1531 Act* may have had. It may have been that there had been friars punished under the provisions of the *1531 Act*.

The *1531 Act* was not always a subtle document. It noted the increase of beggars and vagabonds, described idleness as the 'mother & rote of all vyces', and provided that vagabonds could

be tyed to the end of a Carte naked and be beten wyth Whyppes thoughe oute the same Market Towne or other place tyll his Body be bloody by reason of suche whyppynge,<sup>53</sup>

The application of the punitive provisions of such statutes is more fully addressed below and, to those persons designated as vagabonds, in the following chapter. It is instructive

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<sup>50</sup> Simon Fish, *A supplicacyon for the beggers*, ed. J. Meadows Cowper, Early English Text Society, extra series, 13 (London, 1871), 2.

<sup>51</sup> 27 Hen.VIII.25.27, *SR* 3, 562.

<sup>52</sup> Lehmburg noted that these provisos on this document were amongst the sort demonstrating differing hand and ink from the main text, and therefore probably 'represent amendments added by the originating House': S. E. Lehmburg, 'Early Tudor parliamentary procedure: provisos in the legislation of the Reformation Parliament', *The english historical review*, 85 (1970), 4.

<sup>53</sup> 22 Hen.VIII.c.12.3, *SR* 3, 329.

to recall the *1531 Act* was in force for the better part of four decades after being passed. It therefore marks a defining point in the statutory treatment of beggary. The statutory regulation of beggary addressed the application and avoidance of physical punishment for unauthorised beggary and in this broad schema the *1531 Act* was not unusual or conceptually different. Neither do the differences in punishment make the *1531 Act* an important milestone; rather it is the fact that the *1531 Act* abolished any notion of the authorisation of beggary by default.

The *1531 Act* made it a legislative requirement that all impotent persons be licensed in order to beg. Whereas previously, such infirm persons were authorised beggars provided they were local, the *1531 Act* required documentary proof of such conditions. The first clause of the *1531 Act* ordered that ‘all aged poore & impotent psones whiche lyve or of necessity be compelled to lyve by Almes’ were to be ‘enable[d] to begge’ within set limits.<sup>54</sup> A register was to be kept which detailed those so licensed, and a copy was to be delivered to the justices at sessions.<sup>55</sup> Thus each licensed beggar was to be given ‘a letter conteynyng the name of suche ympotent person & wytnesseng that he ys authorysed to begge & the lymyttes within whiche he ys apoynted to begge’.<sup>56</sup>

As already noted, Norwich conformed with the new legislative requirements by making a special seal so as to authenticate these documents as per the legislative requirement.<sup>57</sup> A further requirement of the *1531 Act* was that officers ‘register & wryte the names of

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<sup>54</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>55</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>56</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>57</sup> See above.

ev[r]y suche ympotent begger (by them apoynted) in a bill or rolle).<sup>58</sup> Disappointingly for the historian, there is considerable evidence which points to material of this nature which is no longer extant, that could have assisted in quantifying the scope of authorised urban beggary. In York in 1528 for instance, the city government requested that ‘all such beggers as er dwellyng within ther wards’ were to have ‘ther names to cause to be written’, suggesting that in this respect some urban towns were ahead of aspects of the legislation.<sup>59</sup> A decade later the city government required that ‘every constable of every parishe shall cause wryte the names of every begger in the parishe’.<sup>60</sup> Similarly in 1546 ‘all constables of this Citie and suberbes shall certifie the said wardens by wrytyng at the next wardemote Courtes of all common beggars that is come within ther said parishes and warde within the space of thre yeres last past.’<sup>61</sup> Not long prior to the latter order, the Norwich government had

ordered that every Alderman in his warde shall make serge wt ther constables what pore pepill goo aboute and begge in ther warde, and how longe thei haue dwellid in the citie, and whose tenauntes thei be, and to certifie thyr names [...]<sup>62</sup>

If these requests for lists and registers of beggars were indeed compiled by city governments, they generally appear not to have survived.<sup>63</sup> One example however has survived for Norwich, apparently in association with the provision of municipal beggars’ badges in 1531.<sup>64</sup> This Norwich list indicates that either fifty or fifty-one persons in

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<sup>58</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>59</sup> *YCR* 3, 111.

<sup>60</sup> *YCR* 4, 30.

<sup>61</sup> *YCR* 4, 145.

<sup>62</sup> *RCN* 2, 172.

<sup>63</sup> This is probably a function of their usefulness only extending for a short period in each city.

<sup>64</sup> *RCN* 2, 161-162: the volume editors believed the list of names to be a ‘schedule of the persons assigned to beg’.

Norwich were authorised municipal beggars at that time.<sup>65</sup> Over a decade later the chamberlain's accounts of Norwich provide some hint of the scale of legitimated municipal begging through the purchase of what appears to be twenty 'tynne badges whiche were delyured togeter wt'.<sup>66</sup> However a remarkable aspect of this payment was the note that 'more remayn afore in stoore to poore peple', which seems to indicate that not all badges were actively deployed at that time.<sup>67</sup>

Approximately mid-century city governments appear to have lost interest in constructing such registers of beggars, but rather focused upon listing the population generally and the poor specifically. For instance in York in 1552 the city government ordered that 'every of the sayd constables with the helpe of the parsones, vycar or curat of the parochie shall lykewise wright the names of every inhabitant and householder within their parochie and also of every impotent, aged and nedy persone within the same.'<sup>68</sup> This memorandum from May might have been in response to the *1552 Act* which had been passed in April and required such registers.<sup>69</sup> Slightly earlier, however, in late 1551, the Norwich government had requested 'the names of every person in wryting which shalbe chargeable to the releif of the poore wtin their parisshe'.<sup>70</sup> Thus again there was municipal precedent somewhere in the realm for a statutory requirement. But the use of these broader lists instead of specific lists of beggars did not mean an end to authorised beggary in either the urban context or contemporary legislation.

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<sup>65</sup> There is a disparity between the total number given by the editors (50) and the sum of the numbers provided by parish (=51).

<sup>66</sup> NRO NCR Case 18a/6, ff 114-114v (i.e. 'to gather with').

<sup>67</sup> NRO NCR Case 18a/6, ff 114-114v.

<sup>68</sup> *YCR* 5, 76.

<sup>69</sup> 5&6 Edw.VI.c.2.2, *SR* 4, 131.

<sup>70</sup> *RCN* 2, 175.



Whilst statutes may have informed officers of mechanisms and policies which they should adopt, letters from the monarch could have achieved the same purpose. Beyond provisions which required the registration and authorisation of beggars were serious legislative teeth that made it clear that unlicensed begging, that is begging by persons without licenses or beyond a licensed limit, was forbidden except for a few specified exemptions.<sup>71</sup> Statutes were mostly concerned with such delineations of power, authority and obligations.

Whilst the legislation may have been modelled on some contemporary practices it was the fact that documentation was required for authorisation, not the fact of authorisation, which demonstrated a clear departure from earlier statutory practice in 1531. However, the *1547 Act* revived a default authorisation for the local infirm which appears to have been continued in the *1550 Act*, despite the revival of the *1531 Act*.<sup>72</sup> Thus after 1550 local infirm persons were statutorily entitled to beg within their home town or parish free from fear of punishment. This may explain the shift in usage of registers from beggars to the poor more generally in urban contexts at this time. This also highlights the anomalousness of those provisions detailed under the *1531 Act* that nominally required all authorised beggars to have had licenses between 1531 and 1547.

Documentary proof of an entitlement to beg was not a new concept in 1531. As noted above, licenses were granted by the crown for a variety of purposes. Perhaps one of the

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<sup>71</sup> 22 Hen.VIII.c.12.2, *SR* 3, 329.

<sup>72</sup> 1 Edw.VI.c.3.9, *SR* 4, 7; 3&4 Edw.VI.c.16.4, *SR* 4, 115.

more interesting examples within the context of a discussion of Tudor regulation of beggary was the granting of licenses in 1511 to the churchwardens of Dadlyngton, who were thus enabled for seven years to gather alms throughout four dioceses ‘towards building a chapel of St. James’s, standing on Bosworth field, [...], and for the stipend of a priest to pray for the souls of the persons slain in the said field.’<sup>73</sup> Surviving pardon documents for those who ‘hath send a deuoute and a competent almes’ to the chapel of St James where priests were to be maintained to ‘prayth for y soules of them that weyr sleyne at bosworth feelde’ indicate that these churchwardens may have had heavenly promises to complement their licenses, which demonstrates the support of the church for such initiatives.<sup>74</sup> But from 1531 such a license became necessary as there was a requirement in the *1531 Act* that proctors, those who gathered alms on the behalf of an institution or person, and pardoners, who offered pardons for sins remitted, required ‘suffycyent aucthoryte wytnessyng the same’ in order to avoid punishment for unauthorised begging.<sup>75</sup>

Such specific cases of beggary authorised through documentation continued to feature in most of the subsequent legislation even after the apparent revival of the default authorisation of localised begging for local infirm persons. In addition to the licensing of such impotent beggars, the *1531 Act* had specifically protected such traditional categories of beggar as scholars of the universities, sailors who had been shipwrecked, and prisoners

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<sup>73</sup> *LP* 1, no. 1848: The dioceses were Lincoln, Chester, Worcester and Norwich.

<sup>74</sup> *Charyte hath caused our Souereygne Lorde the Kynge to consyd[er] howe meritorious & howe pleasande a dede ... and what greate rewarde they shall haue of God for it that prayth for ye soules of them that weyr sleyne at Bosworth feel[de] ...*, R. Pynson (London, 1511) *STC* (2nd ed.) / 14077c.36; *Charyte hath caused our Souereygne Lorde the Kynge to consyd[er] howe meritorious & howe pleasande a dede ... and what greate rewarde they shall haue of God for it that prayth for ye soules of them that weyr sleyne at Bosworth feel[de] ...*, R. Pynson (London, 1511) *STC* (2nd ed.) / 14077c.37.

<sup>75</sup> 22 Hen.VIII.c.12.4, *SR* 3, 330.

who were authorised to beg so as to pay for costs associated with their imprisonment.<sup>76</sup> Such beggars can be found in the surviving accounts of the household of the knight Henry Willoughby from the 1520s where he often disbursed alms such as the 2d given ‘to a skolar’ in 1520 or the 1d granted to ‘presonarse’ [prisoners] in 1521.<sup>77</sup> Yet there were contemporary descriptions which questioned the authenticity of many such specific beggars, with the potential for pretend scholars a contemporary concern. *The hye way to the Spyttell hous*, for instance, highlighted beggars’ shiftiness and tendency to thieve what beggary failed to gain.<sup>78</sup> Regardless of the degree to which such apparently authorised beggary could be abused, it is apparent that the licensing provisions survived and were used in the contemporary context. For example, an Oxford scholar who found himself in Maidstone gaol in 1540 (though not necessarily for begging activities) held a letter with the Chancellor’s seal which authorised him to beg, thus demonstrative of a widespread awareness of the practice.<sup>79</sup>

Such forms of specific licensing continued after the revival of the *1531 Act* in 1550. Indeed subsequent statutes expanded the categories of begging specifically sanctioned, although this probably reflects royal subsumption of what had previously been the domain of ecclesiastics, and parliamentary sanction for traditional activities. For instance, the *1550 Act* granted to the Lord Chancellor or the Lord Keeper of the Great Seal the authority to grant licenses for persons who had suffered property loss by fire ‘or suche

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<sup>76</sup> 22 Hen.VIII.c.12.4, 11, SR 3, 330-331.

<sup>77</sup> *Report on the manuscripts of Lord Middleton*, Historical Manuscripts Commission (London, 1911), 333-334.

<sup>78</sup> R. Copeland, *The hye way to the spyttell hous*, Robert Copeland (London, 1536) STC (2nd ed.) / 5732, ff. B.i-B.ii; also in A.V. Judges, *The Elizabethan underworld* (London, 1965), 8-9.

<sup>79</sup> LP 18(2), no. 535.

losses’.<sup>80</sup> These persons were thus entitled to beg and ‘to gather the relief and charitie of others for their relief [...] as in tymes past hath byn used’, which suggests the provision of legislative sanction for a de facto tradition rather than a novel concept.<sup>81</sup> In a unique example of urban acceptance of this sort of beggary, the city of Norwich even paid 6s 8d ‘to a p[ro]ctor sent wt the kyngs lettr to begge’ in the mid 1530s.<sup>82</sup>

There had certainly been an ancient statutory precedent for this kind of royally-sanctioned begging, when the *1388 Act* provided that with ‘Letters Patents under the King’s Great Seal’, beggars who were travelling home could take a more circuitous route than geography alone may have warranted.<sup>83</sup> Such licensing allowed persons to travel across jurisdictional boundaries, and facilitated begging amongst strangers. In this sense these provisions therefore protected traditional categories of legitimate begging within the secular legal framework, which translated into the protection of some outside beggars within the corporate context even where they may not have had corporate sanction to beg.

Much licensed begging may have been undertaken through visiting the doors of wealthy households. As with the Willoughby accounts noted above, wealthy households often noted alms payments which may have been responses to supplication by testimonial-bearing beggars.<sup>84</sup> Yet this is the kind of begging for which very limited evidence survives to assess its impact on the urban context. The examination of the Norwich

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<sup>80</sup> 3&4 Edw.VI.c.16.8, *SR* 4, 116.

<sup>81</sup> 3&4 Edw.VI.c.16.8, *SR* 4, 116.

<sup>82</sup> NRO NCR Case 18a/5 f. 101.

<sup>83</sup> 12 Ric.II.c.8, *SR* 2, 58: So they could visit more places and gather more alms.

<sup>84</sup> See for example those of the earl of Devon or the duke of Buckingham, both in 1519: *LP* 3(1) nos. 152 (p. 51), 1285 (p. 498).

mayoral court into one Edmonde Abbott and ‘the order of his beggyng’ in 1561 provides a rare insight into the kind of begging strangers may have undertaken within the urban context.<sup>85</sup> Abbott apparently opened his supplication as follows:

I desyre your masterhipp to be good and fryndly to a poore man yt hathe ben hurte  
and mayned in the Quenes affayers, mayned in my arme as your mastershipp  
maye wel perceyve.<sup>86</sup>

Abbott then responded to a series of questions detailing the location, origin and cause of his injuries.<sup>87</sup> Perhaps Abbott was a newcomer to the city and had been presented for unlicensed begging. Abbott opened a dialogue and presented himself as a suppliant in need of assistance, but also drew attention to his ‘good and fryndly’ disposition, perhaps as a counterpoint to the suspicion of danger that a stranger may have incited.<sup>88</sup> It seems telling that he made no reference to any letter he may have held. He may have attempted to present himself as authorised to beg by default, as he emphasised that he was injured in the service of the monarch, and thus placed his then present state of infirmity within a framework of loyalty and duty performed.<sup>89</sup> Yet it remains likely that he was examined because he lacked documentation.

Evidence for the use of such documentation within the urban context can be seen in the contemporary practice of begging at or in churches. Phythian-Adams noted that in Coventry ‘importuning beggars were officially excluded’ from church during Divine

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<sup>85</sup> *RCN* 2, 180.

<sup>86</sup> *RCN* 2, 180.

<sup>87</sup> *RCN* 2, 180.

<sup>88</sup> *RCN* 2, 180.

<sup>89</sup> *RCN* 2, 180.

Service.<sup>90</sup> Similarly, in the 1560s the Plymouth government determined ‘that no stranger [shall] gather in church by Testimonial.’<sup>91</sup> Such rules suggest their perceived need, however. Perhaps it was while standing in the porch of a Norwich parish church that Abbott framed his supplication to churchgoers. Surviving churchwarden accounts demonstrate that occasionally parishes responded to visiting beggars with parochial finances. For instance, the churchwardens’ accounts of the parish of St John’s in Exeter provide rare evidence of this kind of begging from the mid to late 1560s. Amongst the ‘extraordinary’ charges, the churchwardens noted payments such as the following:

Itm paid to a poore man wth gathered almes by the consent of the p[ar]ishe xijd  
[...]<sup>92</sup>

Or:

And iiij s iiijd paid to dyvrse poore men wth gathered almhouse this yere and to  
poore scolers of oxford by the consent and agreement of the p[ar]ish [...]<sup>93</sup>

What these notes reveal is not only that begging occurred within the parish but that the parish as a community apparently responded collectively. Nor was this a phenomenon restricted to Exeter. The churchwardens’ accounts of St Martin Coney Street in York attest to such payments by the 1570s and well into the 1580s.<sup>94</sup> The agreement or consent of the parish, which occurs as part of many of these notations, would suggest that the supplication for alms took place within the church and perhaps even at service time. A number of the payments in such accounts in York locate the payment specifically ‘at the

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<sup>90</sup> C. Phythian-Adams, *Desolation of a city, Coventry and the urban crisis of the late middle ages* (Cambridge, 1979), 168.

<sup>91</sup> *Calendar of the Plymouth municipal records*, ed. R. N. Worth (Plymouth, 1893), 51.

<sup>92</sup> CDRO DD 36772.

<sup>93</sup> CDRO DD 36772.

<sup>94</sup> BI PR Y/MCS 16, ff. 105, 111, 122, 123, 125, 129, 130, 135, 138, 144, 145, 160, 180.

church' which strengthens this supposition.<sup>95</sup> These incidents all suggest persons who visited the towns from other jurisdictions to beg.

Further evidence of persons granted licenses to beg within other jurisdictions is revealed in payments from the churchwardens' accounts of St John's in Exeter in the 1560s

to dyvrse poore men some being in prison some domb and some to Launceston  
and Taunton lazer houses and magdalen houses and to other poore men [...] gathering almouse [...] <sup>96</sup>

These were perhaps the same proctors from Launceston who a few years earlier had received payment from the corporation of Plymouth, suggesting that they moved around the wider region in pursuit of alms.<sup>97</sup> These beggars highlight that urban institutions were also capable of having authorised, perhaps even professional, beggars acting on their behalf. This too was a traditional phenomenon, and once again the household accounts of Henry Willoughby indicate that it was not uncommon for alms to have been granted to someone gathering alms on the behalf of 'Laysarse'.<sup>98</sup>

This sort of institutional begging by proxy will have diminished greatly in the 1530s and 1540s, however, due to the dissolution of religious houses, hospitals and chantries. Even before the *1531 Act* required all beggars in the realm to have a license, the Synod of Ely in 1528 had stipulated that no person was to ask alms on the behalf of 'brotherhoods,

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<sup>95</sup> BI PR Y/MCS 16, ff. 122, 123, 125, 160.

<sup>96</sup> CDRO DD36772.

<sup>97</sup> *Calendar of the Plymouth municipal records*, ed. Worth, 119. Large towns were not only the targets of such beggars, however, as in the late 1580s a payment from Widely Court was made for 'one that gathered for the hospitall house of bristall.'

<sup>98</sup> *Report on the manuscripts of Lord Middleton*, 348.

hospitals, &c. [...] without license from the bishop.’<sup>99</sup> Little evidence is available to determine what the approach of most urban authorities was to the begging undertaken by any such institutions within their jurisdiction. However a unique insight into the approach of the Norwich government is revealed when the mayoral court addressed the use of proctors by the city hospitals in 1541.<sup>100</sup> The mayoral court examination of John Browne, who was apparently one of the sub-proctors of St Giles, demonstrates that in Norwich there were a number of persons with ostensibly legitimate authority to gather alms on behalf of three city hospitals.<sup>101</sup> The hospital proctors each had sub-proctors, and all were begging under the authority of a hospital ‘proxy’, apparently derived from royal letters patent.<sup>102</sup> The sub-proctors of St Giles each had to pay for their proxy letters, having been allegedly promised to be cared for by the hospital, and were then compelled ‘to begge for thir lyvyng or elles they shall haue nothing’.<sup>103</sup> Apparently one of the sub-proctors of St Steven’s, who was ‘a talle man and clene and nat diseased’, was a hired servant allegedly at 20s per year.<sup>104</sup> Whilst ostensibly legitimate, this man was clearly not considered infirm. The evidence suggests a racket-like system, which is likely to be why it came to the city’s attention, confirming civic observation of authorised begging practices in Norwich. The city government requested all of the proxies to be brought to the mayor and two years later the city held ‘the sealles of the Spitelhouses’, suggesting perhaps that the city had taken authority for authorising such proxy-begging within Norwich.<sup>105</sup> During the examination of this situation one of the deponents claimed ‘that after he had his proxy

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<sup>99</sup> *LP* 4(2), no. 4351.

<sup>100</sup> *RCN* 2, 169-170.

<sup>101</sup> *RCN* 2, 169.

<sup>102</sup> *RCN* 2, 169.

<sup>103</sup> *RCN* 2, 169.

<sup>104</sup> *RCN* 2, 169.

<sup>105</sup> *RCN* 2, 170-171.



he hath ben dyuers tymes at Master Hogons house but he neuer shewed to Master Hogon ner to any of his seruauntes his proxye ffor' which indicates that proxy-begging did not always necessitate a demonstration of credentials.<sup>106</sup>

Such licenses were thus not necessarily utilised in every supplicatory action to demonstrate authorisation. Rather, they would probably have been of most value in the avoidance of punishment. Whilst the *1531 Act* required all beggars to have licenses, this provision was tempered from 1547 onwards with a return to the traditional default allowance of beggary by the local infirm. Whilst other licensing provisions survived, and evidence for their application or importance is suggested in the few urban sources demonstrative of the practices of beggars, the use of badges as a means of identifying and authorising local beggary was evident before the *1531 Act* and survived for several decades afterwards. The administrative details of licensing provisions seem to have developed more from traditional documentary practice than from the urban use of badges. Likewise, whilst some of the administrative mechanisms were adopted within the urban context, these brought about no dramatic changes in urban policy or practice.

Before turning to address the statutory and urban mechanisms for the repression and reduction of begging, it is important to note one final kind of licensed beggar which the *1531 Act* not only provided for, but created. According to the *1531 Act*, after being punished for unauthorised beggary or vagabondage, such persons were to be directed to

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<sup>106</sup> RCN 2, 169.

return to their home locality.<sup>107</sup> To facilitate their arrival they were provided with documentation which attested that they had been

whynned for a vagarant stronge begger at Dale in the sayde Countie accordyng to the lawe the xijth daye of July in the xxiiijti yere of Kyng Henry the viij [...]<sup>108</sup>

According to the statute a person carrying such a letter ‘may lawfully begge by the waye’.<sup>109</sup> Ironically it was statutorily possible for an unauthorised beggar to have been, albeit temporarily, given statutory authority to beg.

### ***Prohibiting, punishing and dissuading beggary***

This continued authorisation of beggary in statute and urban practice occurred against a contemporary debate about the nature and place of beggary in a Christian society and polity. Yet this was not a debate in the sense that there were clearly opposing sides, nor was it something new to the sixteenth century. Tierney and others noted that medieval ecclesiastics and theologians had debated beggary and whether it was permissible to prohibit it or how spiritually sound it was to offer charity to beggars without questioning a beggar’s motive and condition.<sup>110</sup> What changed in the sixteenth century was that Protestant reformers are thought to have believed begging was a disgraceful indictment of the condition of the world, and was something unacceptable in a Christian society.<sup>111</sup>

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<sup>107</sup> 22 Hen.VIII.c.12.2, 3, 9, *SR* 3, 329, 331.

<sup>108</sup> 22 Hen.VIII.c.12.9, *SR* 3, 331.

<sup>109</sup> 22 Hen.VIII.c.12.3, *SR* 3, 330.

<sup>110</sup> B. Tierney, *Medieval poor law: a sketch of canonical theory and its application in England* (Berkeley and Los Angeles, 1959); E. Clark, ‘Institutional and legal responses to begging in medieval England’, *Social science history*, 26 (2002), 458.

<sup>111</sup> C. Lindberg, “‘There should be no beggars among Christians’: Karlstadt, Luther, and the origins of Protestant poor relief”, *Church History*, 46 (1977), 313-334; H. J. Berman, ‘The spiritualization of secular law: the impact of the Lutheran Reformation’, *Journal of law and religion*, 14 (1999-2000), 337-341; T. G.

From this, supporting begging became something impermissible in some Protestant contexts. Yet for Catholics, the theological importance of good works prohibited begging from being completely banned, even though many Catholic polities had developed laws and rules throughout the fourteenth, fifteenth and sixteenth centuries which regulated beggary and punished vagrancy.<sup>112</sup>

A number of historians have specifically addressed the Christian Humanist position on beggary within the context of policy changes apparent in European polities in the early and middle sixteenth century.<sup>113</sup> Christian Humanists are generally held to have held a position similar to that of the Protestant Reformers which wished to see a diminution of beggary, and in some cases its prohibition. Christian Humanism has been seen as a pan-European movement capable of explaining the apparent similarity between both Protestant and Catholic treatment of beggary. However, Pullan has already argued that the similarities between sixteenth-century policies are probably better explained with reference to a potential similarity of pre-sixteenth-century policies and experiences evident in many localities.<sup>114</sup> As Rappaport noted, ‘we search, at times too hard, for signs

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Fehler, *Poor relief and Protestantism, the evolution of social welfare in sixteenth-century Emden* (Aldershot, 1999); see also the various cases studies of Protestant countries in O. P. Grell and A. Cunningham (eds.), *Health care and poor relief in Protestant Europe 1500-1700* (London and New York, 1997).

<sup>112</sup> S. Cohn, ‘After the Black Death: labour legislation and attitudes towards labour in late-medieval western Europe’, *The economic history review*, 60 (2007), 464; L. Martz, *Poverty and welfare in Habsburg Spain: the example of Toledo* (Cambridge, 1983), 20, 127.

<sup>113</sup> Fehler, *Poor relief and Protestantism*, 12; P. A. Fideler, ‘Christian humanism and poor law reform in early Tudor England’, *Societas*, 4 (1974), 269-285; P. A. Fideler, ‘Poverty, policy and providence: the Tudors and the poor’, in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 194-222; P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006).

<sup>114</sup> B. Pullan, ‘Catholics, Protestants, and the poor in early modern Europe’, *Journal of interdisciplinary history*, 35 (2005), 456.

of change, perhaps overlooking evidence which points to continuity.<sup>115</sup> The English case is instructive of such continuity.

The position adopted by Tudor legislators was in essence very simple and consistent despite a number of regime changes and the religious discord of the Reformation. Tudor statutes retained what under English statute law was a very traditional division between authorised and unauthorised beggars. The former could beg free from punishment, whilst the latter begged on pain of punishment if caught. This was similar to other contemporary European approaches, particularly Spain.<sup>116</sup> As indicated above, legislatively authorised beggary was restricted in 1531 to those bearing documentation and reverted in 1547 to the local infirm or those bearing documentation. There had been, as a result of the dissolution of various religious houses and orders, a diminution of potentially authorised proxy beggars throughout the 1530s and 1540s.

Yet throughout the sixteenth century it is hard to escape an impression that beggary was increasingly frowned upon, and it is this phenomenon which has led many historians to accept the argument that legislative change was humanist-inspired. The fact that the punishment for beggary was changed from placement in the stocks to whipping in 1531, the attempt to regulate beggary through licenses, the development of mechanisms for the centralisation of relief for the support of the poor provides a neat, albeit teleological, framework supporting the notion that the state attempted to curb beggary. This is a view

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<sup>115</sup> S. Rappaport, *Worlds within worlds: structures of life in sixteenth-century London* (Cambridge, 1989), 375.

<sup>116</sup> Martz, *Poverty and welfare in Habsburg Spain*, 20. As in England, Spanish beggars required licenses to beg free from punishment, and such specific cases as friars and students also required licenses to avoid punishment.

which most historians of the period and subject have long maintained.<sup>117</sup> Yet the statutory regime does not strictly support an argument that collections and regulated beggary were competing or contradictory concepts.

The *1536 Act* instituted collections for the relief of the local poor, which were clearly intended that ‘none of them be suffred to go openly in begging’.<sup>118</sup> This seems to support a commonly-held notion that the *1536 Act* prohibited begging.<sup>119</sup> Yet the *1536 Act* contained a requirement that food and lodging for one night was to be provided to persons in possession of a valid license on their way home after punishment.<sup>120</sup> Furthermore, the *1536 Act* authorised towns to ‘appoynte certayne of the said poore people founde of the common almes’ to gather leftover foodstuffs from parishioners and redistribute them to those in receipt of parish collection funds.<sup>121</sup> Thus some persons in receipt of parish funds were seemingly authorised to beg within a certain context and in pursuit of specific objects. Whilst having a pronouncement against open begging, the *1536 Act* indeed provided for a particular form of begging by some of those very persons as well as specifically indicating the continuation of some of the licensing provisions of the *1531 Act*.

What this suggests is that collections were intended to have replaced licensed begging as the primary means of subsistence for ‘the pore impotent lame feble syke and diseased

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<sup>117</sup> M. K. McIntosh, ‘Poverty, charity, and coercion in Elizabethan England’, *Journal of interdisciplinary history*, 35 (2005), 461.

<sup>118</sup> 27 Hen.VIII.c.25.4, *SR* 3, 559.

<sup>119</sup> Hindle, *On the arish?*, 67; M. K. McIntosh, ‘Local responses to the poor in late medieval and Tudor England’, *Continuity and change*, 3 (1988), 228.

<sup>120</sup> 27 Hen.VIII.c.25.2, *SR* 3, 558.

<sup>121</sup> 27 Hen.VIII.c.25.16, *SR* 3, 561.

people, being not able to worke'.<sup>122</sup> Because the *1536 Act* forbade public doles and the giving of alms directly to beggars it would seem that licensed begging was discouraged, but it was not explicitly forbidden.<sup>123</sup> The existence within the *1536 Act* of provisos for the mendicant friars, prisoners and intra-parochial charity all indicate that licensed begging was clearly still allowed in some forms.<sup>124</sup> In the next of the Tudor statutes to have provided for collections for the poor, the *1552 Act*, there was another injunction concerning the impotent that 'none to goo or sitt openlie a begging'.<sup>125</sup> Slack noted how this statute 'condemned begging in words very close to those of the Act of 1536' and implied that the similarity of formula is indicative of a similarity of application.<sup>126</sup> As with the *1536 Act*, however, this spoke to legislative intent more than effect. The focus on 'open' begging would suggest a problem with public alms-solicitation, but contemporaries may not have considered household or church-based begging to have been open.

The *1555 Act* reiterated verbatim this injunction that 'none to goe or sit openly a begging' again in reference to the impotent and aged.<sup>127</sup> It seems to have been believed, on the basis that the *1536* and *1552 Acts* had banned begging, that the *1555 Act* reintroduced licensed begging to the statutory regime. Slack, for instance, suggested that the *1555 Act*

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<sup>122</sup> 27 Hen.VIII.c.25.4, *SR* 3, 559.

<sup>123</sup> 27 Hen.VIII.c.25.13, *SR* 3, 560.

<sup>124</sup> 27.Hen.VIII.c.25.21.22, *SR* 3, 561-562.

<sup>125</sup> 5&6 Edw.VI.c.2.2, *SR* 4, 131.

<sup>126</sup> Slack, *Poverty and policy*, 123.

<sup>127</sup> 2&3 Phil.&Mar.c5.2, *SR* 4, 280.

was a step away from earlier attacks on casual almsgiving: where the poor were too numerous to be relieved, they might be licensed to beg.<sup>128</sup>

This, however, is a subtle misinterpretation of the *1555 Act* and its relationship with other statutes. To begin with, the allowance of some beggary is not a significant novelty as licensed beggary had continued after 1536, yet open begging was still condemned as in 1536 and 1552. In 1555, as in 1536 and 1552, licensed begging was authorised by the *1531 Act*, even if discouraged amongst those poor who were recipients of relief. What the 1555 addition did was to authorise a particular form of licensed beggary. Whilst the *1555 Act* allowed licensed begging when ‘yt shall chance any Parishe to have in yt mo poore & impotent folks not hable to labor then the said Parishe is hable to relieve’, the Officers were authorised to licence the beggars ‘to goo abrode to begg get & receive the charitable Almes of the inhabitants of the Countrie out of the said Parishes Cities & Towns so surcharged’.<sup>129</sup> This was not intra-parochial begging as represented within the still operational *1531 Act*, but rather extra-jurisdictional begging throughout the county within which the locality was situated. That this was the case is evident in the following proviso which concerns corporate towns such as Bristol standing between multiple counties.<sup>130</sup>

The *1555 Act* also introduced another novel element, being that such inter-jurisdictional beggars were obliged to wear ‘some notable badge or token’ as a complementary requirement to the license, in order to identify their home locality and aid in the

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<sup>128</sup> Slack, Paul, ‘Social policy and the constraints of government, 1547-58’, in J. Loach and R. Tittler (eds.), *The mid-Tudor polity c. 1540-1560* (London, 1980), 104; see also Slack, *Poverty and policy*, 123.

<sup>129</sup> 2&3 Phil.&Mar.c.5.7, SR 4, 281.

<sup>130</sup> 2&3 Phil.&Mar.c.5.8, SR 4, 281.

legitimation of their solicitations.<sup>131</sup> Thus it allowed the provision of badges for extra-urban beggars discussed above. The *1563 Act*, which replaced the *1555 Act*, retained all of these elements.<sup>132</sup> This then should not be seen as a reversion to earlier statutory licensing practices or as evidence of ‘a greater tolerance of indiscriminate charity’ that Slack perceived in the Marian regime, but an extension of already operational licensing provisions.<sup>133</sup> Licensed beggary was facilitated by the legislation, but the presumption was that it would have focused on a different jurisdiction from that in which collections were undertaken.

The repeal of the existing legislation in 1572 did not spell the end of legislative sanction for licensed begging. The *1572 Act* implied that licensed begging by scholars, shipwrecked sailors, and discharged prisoners was still accepted, as such persons were deemed vagabonds without ‘beinge authorysed under the Seale of the said Univ[er]sities’ or ‘not having Lychense’.<sup>134</sup> Also included within that definition of vagabondage section were proctors without authority derived from the monarch, which implies that institutional proxy-begging was allowed, or perhaps the sort of alms-collecting for corporate projects that towns may have undertaken.<sup>135</sup> Soldiers and sailors were allowed to be licensed to beg their way homeward under this statute, but all licenses had to be renewed upon crossing jurisdictional boundaries.<sup>136</sup> The *1572 Act* also made licenses a requirement for ‘pore and diseased people’ who resorted to Bath and Buxton in

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<sup>131</sup> 2&3 Phil.&Mar.c5.10, *SR* 4, 281.

<sup>132</sup> 5 Eliz.I.c.3.2, 10, 11, 13, *SR* 4, 411, 413-414.

<sup>133</sup> Slack, ‘Social policy and the constraints of government’, 104.

<sup>134</sup> 14 Eliz.I.c.5.5, *SR* 4, 591; the act also had provision for collections for prisoners: 14 Eliz.I.c.5.38, *SR* 4, 597.

<sup>135</sup> 14 Eliz.I.c.5.5, *SR* 4, 591.

<sup>136</sup> 14 Eliz.I.c.5.9, 10, *SR* 4, 592.



search of cures.<sup>137</sup> As for the earlier *1550 Act*, under the *1572 Act* the Lord Chancellor or Keeper of the Great Seal retained authority to grant licenses to beg.<sup>138</sup>

Although parish collections were supposed to remove the need for much begging, the *1572 Act* allowed for their lack or inadequacy by allowing the licensing of beggars, who could resort for alms to ‘suche other Towne Paryshe or Paryshes of the said Countye’ as appointed as with the *1555* and *1563 Acts* noted above.<sup>139</sup> A late clause confirmed that such persons could be given a ‘Lycense to begge’ by justices of the county into which they were sent, clarifying the judicial responsibility for the person after their territorial appointment.<sup>140</sup> Furthermore, the *1576 Act* outlined punishment

For any ympotent p[ar]son, wch having a competent Allowaunce provided for him and her wthin his Parishe, shall notwithstanding without Lycence wander abrode loyteringe and begging [...]<sup>141</sup>

This highlights that those in receipt of collections under the provisions of the *1572 Act* were not supposed to beg without licence, but that also necessarily implies that they could beg if they possessed an appropriate license. Any tension between collections and licensed beggary as mechanisms of relief was apparently not considered problematic by contemporary legislators.

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<sup>137</sup> 14 Eliz.I.c.5.36, *SR* 4, 597.

<sup>138</sup> 14 Eliz.I.c.5.10, *SR* 4, 592.

<sup>139</sup> 14 Eliz.I.c.5.27, *SR* 4, 595: The *Statutes of the realm* margin notes suggest that collections were authorized but this is clearly incorrect; the text details nothing of the sort.

<sup>140</sup> 14 Eliz.I.c.40, *SR* 4, 598.

<sup>141</sup> 18 Eliz.I.c.3.10, *SR* 4, 613.

Only in later decades was begging subjected to complete prohibition by statute. In 1593 a statute concerned to regulate the support of returned soldiers and sailors explicitly ordered that none could beg and that any who did so were to be punished.<sup>142</sup> This demonstrated a clear prohibition on begging which was made general in 1598, when it was clearly stated that ‘no person or persons whatsoever, shall goe wandringe abroad & begge in any place whatsoever, by Licence or withowte, upon payne to be esteemed taken & punished as a Rogue’.<sup>143</sup> Yet even then provision was made for requests for victual within a parochial context, which indicates that some statutorily authorised beggary was still allowed.<sup>144</sup>

The discussion of badges above likewise demonstrates that authorised beggary was not simply replaced by collection systems. However, there was an apparent desire by legislators to reduce begging by local infirm persons receiving collection relief. Yet this did not translate into a total prohibition on local begging. Indeed the supplementary relief mechanism envisioned by the legislation for dealing with situations where collections were inadequate, was to authorise extra-jurisdictional beggary. Whilst such extra-jurisdictional beggary appears not to have had any precedents in urban centres there was a clear statutory precedent for the practice in the form of licenses given to persons punished for unauthorised beggary.<sup>145</sup> This precedent also included those caught begging

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<sup>142</sup> 35 Eliz.I.c.4.7, *SR* 4, 848.

<sup>143</sup> 39 Eliz.I.c.3.10, *SR* 4, 897.

<sup>144</sup> 39 Eliz.I.c.3.10, *SR* 4, 897.

<sup>145</sup> 22 Hen.VIII.c.12.2, 3, *SR* 3, 329.

without, or beyond the scope of, a license who were likewise given a license to facilitate their journey home.<sup>146</sup>

Yet there were clear urban precedents for total bans on begging within the urban context. The imposition of a total prohibition on begging in Norwich was first evident in 1571 when the government ordered

that no parson or parsons olde or yonge shalbe suffred to go abrode after a generall waninge gyven, or be founde abeggyng in the streets, at the sermon or at anie mans dore, or at anie place within the Citie, in payne of sixe stripes with a whippe.<sup>147</sup>

In these Norwich orders for the poor of 1571 a particular injunction forbade the city inhabitants to ‘sustayne or fede anye such beggers at their dores’.<sup>148</sup> In 1588 York also instituted a policy whereby ‘none [were] suffred to goe openly beggyng in the streets and other places of the sayd Citie’.<sup>149</sup> Like the earlier Norwich policy, the York version attempted to discourage household charity through neighbourly surveillance by ‘some secret persons’ who would inform on such charitable provision.<sup>150</sup> An Exeter government order from 1563 that the new bedels ‘p[ar]mytt no maner of p[ar]son being manne or woman or childe to range a beggyng about the streete’ also included an injunction against begging ‘at any manns dore’, and thus may have been the earliest of these general city policies.<sup>151</sup>

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<sup>146</sup> 22 Hen.VIII.c.12.2, *SR* 3, 329.

<sup>147</sup> *RCN* 2, 347.

<sup>148</sup> *RCN* 2, 347.

<sup>149</sup> *YCR* 6, 141.

<sup>150</sup> *YCR* 6, 158.

<sup>151</sup> *CDRO AB IV*, f. 105.

However, whilst these particular references may indicate the attempted imposition of permanent prohibitions in these towns, York had previously banned begging entirely for short periods. These bans were associated with concerns about disease and were not an uncommon practice. In London in 1517, for example, those persons ‘as been visited with the greate pokkes outwardly apperyng or with other great sores or maladyes tedyous lothsom or abhorible to be loked vopn’ were to have remained in hospitals and have proctors beg on their behalf.<sup>152</sup> The statutory regime provided for such proxy-beggars in 1547 when it authorised lepers to appoint up to two people ‘to gather the charitable Almes of all such Inhabitaunts as shalbe wthin the compace of foure myles of anny of the said howses of Leprous and beddrede parsons.’<sup>153</sup> Statutory authority for such proxy-beggars was also evident in 1550.<sup>154</sup>

In York, begging by the ‘poore folks’ was prohibited in 1550 ‘so long as the playge of pestylens doyth continue in any place within the sayd City and suburbes’, indicating a clear concern on the part of the York government that begging facilitated the transmission of plague.<sup>155</sup> During major plague events the city government expressed a desire to keep those likely to go ‘beggynd abroad’ static.<sup>156</sup> This particular period saw much disease activity in York and so again in 1552 the city completely banned begging for several weeks as a plague management measure.<sup>157</sup> Even earlier, in 1538, York had

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<sup>152</sup> F. Aydelotte, *Elizabethan Rogues and vagabonds* (Oxford, 1913), 142.

<sup>153</sup> 1 Edw.VI.c.3.15, *SR* 4, 8.

<sup>154</sup> 3&4 Edw.VI.c.16.7, *SR* 4, 116.

<sup>155</sup> *YCR* 5, 35.

<sup>156</sup> *YCR* 5, 35.

<sup>157</sup> *YCR* 5, 71.

attempted to reduce begging in plague time through charitable provision, and the collection mechanisms adopted within this context bear a resemblance to the proxy-begging evident throughout the century with respect to hospitals.<sup>158</sup> In York these collections were to have been undertaken by the city master beggars. Yet this begging was in contrast with the 1551 city instruction that the master beggars watch the bridge over the Ouse in order to ‘see that no beggars nor vysyted folke passe not over nor come forth of Mykylgate warde to any other part of the Citie’.<sup>159</sup> The remainder of this chapter examines these figures, which are important for an appreciation of urban approaches to beggary. They reveal regular prohibitive action against foreign beggars, but also the continued authorisation of beggary within the urban context throughout much of the century. Perhaps most unusually, master beggars did not feature in any of the legislation of this century, despite being apparently relatively common. Yet they played a crucial role in the urban implementation of statutory policies and thus provide a means of drawing together the assessment of the origins and impact of Tudor statutes regulating beggary within the urban context.

### *Urban master beggars*

Historians have noted the sixteenth-century appearance of urban officials known as master beggars (sometimes also known as head beggars or similar), but the office remains little-discussed. Thomas concatenated master beggars and beadles of the poor and

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<sup>158</sup> YCR 4, 30; YCR 5, 35.

<sup>159</sup> YCR 5, 57.

denoted the person who fulfilled the office as ‘probably a sinister figure’.<sup>160</sup> But it is clear that these were two distinct offices, even if related, and the difference in nomenclature is a valuable indicator of a shift in contemporary policies and attitudes which seems to have taken place about the 1570s. This shift can be appreciated through addressing the period in which master beggars can be detected in the historical record. Through an examination of civic memoranda and corporate accounts it has been possible to reconstruct something of the office of the master beggar in each of the four towns addressed in this thesis.

In Bristol, there was one city official called the master beggar who received a quarterly fee from the city government. York had four master beggars. This presumably corresponded with the four city wards. Norwich also had at least one, and probably two, master beggars. City accounts suggest that Norwich did not, at least not with corporate funds from which other city officers were remunerated, pay its master beggars. York apparently also did not pay its master beggars through corporate finances until the chamberlain was instructed to do so in 1555.<sup>161</sup> John Hooker wrote a description of the duties of city officers for Exeter in 1584 in which master beggars were not present, but, as will be seen, the office appears to have generally disappeared before that date.<sup>162</sup> There were apparently officers in Exeter in the 1560s referred to as ‘bedells of the beggars’ but as the evidence from this city is very slender it does not form a significant part of the following discussion.<sup>163</sup>

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<sup>160</sup> Thomas, *Town government in the sixteenth century*, 116.

<sup>161</sup> YCR 5, 115. The next subsequent extant account was 1559 and it did have ‘wags to the iijor head beggars’ at five shillings a year each: YCA YC/FA cc.5, f. 81.

<sup>162</sup> J. Hooker, *A pamphlet of the offices, and duties of euery particular sworne officer, of the citie of Excester: collected by Iohn Vowell alias Hoker, Gentleman & chamberlaine of the same*, Henrie Denham (London, 1584) STC (2nd ed.) / 24889.

<sup>163</sup> CDRO AB IV, f. 96v.

These offices are apparent in surviving source material from the early 1530s until at least the late 1550s in Norwich, and the late 1560s in York and Bristol. In York there were city orders concerning ‘the mayster beggars of this City’ from mid 1530.<sup>164</sup> Four earlier sixteenth-century ordinances concerning beggars mention city wardens and constables but not master beggars.<sup>165</sup> Thus it may be that the office of master beggar in York developed sometime after the last of these beggar orders lacking reference to master beggars in early 1528, and before mid 1530 when the first references to master beggars appear. However of those four earlier ordinances, the earliest was an injunction to constables and wardens to administer the *1504 Act*, and the terseness of the entry may simply obscure the existence of master beggars at that point. Additionally, of the remaining three earlier entries two relate to the determination of eligibility to beg and the third to the delivery of tokens, none of which was necessarily the responsibility of master beggars.<sup>166</sup> The first clear entry concerned with master beggars in York was clear that determinations about begging eligibility were the responsibility of the ‘lorde Maiour and his Bredern’.<sup>167</sup> Later entries also show that the master beggars of York were subordinate to the wardens and constables, further suggesting that their non-appearance in earlier memoranda does not disprove their existence at that time.<sup>168</sup> Corporate accounts do little to show when the office was instigated. York apparently did not pay a fee to the master beggars through the chamberlain’s accounts until a later period, and the purchase of

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<sup>164</sup> *YCR* 3, 133.

<sup>165</sup> *YCR* 3, 11, 46, 66, 111.

<sup>166</sup> *YCR* 3, 46, 66, 111.

<sup>167</sup> *YCR* 3, 133.

<sup>168</sup> See below, and *YCR* 4, 30.

annual coats for those master beggars post-date the first clear memorandum that indicates their existence.<sup>169</sup>

There is a large memorandum in York from 1546 which contained rules for beggars and makes no mention of master beggars.<sup>170</sup> This may indicate a lapse of the office for a period. Payments survive for clothing for master beggars in the 1542 and 1554 accounts but in the absence of surviving accounts payment of master beggars in the intervening period cannot be determined.<sup>171</sup> Furthermore there are memoranda from 1551, 1557, and another in 1568, which clearly mentioned master beggars, thus strongly suggesting the continuation of the office.<sup>172</sup> Whilst an extant chamberlain's account of 1559 includes payments regarding master beggars, another of 1565 does not.<sup>173</sup> Over the following decades little mention was made of master beggars in the city memoranda despite the creation of four beadles to apprehend vagrant persons and beggars in 1580 or the discussion of a poor relief policy in 1588, suggesting that the office may have lapsed by the late 1570s or early 1580s.<sup>174</sup>

Corporate memoranda from Norwich indicate the presence of master beggars in the middle decades of the mid sixteenth century in Norwich, closely matching York. The earliest reference was a 1533-4 payment 'for ij hande stavys for the mastr begger & for peynting of them' in corporate accounts.<sup>175</sup> The appointment of 'beddells for the pore

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<sup>169</sup> YCA YC/FA cc.3, f. 135.

<sup>170</sup> YCR 4, 145-146.

<sup>171</sup> YCA YC/FA cc.4 ff. 82, 104, 158.

<sup>172</sup> YCR 5, 50; YCR 5, 158; YCR 6, 141.

<sup>173</sup> YCA YC/FA cc.5, ff. 81, 102.

<sup>174</sup> YCR 5, 28, 157-159.

<sup>175</sup> NRO NCR Case 18a/5 f. 62.



people' during 1547 may indicate the continuation of the office throughout the following decade if these are taken to be the same officers.<sup>176</sup> The final memorandum containing master beggars noted the appointment of two men as master beggars in 1560.<sup>177</sup> This may suggest that the office disappeared earlier in Norwich than in York, but the general dearth of references in requisite source material makes any such assertion tentative. The use of the singular to describe the office, but the two staves, might suggest that there may have been a master beggar with an assistant in the earlier decade, but there were clearly two master beggars by 1560.

From at least 1532 the master beggar of Bristol received a quarterly fee of 3s 4d.<sup>178</sup> It appears however that, if still extant, the master beggar was not paid as a city officer throughout much of the 1540s and 1550s.<sup>179</sup> It is curious that during the mid 1540s the city raker was employed to whip vagrants, which might further indicate a lack of any master beggars in Bristol at that point, although it is also possible that this activity did not fall within their sphere of responsibility in that city.<sup>180</sup> Either way, from the third quarter of a 1560-1 corporate account, regular quarterly payments recommenced at the higher rate of 5s.<sup>181</sup> The lack of wages and uniform payments in the 1540s and 1550s suggests that the office may have fallen into disuse for a period before revival or reinstitution, or that the office may have lost importance or significance in that intervening period.

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<sup>176</sup> NRO NCR Case 16a/5, f. 324.

<sup>177</sup> *RCN* 2, 178.

<sup>178</sup> BRO F/Au/1/1, ff. 59, 69, 87, 99, 182, 194, 211, 234; F/Au/1/2, ff. 50, 59, 71, 117, 121, 131, 139, 202, 207, 213, 219, 295, 309.

<sup>179</sup> BRO F/Au/1/2, ff. 335, 361; F/Au/1/3, ff. 63, 77, 93, 107, 181, 187, 196, 205, 307, 315, 327, 337, 403, 411, 417, 433; F/Au/1/4, ff. 41, 49, 57, 67; F/Au/1/5, ff. 47, 55, 57, 67, 189, 195, 200, 206, 325, 333; F/Au/1/6, ff. 40, 45, 49, 56; F/Au/1/7, ff. 30, 34, 40, 47; F/Au/1/8, ff. 35, 40, 46, 54, 133, 138.

<sup>180</sup> BRO F/Au/1/3, ff. 311, 313.

<sup>181</sup> BRO F/Au/1/8, ff. , 145, 154, 212, 219, 225, 240, 295, 300, 310, 318, 372, 378, 385, 393; F/Au/1/9, ff. 33, 38, 45, 48, 98, 101, 107, 114, 161, 166, 171, 176, 225, 230, 235, 240, 298, 302, 308, 320.

In York master beggars clearly featured in urban records before the 1530s legislation had been developed or implemented.<sup>182</sup> It is even possible that the ‘appearance’ of master beggars in the 1530s, and perhaps even the early decades of the sixteenth century elsewhere, may be illusory, a function of the documents in which they were recorded. For instance payments to the ‘warden of the beggars, and his two servants’ in London, and also to what was probably the Enfield ‘bedell of the poor’ in accounts concerning the funeral arrangements of Sir Thomas Lovell in 1524, provide instance of earlier master beggars.<sup>183</sup> In Beverley, the governor’s accounts indicate payments in 1520 and 1522 for a coat and jacket respectively to what appears to be two different master beggars, indicating the existence of such officers well before the 1530s in that town.<sup>184</sup> These show that the office of master beggars was extant in the early sixteenth century in a number of areas. Such early references tend to indicate the operation, not the novel institution, of the office. This suggests that the office of master beggar may have had earlier roots and that the appearance of the office is a function of surviving source material.

The master beggars clearly performed a number of roles which may have shifted in emphasis through time. Although some commentary can be made on the master beggars in Norwich, Bristol and Exeter, because more material is available for analysis and comparison York bears the greatest burden in the following discussion. The earliest

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<sup>182</sup> *YCR* 3, 133.

<sup>183</sup> *LP* 4(1), no. 366 (pp. 150, 151).

<sup>184</sup> *Report on the manuscripts of the corporation of Beverley*, Historical Manuscripts Commission (London, 1900), 173.

record of master beggars in York highlights their role in acting as a communicative intermediary between the city government and ‘all straunge beggers nowe being within this City’.<sup>185</sup> By the end of the 1530s they were also evidently the voice of the ‘poore folk’ in that they were, with assistance, ‘to gydder the charytie of well disposyd people and bring it to the said poore folk in every parish’.<sup>186</sup> In this instance the master beggars were acting, albeit under civic instruction, on behalf of that part of the population designated as poor as a form of proctor. This role was still significant by 1543 when the York master beggars each had three ‘poore folk’ in attendance to help ‘receyve the almes and devocyon of good folks’.<sup>187</sup> A 1550 memorandum that placed the master beggars at the disposal of the constables charged with alms distribution probably indicates the continuation of this role into a subsequent decade.<sup>188</sup> The master beggars of York were thus one of the main conduits for interaction between the government, the wider city populace, and the beggars and alms folk within the city.

Perhaps one of the most visible and important roles played by master beggars was that of punisher. In York the master beggars were one of a number of city officers with the responsibility to ‘doe the execucon in scowregyng’ beggars who refused to depart the city upon instruction to do so.<sup>189</sup> However a later entry indicates that ‘the common officers of this City’ and ‘all constables within their wards’ also had the responsibility to expel vagabonds and beggars, indicating that the master beggars were not solely or wholly

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<sup>185</sup> *YCR* 3, 133.

<sup>186</sup> *YCR* 4, 30.

<sup>187</sup> *YCR* 4, 93.

<sup>188</sup> *YCR* 5, 35.

<sup>189</sup> *YCR* 3, 133.

responsible for undertaking punitive action and policies.<sup>190</sup> In the mid 1550s in York ‘such honest persones [...] as are hable and will diligently see to the avoydyng of vacabunds and good order emongs the poore’ were appointed as master beggars, but the injunction that they ‘enform the sayd constables of all maner vacabunds from tyme to tyme to be punysshed’ would suggest that they did not by reason of their position have authority to undertake, without judicial censure, more than a little dissuasive beating.<sup>191</sup>

In the mid 1550s the York master beggars were ‘chardged to kepe forthe the foreyn beggars owte of this Citie’ and in the late 1560s they were instructed ‘to use their diligens’ in ensuring that ‘foreyn beggars and vagrants’ received appropriate punishment from the wardens.<sup>192</sup> In both cases the master beggars were threatened, first with ‘peyne of three dayes imprisonment’ or, more ominously, ‘apon peyne conteyned in this statut’.<sup>193</sup> The master beggars of York, then, were also subject to being punished if they did not fulfil their role to government satisfaction. It is interesting to note in this context that statutory punishment may have been threatened against the master beggars, thus indicating not only that master beggars were probably considered beggars for the purposes of the legislation, but that contemporary legislation was mentioned in such local measures.

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<sup>190</sup> *YCR* 4, 93.

<sup>191</sup> *YCR* 5, 115.

<sup>192</sup> *YCR* 5, 141; *YCR* 6, 141.

<sup>193</sup> *YCR* 5, 141; *YCR* 6, 141.

One York memorandum mentioned birch rods, suggesting they were utilised by master beggars to facilitate orderly begging.<sup>194</sup> In Norwich the master beggar was granted two staves at city expense in the early 1530s which were repainted, again at city expense, during each of the subsequent two years.<sup>195</sup> These staves were clearly the main symbol of the master beggar's office in Norwich, for when in 1548 the master beggar was dismissed from his position due to 'a compleynt made by ij men and ij women', the staff was 'taken from hym'.<sup>196</sup> Contemporary use of rods or staves as visual identifiers was not uncommon. In 1518 both London and Oxford had seen the use of white rods as signifiers of infection or association with infection from the plague.<sup>197</sup> In 1538 York also deployed white rods for the easy identification of infected persons.<sup>198</sup> In 1552 York provided white rods to 'the foure persones that shall burie the sayd dead corpses' during a major visitation of disease.<sup>199</sup> These then were intended to visually inform other persons of the infected status of the bearer whereas the Norwich beggars' staves of colour or colours unknown indicated that the bearer was a master beggar, someone who had corporate sanction for the duties he was supposed to perform. Whilst, however, the painted staff performed such a symbolic function, the repeated repainting may indicate some use which necessitated repainting.

When the master beggar of London was employed at the funeral of Sir Thomas Lovell in 1524 he was paid 'to keep others from empestering the house, and for keeping good order

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<sup>194</sup> *YCR* 4, 64.

<sup>195</sup> NRO NCR Case 18a/5 ff. 62, 101, 131v.

<sup>196</sup> *RCN* 2, 174.

<sup>197</sup> *TRP* 3, no. 81.5 (p. 70); LP 2(2), no 4125; P. Slack, *The impact of plague in Tudor and Stuart England* (Oxford, 1985), 201-202: Slack noted that the English measures were preceded by continental schemes, especially that in Paris in 1510.

<sup>198</sup> *YCR* 4, 30.

<sup>199</sup> *YCR* 4, 75.

at the dole’.<sup>200</sup> If this was common practice it suggests that master beggars played a significant role in the administration of mortuary charity wherein they seem, based as it is on very limited evidence, to have been principally employed as a force against disorder. Perhaps it was the London master beggar who was to ensure that when alms were distributed to the poor as stipulated by Henry VIII’s will, none went to ‘commen beggars’.<sup>201</sup> The executors’ accounts pertaining to the burial of Sir John Rudston in 1531 indicate that the London beadle of the beggars, with two companions, was paid for attending the burial.<sup>202</sup> These payments are significant as they highlight that such payment could be made even though the will of the deceased made no such provision. It also indicates that whilst master beggars may have acted as corporate officers, they were also privately employed in that role.

The master beggars of York acted in part as the keepers of the beggars, in that they actively and symbolically controlled begging within the city. The chamberlain’s accounts demonstrate this through a payment for clothing to the four ‘heyd beggars of this citey for [...] kepyng y[n] wards & ordering the beggars that comys to this citey’.<sup>203</sup> A 1555 memorandum noted that it was the responsibility of the master beggars and their subordinates to ensure that ‘none to goo beggyng in any warde contrary to thorder of the wardens’, which clearly described a role where surveillance and prohibition intersected.<sup>204</sup> In York at least, the four master beggars seem to have each had responsibility for a given ward. A 1556 memorandum noted their responsibilities ‘within

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<sup>200</sup> *LP* 4(1), no. 366 (p. 150).

<sup>201</sup> *LP* 21(2), no. 634.

<sup>202</sup> BL, Harley 1231, f. 16v. The author wishes to thank John Tillotson for this reference.

<sup>203</sup> YCA YC/FA cc.3, f. 135.

<sup>204</sup> *YCR* 5, 115.

their lymits' when threatening punishment, and suggests that the four master beggars acted individually within city wards.<sup>205</sup> This all supports the notion that within the urban context beggary was authorised within limited spheres based on wards. Master beggars complemented the use of beggars' badges to limit beggary within the urban context to authorised local persons, so much so that they were restricted even within the city walls.

In 1541 when planning for the visit of the king the York government decided that licensed beggars could only beg on Sundays and Fridays 'and the master begger to be present'.<sup>206</sup> Whilst this may have been a special order for the upcoming royal visitation, it emphasises that the master beggars were expected to keep begging practices under control and to assist in curbing prohibited begging. Presumably their presence acted as a physical deterrence of unlicensed beggars and discouraged bad behaviour on the part of the authorised beggars under their control.

Master beggars through their presence lent municipal sanction to any solicitation of alms taking place. The provision of uniforms and utensils such as rods and staves performed symbolic as well as practical functions. Again in connection with the impending royal visit, the city of York decided in August 1541 to

cawse iiij gownes to be maid forthwith for the master beggers for the iiij wards  
and to have the cognisaunce of this City on they slevys and to were the gownes  
daily so long as the Kyngs highness and his graces moste worshipful courte shall

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<sup>205</sup> YCR 5, 141.

<sup>206</sup> YCR 4, 62; YCA House Book vol. 15, ff. 41-41v.

continue here and the sayde iiij master beggers to provide good plenty of birchyne rods and so to execute ther office after the best maner that can be devised.<sup>207</sup>

Here the varied functions of the master beggar were all in clear evidence. The gowns master beggars wore were, in this instance, to be civic uniforms. Accounts for Bristol indicate the provision of a coat.<sup>208</sup> Later evidence from Bristol shows the regular provision of a specially made blue and red coat and, in one instance, of kersey hose.<sup>209</sup> This uniform was of the same colour and even material as the city bellman, another city officer.<sup>210</sup> The evidence of the chamberlain accounts indicates that York's master beggars appear to have been principally dressed in grey.<sup>211</sup> In Norwich, however, instead of a uniform the master beggars appear to have been denoted by their painted staves.<sup>212</sup> Thus whether dressed in uniform or carrying markers of office the master beggars physically represented authorised beggary within the social organism of their respective cities. Some may even have had an architectural or topographical presence, for the mid-century master beggars of York apparently had 'rowmes'.<sup>213</sup>

In at least one instance the master beggar of Norwich was employed 'for kepyng horse from the crosse', highlighting the protective role of the master beggar as the keeper of good order in the widest sense.<sup>214</sup> Despite occasional horsewhipping, however, the punitive aspect of the master beggars' role was generally directed at two distinct groups of beggars. First authorised beggars were protected, and second, illegitimate beggars

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<sup>207</sup> *YCR* 4, 64.

<sup>208</sup> BRO F/Au/1/1, ff. 99, 178; F/Au/1/2, ff. 48, 201.

<sup>209</sup> BRO F/Au/1/8, ff. 139, 147, 298, 376; F/Au/1/9, f. 36.

<sup>210</sup> BRO F/Au/1/8, f. 298; F/Au/1/9, f. 36.

<sup>211</sup> YCA YC/FA cc.4, ff. 82, 104, 158; YC/FA cc.5, f.81.

<sup>212</sup> NRO NCR Case 18a/5 ff. 62, 101, 131b; *RCN* 2, 174.

<sup>213</sup> *YCR* 5, 115.

<sup>214</sup> NRO NCR Case 18a/5 f. 62v.



were punished. Thus legitimate begging was protected from undue and unfair competition.

The regular purchase of coats for the master beggars of York and Bristol may coincide with the appointment of officers, though this is a rather tentative assertion, due to limited material.<sup>215</sup> The 1560 appointment of ‘Symon Frary and Christofer Johnson [...] to be masters of the beggars wtin the Cytye of Norwiche’ is unique in the Norwich material, which by its isolation may indicate that in Norwich the role was held by the same people for several years.<sup>216</sup> Few other names of master beggars have survived. On 7 September 1562 one John Braune ‘was admytted to be one of the bedells of the beggers’ in Exeter.<sup>217</sup> Although muster and subsidy records survive for Exeter, Braune proves elusive. The closest matches to this name are a John Browne assessed at 40s 2d in 1544 or John Burne assessed at £6 16s in 1557-8, neither of whom were resident in the parish of St David’s where Bedel Braune was living at the time of his appointment.<sup>218</sup> However, he did continue to reside there for at least a few more months, as John Braune was listed amongst the recipients of weekly alms in the parish of St David’s in 1563.<sup>219</sup> This may suggest that the master beggars were drawn, at least in Exeter, from a class of person who was, or was likely to have become, alms-dependent.

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<sup>215</sup> Clothing purchases: YCA YC/FA cc.3, f. 135; YC/FA cc.4, ff. 82, 104, 158; YC/FA cc.5, f. 81; BRO F/Au/1/1, ff. 99, 178; F/Au/1/2, ff. 48, 201; F/Au/1/8, ff. 139, 147, 298, 376.

<sup>216</sup> RCN 2, 178 footnote 2.

<sup>217</sup> CDRO AB IV, f. 96v.

<sup>218</sup> *Tudor Exeter: tax assessments 1489-1595 including the military survey 1522*, ed. M. M. Rowe, Devon and Cornwall Record Society, new series, 22 (Torquay, 1977), 51, 59.

<sup>219</sup> CDRO ECA Book 157, f. 4v.

In the lists of officers' fees, the master beggar of Bristol was generally at the bottom, but the master beggar's wages and value of livery put them in a similar position to the bellman.<sup>220</sup> The exhaustive accounts from Bristol indicate a quarterly payment of 3s 4d between 1532 and 1540, with 5s from 1561 until 1569.<sup>221</sup> The scarce material from York indicates a 1559 quarterly fee of 5s.<sup>222</sup> If there was only one master beggar of Bristol, then he benefited financially from his position to a much greater degree than his four York counterparts whose wages were 'to be equally devydid emongs them'.<sup>223</sup> These weekly rates were in Bristol roughly comparable to what a labourer could earn in a day, whilst in York they were clearly significantly less. This would suggest that the master beggars were not solely dependent on their office for subsistence and may indeed have begged for their living.

Regardless of their actual value, the wages granted to master beggars made them employees of the corporation, and therefore subject to corporate direction. The annual provision of coats for the master beggars of York and Bristol may suggest more than just the annual appointment of officers or the simple provision of a uniform. In both York and Norwich the provision of the new clothing was usually made in the Christmas quarter of the year. Six of the seven coat provisions in Bristol were made during the Christmas quarter and of the two for York which can be located in the accounts within the year,

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<sup>220</sup> BRO F/Au/1/8, f. 298.

<sup>221</sup> BRO F/Au/1/1, ff. 59, 69, 87, 99, 182, 194, 211, 234; F/Au/1/2, ff. 50, 59, 71, 117, 121, 131, 139, 202, 207, 213, 219, 295; F/Au/1/8, ff. 145, 154, 212, 219, 240, 295, 300, 310, 318, 372, 378, 385, 393; F/Au/1/9, ff. 33, 38, 45, 48, 98, 101, 107, 114, 161, 166, 171, 176, 225, 230, 235, 240, 298, 302, 308, 320.

<sup>222</sup> YCA YC/FA cc.5, f. 81.

<sup>223</sup> YCA YC/FA cc.5, f. 81.

such location was possible because they were noted as being ‘agaynst Crystnmes’.<sup>224</sup> This location of the provision of clothing within the Christmas quarter and in the same quarter as other city officers were given their livery is significant and may indicate participation in contemporary civic religious ritual. The gifting of livery was common in royal and corporate Christmas traditions. Being near the start of the winter season this might have presented a unified image of the urban organism in the darker months of the year. In his discussion of Coventry, Phythian-Adams suggested that the city presented ‘the ideal of its contemporary structure in ritual’ and the provision of coats, or even the existence of the office of the master beggar, is an example and extension of this notion.<sup>225</sup>

The disappearance of the office of master beggars is perhaps located in a diminished ritual function grounded in, and indicative of, changing conceptions of the role of begging. It is interesting to note that the master beggars of York only seem to have received wages relatively late in the period in which the office was clearly active, perhaps indicative of a changing function.<sup>226</sup> Combined with a final York memoranda entry about watching the city gates, and the instigation of wages for the office in the late 1550s, it might be inferred that a shift away from earlier traditions of the role of the master beggar towards a paid city official had, or was, taking place in York.<sup>227</sup> Whereas early master beggars had regulated and represented authorised begging, perhaps the last people holding the office were principally given the responsibility of administering the city

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<sup>224</sup> BRO F/Au/1/1, f. 178; F/Au/1/2, ff. 48, 201; F/Au/1/8, ff. 298, 376; F/Au/1/9, f. 36 (This is without factoring the isolated provision of kersey hose F/Au/1/8, f. 147); YCA YC/FA cc.4, f. 158; YC/FA cc.5, f. 81.

<sup>225</sup> Phythian-Adams, *Desolation of a city*, 170.

<sup>226</sup> YCA YC/FA cc/5, f. 81.

<sup>227</sup> YCR 5, 158.

policies with respect to unwanted foreign beggars. Whilst authorised beggary continued to be the statutory and urban policy throughout the middle decades of the sixteenth century, a shift in urban policy appears to have taken place about the 1570s.

It is probably no coincidence that the master beggars disappeared from the source material and that beadles and overseers of the poor soon followed. In its 1570 scheme Norwich proposed a system apparently adopted from a Calvinist church model with two deacons of the poor in each city ward who had responsibility to see to the expulsion of foreign poor, perform monthly searches, compel persons to labour, and to certify those persons caught either begging or being vagabonds who required punishment.<sup>228</sup> The *1572 Act* established specific officers known as overseers of the poor whose main duty appears to have been to make the poor work when deemed capable of doing so.<sup>229</sup> Although unnamed, in 1588 the York government wanted to alleviate the trouble of involving higher officers too regularly by ‘in everye street’ appointing ‘specyall persons’ whose responsibility was effecting punishment. A number of the duties of the master beggars were evident in these later officers, but the nomenclature had clearly changed. The duties of the Exeter ‘Wardens of the Magdalen and of the poor’, as provided by Hooker’s 1584 description, principally consisted of account keeping.

The final memoranda evidence of master beggars in York was an order from 1557 that they watch the city gates during Holy Week to ensure ‘that no vacabund or poor cometh

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<sup>228</sup> *RCN* 2, 353-354.

<sup>229</sup> 14 Eliz.I.c.5.16, 22, *SR* 4, 593-594.

in.<sup>230</sup> It is perhaps indicative of a wider shift in attitude that on Maundy Thursday the master beggars will have been executing the office of refusing entry to the poor, rather than facilitating and overseeing the distribution of alms which was a traditional feature of Maundy Thursday celebrations. This changed role of the master beggar is indicative of a shift in the understanding of the role of begging by urban governments at this time.

Corporate governments attempted to curb the alleged ubiquity of begging by prohibiting all beggary in the early 1570s and the master beggars were an inevitable casualty. It was symbolically incongruous to continue to sanction masters of a prohibited activity. Even if master beggars continued in office under new titles such as overseers of the poor with some similar duties, then the abandonment of the title of master beggar is reflective of wider corporate attitudes.

Yet the functions of urban master beggars underline the general arguments detailed throughout this chapter and drew together the apparently opposing, but to contemporaries complementary, policy of authorising and prohibiting various forms of beggary. The concern to remove or dissuade foreign beggars was fulfilled within the urban context through the provision of badges and the office of the master beggar, yet these both continued to authorise beggary until the 1570s. In the early and total prohibition of beggary about the 1570s, corporate policy preceded similar statutory action. Yet the statutory mechanisms adopted within the urban context with licenses, and with the punishments more fully explored in the next chapter, both indicate the consistent application of very general and traditional precepts.

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<sup>230</sup> YCR 5, 158.

## **Chapter Four: ‘...to be ordered & punysshed tyll he put his body to laboure’<sup>1</sup>: the chastisement of mighty beggars and vagabonds**

The present chapter complements the previous chapter’s exploration of the parameters of statutorily acceptable beggary, through specifically addressing the statutory mechanisms for the punishment of vagabonds and mighty beggars over the same period. In keeping with the broad aims of this thesis, this chapter contains four sections addressing aspects of this subject. The first section explores the punitive elements of the statutory regime in Tudor England through focusing on the statutory construction of the vagabond. This is followed by a section that details the changes in statutory punishments for mighty beggars and vagabonds and examines the degree to which such statutory punishments were implemented within the provincial urban context. The third and fourth sections continue the focus on the punishment of vagabonds through detailed studies of two particular features of the statutory regime: a surviving draft parliamentary bill of 1535, and the *1547 Act*. The former detailed a considerable scheme of public works for the punishment and employment of vagabonds, whilst the latter provided that vagabonds could be made into slaves. According to current scholarship each was remarkable, but had little impact in practice.<sup>2</sup> Detailed analysis of an un-enacted bill and a statute apparently so unpopular it was repealed without widespread implementation, provides an important view of the conceptual and mechanical continuities throughout the statutory regime.

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<sup>1</sup> 22 Hen.VIII.c.12.1, *SR* 3, 328.

<sup>2</sup> For a discussion of these documents see: G. R. Elton, ‘An early Tudor poor law’, *The economic history review*, new series, 6 (1953), 55-67; and C. S. L. Davies, ‘Slavery and protector Somerset: the vagrancy act of 1547’, *The economic history review*, new series, 19 (1966), 533-549.

### *Vagabondage and 'mighty' beggary*

Considering the breadth of the period in which authorised beggary was statutorily considered acceptable practice, as demonstrated in the previous chapter, it is rather self-evident that the terms 'beggar' and 'vagabond' were not synonymous throughout the entirety of the Tudor period. Davies has argued that in sixteenth-century English statutes and social policies there was 'a shift from treating the man refusing to work as if he were a vagabond, to the concept that he *was* a vagabond.'<sup>3</sup> This proposition, that there was a broadening of the definition of vagabondage which blurred any distinction between beggars and vagabonds, is an interesting one which requires further exploration and explication. Before turning to the various punishments provided within the statutory regime and their implementation within the urban context it is therefore useful to clarify some of the statutory terminology. This analysis highlights an important shift within the legislative construction of vagabondage and mighty beggary and pinpoints key points in which shifts occurred.

At the start of the sixteenth century vagabonds could always be punished, whereas beggars had to breach some statutory conventions in order to have been technically subject to any punishment. Simply put, by definition the vagabond was punishable. This principle that vagabonds and mighty beggars were different is discernible in the *1495* and *1504 Acts* which each contained clauses that threatened penalties against officers who failed to execute relevant requirements 'as is above seid of ev[e]ry vagabounde heremyte

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<sup>3</sup> Davies, 'Slavery and protector Somerset', 535 (original emphasis).

or beggar able to labre'.<sup>4</sup> It was the beggar able to labour who would later in the century be designated as 'being hole & mychtie in body & able to laboure' in the *1531 Act*, and hence a 'mighty' beggar.<sup>5</sup> Yet it was not the penalties threatened against officers, but rather those against mighty beggars and vagabonds, which provide the clearest expression of the distinction in the *1495* and *1504 Acts*.

The 'above seid' punishment which officers were supposed to have carried out was that

vagabonds idell and suspecte p[ar]sones lyvyng suspeciously [were to have been] sette in the stokkes, ther to remayne by the space of iij daies and iij nyghtes and ther to have noon sustenance but brede and water [...]<sup>6</sup>

They were then to have been expelled from the town. Yet these were not directed at mighty beggars; indeed there is no specific mention of beggary. Rather, under these statutes 'beggars not able to werke' were not allowed to beg outside of their home locality.<sup>7</sup> As noted in the previous chapter, 'no man be excused' without appropriate authorisation as a student, soldier or sailor.<sup>8</sup> Rather than being placed in the stocks with the vagabonds, such mighty beggars were to have been 'comaunded to go the [streight] high wey into his Country.'<sup>9</sup> The shift may lie in the usage of the term, mighty beggar having perhaps come to mean more than a person capable of labour, but possibly also a threatening figure. As there was not a requirement that officers punish mighty beggars at

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<sup>4</sup> 11 Hen.VII.c.2.3, *SR* 2, 569; 19 Hen.VII.c.12.3, *SR* 2, 656.

<sup>5</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329-330.

<sup>6</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; 19 Hen.VII.c.12.1, *SR* 2, 656.

<sup>7</sup> 11 Hen.VII.c.2.2, *SR* 2, 569; 19 Hen.VII.c.12.2, *SR* 2, 656.

<sup>8</sup> 11 Hen.VII.c.2.2, *SR* 2, 569; 19 Hen.VII.c.12.2, *SR* 2, 656.

<sup>9</sup> 11 Hen.VII.c.2.2, *SR* 2, 569; 19 Hen.VII.c.12.2, *SR* 2, 656.



all, this may be reading too much into the term. However one of the few changes between the two statutes was that in the *1504 Act*

if he [the beggar] dep[ar]te not accordyng to such Comaundemente in that behalf  
to hym gyven that then he to be taken reputed and punysshed as a vagabond [...]<sup>10</sup>

Thus from 1504 a statutory mechanism was in place which provided for mighty beggars to have been punished as vagabonds if they strayed beyond the boundaries of statutorily authorised beggary in certain circumstances. In this, the *1504 Act* was following an earlier legislative tradition that had treated vagabonds and mighty beggars as distinct categories of person. Much earlier, the *1388 Act* had statutorily authorised mighty beggars to have received punishment *as for* vagabonds.<sup>11</sup> Whilst the *1504 Act* had provided that mighty beggars could be ‘reputed and punysshed’ as vagabonds for the purposes of applying punishment, this act of classification again highlights that, generally, mighty beggars were not considered vagabonds.<sup>12</sup> However, the fact that mighty beggars could be treated like vagabonds in certain circumstances, also suggests that if they seemed threatening they could easily find themselves identified, and therefore punished, as such.

This approach, whereby mighty beggars could be treated as vagabonds for the purposes of administering punishment in certain circumstances, demonstrated a statutory hierarchy of misbehaviour. According to the *1383 Act*, vagabonds were to have been imprisoned if they could not provide ‘Surety of their good bearing’.<sup>13</sup> Considering the need for ‘good

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<sup>10</sup> 19 Hen.VII.c12.2, *SR* 2, 656.

<sup>11</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>12</sup> 19 Hen.VII.c12.2, *SR* 2, 656.

<sup>13</sup> 7 Ric.II.c.5, *SR* 2, 33.

bearing’ and the fact that these provisions appeared within a clause that ordered the keeping of previous statutes against ‘Roberdsmen and Drawlatches’ it seems that the vagabond was a particularly suspicious and threatening figure.<sup>14</sup> Yet, in a departure from this long-established practice, the *1531 Act* inverted the administrative procedures for classifying persons as mighty beggars or vagabonds. Instead of providing for the punishment of vagabonds, and then the punishment *as* vagabonds for any mighty beggars who ignored orders to depart, the *1531 Act* initially treated both in the same way after which vagabonds were to have been further punished. Despite the retention of a definitional difference through the extra punishment of vagabonds, this was the first indication of a legislative trend towards a definitional concatenation of mighty beggary and vagabondage.

The third clause of the *1531 Act* contained detailed instructions regarding ‘p[ar]sones being hole & mychtie in body & able to laboure’ which replaced the provisions of 1495 and 1504.<sup>15</sup> These persons were liable to arrest on either of two conditions. The first was that they were ‘taken in beggyng’ (a mighty beggar) whilst the second was that they ‘be vagarant & can gyve none rekenyng howe he dothe lefully get his lyvyng’ (a vagabond).<sup>16</sup> This continued distinction between vagabonds and the garden-variety mighty beggar was further affirmed by the particular treatment ‘an ydell p[er]son & no comon begger’, in other words a vagabond, was supposed to have received under this statute.<sup>17</sup> After an initial punishment of whipping, applicable to mighty beggars and

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<sup>14</sup> 7 Ric.II.c.5, *SR* 2, 33.

<sup>15</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329-330.

<sup>16</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>17</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

vagabonds, the vagabond was to have been placed in the stocks.<sup>18</sup> Whilst the *1531 Act* therefore broadened the categories of persons immediately punishable under its provisions to include both mighty beggars and vagabonds, it still retained a traditional construction of the vagabond as worse than the mighty beggar.

The *1547 Act* provided the next shift in the definition, where it specifically addressed the definition of a vagabond. The *1547 Act* stipulated those persons who could be ‘taken for a Vagabond’ as any

man or woman being not Lame Impotent or so aged or diseased w[i]th sicknes that he or she can not worke, not having Landes or Ten[emen]ts Fees Anuities or anny other yerelie Revenues or Proffitts wheron theie may fynde sufficientlie their Living, shall either like a s[e]rvinge man wanting a maister or lyke a Begger or after anny other suche sorte be lurking in anny howse or howses or l[o]ytringe or Idelye wander by the highe waies syde of in Stretes in Cities Townes or Vyllages, not applying them self to some honest and allowed arte Scyence service or Labour [...]<sup>19</sup>

Upon consistently refusing for three consecutive days to offer themselves for service, to accept service if offered, or if they left any service they were in, such persons were to have been taken as vagabonds.<sup>20</sup> This shows how masterless men could easily find themselves identified as vagabonds. Once so classified as a vagabond, the punishment included being branded ‘with an whott Iron in the brest the marke of V.’<sup>21</sup> Here the

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<sup>18</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>19</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>20</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>21</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

statutory distinction between mighty beggary and vagabondage was abolished as the former was subsumed into the latter. Unauthorised or ‘mighty’ begging was thereafter only one of a number of conditions that could lead to the denotation of the person as a vagabond.

Such a broadening of the statutory definition of what constituted a vagabond was furthered in the *1550 Act*, which replaced the *1547 Act*.<sup>22</sup> Under the new statute ‘comen Laborers of Husbandry’ were included as another category of person to have been ‘adjudged Vagabonds’ if they were capable of labour and either loitered or refused to ‘worke for suche reasonable wags as is moste comenly given in the parties where suche parsons shall dwell’.<sup>23</sup> Therefore there was a mid-century broadening of the applicability of the term vagabond, as Davies and others have noted, which perhaps in turn inflated the contemporary perception of vagabondage.<sup>24</sup> From 1547 all mighty beggars were vagabonds, and from 1550 labourers who refused to work for usual wages were also vagabonds. This process of definitional change is instructive of the mechanical processes at work in Tudor statutory change, in particular how a series of subtle definitional shifts could dramatically increase the applicability of this legislation to a wide group of people and circumstances.

Another broadening of the definition was, however, not restricted to class or behaviour, but to gender. When John Mathewe was placed in the stocks at Norwich in 1496 for

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<sup>22</sup> 3&4 Edw.VI.c.16, *SR* 4, 115.

<sup>23</sup> 3&4 Edw.VI.c.16.3, *SR* 4, 115.

<sup>24</sup> Davies, ‘Slavery and protector Somerset’, 535. See also the discussion of the historiographical implications in Chapter One.

being a ‘vagabond’, one Elizabeth Herley was also ‘set in the stocks’, but in her case it seems to have been because she was a ‘harlot’.<sup>25</sup> The late medieval notion of the vagabond was in many ways a gendered one as the vagabond was, after all, generally conceived of as a mighty man. McIntosh has argued that ‘the second half of the sixteenth century was marked by increasingly gendered language’ in which the ‘deserving poor’ were addressed with feminine notions of weakness and dependency, whilst ‘[t]he idle poor, by contrast, were associated with uncontrolled, potentially violent, and threatening masculinity.’<sup>26</sup> But if problematic beggars and vagabonds were seen as masculine, the statutes were surprisingly gender-specific with respect to punishments. A proclamation of 1530 ordered ‘any vagabond or mighty beggar (be it man or woman)’, with the aged, sick or pregnant ‘only except’ to be ‘sharply beaten and scourged.’<sup>27</sup> Similarly, when the 1547 *Act* statutorily clarified the persons who ‘shalbe taken for a Vagabounde’ it included ‘man or woman’ in the definition.<sup>28</sup> A 1547 list of 5 persons punished in Norwich indicates that two were female.<sup>29</sup>

Norwich was not the only city to punish women, however. In Exeter ‘alice barrys was punysshed [...] as a vacabound’, and one Marion Barnes, though not necessarily punished as a vagabond, ‘was whipped out of the Citie’, indicating that such punishment was deployed there.<sup>30</sup> In Exeter, one of the women in receipt of corporate poor relief in 1565 had a notation beside her name, which read ‘to be whipped if she begs’, suggesting

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<sup>25</sup> *RCN* 2, 154.

<sup>26</sup> M. K. McIntosh, ‘Poverty, charity, and coercion in Elizabethan England’, *Journal of interdisciplinary history*, 35 (2005), 463.

<sup>27</sup> *TRP* 1, no. 128 (p. 192).

<sup>28</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>29</sup> NRO NCR Case 16a/5, f. 343.

<sup>30</sup> EDRO ABIV, ff. 9, 12v.

that the city whipped not only vagabonds, but threatened to whip at least one pauper.<sup>31</sup>

Slightly later, in the 1570s in York, several of the alms people of city hospitals were to have been punished, some of whom (women included) were singled out for particular punishment and so to be ‘grevously whipped’.<sup>32</sup>

Again the terms ‘Roges Vacabounds and Sturdye Beggers’ were deployed within the statutory context to describe persons of both genders who were to have been subject to punishment in the *1572 Act*.<sup>33</sup> A definitional clause provided that vagabonds included

all and everye p[er]sone and p[er]sones beyng whole and mightye in Body and able to laboure, havinge not Land or Maister, nor using any lawfull Marchaundise Crafte or Mysterue whereby hee or shee might get his or her Lyvinge, and can gyve no reckninge howe hee or shee dothe lawfully get his or her Lyving [...]<sup>34</sup>

This definition also incorporated

all Comon Labourers being able in Bodye using loitering, and refusing to worke for suche reasonable Wages as ys taxed and commonly gyven in suche partes where such persones do or shall happen to dwell [...]<sup>35</sup>

This clearly demonstrates a continuation of the definitions developed in the preceding statutes, and similar definitions were provided in the Elizabethan codification of 1598.<sup>36</sup>

Yet the broadening of the definition in the middle of the sixteenth century was part of a longer history of changing administrative mechanisms. Whereas initially the mighty

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<sup>31</sup> CDRO ECA Book 157, f. 42.

<sup>32</sup> *YCR* 7, 157.

<sup>33</sup> 14 Eliz.I.c.5.5, *SR* 4, 591-592.

<sup>34</sup> 14 Eliz.I.c.5.5, *SR* 4, 591.

<sup>35</sup> 14 Eliz.I.c.5.5, *SR* 4, 592.

<sup>36</sup> 39 Eliz.I.c.4.2, *SR* 4, 899.

beggar could be treated as a vagabond, the presumption was that he would not. Then, in 1531, there was a shift to treating mighty beggars and vagabonds together with an extra punishment for vagabonds. Bearing this shift in mind, the mid-century broadening of the vagabondage denotation reflects this earlier change, one which perhaps is best thought of as the subsumption of an already-punishable class of persons under the title vagabond rather than just a broadening of the definition into new territory. Therefore in the first half of the sixteenth century there was a particularity to the punishments which were statutorily imposable. This was replaced in the latter half of the century by greater punitive uniformity.

***What ‘the Law demandeth’<sup>37</sup>***

As noted above, a number of the punishments designated for vagabonds were employed against women in both Norwich and Exeter during the course of the sixteenth century. This section explores in more detail the punitive requirements of the statutory regime and the degree to which such requirements can be traced in the corporate records of provincial urban government. In order to gather a sufficient sample of vagabonds for analysis Beier examined the responses of searches for vagabonds across eighteen counties between 1569 and 1572, yet found only 1,159 vagabonds.<sup>38</sup> With few records surviving, it is unfortunately not possible to provide a completely systematic survey of town responses and the degree of the ‘vagabond problem’ faced by corporate authorities

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<sup>37</sup> 7 Ric.II.c.5, SR 2, 32.

<sup>38</sup> A. L. Beier, ‘Vagrants and the social order in Elizabethan England’, *Past and present*, 64 (1974), 4.

within only four towns, but a qualitative analysis of those records available can lend some insight into the application of the statutes.

The approach that authorities were supposed to have taken towards mighty beggars and vagabonds before the Tudor period was determined by the provisions of the *1383* and *1388 Acts*. Under the former, the *1383 Act*, vagabonds were to have been placed in gaol until sessions if they could not provide good surety of their bearing.<sup>39</sup> The implication of this is that vagabondage was principally an issue dealt with at sessions subject to royal judicial authority, and vagabonds so held were possibly also prosecuted for other offences, with vagrancy performing a role as a holding charge. Therefore such imprisonment was not intended to be the punishment for vagabondage, but rather the means of ensuring that vagabonds could not misbehave or evade investigation of their activities in the courts.

Regarding mighty beggars, the *1388 Act* provided

That of every Person that goeth begging, and is able to serve or labour, it shall be done of him as of him that departeth out of the Hundred and other Places aforesaid without Letter Testimonial as afore is said [...]<sup>40</sup>

This meant that mighty beggars were to have been placed in the stocks until being put, or returned, to work.<sup>41</sup> In this case, the statutes delineated the punishment which was to have been inflicted upon a person, with no need for sessions to have addressed the case.

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<sup>39</sup> 7 Ric.II.c.5, *SR* 2, 33.

<sup>40</sup> 12 Ric.II.c.7, *SR* 2, 58.

<sup>41</sup> 12 Ric.II.c.3, *SR* 2, 56.



The *1495* and *1504 Acts* required that vagabonds should be put in stocks for three days and nights on a bread and water diet, and then sent back to their places of birth or the place where they were last resident for three years.<sup>42</sup> This was framed as a ‘softer meanes’ than the gaoling required under the Ricardian statute that it replaced, which it may have been, considering the state of many contemporary gaols.<sup>43</sup> Furthermore, not only were the *1495* and *1504 Acts* the first to specifically address vagabondage and mighty beggary combined, they provided for the same punishment to have been applied where appropriate as noted above. Yet, whilst framed as ‘softer’, these statutes introduced a summary approach to vagabondage which facilitated rapid punishment without scope for judicial defence by the accused. Bellamy has noted the role of summary procedure with the labour regulation statutes from the middle of the fourteenth century, but he likewise noted that in the reign of Henry VII summary approaches ‘reached new heights of popularity’ if the statutory forms of procedure can be taken to provide such a guide.<sup>44</sup>

The implementation of new statutory approaches in 1495 and 1504 can be seen in the records of some corporate towns. In 1501 the York government ordered the construction of ‘a payre stokez and certan fethers for imprisonment and punishment of beggars, vacabunds and other mysdoers’ in every ward.<sup>45</sup> The use of stocks for persons apprehended under this legislation is evident in Norwich when in 1496 one Johne

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<sup>42</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; 19 Hen.VII.c.12.1, *SR* 2, 656 (quotation from 19 Hen.VII.c.12).

<sup>43</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; 19 Hen.VII.c.12.1, *SR* 2, 656.

<sup>44</sup> J. G. Bellamy, *Criminal law and society in late medieval and Tudor England* (Gloucester and New York, 1984), 8, 15: for a detailed discussion of summary procedures between the fourteenth and sixteenth centuries see 8-31.

<sup>45</sup> *YCR* 2, 165: The construction of these stocks is confirmed in the record of the mayoralty *YCR* 2, 171.

Mathewe, a ‘mighty man a[nd] vagabond’, was ‘to be set in the stocks’.<sup>46</sup> Whilst the evidence is clearly limited, it is suggestive of legislative conformity. If the letter of the law was followed diligently then Mathewe will have had three days and nights in the stocks with ‘noon other sustenance but brede and water’, unless it was his second offence, in which case he would have been six days in the stocks.<sup>47</sup> Had he been punished under the Ricardian statute he would have been gaoled. Over the previous month, six ‘mighty beggars were set in the stocks’.<sup>48</sup> Coupled with no references to the use of stocks for the punishment of vagabonds prior to 1495 in these towns, and clear evidence of the use of stocks after the appearance of legislation requiring stocks, the role of that legislation in determining punitive mechanisms seems clear.

In the early 1530s a more active punishment was implemented for vagabonds, again summary, in the form of whipping. In 1530, prior to statutory sanction being given to the punishment, the king instructed through proclamation that

the said vagabonds and beggars and every of them to be stripped naked, from the privy parts of their bodies upward [...] and being so naked, to be bound and sharply beaten and scourged.<sup>49</sup>

The proclamation announced that it was for ‘the persecution, correction, and reformation of that most damnable vice of idleness’ and the person subject to its provisions was ‘any vagabond or mighty beggar [...] out of the hundred where he or she was born [etc.]’.<sup>50</sup> As noted in chapter two, it is likely that this proclamation was linked to the *1531 Act* which

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<sup>46</sup> *RCN* 2, 154.

<sup>47</sup> 11 Hen.VII.c.2.1, *SR* 2, 569; 19 Hen.VII.c.12.1, *SR* 2, 656.

<sup>48</sup> *RCN* 2, 153. These were two separate incidents with four and two beggars respectively.

<sup>49</sup> *TRP* 1, no. 128 (p. 192).

<sup>50</sup> *TRP* 1, no. 128 (p. 192).

statutorily authorised whipping as the punishment for mighty beggary and vagabondage, possibly implemented ahead of the statute. It was presumably in response to the reception of this proclamation that a month after its printing the York government ordered that ‘straunge beggers’ were to leave the city ‘uppon payne of suffering of correccion and punishment bothe in scowregyng of thayre bodyes and oderwise as is devised within the Kyngs commission for suche purpose.’<sup>51</sup>

According to the more detailed provisions of the *1531 Act*, persons arrested under its provisions were

to be tyed to the end of a Carte naked and be beten wyth Whyppes thoughe oute the same Market Towne or other place tyll his Body be bloody by reason of suche whyppyng [...]<sup>52</sup>

After this they were to be sent to their birthplace or the place where they were last resident for three years, and were ‘there to put hym selfe to laboure, lyke as a trewe man oweth to doo’.<sup>53</sup> However,

yf the p[ar]son so whipped be an ydell p[ar]son & no common begger [than] after suche whipping he shall be kepte in the Stocks till he hathe founde suertie to goo to service or ells to laboure after the discretion of the sayde Justice of Peace, Mayres, [etc.]<sup>54</sup>

This clearly indicates distinctions being made amongst this group of people. This specific group of vagabonds were, if needed, to have been repeatedly ‘ordered & punysshed tyll

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<sup>51</sup> *YCR* 3, 133: 26 July 1530.

<sup>52</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>53</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>54</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

he put his body to laboure or otherwise gette his lyvyng trewly according to the Lawe.’<sup>55</sup>

This further punishment for vagabonds demonstrates the continued use of the stocks as a punitive element under the legislation following the earlier tradition. It also highlights a greater degree of conceptual and administrative continuity in statutory practice than has been generally acknowledged. In 1495 vagabonds were placed in the stocks and beggars were not. The same was true in 1531, excepting that both were to have been whipped first. There is a clear continuity here that has generally been overlooked.

Corporate accounts from the late 1530s in Norwich demonstrate that the city ‘payd ffor whippingng off certen vacabunds aboute the mrket & ffor wr[i]tins sette on ther heds’.<sup>56</sup>

Such writing set upon their head may actually have meant being placed on the stocks above their head. If so, this would imply that the secondary element of the statutory punishment requiring vagabonds to have been placed in the stocks was indeed carried out. A memorandum from York in 1546 required

that every constable within this Citie shall take all straunge beggars and vacabunds that at any tyme hereafter shall resorte within ther constabulary to begg or ther use and comytt any myddemeanour, and to put them in the stokks, ne to gyve them none other dyat but onely brede and watter by the space of thre days and thre nights [...]<sup>57</sup>

This may have been a corporate application and even extension of the provisions in the *1531 Act* concerning the placement of vagabonds in stocks after punishment.<sup>58</sup> That this

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<sup>55</sup> 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>56</sup> NRO NCR Case 18a/6, f. 26.

<sup>57</sup> *YCR* 4, 145.

<sup>58</sup> 22 Hen.VIII.c.12.3, *SR* 3, 329.

punishment would be a replacement of whipping seems unlikely, in which case York appears to have treated 'straunge' beggars as vagabonds in all statutory respects.<sup>59</sup>

Urban records indicative of the actual punishment of vagabonds are, however, rare. For instance, whilst corporate accounts in Norwich contain an early 1540s payment 'ffor waxe ffor billets ffor vacbabunds', suggesting the application of the licensing provisions of the legislation, the scale of the administration of punishments is difficult to determine.<sup>60</sup> The Norwich Mayoral Court Book indicates a further instance of persons punished in 1547.<sup>61</sup> Only one of these five was clearly 'punysshed for a vacabunde', but all were punished and then 'assigned' and two seem to have had letters, so it is probable they were punished under the vagrancy legislation.<sup>62</sup> Whilst most of these five persons were sent to a specific location, John Evans was 'assigned to John petyber', which may indicate that he was placed in private service or had surety to have done so.<sup>63</sup> In Norwich at least, the evidence of whippings, billets and letters seems to suggest that the legislation was at least broadly followed in a number of respects. Vagabonds had been whipped and sent away as statutorily required. Yet the full scale of such activity still remains uncertain, as it is impossible to determine on the basis of the Norwich corporate memoranda, accounts and court records how many persons may have been punished.

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<sup>59</sup> Whether 'strange' beggars equated to 'mighty' beggars is not certain, however. Whilst clearly meaning 'not from York', the term may also suggest 'foreign' in the international sense of the word, especially considering the possibility that these were Scottish beggars, in which case treatment as vagabonds is not entirely unsurprising, especially given the recent war.

<sup>60</sup> NRO NCR Case 18a/6, f. 114v.

<sup>61</sup> NRO NCR Case 16a/5, f. 343.

<sup>62</sup> NRO NCR Case 16a/5, f. 343.

<sup>63</sup> NRO NCR Case 16a/5, f. 343.

Written references to the punishment of vagabonds and mighty beggars in sixteenth-century corporate memoranda generally tended to be general policy statements or orders, rather than records of particular cases. A typical example from York in 1543 ordered officers to ‘avoyde all sturdy and mighty beggers owte of this City accordynge to the Kyngs acts’.<sup>64</sup> Whilst indicating intended legislative conformity, such records do not provide much indication of the scale of the application of statutory measures, or the numbers of persons subjected to those measures if implemented. Under the *1531 Act*, justices of the peace and mayors compelled punishment ‘by their dyscretions’ upon arrested persons, meaning that a person did not have to be tried at sessions to receive statutory punishment.<sup>65</sup> This goes some way to explaining the lack of records pertaining to the punishment of particular beggars and vagabonds in corporate court records. So too, the lack of contemporary commentary about the punishment of vagabonds may derive from the likelihood that ‘dyscretion’ more often resulted in a proverbial cuff around the ear than a bloody whipping.<sup>66</sup> Simply put, the courts were not necessarily involved. Thus the lack of material concerning the actual punishment of individual vagabonds and mighty beggars is not surprising. Those which remain extant may have been unusual cases to begin with if they were thought deserving of notation.

The evidence from Bristol regarding the administration of the vagrancy legislation is particularly light; however, it is clear that during the mid 1540s at least one vagabond was whipped, because the city accounts noted two pence ‘paid to the Raker for rodde &

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<sup>64</sup> *YCR* 4, 93.

<sup>65</sup> 22 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>66</sup> McClendon has noted the low rate of vagabondage cases in Norwich in the early and mid sixteenth century, with an increasing number of cases recorded during the mid 1560s: M. C. McClendon, *The quiet reformation, magistrates and the emergence of Protestantism in Tudor Norwich* (Stanford, 1999), 218.

wpis to whippe a vacabounde’ and a subsequent payment of four pence to the Raker ‘to whipp a vacabond at ij tymds’.<sup>67</sup> This could have been one vagabond whipped three times, or two vagabonds, one of whom may have been whipped twice. Double whipping was, after all, statutorily provided for in certain cases. Under the *1531 Act* people could ‘be punysshed by whyppynge at two dayes together’ if they had been ‘found giltye of any suche deceytes’ as ‘feynyng themselves to have knowledge in Physyke, Physnamye, Palmestrye, or other craftye scyences’.<sup>68</sup>

As noted above, in one case from Norwich the punished persons had ‘wr[i]tings sette on ther heds’, which suggests that punishment was intended to convey a message.<sup>69</sup> The simplest message conveyed by whipping was that vagabonds were not welcome in the community, at least by the local magistracy. An examination of the mode of whipping further highlights the opprobrium with which whipped persons were held. The city raker, who conducted at least three whippings in Bristol, was the city officer whose duty it was to rake clean the city channels. The early sixteenth-century Norwich ‘channel raker’, for example, had the duty of weekly removing ‘muck’ from the city channels.<sup>70</sup> This ‘muck’ included the mud and effluent which accumulated from the urban environment. In that quarter-year in which he performed recorded whipping duties the Bristol raker received a fee of 20 shillings.<sup>71</sup> The extra payments for undertaking whippings demonstrate that this was probably beyond his usual sphere of responsibility. It is also possible that the raker

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<sup>67</sup> BRO F/Au/1/3, ff. 311, 313. ‘tymds’: (sic).

<sup>68</sup> 22 Hen.VIII.c.12.4, *SR* 4, 330: Whether this vagabond foretold his or her punishment is not recorded in the accounts.

<sup>69</sup> NRO NCR Case 18a/6, f. 26.

<sup>70</sup> *RCN* 2, 109-110.

<sup>71</sup> BRO F/Au/1/3, f. 315.

was fulfilling a role usually undertaken in Bristol by the master beggar, as there is no evidence of a master beggar having been paid by the city at that time.<sup>72</sup> In York the master beggars were one of a number of officers that had this responsibility so a similar responsibility in Bristol is not improbable.<sup>73</sup>

Perhaps, however, the Bristol magistrates who ordered these particular punishments had a theatrical flair. That the city chose the raker to perform the task of punishing vagabonds and mighty beggars conjoins neatly with the punishment as statutorily orchestrated.

Whipping of vagabonds and beggars was supposed to have been performed, in contemporary parlance, ‘at the carttes arse’.<sup>74</sup> The most likely candidates for the carts deployed by urban authorities for the purpose of inflicting such punishments will have been those such as the Norwich ‘comon cartes for the avoiding of the ffilthie and vile mater’.<sup>75</sup> Historians have noted that cities were interested in cleaning up the urban environment in the early sixteenth century and the use of such common carts and the employment of rakers formed the usual methods adopted by the authorities.<sup>76</sup> For instance the York government decided in 1501

that ther shalbe a dung cart in every ward and a place assigned without the barre  
or postern wher al such dung as shalbe carried out of every ward shalbe layd so  
that husbands of the countre may come ther to and have it away.<sup>77</sup>

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<sup>72</sup> BRO F/Au/1/3, ff. 307, 315, 327, 337, 403, 433.

<sup>73</sup> See Chapter Three for a discussion of master beggars.

<sup>74</sup> *Chronicle of the grey friars of London*, ed. John Gough Nichols, Camden Society, first series, 53 (London, 1852), 73.

<sup>75</sup> *RCN* 2, 110.

<sup>76</sup> See for instance J. H. Thomas, *Town government in the sixteenth century* (London, 1933).

<sup>77</sup> *YCR* 2, 165.



The semiotic link between vagabonds and mighty beggars being whipped outside of town at the end of a dung cart should be obvious. Those persons were treated with the same instruments and in the same manner as excrement. They were literally carted away, and so were removed from the locality.

Public whippings were of sufficient interest to have been noted in London by the contemporary diarist Henry Machyn. On 14 September 1554, for instance, Machyn noted that there ‘was ij wytyd a-bowt London, [after] a care-hars, for lotheryng, and as wacabondes’.<sup>78</sup> In another horse-cart whipping incident the following year Machyn noted that three persons were whipped, one male and two female.<sup>79</sup> Yet, given the period covered by Machyn’s diary, is remarkable how few of these whippings Machyn noted, suggesting perhaps their unusualness rather than their ubiquity.

There was a short period when vagabonds were not to have been whipped, that is, under the provisions of the *1547 Act*. The provisions and effect of this statute will be addressed in more detail below, but suffice for now to note that between 1547 and 1550 the statutory punishment for vagabondage was slavery.<sup>80</sup> However, this was only a brief interlude in the legislative schema as the restoration of the *1531 Act* meant the renewed use of whipping and the additional use of stocks for vagabonds.<sup>81</sup> As with the period before the *1547 Act* interrupted, corporate memoranda, accounts and court records leave little evidence of any specific punitive action city governments may have taken. In York

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<sup>78</sup> *The diary of Henry Machyn, citizen and merchant-Taylor of London, from A. D. 1550 to A. D. 1563*, ed. John Gough Nichols, Camden Society, first series, 42 (London, 1848), 69.

<sup>79</sup> *The diary of Henry Machyn*, 85.

<sup>80</sup> 1 Edw.VI.c.3, SR 4, 5-8.

<sup>81</sup> 3&4 Edw.VI.c.16.3, SR 4, 115.

there were supposed to have been surveys of newly-arrived vagabonds and idle persons from at least 1552 and there were occasional injunctions about the expulsion of strange beggars or vagabonds throughout the 1550s, suggesting the continued application of the same measures as previously.<sup>82</sup> This similarity of urban action in the 1550s to that of the 1530s and 1540s is hardly surprising given the legislative similarities evident in these decades regarding the punishment of vagabonds.

So far, Exeter has not featured prominently in this discussion, the reason being that throughout the 1530s, 1540s and for most of the 1550s little evidence survives in corporate sources to indicate any policies implemented or action taken towards vagabondage. This same dearth of evidence is also true for Bristol. However, a cluster of vagrancy whippings noted within the otherwise vagrant-sparse Exeter *Act Books* in the late 1550s and early 1560s reveals something of the application of these laws in this city at that time. These notes are depositions taken from the punished persons, and margin notes indicated the punishments that were meted out. For instance one George Webbe was recorded as having been whipped and his deposition indicated that ‘he that gone aboute ffrom place to place as a vagrante p[ar]son’.<sup>83</sup> There were also multiple whippings for some individuals. On 13 December 1559, for instance,

George Croberd & Richard griffath w[ch] were whipped the Friday last [...] for  
theire runnagate & vagrunt lyff wer also whipped this present daie & had their

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<sup>82</sup> YCR 5, 76, 101, 141.

<sup>83</sup> CDRO ABIV, f. 8.

letters for the same gyven to them & so dismissed & so banished out of this Citie  
[...]<sup>84</sup>

This seems to indicate that both men had been whipped and were at that point receiving subsequent punishment. These cases indicate a great deal of conformity with the statutory provisions through whipping, the provision of letters and expulsion. Even the repeat punishments were acceptable under the statutory law at that time.

On the following day, one John Smale ‘a loyrteler & vagrunt p[ar]son’ was first imprisoned for nine days, and then threatened with being ‘taken whipped & punished as a vagrunt according to the statute’ if he did not remove himself and his family from the city of Exeter within ten days of his release.<sup>85</sup> Here the strict letter of the law was not being deployed, as the law did not at this point provide for imprisonment. Rather, Smale was threatened with statutory whipping if he did not leave the city. Smale was ‘of the p[ar]ishe of the Trinitie’, which when combined with the instruction that he ‘rydd his house’ and the detail that he had a resident family, may indicate that these laws were thus being deployed against a city resident.<sup>86</sup> In a similar instance, the Exeter government threatened Walles Taplighr with being ‘takn as a vagrunte p[ar]son’ if he did not leave the city after having been presented at the sessions ‘for strykinge of Thoms babcombe a counstable & for sundrie other his misdemeaners’.<sup>87</sup> Thus the threat of punishing persons as vagabonds provided city governments with an effective threat.

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<sup>84</sup> CDRO ABIV, f. 2.

<sup>85</sup> CDRO ABIV, f. 2.

<sup>86</sup> A Jone Smale was listed as a recipient of weekly alms in Exeter in 1563; perhaps she was a returned or abandoned family member or spouse.

<sup>87</sup> CDRO ABIV, f. 6.

Where people had no opportunity to mount a defence of themselves at sessions due to a summary procedure, the statutes for the punishment of beggars and vagabonds provided governments with a convenient means for addressing any social concerns they may have had. These statutes could be deployed to advance the godly magistracies that historians such as Slack and McClendon have argued developed in late-sixteenth century and early-seventeenth century puritan citadels such as Norwich and Salisbury through the application of a means of punishing perceived moral laxity and expelling unwanted persons.<sup>88</sup> However, whilst unlikely to have ever been recorded, the threat of punishment for vagabondage could have been increasingly been used by towns as the century progressed from the 1530s. With these statutes, the balance of power between the agents of the state and the subject was bolstered in the favour of the local magistrate. Yet however threats may have been deployed, the records of city governments indicate that the legislation was generally followed in form, in so far as urban action and policy can be determined from such records. Yet whilst the broad discretion of this legislation was appropriated for urban use, there is, contrary to a common assumption, little evidence to suggest that the legislative changes specifically reflect earlier urban policies before the 1570s.<sup>89</sup> Even then, the legislation returned to an earlier, perhaps less discretionary, framework.

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<sup>88</sup> McClendon, *The quiet reformation*; P. Slack, 'Poverty and politics in Salisbury 1597-1666', in P. Clark and P. Slack (eds.), *Crisis and order in English towns 1500-1700: essays in urban history* (London, 1972), 164-203.

<sup>89</sup> The role of the Norwich scheme of 1570 in the drafting of the *1572 Act* seems therefore to be the exception, and the literature has perhaps overstated the impact the Norwich scheme had, without a detailed appreciation of how the *1572 Act* followed earlier legislative precepts.

In 1572 the legislative mechanisms regarding the punishment of vagabondage changed significantly when the *1572 Act* provided for the gaoling of persons apprehended as ‘Roges Vacabonds or Sturdy Beggars’ until sessions.<sup>90</sup> This represented a return to the Ricardian approach whereby vagabonds had been imprisoned before being tried, highlighting the degree of long-term conceptual continuity evident between the commencement and completion of Tudor legislative modifications. If then convicted, according to the *1572 Act*, such vagabonds and mighty beggars were ‘to be grevouslye whipped’ and burned in the ear.<sup>91</sup> A subsequent offence carried the threat of felony.<sup>92</sup> This may have represented a step away from the summary approach of the first three-quarters of the sixteenth century, but it also represented the success of the sixteenth-century concatenation of the categories of mighty beggars and vagabonds. Whilst still listed separately within the statute, persons classified as mighty beggars or vagabonds were thenceforth subject to the same treatment. However, throughout the century corporal punishment had been simply been the major statutory requirement regarding beggars and vagabonds, it was not the only one. Turning now to two particular case studies and their place within the statutory regime, it is clear that legislators considered and implemented different mechanisms for punishing and utilising vagabonds.

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<sup>90</sup> 14 Eliz.I.c.5.2, *SR* 4, 590-591.

<sup>91</sup> 14 Eliz.I.c.5.2, *SR* 4, 590-591.

<sup>92</sup> 14 Eliz.I.c.5.4, *SR* 4, 591.

### *The 1535 draft bill and penal labour schemes*

Perhaps no single document has interested historians of Tudor policy respecting vagabondage, beggary and poverty so much as the draft bill of 1535.<sup>93</sup> This document, surviving only in draft form, provided a detailed schema of penal labour as the punishment for vagabondage.<sup>94</sup> This notion of putting vagabonds to work in public works, organised by a council, and funded from a centralised collection scheme also featured in an earlier document that has been ascribed, perhaps incorrectly, to the lawyer St German.<sup>95</sup> The 1535 draft bill has been presumed by historians interested in poverty policy to have been that presented to the burgesses of parliament in 1536 by Henry VIII, due to the similarities between the descriptions of that event and the contents of the bill.<sup>96</sup> Of particular importance for linking the surviving draft document with that particular bill was the mention in both the surviving document and contemporary descriptions of the document's contents of a works scheme for the employment of vagabonds at Dover.<sup>97</sup> This section examines in detail the connections evident between the contents of the bill, the works then being undertaken at Dover for the repair of the harbour, and the wider context of the statutory regime. This is important, for the Dover context provides clear indications of the background to the bill, which have not yet been fully fleshed out, including the possibility that the labour force actually used at Dover was not an entirely voluntary one. Furthermore, whilst the draft bill is frequently discussed in terms of

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<sup>93</sup> BL, Royal MS 18 C vi. A significant proportion is transcribed in Elton, 'An early Tudor poor law'.

<sup>94</sup> BL, Royal MS 18 C vi, ff. 3-5v.

<sup>95</sup> G. R. Elton, *Reform and renewal: Thomas Cromwell and the common weal* (Cambridge, 1973), 73-76.

<sup>96</sup> N. L. Kunze, 'The origins of modern social legislation: the Henrician poor law of 1536', *Albion*, 3 (1971), 9-20.

<sup>97</sup> BL, Royal MS 18 C vi, ff. 3-5v; Kunze, 'The origins of modern social legislation', 14-15.

humanist theorising, the ambitions of the government and the failure of the bill to translate directly into the *1536 Act*, this discussion will focus on the actual elements of punitive labour that feature in the draft and drawing connections between the bill and contemporary statutes. Through this, the bill will be more clearly integrated within a discourse about the wider statutory regime.

As noted in Chapter Two, the draft bill of 1535 was presented to parliament in 1536, but, assuming the surviving document to be at least very similar to that offered to parliament, it little resembles the *1536 Act* which differed from it in structure and content. The bill envisioned a national series of work schemes, and demonstrates a much more centralised, even bureaucratic, system than that offered in the *1536 Act*. There are, however, some similarities not only to the *1536 Act*, but also to the *1531 Act*. Both the bill and the *1536 Act* envisioned parochially-based schemes of money collection and poor relief.<sup>98</sup> The draft of the bill retained the use of stocks and whipping as modes of punishment as with the *1531 Act*, as well as the principle that after punishment persons should have been returned to their home parishes.<sup>99</sup> Whilst the draft of the bill did detail a comprehensive scheme of centrally-administered work-schemes, it was not the conceptual departure from earlier practice that it has often been presented as having been.

Whilst the 1536 provision which enabled officers ‘to cause and compel all and evry the said sturdie vacabunds and valeant beggers to be sett and kepte to continuall labour’ has been seen as a watered-down version of the bill’s provisions, it was actually a reiteration

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<sup>98</sup> BL, Royal MS 18 C vi, ff. 6r-8v; 14v-17.

<sup>99</sup> BL, Royal MS 18 C vi, ff. 23v-25.

of the *1531 Act*'s injunction that vagabonds who did not find surety of employment were 'to laboure after the discretion of the sayde Justice of Peace, Mayres [etc.]'<sup>100</sup> This may have given magistrates authority to put punished vagabonds to work where no one would employ them and, if so, it highlights that, however elaborate the mechanisms of the 1535 bill, they reflect an already-extant principle. This principle was that where vagabonds would or could not work, they were to have been put to work by the magistrate. The 1536 statement should thus not be seen as the only vestige of a plan outlined in a draft bill of 1535, but rather as a policy statement (considering its location in the preamble) which reiterated the authority granted under the third clause of the *1531 Act*.

The particularities of the 1535 bill deserve attention, however, as the bill presents an unusual behind-the-scenes view of the statutory regime. To contextualise the works scheme outlined in the bill and the penal labour envisioned therein it is necessary to digress briefly to examine the situation in Dover. The Dover works, the contemporary term for the repair and improvement of the harbour at Dover, were undertaken contemporaneously with the drafting and presentation of the 1535 bill, and provides an illuminating background context to some of the bill's specificities.

By 1533 the mouth of the harbour at Dover had been completely blocked by the tidal deposition of pebbles and sand, a process that had continued since the completion of the last harbour works in the late fifteenth or early sixteenth centuries.<sup>101</sup> In the early 1530s

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<sup>100</sup> 27 Hen.VIII.c.25.1, *SR* 3, 558; 12 Hen.VIII.c.12.3, *SR* 3, 329.

<sup>101</sup> H. M. Colvin, *The history of the king's works, volume III, 1485-1669* (Part I) (London, 1975), 729-731; E. H. Ash, "'A perfect and an absolute work': expertise, authority, and the rebuilding of Dover harbour, 1579-1583", *Technology and culture*, 41 (2000), 244-245.



the royal government had become interested in remedying the situation.<sup>102</sup> In 1533 a priest, John Thompson, presented a petition for the repair of the harbour to the government, and he was made surveyor of the King's works at Dover two years later in 1535, the year of the draft.<sup>103</sup> Thompson had been utilised by Cardinal Wolsey throughout the 1520s, seemingly for his skills in prisoner transportation.<sup>104</sup> Who these prisoners were is unknown, as is the reason why a cleric from Rye was involved, but it nonetheless highlights Thompson's usefulness to key persons involved in the central government of the realm during this decade. It may be possible that Thompson was involved from this early stage in the development of the legislative proposal. The 'St German' document was potentially contemporary with Thompson's petition and the early commencement of work at Dover and it is therefore reasonable to consider it an earlier version of the 1535 draft.<sup>105</sup> Similarly, Thompson's association with the royal government and a large work project at this time make his direct input plausible.

Thompson had become the master of the Dover maison dieu sometime before September 1535.<sup>106</sup> In July 1535 the paymaster of the King's works was working with 'the master of the Maison Dieu' regarding the harbour, suggesting that Thompson might have been master by the middle of the year.<sup>107</sup> The Dover maison dieu had originally been founded

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<sup>102</sup> Colvin, *The history of the king's works, volume III*, 731-732.

<sup>103</sup> *LP* 6, no. 1492; *LP* 7, no. 1170 (note the corrected date in the addenda).

<sup>104</sup> *LP* 3(2), nos. 2922, 3586(6); *LP* 4(2), no. 2751; *LP* 4(3), App. 248.

<sup>105</sup> Elton has redated the 'St German' document to c. 1534, rather than the 1529 to which it was dated in the *Letters and papers*: Elton, *Reform and renewal*, 74. This revised date makes that document closer to the 1535 draft bill and the 1536 Act than to the 1531 Act with which it has generally been connected; furthering the likelihood that it is an early version of the 1535 draft and not a proposal dismissed in 1531.

<sup>106</sup> *LP* 7, no. 1170.

<sup>107</sup> *LP* 8, no. 1085.

to cater for poor pilgrims travelling to nearby Canterbury.<sup>108</sup> The position of master of the maison dieu was one which had become directly involved in harbour maintenance at Dover under the previous master, John Clerk.<sup>109</sup> Thompson's appointment as master of the maison dieu seems to correspond with the time at which he was involved in the harbour works and so in practice the two offices may have become somewhat synonymous.

The paymaster of the harbour works, John Whalley, may have been under strain during 1535 due to his inability to fully fund the works as they were then progressing. Both men had experienced some difficulties with the harbour workforce. Passing through Dover, Sir William Fitzwilliam wrote to Cromwell in August 1535 that '[c]ertain lewd persons working on the King's works here refuse to work any longer except they may have 6d. a day'.<sup>110</sup> They apparently nominated 'a lord' and indicated that 'he that touched one of them should touch them all.'<sup>111</sup> Fitzwilliam noted that there was a lack of corn in the region due to the purchase of grain by Londoners, which was forcing up the price. However, whilst he may have hinted at an explanation for the workers' concerns, he nonetheless dealt with them by having the four ringleaders 'committed to prison', two of whom were sent 'as seditious and naughty persons' to the Castle prison, 'and two, who were repentant, to the mayor's prison.'<sup>112</sup>

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<sup>108</sup> The early operation of the Dover maison dieu is discussed in S. Sweetinburgh, *The role of the hospital in medieval England: gift-giving and the spiritual economy* (Dublin, 2004); see also D. Knowles and R. N. Hadcock, *Medieval religious houses: England and Wales* (London, 1971), 356.

<sup>109</sup> Colvin, *The history of the king's works, volume III*, 729, 731.

<sup>110</sup> LP 9, no. 110.

<sup>111</sup> LP 9, no. 110.

<sup>112</sup> LP 9, no. 110.

Whilst informing Cromwell that '[t]he works go on prosperously', Whalley also indicated that the labourers recently punished had some among them who wanted to leave the works in order to work the harvest, and that thirty-four had simply absconded on the most recent pay day.<sup>113</sup> Concerns about the grain supply continued until at least early 1537.<sup>114</sup> In January 1536 Thompson indicated to Cromwell that '[t]he store in my house is little in comparison with such a multitude', suggesting that the maison dieu was being used to supply the works scheme with victual.<sup>115</sup> Whilst not provable, it seems extremely likely that the maison dieu continued to function in a supply role for the works scheme. That this was the case is strongly suggested by the role that the maison dieu played after its surrender to the King in 1544. Royal officials in that year described a brew-house and bake-house at the maison dieu 'which are fair and large and will do wonderful service'.<sup>116</sup> They lamented that it was not used for the military. Within a year the maison dieu played just such a role, supplying the navy with what was called 'Maison Dieu biscuit and beer'.<sup>117</sup>

Another concern related to the workforce was the rate of absconding workers. Whalley noted in September 1535 that labourers who left the works for the harvest got '5*d* and 6*d* a daye, mete and drynke'.<sup>118</sup> This connection between absconding labour and the harvest was not simply about working conditions, though obviously that would have been an

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<sup>113</sup> *LP* 9, no. 142.

<sup>114</sup> *LP* 9, nos. 243, 353, 399, 534; *LP* 9, no. 558; *LP* 10, nos. 1, 146; *LP* 12(1), no. 37. The probable explanation for the problems with the grain supply is to be found not only with grain regrators (whom the correspondent blamed), but also the poor quality of the 1536 harvest. See W. G. Hoskins, *The age of plunder: the England of Henry VIII, 1500-1547* (London, 1976), 87.

<sup>115</sup> *LP* 10, no. 146.

<sup>116</sup> *LP* 19(1), no. 724.

<sup>117</sup> *LP* 20(2), no. 265.

<sup>118</sup> *LP* 9, no. 243.

aspect of it. Rather, the workforce being utilised at the harbour works was most likely composed of those men who in normal circumstances were an essential part of the harvest. When in the same letter Whalley indicated that he expected a sufficient workforce to have been available to renew work ‘in 10 or 12 days’ this was probably linked to the winding down of harvest operations.<sup>119</sup> This is not to deny that pay levels and food prices were a point of contention between the labourers and their employers, but Dover was unlikely to have supplied a surplus labour force of the maximum size deployed by Thompson on the harbour works. It is certainly a notable coincidence that concerns regarding absconding labourers were expressed in the year that the 1535 bill, which would have provided a means of retaining such a workforce, was being drafted.

The size of the workforce was also of concern, particularly with respect to the costs involved. Thompson’s labour force proved to be a point of contention between himself and Whalley. In October 1535, shortly before the relationship obviously deteriorated, Whalley indicated to Cromwell that 200 men were being employed, and that at least fifty or sixty were needed for ongoing work.<sup>120</sup> Colvin has reconstructed the minimum number of men employed at each pay between July 1535 and December 1536, with a peak number of 786 men in early 1536.<sup>121</sup> This was a far cry from the ‘40 or 50’ men whom Whalley had anticipated ‘for the winter’ in November 1535.<sup>122</sup>

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<sup>119</sup> *LP* 9, no. 243.

<sup>120</sup> *LP* 9, no. 534.

<sup>121</sup> Colvin, *The history of the king’s works, volume III*, 734 (table 9).

<sup>122</sup> *LP* 9, no. 734.

Whalley and Thompson's letters to Cromwell indicate various numbers of workmen throughout January 1536 at 380, 450, and 480 men respectively.<sup>123</sup> Whalley reported that Thompson did not want to reduce this sizable workforce which was very expensive, which in turn gave Whalley concern about his ability to pay them.<sup>124</sup> By February Whalley reported to Cromwell that Thompson had 500 men employed.<sup>125</sup> Cromwell had instructed Thompson to reduce his workforce, and Whalley reported that in response Thompson discharged 300 men, but had since rehired 200 of them in contravention of Cromwell's order.<sup>126</sup> In March, there were still reportedly 400 men employed on the Dover works.<sup>127</sup>

Despite Whalley's obvious concern about the large workforce employed by Thompson, there was, according to Thompson, an advantage to be had in that it kept these men from 'idleness and robbery'.<sup>128</sup> The 1535 draft bill specifically noted that 'certeyn comen works, aswell for makyng of the haven of douver' were to be used 'for the puttyng of the seid vacabunds to labour'.<sup>129</sup> Such vagabonds needed to be put to work, the draft suggested, because

though they myght well labor for ther livyng if they wolde, will not yet put themselves to it as dyvers other of his true and faithfull subiects do but geve

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<sup>123</sup> *LP* 10, nos. 1, 146, 214.

<sup>124</sup> *LP* 10, no. 214.

<sup>125</sup> *LP* 10, no. 347.

<sup>126</sup> *LP* 10, no. 347.

<sup>127</sup> *LP* 10, no. 537.

<sup>128</sup> *LP* 10, no. 596.

<sup>129</sup> BL, Royal MS 18 C vi, ff. 3, 4.

themselves to lyve idley by beggyng and p[ro]curyng of Almes of the people to the high dispeasure of Almyghty god [etc.]<sup>130</sup>

This statement echoed contemporary statutory pronouncements about idleness, but it is probably no coincidence that the bill drafted contemporaneously with labour disputes at Dover provided a detailed system of compulsive employment for idle persons.

Perhaps ironically, whilst Thompson claimed that employment of persons at Dover would keep them from idleness, Whalley indicated that a particular contingent of Thompson's workforce was idle despite being nominally employed. In November 1535 Whalley had reported to Cromwell a workforce of 280 men, after he had 'discharged all the idle and weak workmen, some 60 or more.'<sup>131</sup> Shortly thereafter Whalley reported to Cromwell that he had discharged half of the workforce whilst Thompson was away and 'has done more work with 120 men than was done with 180, because he discharged the old and idle.'<sup>132</sup> When Thompson returned, he promptly rehired perhaps half of this contingent, claiming Cromwell's authority to have done so, which of course placed Whalley in an awkward position.<sup>133</sup> The incident fuelled a deteriorating relationship. If Whalley's assertion that Thompson worked 'old and idle' persons was accurate, it was a striking claim to be made against a man who held a position as head of a charitable institution.

Some of the reported idleness may have related to unpaid wages. On 31 January 1536 Whalley wrote to Cromwell indicating that although £200 had been paid in wages to 480

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<sup>130</sup> BL, Royal MS 18 C vi, f. 1.

<sup>131</sup> *LP* 9, no. 734.

<sup>132</sup> *LP* 9, no. 799.

<sup>133</sup> *LP* 9, no. 799.

men, there were still arrears of £106 14s. 6d. owed.<sup>134</sup> Furthermore, he indicated that were the £250 required for the following pay not to arrive, then ‘both himself and the master of the Maisendew will be in jeopardy of their lives’.<sup>135</sup> In March 1536 Whalley and Thompson jointly wrote to Cromwell, indicating that recently two months arrears of pay had been owed to 160 men.<sup>136</sup> With a workforce in excess of 400 men, Whalley and Thompson were concerned about their ability to pay the workers on the next payday.<sup>137</sup> Furthermore, they indicated to Cromwell that because of the constant arrearages of pay, they were unable to ‘pay off and discharge loiterers when found idling’ and thus had to keep them on the pay role, which was to the king’s disadvantage.<sup>138</sup> Such problems would not have affected those running the works schemes outlined under the 1535 draft bill, whereby refusal to work could result in branding, and subsequent misbehaviour was to have resulted in being ‘arrayned as a felon and an enemy to the co[m]en welth and to have like iudgement and execuc[i]on as a felon’.<sup>139</sup> It was in the same month that unpaid and idle workers were of concern that Thompson wrote to Cromwell indicating that employing such a workforce was a preventative against the idleness and robbery that such men might otherwise engage in.<sup>140</sup>

In May 1536 Whalley indicated to Cromwell that most of the 460 men then employed at Dover were owed a month’s wages, equalling a total of more than £200.<sup>141</sup> Whalley expressed his frustration by suggesting that he was pained as much by his inability to pay

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<sup>134</sup> *LP* 10, no. 214.

<sup>135</sup> *LP* 10, no. 214.

<sup>136</sup> *LP* 10, no. 537.

<sup>137</sup> *LP* 10, no. 537.

<sup>138</sup> *LP* 10, no. 537.

<sup>139</sup> BL, Royal MS 18 C vi, ff. 5v-6.

<sup>140</sup> *LP* 10, no. 596.

<sup>141</sup> *LP* 10, no. 1007.

the men as much as by the stone.<sup>142</sup> The 1535 draft bill had indicated that the vagabonds compulsorily employed were to have had ‘reasonable wage[s]’ but concerns by paymasters in Whalley’s position would have been diminished under such a system since the 1535 draft also indicated that

his wages besids mete and drynke to be kepte to hi[s] use in such maner as shalbe appoynted by the seid Councell or ther deputies till ther shalbe sufficient moneye risyng therof wherwt he may be apparelle[d] And then it to be bestowed on hym by theseid deputi[e...]<sup>143</sup>

This indicates that the wages were not to have been paid regularly directly to the labourers in the first instance. Some was taken out to cover the expenses of feeding the labourer, whilst the remainder was held by the payer until a sufficient sum had been raised for the purchase of clothing. This will have had the effect of reducing the amount of cash regularly needed for these works to pay labourers, and may have been inspired by the Dover experience. The great expense of the Dover works to the royal coffers may also have been the inspiration for the detailed scheme of financial support for the common works of the 1535 draft bill whereby money was extracted from the subjects of the realm ‘to thuse of theseid works’.<sup>144</sup>

A further result of the contemporary Dover works progress may be the stipulation in the draft bill regarding persons who refused to work or incited others not to work. Further punishment by branding was stipulated for

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<sup>142</sup> *LP* 10, no. 1007.

<sup>143</sup> BL, Royal MS 18 C vi, f. 4v.

<sup>144</sup> BL, Royal MS 18 C vi, ff. 6-8v.



his refusell to labor or of his contynnual loitryng or of any sedition, unlawfull  
meane, corrupt councell or practise to make murmuracon grudge or insurrection  
in and emong the rest of the laborers<sup>145</sup>

Considering that the draft was probably written in mid 1535, this was the very time when the '[c]ertain lewd persons' in Dover were punished for refusing to work for less than 6d per day and when workers were apparently absconding to work the harvest.<sup>146</sup>

One further element of the labour-related connection between the Dover works and the 1535 draft bill may be discerned in the alleged superstition of the workforce. After the first hint of labour trouble in August 1535 Whalley had noted that some of the labourers recently punished 'were superstitious and wolde have beytton bothe me and the maister of the Mayson Dew'.<sup>147</sup> It may have been that the two 'seditious and naughty' ringleaders punished by Fitzwilliam were arguing for more than just a pay increase.<sup>148</sup> Whilst possibly related to his inability to pay the workforce, Whalley's comment in October 1535 that he 'was in danger of his life 12 days past for speaking to them to keep their hours' may likewise indicate difficulty in getting the labourers to work every day that Whalley and Thompson wanted them to.<sup>149</sup> According to a later comment by Whalley, Thompson 'had them to work in the holydays', apparently a reference to the Christmas of 1535 and the following weeks.<sup>150</sup> Therefore it is possible that the labourers' refusal to

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<sup>145</sup> BL, Royal MS 18 C vi, f. 4v.

<sup>146</sup> *LP* 9, no. 110.

<sup>147</sup> *LP* 9, no. 142.

<sup>148</sup> *LP* 9, no. 110.

<sup>149</sup> *LP* 9, no. 534.

<sup>150</sup> *LP* 10, no. 1.

work was also tied to traditional religious practices, or at least a belief in certain rights to days free from labour during festival periods.

William Marshall has been nominated and apparently accepted as the author of the draft on the basis that in 1535 he translated a continental poor relief scheme and had it published.<sup>151</sup> However it is probable considering the details of the works scheme outlined in the draft bill that Thompson had at least some involvement in its drafting, especially considering his comments that it was better to keep large numbers of men employed than have them idle and robbers. Thompson, having a potential connection with both the 1535 draft bill and the 'St German' document, also provides an explanation for continuities between the two documents and throughout the early and mid 1530s. Furthermore, Thompson was a known correspondent of Cromwell, he visited the court on a number of occasions, and he had been employed by Wolsey earlier in his career. Whilst generally unknown to historians, Thompson may have played a significant role in Cromwell's circle with respect to this legislative proposal. The surviving draft version of the proposed bill was written in the autumn of 1535, the very time when there was serious labour insurrection at Dover and the labour force was at its largest. Elton and others have focused on the role of the scheme as a combatant to unemployment as the bill authorised the compulsion of labour by all able-bodied unemployed.<sup>152</sup> Any who refused were brought to work under compulsion, for a second offence branded, and any branded person who again avoided the labour was to be indicted for felony. Clearly, however, this

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<sup>151</sup> Elton, 'An early Tudor poor law', 65.

<sup>152</sup> Elton, 'An early Tudor poor law', 58.

was less concerned with the provision of employment than it was concerned to regulate and compel labour.

Subsequent historians have generally focused on the ambitions of this draft scheme and its relationship to humanist theorising about the use of penal labour, such as that by Thomas More in *Utopia*.<sup>153</sup> This focus has however led to a neglect of the role of penal labour within the statutory regime and the degree to which the statutes provided magistrates with the authority to compel persons to labour. For instance, whilst proclamations in the 1540s provided that vagabonds were to have been employed in the royal galleys, such general employment of vagabonds would have broadly conformed with the authority given magistrates under the *1531 Act* to put vagabonds to labour.<sup>154</sup>

Yet despite this legislative continuity, the evidence within the survey towns of this thesis does not indicate widespread local use of penal labour. As noted above with respect to corporal punishment, such a dearth of records is neither surprising nor instructive as to the degree of implementation. There were, from the middle of the sixteenth century, a number of local schemes for the employment of the local poor, generally in the production of cloth, but these were not systems of penal labour. In Norwich in 1557 for instance, the city government instructed twelve men to

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<sup>153</sup> P. A. Fideler, 'Christian humanism and poor law reform in early Tudor England', *Societas*, 4 (1974), 269-285.

<sup>154</sup> *TRP* 1, no.250 (pp. 352-3). See also the missing proclamation regarding Scots identified in *The proclamations of the Tudor kings*, ed. R. W. Heinze (Melbourne, 1976), 303 (Appendix B, number 31).

see suche poore folkes as be able to worke and take order in euery warde howe  
they shall be sett a worke fromehens for the from tyme to tyme.<sup>155</sup>

This was probably the provision of work similar to that in York when in 1553 the city government decided to

inquyre which of the poore be hable eyther to spynne or doo any other work; and  
as they see cause to sett theym awork accordyngly; and if any suche poor will  
refuse soo to doo then their releif to be taken from theym and expulsed the  
Citie.<sup>156</sup>

The revocation of relief indicates clearly that this scheme was for the provision of work for the poor in receipt of relief, and may not have extended to those who would have been punished otherwise as vagabonds. Indeed in 1555 the York government simply asserted that such persons were ‘eyther to be compelled to wirk for ther livyng or ells be avoyded this Citie and punnysshed’.<sup>157</sup> The year following, the York government again asserted that such persons were ‘eyther to be sett a work for ther lyvyng or ells to be punysshed accordyng to the statute.’<sup>158</sup> In 1557 instructions from the Council of the North to the York government provided that work should be provided for the poor, with ‘whipping or otherwise by the laws and statutes appointed for idle and loddering persons’ for those who would not work.<sup>159</sup> Thus the formula of work provision before potential punishment suggests that no discernibly substantial urban schemes for punitive labour were developed or utilised in this period.

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<sup>155</sup> RCN 2, 132; NCR Case 16c/3, f. 87; NCR Case 16d/3, f. 38v.

<sup>156</sup> YCR 5, 84.

<sup>157</sup> YCR 5, 114.

<sup>158</sup> YCR 5, 141.

<sup>159</sup> *Report on manuscripts in various collections, volume II*, Historical Manuscripts Commission (London, 1903), 89-90.

In Bristol, the purchase of ‘one dosen of spades for p[ro]vision to sett the poore on woorke’ and ‘one brode shoule being shod wth Iron’ in 1557 may indicate some compulsory employment for beggars or vagabonds in that centre, perhaps post-punishment, but there is no further evidence to indicate the nature or scope of this program.<sup>160</sup> Either way, thirteen implements would not have provided an extensive scheme for large numbers of persons. Yet this terse record highlights the degree to which the use of penal labour may have gone unrecorded in the historical record. Bristol was a port after all, and perhaps this was a case of the employment of foreign vagabonds per the *1552 Act*, who were to have been sent to the nearest port and

kept [...] in convenient labor from idelnes, or otherwise till they may be convaied over [...] into their natyve Countries.<sup>161</sup>

This may provide a suggestion, however tentative, that those small portions of the legislation that detailed penal labour of various sorts were potentially implemented on occasion. Thirteen foreign vagabonds at any given time awaiting transportation to their home countries may not be an improbable prospect, but the denotation that these spades were for the ‘poor’ again suggests work provision rather than penal labour or the kind of communal labouring for the repair of bridges or roads that was a common feature of the period.

Better understood examples of compulsory labour, albeit not necessarily penal labour, come from the bridewells that appeared in the latter decades of the sixteenth century. The

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<sup>160</sup> BRO F/Au/1/7, f. 37.

<sup>161</sup> 3&4 Edw.VI.c.16.14, SR 4, 117.

development of institutions modelled on the London Bridewell, a ‘house of labour and occupations’ established in 1552, was a feature of the wider period.<sup>162</sup> Jordan noted that from the late 1550s there was a sizable capital investment in such schemes in London linking the provision of work for the poor with the city hospitals.<sup>163</sup> Slack suggested that this institution, and those in the remainder of the realm that were modelled on it, were uniquely English in origin.<sup>164</sup> In such houses, persons could be instructed in labour, or forced to work to sustain themselves, being effectively imprisoned. These were an important aspect of many urban centres. The Norwich government purchased the old Norman’s hospital in 1565 for conversion into a bridewell, of which the Mayor became the nominal master.<sup>165</sup> York followed a similar developmental pattern, where St Anthony’s hospital had mills installed such that the inmates could be put to work in 1577.<sup>166</sup> Exeter opened its house of correction in mid 1579 and Bristol also had such an institution by the close of the century.<sup>167</sup> Whilst often these institutions were beneficiaries of municipal collection funds, they were not a part of the statutory regime until 1576 and were not a feature of most centres until the 1570s. Such institutions therefore largely fall outside the scope of this dissertation. Yet whilst such institutionally-bound penal labour may only have been a common feature in the latter quarter of the sixteenth century, the

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<sup>162</sup> P. Slack, ‘Hospitals, workhouses and the relief of the poor in early modern London’, in O. P. Grell and A. Cunningham (eds.), *Health care and poor relief in Protestant Europe 1500-1700* (London and New York, 1997), 237.

<sup>163</sup> W. K. Jordan, *The charities of London 1480-1660* (London, 1960), 178.

<sup>164</sup> P. Slack, ‘Hospitals, workhouses and the relief of the poor’, 237.

<sup>165</sup> W. K. Jordan, *The charities of rural England 1480-1660* (Westport, 1961), 137; J. Pound, *Tudor and Stuart Norwich* (Chichester, 1988), 144.

<sup>166</sup> YCR 7, 148, 159-160; N. D. Brodie, ‘Local government, hospitals and poor in sixteenth-century York’, BA honours thesis, Australian National University, 2004, 37-38.

<sup>167</sup> W. T. MacCaffrey, *Exeter, 1540-1640: the growth of an English county town* (Cambridge, 1958), 114; R. W. Herlan, ‘Relief of the poor in Bristol from late Elizabethan times until the restoration era’, *Proceedings of the American philosophical society*, 126 (1982), 217.

principles which facilitated their introduction were evident in the legislation of the 1530s, not just in those parts that were suggested but ultimately left un-enacted.

When assessed in connection with the statutory regime and the urban experience, the 1535 draft bill appears both less and more anomalous. It shared the basic precepts of the legislation both before and afterwards, in that penal labour was certainly an acceptable principle of the legislation, albeit not the major part that it would have been had the draft been passed into law. The notion of penal labour was not what was rejected by the parliament of 1536; rather it was probably a combination of the centrally-administered and broadly-funded system that was rejected in favour of local responsibility and control and an elaboration of the existing system which was already being administered. In that respect the 1535 draft bill had little in common with the statutory regime. Although it required and provided for consistency in the mechanisms for punishing vagabonds, the 1535 draft bill left little room for local autonomy.

Yet the principle of penal labour survived the parliamentary lack of interest in the 1535 draft bill; indeed the potential had already been suggested by the *1531 Act*, and was likewise indicated in the preamble of the *1536 Act*. As noted, through royal proclamation vagabonds were supposed to have been employed in the galleys in the 1540s which, along with a perhaps cynical view of Thompson's idle contingent of workers at Dover, suggest that whilst not evident in all localities the use penal labour may have been more common than the rejection of the 1535 draft bill suggests. Turning now to the other ostensibly anomalous portion of the statutory regime, the *1547 Act*, it is evident that the

central government's desire to institute detailed statutory mechanisms regulating penal labour continued beyond the 1530s.

### ***The 1547 'slavery' Act and lives of labour***

It was one of the most famous of English statutes from the sixteenth century that Davies described as 'the most savage act in the grim history of English vagrancy legislation'.<sup>168</sup> The *1547 Act* had, as noted, broadened the definition of vagabondage to include wage-contestation and provided that the punishment for any person 'taken for a Vagabounde' was enslavement.<sup>169</sup> Under this legislation slave-owners had rights of redress against persons who knowingly detained their slave and they had the explicit right to dispose of their slaves through sale, lease, gift or bequest 'after suche like sorte and manner as he maye doo of anny other his movable goods or Catells'.<sup>170</sup> Owners had authority to compel work by their slaves 'by beating cheyninge or otherwise' and were, as noted, allowed 'to putt a rynge of Iron abowt his Necke Arme or his Legge for a more knowledge and suretie of the keeping of him'.<sup>171</sup>

As indicated in Chapter Two, the *1547 Act* was repealed in 1550, ostensibly because it had not been enforced. Like the 1535 draft bill, the *1547 Act* has been predominately utilised by scholars to unpack what the central government may have been thinking.<sup>172</sup>

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<sup>168</sup> Davies, 'Slavery and protector Somerset', 533.

<sup>169</sup> 1 Edw.VI.c.3.1, SR 4, 5.

<sup>170</sup> 1 Edw.VI.c.3.1, 4, 7, SR 4, 5-7.

<sup>171</sup> 1 Edw.VI.c.3.1, 16, SR 4, 5, 8.

<sup>172</sup> P. A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 204-205. In some cases the *1547 Act* has been taken as evidence that the government was



This focus on intent, rather than effect, has encouraged a belief that the *1547 Act* was ineffectual and widely neglected, and represented a major departure from the wider statutory trends. Yet the *1547 Act* can actually be treated as a case study of conceptual, legislative and practical continuity, as this section demonstrates. Perhaps most significantly, these continuities demonstrate not the novel plans of a new regime, as is often suggested with regard to the *1547 Act*, but rather the culmination of a Henrician trajectory of definitional and administrative change. Whilst the slavery provisions are unique, bearing in mind the scheme of penal servitude proposed in 1535, and the intention to deploy vagabonds in galleys in the 1540s, the *1547 Act* has clear conceptual and practical precedents. This statute effectively completed a two-decade legislative process of concatenating mighty beggars and vagabonds for punitive purposes when it extended the definition of vagabondage such that mighty beggars and wage-refusing labourers *became* vagabonds.

The degree to which the *1547 Act* was a continuation of earlier precepts is illustrated by the vexed issue of its apparent non-implementation. Generally speaking, the main evidence presented for a widespread unwillingness to implement the slavery provisions of the *1547 Act* is the preamble to the *1550 Act* which repealed the *1547 Act* ostensibly because it

hath not byn putt in dewde execution, [...] (thextremite of some wherof have byn  
occation that they have not ben putt in use;) [...] <sup>173</sup>

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not thinking, or at least had not developed a comprehensive social programme: M. L. Bush, *The government policy of protector Somerset* (Montreal, 1975), 43.

<sup>173</sup> 3&4 Edw.VI.c.16.1, SR 4, 115.

In his detailed examination of the *1547 Act* Davies queried this assertion of non-implementation, yet still concluded ‘that the act was not enforced, or at least not widely.’<sup>174</sup> Widespread implementation may not have taken place, Slack has suggested, because ‘volunteer slave-owners, whether public or private, did not materialise’.<sup>175</sup> Under the *1547 Act* vagabonds were primarily to have become slaves through having been presented as such by private persons, either because they had refused service, they had run away from an agreed service, or by the broad mechanism of ‘anny other parsones espying the same’.<sup>176</sup> Davies also cautiously noted that

under the procedure outlined in the act, it seems unlikely that the fact of a vagrant’s enslavement would be entered on quarter-sessions rolls (of which few survive from this period) or on the records of a borough court.<sup>177</sup>

Davies had, after all, indicated the possibility of near-enforcement with the installation or repair of various municipal stocks, and even cages in London.<sup>178</sup> Davies had also noted the Norwich authorities threatening to deploy the statute in 1548 to two men who had been put in the stocks.<sup>179</sup> Unfortunately no definite evidence can be used to confidently assert that the *1547 Act* was either widely deployed or neglected in the four centres of this study. Yet this uncertainty is in part a product of the conceptual continuity evident in the legislation which the special attention given the *1547 Act* has blurred.

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<sup>174</sup> Davies, ‘Slavery and protector Somerset’, 545.

<sup>175</sup> P. Slack, ‘Social policy and the constraints of government, 1547-58’, in J. Loach and R. Tittler (eds.), *The mid-Tudor polity c. 1540-1560* (London, 1980), 103.

<sup>176</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>177</sup> Davies, ‘Slavery and protector Somerset’, 545.

<sup>178</sup> Davies, ‘Slavery and protector Somerset’, 546.

<sup>179</sup> Davies, ‘Slavery and protector Somerset’, 546.

The major conceptual difference between the 1535 draft bill and the *1547 Act* is that in the latter statute, private enterprise and initiative were to have been used for punishing vagabonds. However, a public duty on the part of magistrates was retained as an element of the *1547 Act*. If vagabonds were not privately presented by the community, justices were statutorily compelled to search out vagabonds, punish them and send them to their places of origin to become corporate or community slaves ‘there to be nourished and kepte of the same Citie Towne or Village in chaynes or otherwise either at the comen works in amending highe waies or other comen worke’.<sup>180</sup> Thus the notion of returning a vagabond to his home locality was retained, despite a shift in the punishment delivered, and the notion of penal labour on a significant scale for public works had been revived.

Highlighting this similarity between the *1531* and *1547 Acts* are a collection of references to vagabonds in Norwich government memoranda. In early 1548 at least four vagabonds were sent from Norwich to their respective homes in Lincoln, London, Suffolk and Newcastle.<sup>181</sup> Despite the records dating from 1548, they conform to the pattern of notation evident shortly before the passing of the *1547 Act* when several vagabonds were also sent home and therefore probably only indicate the continuation of practice as for the *1531 Act*.<sup>182</sup> This is not proof that the *1547 Act* was not implemented however, as it is what would be expected if the letter of the law was being followed. The slavery provisions of the *1547 Act* were only to be enforced from ‘the first daie of Apryll’, which meant these vagabonds would not have been subjected to enslavement, and even then

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<sup>180</sup> 1 Edw.VI.c.3.6, *SR* 4, 6-7.

<sup>181</sup> NRO NCR Case 16a.5, ff. 425, 429.

<sup>182</sup> NRO NCR Case 16a/5, f. 343.

only after three days of neglecting to work or depart.<sup>183</sup> Yet if these do not indicate the implementation of the *1547 Act*, then they suggest that the practice of putting vagabonds to work after punishment may not have been uncommon, because one of the vagabonds, John Evans, was ‘assigned to John petyber’, whilst the remainder were sent to towns.<sup>184</sup> Whether this was a case of the putting of a vagabond to work under the conditions of the *1531 Act* or a case of slavery per the *1547 Act*, the case highlights that there is a greater degree of continuity between the two statutes than is generally acknowledged. Furthermore it serves as a reminder that the use of private enterprise was already an established legislative practice, albeit one to which limited attention has been given and for which, unsurprisingly, little evidence survives.

Another case demonstrative of the potential operation of the *1547 Act* was the punishment of one William Bannocke in Norwich in 1561 for running away from his master three times.<sup>185</sup> Under the provisions of the *1547 Act* children who had been compulsorily apprenticed and ran away from their masters three times were to have been punished through enslavement.<sup>186</sup> Upon Bannocke’s confession regarding running away the Norwich mayoral court responded that ‘Yt ys orderyd that he shall haue a ryng aboute his necke according to the statute.’<sup>187</sup> In editing this text, Tingey indicated that this was probably the *1547 Act* as it specified the use of ‘a ryng of Iron abowt his Necke Arme of his Legge’ for persons adjudged slaves.<sup>188</sup> Whilst the term slavery is not deployed in the

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<sup>183</sup> 1 Edw.VI.c.3.1, *SR* 4, 5.

<sup>184</sup> NRO NCR Case 16a/5, f. 343.

<sup>185</sup> *RCN* 2, 179.

<sup>186</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>187</sup> *RCN* 2, 179.

<sup>188</sup> *RCN* 2, 179 see footnote 1; 1 Edw.VI.c.3.16, *SR* 4, 8.

text, the assertion that Bannocke had run away more than the required number of times for enslavement, coupled with the application of an iron collar, may indicate that he either already was, or was made through this final incident, a slave as per the provisions of the *1547 Act*. This however would be striking as the *1547 Act* had clearly been long repealed by 1561 when Bannocke was punished.

Perhaps having been compulsorily apprenticed under the *1547 Act*, Bannocke was considered still bound by the terms of apprenticeship as per the statute under which he was originally bound to service. If a young child during the short operation of the *1547 Act*, it would not be unreasonable for a person to still be within the age parameters of such service in 1561.<sup>189</sup> Whilst a clearly tentative suggestion, due to the mention of statutory authority by the Norwich authorities this might have been a case of compulsory apprenticeship turned to slavery through the application of the punitive provisions of the *1547 Act*. Whilst the *1550 Act* had revoked the *1547 Act*, it had made no mention of what was to have become of any slaves there may have been already bound to slavery.<sup>190</sup> The suggestion that Bannocke may have been a slave is extremely tentative, especially considering that there are other instances of persons being restrained through the use of irons in Norwich. In one instance an apprentice had ‘a clogg on his legg’ for attending a house of disrepute, whilst there was provision for the attachment of a ‘collar of yron’ to persons sent to the Bridewell from 1571.<sup>191</sup>

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<sup>189</sup> If the new age parameters of the *1550 Act* were utilised then even an older child could have still been in service, but this would not make sense if the earlier act was being utilised for administration of punishment.

<sup>190</sup> If the *1547 Act* was thought to still apply to slaves bound under its provisions, even after its repeal, then this could explain the continued reprinting of the *1547 Act* in subsequent decades noted in Chapter Two.

<sup>191</sup> *RCN* 2, 177, 357.

Yet Bannocke's case, like the other Norwich vagabonds noted above, is instructive of how the anomalousness of the *1547 Act* can be easily overstressed. Illustrative of this is the fact that legislators did not see idleness, beggary and vagabondage as problems restricted to the adult population. Common in the statutory regime were provisions for taking children into custody and placement of them in service or alternative care. For instance, the *1547 Act* allowed the taking of children between five and fourteen years of age if they 'go Idelie wandering abowt as a vagabounde'.<sup>192</sup> It even authorised the taking of younger children

some foure for five Yeres of age or yonger or elder, which brought upp in Idlenes might be so rooted in it that hardelie theie maye be brought after to good thrifte and labour [...]<sup>193</sup>

Yet this was not a new provision. Indeed it echoed the *1536 Act's* grant to justices the auctoritie [...] to take upp all and singular children in evry parish within their limites, that be not greved with any notable dissease or syknes [if caught] in begging or idelness, and to appoynte them to maisters of Husbondrie or other craftes or labours to be tawghte [...]<sup>194</sup>

Similar provisions continued in subsequent legislation, demonstrating the continuation of the concept that children could be removed from vagrant parents and compulsorily employed.<sup>195</sup>

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<sup>192</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>193</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>194</sup> 27 Hen.VIII.c.25.6, *SR* 3, 559.

<sup>195</sup> 3&4 Edw.VI.c.16.10, *SR* 4, 116; 14 Eliz.I.c.5.5, *SR* 4, 595.

Unlike the *1536 Act*, which had granted only to justices the authority to take children, the *1547 Act* allowed ‘anny manner of p[ar]son’ to take children.<sup>196</sup> In this sense it was in keeping with the wider use of private enterprise within that statute. Such children could be taken from their ‘mother’, ‘nourcer or kepar’, or if they were found ‘by himself wandering’.<sup>197</sup> It was apparently the latter scenario that was recorded in 1559 in Norwich when Robert Saborne ‘beyng moved wt pittye’ took ‘into his house and seruice’ a twelve year old boy, Robert Bronwne, who was ‘founde lying in the strete’.<sup>198</sup> Whilst by then the *1547 Act* had been repealed, the notion that private persons could so take children was retained.

However the mechanism whereby a person could take and place a child in service changed somewhat in subsequent legislation. In the *1547 Act* children taken had to have been brought to a constable, a local justice of the peace and two ‘honest and discrete neighbours’ to make the process official.<sup>199</sup> These first arrangements seem to have been rather private affairs, but the process was made more public in 1550 and 1572 when the child was required to have been presented at sessions and the decision recorded by the court clerk in order to formalise the arrangement.<sup>200</sup> The case of Robert Saborne noted above suggests conformity with the statutory requirements of the *1550 Act*, but serves to highlight that, as with the shift in the definition of a vagabond, the *1547 Act* provided lasting administrative elements within the statutory regime.

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<sup>196</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>197</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>198</sup> *RCN* 2, 177.

<sup>199</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>200</sup> 3&4 Edw.VI.c.16.10, *SR* 4, 116; 14 Eliz.I.c.5.5, *SR* 4, 595.

Yet even children were not free of the threat of slavery under the *1547 Act*, which provided that such children could be enslaved if they ran away from compulsory service and that their master could ‘punishe the said child in chaynes or otherwsie’.<sup>201</sup> Yet the notion that children were liable to punishment for absconding from compulsory service was not unique to the *1547 Act*. Under the *1536 Act* children who refused to be compulsorily put in service, or who fled service, could be ‘openly whipped with rodde’.<sup>202</sup> The *1536 Act* even went so far as to order persons who refused to inflict the punishments to be placed in the stocks for two days on bread and water.<sup>203</sup> Yet a hint of the 1547 provisions which made punishment the duty of the master, rather than the magistrate, survived in the *1550 Act*. It authorised the masters of such runaway children to ‘ponish the sayd childe in the stocks, or otherwise by discrecon’.<sup>204</sup> Perhaps Bannocke need not have been enslaved to have been punished by chains in the 1560s after all, for in the legislative regulation of vagrant children, the basic principles of the ‘slavery’ statute of 1547 had clearly continued.

### *Conclusion*

This survey of the statutory construction and punishment of mighty beggary and vagabondage illustrates clearly the nature of Tudor legislative change. Traditional divisions between the mighty beggar and vagabond were retained throughout the 1530s, but the mechanics of punishment culminated in the final subsumption of mighty beggary

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<sup>201</sup> 1 Edw.VI.c.3.3, *SR* 4, 6.

<sup>202</sup> 27 Hen.VIII.c.25.6, *SR* 3, 559.

<sup>203</sup> 27 Hen.VIII.c.25.6, *SR* 3, 559.

<sup>204</sup> 3&4 Edw.VI.c.16.10, *SR* 4, 117.



into the definition of vagabondage in 1547. Definitional change was driven by the mechanics of punitive applications, rather than necessarily reflecting contemporary changes in the definition of groups of persons. Mighty beggars could be punished in the same manner as vagabonds, then were punished with vagabonds, then were considered to have been vagabonds. In so far as limited evidence allows, the four urban centres addressed in this dissertation suggest legislative conformity with statutory punitive provisions.

Reassessment of two of the ostensibly most anomalous elements of the statutory regime highlights their relationship with the wider statutory regime. This in turn is demonstrative of their wider conceptual, mechanical and statutory context which reduces the degree of anomalousness attributable to each. The Dover context behind the 1535 draft explains a number of the particularities of the proposed work schemes, but the notion that punished persons could be put to labour was evident in the *1531 Act*, and was not new to the 1535 Draft. So too, whilst the slavery provisions of the *1547 Act* may not have survived the statute's repeal in 1550, many of the concepts and administrative mechanisms the statute contained demonstrate continuities with earlier and later legislation.

The desire to dissuade vagabondage and mighty beggary through punitive provisions was matched by a concomitant statutorily established system of poor relief. The following chapter explores the development and implementation of parochial and urban collection systems. There too, as will be seen, the statutory regime demonstrated a far greater degree of conceptual and mechanical continuity than has generally been allowed.

## Chapter Five: ‘For the Provisyon and Relief of the Poore’<sup>1</sup>: the parish collection

When an early seventeenth-century foreigner noted of England that ‘[e]very parish cares for its own poor’ he was potentially misinformed.<sup>2</sup> It seems improbable that all of the parishes of the realm had implemented the collection system that constituted a key component of that ‘basic administrative framework that persisted largely unchanged for two centuries’ which was the old poor law.<sup>3</sup> In the sixteenth century that component generally termed the parish collection (or rate) was statutorily developed and first implemented. Yet the term ‘parish collection’ is somewhat a misnomer, for statutory collections were to have been undertaken on either an urban or parochial basis. However, whether intended for parochial or urban poor, much of the collecting associated with sixteenth-century collection systems seems to have been undertaken on the parish level so the use of the term reflects a certain normality of practice, if not universality. This use of the parish, as it turns out, is a function of the use of the parish as a secular administrative unit, and also as a religious unit. This is something that historians of parochial charity in the sixteenth century have not as yet addressed with regard to the poor laws. Whilst the development of the parish collection has generally been presented as a series of ad hoc experiments in town policy and legislative enactment, culminating in the Elizabethan

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<sup>1</sup> 5&6 Edw.VI.c.2, SR 4, 131: from the title given to this statute.

<sup>2</sup> Gottfried von Bülow and Wilfred Powell, ‘Diary of the Journey of Philip Julius, Duke of Stettin-Pomerania, through England in the Year 1602’, *Transactions of the royal historical society*, new series, 6 (1892), 13.

<sup>3</sup> A. Brundage, *The English poor laws, 1700-1930* (Basingstoke, 2002), 9; A. Kidd, *State, society and the poor in nineteenth-century England* (Basingstoke, 1999), 13.

codifications of 1598 and 1601, it was in reality a complex and evolving system indicative of jurisdictional competition and complementarities.<sup>4</sup>

This chapter examines the development and implementation of parochial collection systems between 1536 and 1572.<sup>5</sup> This entails addressing the statutory construction of collection systems, and the liturgical and spiritual requirements that English parishioners had to observe, and the mechanical and conceptual aspects which bound liturgical and statutory obligations together. To facilitate such an interweaving discussion, this chapter is split into a number of overlapping sections based on constructions of the collection. The first of these addresses the period between 1536 and 1552, when statutory collections were first supposed to have been implemented. The second section analyses changes in liturgical practice between the 1530s and late 1550s and their relationship to the development of statutory collection systems. The final section explores the period between 1552 and 1572 when statutory collections were reinstituted and explores some tensions and connections between liturgical and statutory features.

### ***Section One: 1536-1552***

Parochial charity did not start in 1536 with the passing into law of the *1536 Act*. Help  
ales, fraternities, hospitals, almshouses and other forms of parochially based or

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<sup>4</sup> E. M. Leonard, *The early history of English poor relief* (Cambridge, 1900); P. Slack, *Poverty and policy in Tudor and Stuart England* (London and New York, 1988); P. Slack, *The English poor law, 1531-1782* (Cambridge, 1995); P. A. Fideler, *Social welfare in pre-industrial England* (New York, 2006).

<sup>5</sup> It is worthwhile reiterating at this point that this chapter is concerned only with the statutorily-authorized collective charity of the parish and urban collection, and as such does not address the vastly different issue of private benefactions of the sort legislated for from 1576, which date is beyond the parameters of this dissertation.

administered charity existed in the pre-Reformation period.<sup>6</sup> Of course there were also opportunities for parochially-centred beggary of the sort detailed in Chapter Three.

Indeed, some forms of parochial collections for the poor may also have predated the *1536 Act*. For instance, in the London Parish of St Mary at Hill, the churchwardens noted in their 1512/3 account a

gadryng of the Almys in the chyrche which shall be for reserwed toward beryalles  
of pure pepull and oyer dedes of charitie.<sup>7</sup>

Two subsequent notes within these accounts indicate that the churchwardens received funds from one of the individuals named as having responsibility for such gathering.<sup>8</sup> In 1518 another person was noted as having owed ‘money gayderd ffor the powr peple’.<sup>9</sup> A few years later, in the 1522/3 account, the St Mary at Hill churchwardens noted the receipt of ‘money gadred of [th]e almes’.<sup>10</sup> Before the 1520s the parish clearly had an ‘Almes box’ which was perhaps somehow associated with this collection activity.<sup>11</sup>

Whether this parish was representative of the kinds of activity which may have been more widely undertaken at a parochial level, and for which little evidence survives, or was an unusually active congregation, is impossible to resolve. No similar collection activity is discernible in any of the towns examined in this thesis or their constituent parishes prior to requirement by statute.

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<sup>6</sup> See for instance: J. M. Bennett, ‘Conviviality and charity in medieval and early modern England’, *Past and present*, 134 (1993), 19-41 and J. M. Bennett, ‘Conviviality and charity in medieval and early modern England: reply’, *Past and present*, 154 (1997), 235-242.

<sup>7</sup> *The medieval records of a London city church, part 1*, ed. Henry Littlehales, Early English Text Society, original series, 125 (London, 1904), 284.

<sup>8</sup> *The medieval records of a London city church, part 1*, 286-287. Presuming that Thomas Marten is the same as Thomas Monden which seems plausible if not conclusive, the respective amounts are: 5li 0s 19d and 7li 2s 9d.

<sup>9</sup> *The medieval records of a London city church, part 1*, 299.

<sup>10</sup> *The medieval records of a London city church, part 1*, 318: the amount was 18s 1d.

<sup>11</sup> *The medieval records of a London city church, part 1*, 295, 304.

Whilst clearly not identical to later collection systems in every respect, the St Mary at Hill example demonstrates the existence of some of the key concepts evident in the later statutory parish collection. It is hard not to see a distinct fund for charitable purposes collected from parishioners as somehow prefacing the introduction of the statutory collections, even if the later collections were weekly, not necessarily parochial, and generally intended for the sustenance (rather than burial) of the poor. Yet the importance of burial as one of the charitable acts of Christian mercy shows that in the late medieval context, charity and poor relief were not synonymous concepts. Poor relief was an expression of charity, but charity was not in any way restricted to the relief of the poor.

Only with the *1536 Act* was there a detailed statutory framework for parochial charity in England. It was the first statute to introduce parish and urban collections for the relief of the poor. It required officers of towns and parishes to

socour fynde and kepe all and evry of the same, poore people by way of  
voluntarie and charitable almes, [...] in suche wise as none of them of verie  
necessitie shalbe compelled to wander idelly and go openly in begging [...]<sup>12</sup>

In later clauses it elaborated the mechanics of the system. Officers, or others acting on their instruction, were to

take suche discrete and convenient order, by gathering and procuring of suche  
charitable and voluntaire almes of the good christen people within the same with

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<sup>12</sup> 27 Hen.VIII.c.25.1, *SR* 3, 558.

boxes evry sonday holy day and other festival day or otherwise amonge them selffes [...]<sup>13</sup>

Here then, the stipulated mechanism of collection was not particularly specific, but it was to have been at least a weekly affair. In part the focus seems to have been upon the provision of a regular income into a charitable fund for the relief of the local poor.

It has already been noted in Chapter Two of this dissertation that in 1536 and 1538 respectively both Norwich and York implemented the *1536 Act*.<sup>14</sup> The decision by the York government in 1538 ‘that the Kings statute of beggers shalbe put in due executcon with effect’ included the introduction of urban collections with direct reference to the statutory authority granted by the *1536 Act* to undertake such collections.<sup>15</sup> There is a lack of corporate memoranda from York for the preceding years which makes it impossible to ascertain whether this was indeed the first city action respecting collections for the poor since the *1536 Act*. Either way, this does not conform to a notion of pre-statutory urban experimentation. According to the 1538 memorandum, the corporation instructed master beggars to

goo about in their wards to gydder the charytie of well disposyd people and bryng it to the said poore folk in every parishe in the wards.<sup>16</sup>

It is possible that in York the master beggars undertook an activity which demonstrates a similarity in concept between parish-collecting and proxy-begging. Such ward-based collections may have focused upon either public gathering of alms as a form of public

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<sup>13</sup> 27 Hen.VIII.c.25.4, *SR* 3, 559.

<sup>14</sup> See Chapter Two.

<sup>15</sup> *YCR* 4, 30; *YCA House Book* vol. 13, ff. 126-126v.

<sup>16</sup> *YCR* 4, 30; *YCA House Book* vol. 13, ff. 126-126v.

alms-solicitation, or they may have involved persons visiting households to request alms. In this respect the York system may have been influenced by earlier practices, and it highlights that poor relief schemes may have developed more organically from contemporary urban practices than proponents of models predicated on abstract humanist-theorising have acknowledged.<sup>17</sup>

Similar alms-gathering directed at households formed a central part of some contemporary continental schemes. Several of these schemes contained elements that have similarities with English practices and developments and, as well as providing an appreciation of the wider European context, they offer scope for unpacking the details and novelty of some English practices. For instance the Ypres scheme of 1531, which was translated into English in 1535, required that

The poore ménes collectours euery man in his parisshe ones in the weke shall go to euery mannes house to aske almys for the poore. Lykewyse upon holydayes chefely at seruyce tyme/ they shal defyze of euery man his deuotyon to helpe the pore men.<sup>18</sup>

Similarly, in the Rouen scheme of 1534

Collections shall be made on every Feast-day, and from house to house twice a week, the collectors being two responsible folk elected from week to week: one is to carry a dish or plate, and a box with two keys, the other a piece of paper on

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<sup>17</sup> P. A. Fideler, 'Poverty, policy and providence: the Tudors and the poor', in P. A. Fideler and T. F. Mayer (eds.), *Political thought and the Tudor commonwealth: deep structure, discourse and disguise* (Oxford, 1992), 215.

<sup>18</sup> W. Marshall, *The forme and maner of subue[n]tion or helping for pore people deuysed and practysed i[n] the cytie of Hypres in Flaunders, whiche forme is auctorised by the Emperour, [and] approued by the facultie of diuinitie in Paris. Cu[m] priuilegio regali*, Thomas Godfray (London, 1535) STC (2nd ed.) / 26119, f. C.11.

which are to be recorded gifts in kind, without however mentioning the names of the donors. The total amounts are to be entered up weekly in a Register.<sup>19</sup>

The *1536 Act* and the system implemented in York in 1538 were not particularly specific as to where or how collecting was to have been undertaken. Even the reference to boxes in the *1536 Act* was clearly compatible either with church-based poor boxes or with portable boxes of the kind used in Rouen.

The 1538 York collections were part of plague management measures and perhaps continued disease problems prompted the introduction of a more systematic form of collection.<sup>20</sup> Two months after initially requiring collections, it was ‘agreyd & decreyd by the said psens yt frome hensfurth yt evri man shall pay for the relyf of the said poore syk people’.<sup>21</sup> A scale of payments ranging from 10d per Alderman to 1d for ‘evry oy[r] honest man & wyve’ was ‘to be levyid holy ons in three weks so long as nide shall require’.<sup>22</sup> This memorandum had followed another which had required the Aldermen, sherriffs and the council of twenty-four to pay a common fortnightly sum ‘towards the findyng of the poore folks of this city that ar visyted wt the plag’.<sup>23</sup> York therefore provides a good example of a corporation actively administering a rate for poor relief. It did so after, and with reference to, statutory authority. Whilst the *1536 Act* lapsed in 1540, it is clear that it still held currency in 1538. Importantly, the broad mechanics of the statutory system were such that they could be adapted to what may have been a traditional role of the master beggars of the city.

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<sup>19</sup> *Some early tracts on poor relief*, ed. F. R. Salter (London, 1926), 115.

<sup>20</sup> D. M. Palliser, ‘Epidemics in Tudor York’, *Northern history*, 8 (1973), 45-63.

<sup>21</sup> YCA House Book vol. 13, f. 127v.

<sup>22</sup> YCA House Book vol. 13, f. 127v.

<sup>23</sup> YCA House Book vol. 13, f. 127.



Yet the fact that the collections as stipulated in the *1536 Act* were to have been undertaken on Sundays and holy days is indicative, perhaps, of more than just a weekly focus.<sup>24</sup> As with the continental schemes mentioned above, there was scope within the 1536 system for collections based within and beyond the church, perhaps even concurrently. References to Sundays and holy days may suggest an intention that collections were to have been undertaken in connection with service time. This is a point which will be addressed in more depth in the following section. In 1536 in Norwich the city government instructed constables ‘to gader the benevolent almes accordyng to the said statute’, noted that the alms were to be gathered on Sundays and holy days within parishes, and that the alms were to be distributed weekly in conformity with the statutory mechanism.<sup>25</sup> This may suggest service-based collecting in that city.

As with York, corporate oversight of collection systems post-dated the *1536 Act* in Norwich. Unlike York, the implementation of collections in Norwich seems to have received less ongoing attention in corporate memoranda, probably as there was no plague to concern the authorities. With the lapse of the *1536 Act* in 1540 collections had no statutory imperative or support. Whether, and for how long, collections in practice lapsed or continued in either city is uncertain. Some suggestions that in York at least the collections may have continued may be found in a memorandum of August 1543, which instructed ‘the maister begger and iij poore folk of every ward for to attend of maister beggar to receyve the almes and devocyon of good folks’ which seems to imply

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<sup>24</sup> 27 Hen.VIII.c.25.4, *SR* 3, 559.

<sup>25</sup> *RCN* 2, 167; *NRO NCR Case* 16a/3, f. 32; *NCR Case* 16a/4, f. 12v.

centralised gathering of alms in a similar fashion to that of 1538.<sup>26</sup> Although not clearly indicating a specific fund or weekly expenditure as required by the legislation, this does suggest centralised gathering activity. This is a particularly interesting case as it post-dates the 1540 lapse of the *1536 Act* and may therefore hint at the continuation of such collections as earlier instituted. Furthermore, when in February 1550 the York government decided that two houses should be made for infected persons, these were to be paid for by ‘such money as *now is* and hereafter shalbe gatheryd of devocyon within this City’.<sup>27</sup> This record was therefore not a reinstitution of collections but in fact a revision of sums being collected.

#### *Urban authority 1547-1552*

The period between 1547 and 1552 could almost be described as the heyday of the urban collection. It is a commonly discussed point that in these years a number of urban centres introduced compulsory collections for the poor, and, due to the compulsory nature of the contributions, these towns are represented as being somehow ‘ahead’ of the statutes.<sup>28</sup> Considering the rating of York inhabitants seen in 1538, this notion of compulsion has been overstressed. It has been further distorted by reading the system backwards, from the late Elizabethan codification back through the changes of the 1550s and 1560s, and reading some mechanical elements as stages in a teleological drive towards a system of

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<sup>26</sup> *YCR* 4, 93.

<sup>27</sup> *YCR* 5, 30: emphasis added.

<sup>28</sup> P. Clark and P. Slack, *English towns in transition 1500-1700* (Oxford, 1976), 122-123; P. Slack, *The English poor law, 1531-1782* (Cambridge, 1995), 107; Fideler, ‘Poverty, policy and providence’, 208.

compulsory collections.<sup>29</sup> The perceived statutory approaches to compulsion will be more fully addressed in the final section of this chapter. Suffice for now to note that the mid-century evidence for urban collection is most interesting, less for any compulsive elements, than for the fact of their operation at all. What is truly significant about the period of the late 1540s and early 1550s is that urban centres across England acted on their own authority to administer urban collections. Any apparent compulsiveness of these collections is simply a function of these assertions of urban authority.

As with the earlier period, York and Norwich had operational collections at this time. As already noted, in York the original collections of 1538 probably continued through the 1540s, with definite corporate collections operational in the early 1550s.<sup>30</sup> Once again disease provided the context for the increased corporate interest in administering collections in York as Palliser has noted.<sup>31</sup> In 1551 the York government decided

that billettis shalbe made forth to every constable immedyatly of the sayd rats  
commandyng them to see every honest parochian to a fee assessed [...]<sup>32</sup>

It was not the first time that the corporation had determined the contributions of parishioners within the city as the same practice had been instituted in 1538. Yet at this

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<sup>29</sup> A teleological narrative of increasing compulsion was common to many of the earlier histories, such as Leonard and the Webbs, but versions of this view still inform many current histories although they have adopted more of what McIntosh has termed a model of ‘compulsion from below’ in which localities provide the pressure for compulsory contributions. Leonard, *The early history of English poor relief*; S. Webb and B. Webb, *English local government: English poor law history: part I, the old poor law* (London, 1927); M. K. McIntosh, ‘Poverty, charity, and coercion in Elizabethan England’, *Journal of interdisciplinary history*, 35 (2005), 466; M. K. McIntosh, ‘Local responses to the poor in late medieval and Tudor England’, *Continuity and change*, 3 (1988), 229-230.

<sup>30</sup> *YCR* 4, 93; *YCR* 5, 30.

<sup>31</sup> Palliser, ‘Epidemics in Tudor York’, 60.

<sup>32</sup> *YCR* 5, 51.

time there was clearly a concern that each section of the city held responsibility for its own poor and sick, as the government instructed

[t]hat every parisshe within the four wards shold paye wekly towards the releif of the visyted and poor impotent folke of the same wards as they be rated [...]<sup>33</sup>

This was within the context of a disease event wherein the city maintained an interest in keeping the poor stationary within their respective wards.<sup>34</sup> However, it is also demonstrative of the nature of the collections operational in York at this time, where collected funds were centralised and administered at the ward level, with corporate oversight.

Weekly collections for the infected and the poor in York operated over subsequent months and years. The amounts collected in February 1550 were reassessed at a greater rate a year later and maintained at that revised level for at least another year.<sup>35</sup> Thus York provides an example of a city actively administering collections in crisis periods, but it is important to see this as following from earlier practice clearly modelled on the 1536 statutory formula. As with other urban collections during the late 1540s and early 1550s, the corporation of York acted without reference to statutory authority because there was no statutory mechanism to deploy.

In Norwich the situation was rather similar. The mayoral court decided in February 1548 that

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<sup>33</sup> *YCR* 5, 51.

<sup>34</sup> Palliser, 'Epidemics in Tudor York'; N. D. Brodie, 'Local government, hospitals and poor in sixteenth-century York', BA honours thesis, Australian National University, 2004.

<sup>35</sup> *YCR* 5, 33-34, 50-51, 54, 56-57, 68, 71.

euery Alderman shall procure and exhorte euery dweller in ther warde to giffe to the mayntenaunce, sustenacion and releeff of the pore, and to knowe what thei and euery of them will departe with euery weke [...]<sup>36</sup>

Considering the decision to implement collections in 1536, this should not necessarily be read as the introduction of collections, but perhaps as a reassessment of the collected sums and a greater corporate interest in administering collections. Two prompts for this greater interest by the city government were likely. The first was the apparent commencement of corporately-administered collections in London in the previous year, which Norwich may have decided to emulate.<sup>37</sup> The other likely inspiration for greater corporate interest may have been receipt of news of the then recently passed *1547 Act*. Although not providing a detailed mechanism of collection and relief, the *1547 Act* required poor people to be lodged ‘at the costes and charges of the saide Cities Townes Boroughes and Villages, there to be relieved and cured by the devocion of the good people’.<sup>38</sup> This may have prompted the Norwich government to re-examine collections within their city. That the system they implemented bore a striking resemblance to that of the *1536 Act* may suggest it was familiar to them, even if it was not explicitly sanctioned or required.

The key difference between the Norwich collections of 1536 and those of 1548 is that more evidence survives for the latter to attest to their implementation and continued

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<sup>36</sup> *RCN* 2, 173.

<sup>37</sup> K. Anderson, ‘The treatment of vagrancy and the relief of the poor and destitute in the Tudor period, based upon the local records of London to 1552 and Hull to 1576’, PhD thesis, University of London, 1933, 322.

<sup>38</sup> 1 Edw.VI.c.3.9, *SR* 4, 7: the residential requirement stipulated was place of birth or residence for three years.

operation. This in turn is suggestive of a greater corporate interest in, and administration of, such collections, which certainly operated in July 1548 thus indicating the implementation of the February instructions.<sup>39</sup> The corporation revised the collections again in November 1548, when the mayor

requyred thaldermen of every wadre to bryng in before him a bill of the names of every person dwelling in any parissh within their warde conteyning what some of money is gathered in every parisshe towards the releif of the poore peopull, and what every parissheoner pay wekely towardses the same.<sup>40</sup>

At the very least then, the mayor clearly believed that collections were being undertaken on a weekly basis.

1549 is generally accepted as the year in which Norwich implemented compulsory collections for the poor.<sup>41</sup> This is based upon a corporate memorandum from May of that year which empowered a panel of Aldermen and six commoners in each ward to

make an assesement ffor the pore what euery man shall paye towerd ther reloeffe [and] to commytte to warde the denyers of ther assesement and wtholders theof [...]<sup>42</sup>

This shift to an apparently compulsory collection has been attributed to ‘growing internal tensions’ associated with the ‘commotion time’, otherwise known as Kett’s rebellion.<sup>43</sup>

However the 1549 measure predates the commencement of Kett’s rebellion by a month

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<sup>39</sup> RCN 2, 174.

<sup>40</sup> RCN 2, 174-175.

<sup>41</sup> A. Wood, ‘Kett’s rebellion’, in C. Rawcliffe and R. Wilson (eds.), *Medieval Norwich* (London and New York, 2004), 294; P. Slack, ‘Social policy and the constraints of government, 1547-58’, in J. Loach and R. Tittler (eds.), *The mid-Tudor polity c. 1540-1560* (London, 1980), 107.

<sup>42</sup> RCN 2, 126; NRO NCR Case 16d/2, f. 230.

<sup>43</sup> Wood, ‘Kett’s rebellion’, 294.

without any other contemporary evidence to suggest any ‘internal tensions’ at that time.<sup>44</sup>

Rather, this should probably be seen as less dramatic a shift than it at first appears.

Considering that the corporation had been overseeing collections since at least early 1548, this should probably be interpreted as another of the relatively regular reassessments of collection funds. Each of the earlier assessments had involved aldermanic compilation of registers of contributors and their weekly amounts, although the inclusion of a panel for each ward may indicate a more formalised process of assessment. Whilst disease explains a more compulsive approach in York, in Norwich the addition of punitive provisions for denial or refusal of assessment may be linked to local politics. More important than a later rebellion may have been a prominent dispute over collection sums that had taken place in the previous year.<sup>45</sup>

In July 1548 Thomas Cony and Richard Braye had entered the church of St Peter Mancroft in Norwich as ‘gatherers ffor the releeff of the pore’.<sup>46</sup> They asked for two pence from Andrew Quasshe who ‘contemptuously’ only gave one penny.<sup>47</sup> The confrontation is suggestive that a register of contributions was kept and that such contributions were expected. That the case was brought before the corporation may be indicative of an earlier presumption that collections were not entirely voluntary, but it may have been Quasshe’s contempt that earned him a judicial investigation. McClendon has already noted that this incident was part of an ongoing conflict between Quasshe and the city government and was thus not necessarily representative of contemporary opinion

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<sup>44</sup> Wood, ‘Kett’s rebellion’, 280. Trouble may have started by early June, but the enclosure riots that sparked rebellion did not occur until July.

<sup>45</sup> *RCN* 2, 174.

<sup>46</sup> *RCN* 2, 174.

<sup>47</sup> *RCN* 2, 174.

towards collections within Norwich.<sup>48</sup> Nonetheless this dispute occurred at an important moment in the history of the parish collection, because in 1548 there was no statutory collection mechanism, yet this case highlights the fact that urban collections operated in at least some locations.<sup>49</sup>

As this incident occurred on a Sunday and in a church, these were probably weekly and parish-based collections. Yet as already seen, there was an urban tendency to rate parishioners, often by ward. Through having been asked for alms within a Norwich church, Quasshe highlights a tension between collections which were corporately administered and the notion of parish-based collection. Some resolution of this tension is only achievable through a consideration of the parochial context of collecting for the poor. As will be demonstrated, during the late 1540s and early 1550s a charitable collection was developed within the liturgical context of the weekly service, which serves to explain some features of the statutory regime more clearly.

### ***Section Two: 1536-1559***

Whilst most clearly revealed in the urban context as a tension between the urban and the parish collection, the fundamental tension was really one between the liturgy and some of the key social legislation of England. This is most clearly articulated in the confusion which has persisted over the role of collections and poor boxes in 1547. Using the

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<sup>48</sup> M. C. McClendon, *The quiet reformation, magistrates and the emergence of Protestantism in Tudor Norwich* (Stanford, 1999), 128-129.

<sup>49</sup> Presumably on corporate authority, rather than that derived from statute.



statutory and liturgical changes of that year as a starting point this section explores the role of poor boxes and liturgically-based parish collections.

There is a paragraph in the *1547 Act* which has mistakenly been taken to indicate parish collections. The editors of the *Statutes of the Realm* believed this clause indicated a ‘Weekly Collection of Charity at Church on Sunday’ but there was no specific mention of a collection in this or any other clause of the *1547 Act*.<sup>50</sup> What it actually provided was that

the Curate of everie p[ar]ishe doo mak according to suche tallent as God hath given him a godlie and brief exhortacon to his p[ar]ishoners moving and exciting them to remembre the poore people and the dewties of Xpian Charitie in reliving of them which be their brethrene in Christe borne in the same p[ar]ishe and neding their helpe.<sup>51</sup>

This clause therefore indicated that priests were expected to exhort their parishioners towards charitable support of the local poor. There was a precedent for this concept in the *1536 Act*, which had required the clergy of England to

exhorte move stirre and pvoke people to be liball & bountefully to extende their good and charitable almes and contribucions frome tyme to tyme for and toward the comforte & reliefe of the said pore impotent decrepite indigent and nedie people [...]<sup>52</sup>

Whilst there were some differences in its formulation, the concept remained the same, but with one key contextual difference. This difference lay in the fact that the charitable

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<sup>50</sup> 1 Edw.VI.c.3.12, *SR* 4, 8.

<sup>51</sup> 1 Edw.VI.c.3.12, *SR* 4, 8.

<sup>52</sup> 27 Hen.VIII.c.25.9, *SR* 3, 559-560.

exhortations required in 1536 complemented a statutory mechanism for the collection and distribution of alms within parishes and towns, whilst no such statutory system featured in the *1547 Act*.

This notion, that the clergy were required to exhort parishioners to charitable action, had also featured in the Royal Injunctions of 1547 that were proclaimed a few months before the *1547 Act*.<sup>53</sup> The combined 1547 requirements demonstrated continuity with the 1536 formula in that such exhortations were required after or during sermons, and during the drafting of wills.<sup>54</sup> Naturally, parochial conformity with these preaching briefs is practically impossible to determine. At least one contemporary bishop was concerned to know, as part of a 1548 visitation, whether the clergy of his diocese exhorted their parishioners ‘to extend their charity’.<sup>55</sup>

The same visitation also sought to determine

Whether they have in their churches on book called the King’s Homilies, and whether every Sunday they diligently read one of the same in the hearing of their parishioners.<sup>56</sup>

The institution of official homilies was in part a function of the increasingly Protestant aspirations of Edward VI’s regime in the late 1540s.<sup>57</sup> Such books certainly were acquired by parishes, as revealed by churchwarden accounts. For instance the

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<sup>53</sup> *TRP* 1, no. 287 (p. 401).

<sup>54</sup> 27 Hen.VIII.c.25.9, *SR* 3, 559; 1 Edw.VI.c.3.12, *SR* 4, 8; *TRP* 1, no. 287 (p. 401).

<sup>55</sup> *Report on manuscripts in various collections, volume VII*, Historical Manuscripts Commission (London, 1914), 47.

<sup>56</sup> *Report on manuscripts in various collections, volume VII*, 47.

<sup>57</sup> D. MacCulloch, ‘Putting the English Reformation on the map’, *Transactions of the royal historical society*, 15 (2005), 83-85.

churchwardens of the parishes of St Petrock in Exeter and those of St Ewens in Bristol both recorded the purchase of ‘the homilies’ between 1547 and 1548.<sup>58</sup> In the early 1560s another Exeter parish, St Petrock, had purchased ‘a boke of homyles’ whilst St Margaret’s Parish in Norwich also purchased ‘an omely boke’ before also acquiring a particular ‘homely ageynsst disobedience’.<sup>59</sup> The later examples highlight that such homily compilations were not just a feature of the Edwardian period. Both the Marian and Elizabethan government developed official homilies in order to advance particular theological perspectives. One curiosity of this, however, is that the same homily on charity is found in three such compilations from 1547, 1555 and 1559, despite spanning dramatic theological differences.<sup>60</sup> In this, the focus was not so much on what to do with alms. Rather, this homily, repeated verbatim through three vastly different religious contexts, expounded on the charitable duty of the magistrate ‘to rebuke, correct and ponshe vice’ so as ‘to impugne the kyngedome of the deuil’.<sup>61</sup>

If pecuniary charity was not something addressed by the 1547 homily, it was certainly something addressed by the Royal Injunctions of 1547. As well as enquiring about charitable exhortations in his 1548 visitation, the bishop of Gloucester had enquired whether each parish had a poor box.<sup>62</sup> Whilst the *1536* and *1547 Acts* had only made

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<sup>58</sup> CDRO DD 36770; *The church book of St. Ewen’s, Bristol 1454-1584*, eds. Betty R. Masters and Elizabeth Ralph (London and Ashford, 1967), 183.

<sup>59</sup> CDRO EDRO/PW 2, f. 128; NRO MF897/16, 961, 971.

<sup>60</sup> *Certayne sermons appoynted by the Quenes Maiestie, to be declared and read, by all persones, vycars, and curates, euery Sondag and holy daye in their churches : and by her Graces aduyse perused & ouer sene, for the better vnderstandyng of the simple people : newly imprinted in partes accordyng as is mencioned in the booke of commune prayers*, R. I[u]gge (London, 1559) STC (2nd ed.) / 13648.5.

<sup>61</sup> *Certayne sermons, or homilies, appoynted to be declared and redde, by all persones, vycars, or curates, euery Sondag in their churches, where they haue cure*, Edwarde Whitchurche (London, 1547) STC (2nd ed.) / 13641.9, ff. L.ii, L.iii.

<sup>62</sup> *Report on manuscripts in various collections, volume VII*, 47.

general comments about exhortations to charitable giving, the 1547 Royal Injunctions had explicitly required the clergy to ‘call upon, exhort, and move their neighbors to confer and give as they may well spare to the said [alms] chest’.<sup>63</sup> The *1536 Act* had indeed mentioned boxes, but as already noted these may have been portable as well as stationary boxes. Only from 1547 was there an explicit requirement that parish churches have poor boxes, and the Royal Injunctions were rather particular as to the form such boxes were to have taken. Each parish was to have had

a strong chest, with a hole in the upper part therof, to be provided at the cost and charge of the parish, having three keys, whereof one shall remain in the custody of the parson, vicar, or curate, and the other two in the custody of the churchwardens or any other two honest men to be appointed by the parish from year to year [...]<sup>64</sup>

Recorded purchases of locks, keys and boxes in churchwarden accounts demonstrate that the new requirement was followed in a number of centres. For instance the churchwardens of the Exeter parish of St John indicate the existence of ‘lee poer mans cheste’ in 1547.<sup>65</sup> Likewise the parish of St Petrock in the same city purchased ‘a cofer wt loks’ according to the 1547/8 account.<sup>66</sup> Some parishes such as St Ewen in Bristol and St Michael Spurriergate in York demonstrate the purchase of locks at this time, suggesting that what might have been already extant poor boxes were being made to conform to the new requirements.<sup>67</sup> Few churchwarden accounts are as clear as that of St

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<sup>63</sup> *TRP* 1, no. 287 (p. 401).

<sup>64</sup> *TRP* 1, no. 287 (p. 401).

<sup>65</sup> CDRO DD 36770.

<sup>66</sup> CDRO EDRO/PW 2, f. 113.

<sup>67</sup> *The church book of St. Ewen's*, 184; *The churchwardens' accounts of St Michael, Spurriergate, York 1518-1548, volume II 1538-1548*, ed. C. C. Webb, Borthwick Texts and Calendars, 20 (York, 1997), 326, 330.

Andrew Hubbard in Eastcheap London, which indicated that an Alms box was bought at that time rather than just modified to conform to new requirements.<sup>68</sup>

The date at which churchwarden accounts first mentioned poor boxes was not necessarily the first acquisition of such an item in that parish. As Burgess noted, it is ‘inadmissible to date the initiation of a ‘custom’ from its first reference in churchwardens’ accounts.’<sup>69</sup>

This is true of poor boxes, especially as many churchwardens’ accounts suggest that they were already extant. The mention of poor boxes in churchwarden accounts when new locks or keys were bought, such as in Holy Trinity and St Martin cum Gregory parishes in York in the 1550s and 1570s respectively, do not prove that these parishes were lax in acquiring poor boxes, for instance.<sup>70</sup> Similarly, deposits from churchwarden funds into the poor box, such as that of Christchurch parish in Bristol in 1552, demonstrate the existence of poor boxes, but do not help to confirm installation dates.<sup>71</sup> Churchwarden accounts thus can only be helpfully used to make tentative comments about general trends. Yet despite such provisions on the reliability of the evidence, on the basis of the available data it seems likely that the 1547 Royal Injunctions were obeyed. A number of parishes either adapted old boxes to conform to the new requirements, or acquired such boxes at that time.

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<sup>68</sup> *The church records of St Andrew Hubbard, Eastcheap, c. 1450 – c. 1570*, ed. Clive Burgess, London Record Society (London, 1999), 161.

<sup>69</sup> C. Burgess, ‘Pre-Reformation churchwardens’ accounts and parish government: lessons from London and Bristol’, *The English historical review*, new series, 117 (2002), 329-330.

<sup>70</sup> BI PR Y/HTG, f. 2; PR Y/MG 19, f. 23.

<sup>71</sup> BRO P/Xch/ChW/1/a, f. 72.

Two other sources of data help to confirm the general picture. The first of these are episcopal visitation records. During a 1567 visitation of the diocese of York, it was noted that in various parishes ‘the pore mens box is without locks’, or ‘the pore mans boxe haith indede no key’ or that ‘the pore mans boxe [is] not sufficient’.<sup>72</sup> Several parishes even had ‘no pore mens boxe’ at the time of visitation.<sup>73</sup> Explanations were rarely noted in the visitation, but one parish claimed that the reason for not having a poor box was ‘for that ther parishe is pore and nothing to put into the same’.<sup>74</sup> This particular visitation may suggest that poor boxes were not installed in all parishes of Yorkshire when first required, but it also indicates that most seem to have had one by that point.

The other sources through which poor boxes can be traced are the wills of parishioners. Schen has noted that there were some bequests amongst London wills after 1547 to poor boxes, but that whilst intended to replace the high altar as the focus of bequests in wills, such poor box donations did not approach the volume of donations to the high altar.<sup>75</sup> Bequests such as those of Thomas Clerk ‘to the poor people’s box of the parish where I dwell’ in London serve to confirm the existence of some parish poor boxes after 1547, but their relative rarity may suggest that the clerical exhortations were not wholly effective.<sup>76</sup>

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<sup>72</sup> *Tudor parish documents in the diocese of York, a selection*, ed. J. S. Purvis (Cambridge, 1948), 29, 32, 34.

<sup>73</sup> *Tudor parish documents in the diocese of York*, 29, 31-33.

<sup>74</sup> *Tudor parish documents in the diocese of York*, 29.

<sup>75</sup> C. S. Schen, *Charity and lay piety in reformation London, 1500-1620* (Aldershot, 2002), 61.

<sup>76</sup> *The church records of St Andrew Hubbard*, 228; see also: 276, 290. Thomas Clerk’s 1548 bequest was followed by others in this parish. For instance those of Robert Woode in 1551 and Agnes Gringle in 1563 indicate poor box bequests into subsequent decades, but no testator from this parish appears to have made such a bequest prior to 1547. Wider examination of testamentary evidence for the extent of the existence of poor boxes will prove a fruitful (if time-consuming) avenue of future research.

Despite the use of official homilies from 1547 onwards, the *1547 Act* was the last in the statutory regime to contain a clause requiring such clerical exhortations to charitable giving. This may seem odd considering that from 1552 onwards there were again statutorily-required collections. It is also worth noting that whilst the poor box featured in some legislation as the receptacle for fines, it was not explicitly connected with any collection activity, either as a means of collection or as a receptacle for otherwise collected sums.<sup>77</sup> Yet, as has already been seen, there remained an ecclesiastical interest in parochial poor boxes even two decades after the Royal Injunctions and a decade and a half after the restitution of statutory collections. The explanation for these oddities lies in an exploration of the liturgical functions of the poor box and the development of non-statutory collections at church.

### *Offerings to the poor*

Before the *1547 Act* was repealed and replaced in 1550, an ongoing requirement that the clergy exhort their parishioners to charity had already been established. Like the exhortations required under the *1536* and *1547 Acts*, these had statutory sanction, but they were not explicit statutory directives. Rather, this exhortation requirement was contained in the *Book of Common Prayer* whose use from 1549 onwards, with only a brief Marian interlude, was regulated by statute. Introduced in 1549, the *Book of Common Prayer* was revised in 1552 and 1558-9 respectively and these new versions were

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<sup>77</sup> For details, see below. Tate is probably safe in assuming that in many parishes the parish chest was used as the receptacle of funds collected where no specific poor boxes were installed, but is wrong in believing that a specific poor box was introduced in 1552: W. E. Tate, *The parish chest: a study of the records of parochial administration in England* (Cambridge, 1946), 36.

correspondingly introduced in 1552 and 1559.<sup>78</sup> This had replaced the Catholic Mass with a Protestant Communion Service.

It was on the basis of this liturgical requirement that an Elizabethan episcopal visitation in the diocese of York noted of the clergy of the town of Ripon that they ‘did never after anye homilie or after anie devine service exhort the people to remember the poore’.<sup>79</sup>

However in all fairness to the Ripon clergy, they did refute the claim against them, stating clearly that ‘they do oftentimes after the homilies and devine service exhort the people to remember the poore.’<sup>80</sup> That this issue was not raised in any of the other parishes visited might suggest that such practice was relatively common. Nonetheless, this is indicative of the fact that a charitable exhortation was expected to have featured as part of religious worship in the realm.

But more than clerical exhortations were required. During the offertory, that part of the service when the gifts of bread and wine were traditionally offered to God, a new liturgical focus was presented in the 1549 *Book of Common Prayer*. Traditionally, during ‘po tyme of offrande’, members of the congregation could ‘Offer or leeu, wheper þe lyst’.<sup>81</sup> The optional offering of a mass penny during the offertory was a contribution towards the cost of the sacrament of the altar.<sup>82</sup> Congregational offerings were retained in

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<sup>78</sup> 2&3 Edw.VI.c.1, SR 4, 37-39; 5&6 Edw.VI.c.1, SR 4, 130-131; 1 Eliz.I.c.2, SR 4, 355-358.

<sup>79</sup> *Tudor parish documents in the diocese of York*, 26.

<sup>80</sup> *Tudor parish documents in the diocese of York*, 27.

<sup>81</sup> *The lay folks mass book*, ed. Thomas F. Simmons, Early English Text Society, original series, 71 (London, 1879), 22.

<sup>82</sup> *The lay folks mass book*, 243.



the 1549 service, but the focus shifted from sacramental to charitable contributions. A rubric in the *Book of Common Prayer* instructed the laity that:

In the meane time, whyles the Clerkes do syng the Offertory, so many as are disposed, shall offer unto the poore mennes boxe euery one accordynge to his habilitie and charitable mynde.<sup>83</sup>

Thus during the offertory parishioners were encouraged to make donations to the poor box. Where a choir was present this offering was undertaken amidst the intonation of scriptural injunctions supportive of the notion of almsgiving with lines such as

Let your light shine before men, that they maye see your good workes, and glorify your father which is in heauen.<sup>84</sup>

Or:

Whoso hath this worldes good, and seeth his brother haue nede, and shutteth up his compassion from hym, how dwelleth the loue of God in him?<sup>85</sup>

And the even less subtle:

Geue almosse of thy goodes, and turne neuer they face from any poore man, and then the face of the lorde shall not be turned awaye from thee.<sup>86</sup>

The poor box thus became almost a devotional focus within the liturgy, something facilitated by its spatial location. The 1547 Royal Injunctions had specified of the newly required poor box that

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<sup>83</sup> *The first prayer-book of King Edward VI*, The Ancient and Modern Library of Theological Literature (London, 1888), 200.

<sup>84</sup> *The first prayer-book of King Edward VI*, 198.

<sup>85</sup> *The first prayer-book of King Edward VI*, 199.

<sup>86</sup> *The first prayer-book of King Edward VI*, 199.

Which chest you shall set and fasten near unto the high altar, to the intent the parishioners should put into it their oblation and alms for their poor neighbours.<sup>87</sup>

Thus if the 1549 service was being correctly followed, parishioners so inclined will have left their places and moved towards the high altar and made a charitable donation to the poor box. Indeed, poor boxes were explicitly designed to have acted as replacements of traditional forms of devotion within the parochial context. As part of their exhortations to their parishioners, the clergy were supposed to

declar[e] unto them, wheras heretofore they have been diligent to bestow much substance, otherwise than God commanded, upon pardons, pilgrimages, trentals, decking of imges, offerings of candles, giving to friars, and upon other like blind devotions, they ought at this time to be much more ready to help the poor and needy; knowing that to relieve the poor is a true worshipping of God, required upon pain of everlasting damnation; and that also whatsoever is given for their comfort is given to Christ himself [...]<sup>88</sup>

Thus the strategic placement of the poor box near the high altar highlighted its role as a Christ-centric devotion explicitly designed to replace a multitude of newly forbidden devotional practices. Parishioners were required to

take away, utterly extinct, and destroy all shrines, covering of shrines, all tables, candlesticks, trindles or rolls of wax, pictures, paintings, and all other monuments of feigned miracles, pilgrimages, idolatry, and superstition, so that there remain no memory of the same [...]<sup>89</sup>

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<sup>87</sup> *TRP* 1, no. 287 (p. 401).

<sup>88</sup> *TRP* 1, no. 287 (p. 401).

<sup>89</sup> *TRP* 1, no. 287 (p. 401).

All of this was to have been replaced with a chest. That ‘money which riseth of fraternities, guilds, and other stocks of the church’ was to have been ‘put into the said chest’, further highlighting its explicit role as an alternate focus of devotion for parishioners.<sup>90</sup>

This notion of liturgical devotion through charitable giving is an important point of intersection between liturgical and statutory requirements. The use of the poor box in the 1549 service format seems to have been tacitly acknowledged by the *1550 Act*. That statute had ordered that the poor were ‘to be relieved and cured by the devotyon of the good people of the saide Citie Boroughe Towne or Vyllage’ rather than outlining any specific collection mechanism.<sup>91</sup> This ‘devotyon’ was possibly the alms offered to the poor box as it was the same term later used to describe these offerings within the 1552 version of the communion service.<sup>92</sup> If correct, then such a connection between liturgical and statutory charity may have been intended as early as 1547, because the *1547 Act* had similarly noted the support of the poor through the ‘devoc[i]on of the good people’ whilst providing no specific statutory collection mechanisms.<sup>93</sup> Furthering this view, the requirement under the *1547 Act* that the priest make ‘a godlie and brief exhortac[i]on to his p[ar]ishioners moving and exciting them to remembre the poore people [...] borne in the same p[ar]ishe and neding their helpe’ seems therefore to have been connected to what were supposed to have been newly installed poor boxes.<sup>94</sup> That this exhortation was

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<sup>90</sup> *TRP* 1, no. 287 (p. 401).

<sup>91</sup> 3&4 Edw.VI.c.16.4, *SR* 4, 115.

<sup>92</sup> *The second prayer-book of King Edward VI*, The Ancient and Modern Library of Theological Literature (London, 1900), 96.

<sup>93</sup> 1 Edw.VI.c.3.9, *SR* 4, 7.

<sup>94</sup> 1 Edw.VI.c.3.12, *SR* 4, 8.

to have been made ‘everie Sondaye and hollie daye after the reading of the gospell of the daie’ places it close to the same part of the service as would from 1549 have been required for exhortations in support of the poor and for donations under the new liturgical regime.<sup>95</sup>

From this apparent cross over between liturgical and statutory mechanisms of parochial charitable collection in the late 1540s and early 1550s, it is possible to see that such thoughts were not new. Although there was no central government directive regarding the placement of poor boxes within every parish church prior to 1547, it is apparent that such thinking was considered. A draft parliamentary bill from 1531 was reported to have intended to have had poor boxes installed within every church.<sup>96</sup> This may have been similar to that which would have been required by the 1535 draft bill which provided

that in evry churche wher theseid councell, or v of them or ther deputie shall thunke convenyent shalbe set up in some part of the churche before the sacrament there as nygh as can be reasonably devysed a chest to receive such Almes as shalbe geven toward theseid works, And evry chest to have thre keyes/ And the churchwardens if any be or els some officer of the churche there to be assigned by the seid deputies shalhave one keye, the Curate there another keye, and the deputie the third keye so that noon shall open the chest wtout the consent of thother/ And the same thre keyes to be redy at thappoyntement of the deputies to open the chest And a byll to remayne wt them that have thother tw[o] keies

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<sup>95</sup> 1 Edw.VI.c.3.12, *SR* 4, 8.

<sup>96</sup> *LP* 5, no. 50.

conteynyng what money the deputie taketh out therof so that he maye accompte accordyngly for the same [...]<sup>97</sup>

This is strikingly similar to the royal injunctions from a decade later, which not only located poor boxes near the high altar, but also had a triple-key security system.<sup>98</sup> This similarity raises the possibility that the 1535 draft may have been consulted by the drafters of the *1547 Act*, furthering those arguments pertaining to continuity of concepts and mechanics between 1535 and 1547 argued in the previous chapter.

The proposed use of poor boxes in 1535 was not developed in isolation. The notion of a poor box had a tradition extending back centuries, but the new English focus on poor box style, function, and aspirations for a poor box in every church seem to have had more recent models. The 1531 Ypres scheme of poor relief that William Marshal translated into English in 1535 had, in addition to a scheme of weekly collections, a requirement that

in euery churche (after the olde maner) shalbe set a boxe wherin euery man shall put prtuelly what he wyll. And it shall nat a lytell helpe to the encrease of this sayde subsydy to be gathered for the poore/ if the curates and comen prechers do put to their helpe and counsell to the same as well in open sermons/ as in priuate comunicatyon. In as moche as their lyuely voyce hath more efficacitie/ strength/ and credence/ than the syghinges and sobbynges of a thousande complayntes of the pore men/ and dothe more good than the heuy and pytuouse outcreyes of the wretched bodyes. Also it shulde helpe well this thinge. if that parte of almose that

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<sup>97</sup> BL, Royal MS 18 C vi, ff. 8-8v.

<sup>98</sup> *TRP* 1, no. 287 (p. 401).

cometh of comen doles and general festes/ and the resydue of goodes nat  
bequethed by lefte to an uncertayne use/ were put into the comen boxe for poore  
men/ all other partes beyng faithfully bestowed accordyng to the ordynance &  
wyll of the founders.<sup>99</sup>

Here were a number of the elements enacted in 1536 such as clerical exhortations, the retention of doles and bequests for parochial charity, as well as the notion of poor boxes in every church as proposed in 1535.

Whilst the provision that poor boxes in Ypres be used ‘after the olde maner’ serves as a reminder that church poor boxes were not new, the 1520s and 1530s appear to have witnessed an increased encouragement of poor box installation and use by secular authorities.<sup>100</sup> For instance, the scheme adopted at Rouen in 1534 provided for weekly collections which were supplemented by poor boxes placed ‘at every church door, and at all the doors of public buildings’.<sup>101</sup> Here too, there was an expectation that the clergy would ‘in their sermons and at confession, [...] incite the faithful to these acts of charity, and to do the same when they are receiving testamentary instructions.’<sup>102</sup> Rouen even possessed a centralised municipal three-key poor box into which all of these funds were to have been deposited weekly.<sup>103</sup>

Neither of these schemes seemed to have been modelled on that proposed by Vives for Bruges in 1526, where he had suggested the municipal hospital revenue would be

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<sup>99</sup> Marshall, *The forme and maner of subue[n]tion or helping for pore people*, ff. C.11-C.12.

<sup>100</sup> Marshall, *The forme and maner of subue[n]tion or helping for pore people*, ff. C.11-C.12.

<sup>101</sup> *Some early tracts on poor relief*, 115-116.

<sup>102</sup> *Some early tracts on poor relief*, 116.

<sup>103</sup> *Some early tracts on poor relief*, 116.

sufficient for that city, as each of these other schemes had included a collection element that Vive's Bruges scheme did not.<sup>104</sup> However, during a period of financial shortfall, Vives had suggested that

boxes be set up in three or four of the chief churches of the town, which are the most visited, in which any may place the offering that his devotion suggests.<sup>105</sup>

This was only to have been a temporary and occasional measure, however, and did not represent the permanent feature that the other continental schemes indicated. Yet again the notion that charitable donations were a form of devotion persisted in Vives's scheme.

Such an association between poor box donations and church services was envisioned by Luther in his scheme for Leisnig in 1523, highlighting that this notion crossed sectarian lines. Whilst Luther proposed 'a common chest' as a receptacle for 'offerings', this was not the poor box, which was to have been a separate box.<sup>106</sup> According to this scheme

[i]n the same way alms and generous charities, asked for by two of our number set apart for that purpose for all time, for the upkeep of the poor when our parish is gathered together in God's house, shall be put at once in such a box and applied to such a use.<sup>107</sup>

This was a concept which may have spread fairly rapidly throughout that region.<sup>108</sup> For instance, in regulations in Nürnberg boxes and plates were utilised for charitable

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<sup>104</sup> *Some early tracts on poor relief*, 22.

<sup>105</sup> *Some early tracts on poor relief*, 23.

<sup>106</sup> *Some early tracts on poor relief*, 86.

<sup>107</sup> *Some early tracts on poor relief*, 87.

<sup>108</sup> H. J. Berman, 'The spiritualization of secular law: the impact of the Lutheran Reformation', *Journal of law and religion*, 14 (1999-2000), 338.

collections, with clear Lutheran influences.<sup>109</sup> As has already been noted, many of these continental schemes had a devotional collection during or associated with church services, so the fact of a collection associated with divine service should not be considered to reflect any particular theological positioning. Historians have attempted to chart the role of particularly Protestant, Catholic or humanist influences on these various schemes and the English statutory initiatives, but the impression remains that many of these schemes simply reflected a process of writing rules which reflected the way things should be done ‘after the olde maner’.<sup>110</sup> Whether a precocious parish or just a case of evidence surviving for a common practice, it is instructive that the ‘gadryng of the Almys in the chyrche’ in the parish of St Mary at Hill in London was undertaken before any of the continental schemes just noted.<sup>111</sup>

Yet there was something peculiarly distinctive about the use of the poor box and collections within the Sunday church service, as reflected in the English practice from the late 1530s onwards. In one respect the intentional inclusion of a poor box was in part a means of enforcing an exclusion of various aspects of traditional worship deemed superstitious. Subsequent changes in the liturgical role of the poor box provide further expression of continued theological change. When the form of the communion service in the *Book of Common Prayer* was changed in 1552, the notion of an offering deposited in

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<sup>109</sup> H. J. Grimm, ‘Luther’s contribution to sixteenth-century organization of poor relief’, *Archives for Reformation history*, 61 (1970), 222-234.

<sup>110</sup> Marshall, *The forme and maner of subue[n]tion or helping for pore people*, ff. C.11-C.12: The general uniformity of basic concepts which scholars have noted in sixteenth-century poor relief schemes is probably best explained through reference to pan-European contemporary practices.

<sup>111</sup> *The medieval records of a London city church, part 1*, 284.



the poor box during the offertory was retained, but rather than parishioners going up and putting the money in the box

the Churchwardens, or some other by them appoynted, [shall] gather the deuocion of the people, and put the same into the poore mens boxe [...]<sup>112</sup>

This formula was retained in the Elizabethan *Book of Common Prayer* of 1558-9.<sup>113</sup> This is reflective of broader changes within the 1552 liturgy. The 1552 and 1558 service forms clearly denied any sacrificial element to the communion service, which was highlighted through the posture of communicants and the location of the altar, which was to have been a simple table placed within the centre of the church.<sup>114</sup> The poor boxes required in 1547 and 1549 drew some of their significance from being near the high altar. With the removal of the sacrificial power of that altar the poor box also lost ritual significance.

There was a clear ritual significance in the donation to the poor box in 1549. Whilst in the 1549 service the ‘Sentences of holy scripture’ which suggested the spiritual benefits of charity were to have been sung if possible, they were simply to have been spoken in the latter two.<sup>115</sup> These changes further reflect a shift from ritualistic action connected with the sacrifice of the Altar. The donation was from 1552 no longer specifically linked to the movement towards the altar through movement towards the poor box. However a continued ritual significance attached to the donation is evident in the churchwardens’ responsibility to have placed the gathered alms within the poor box, and that a prayer of

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<sup>112</sup> *The second prayer-book of King Edward VI*, 96.

<sup>113</sup> *The prayer-book of Queen Elizabeth*, The Ancient and Modern Library of Theological Literature (London, 1890), 162.

<sup>114</sup> K. Fincham, and N. Tyacke, *Altars restored: the changing face of English religious worship, 1547-c.1700* (Oxford, 2007), 23.

<sup>115</sup> *The first prayer-book of King Edward VI*, 198, 200; *The second prayer-book of King Edward VI*, 95; *The prayer-book of Queen Elizabeth*, 160.

thanks was offered if any alms had been given.<sup>116</sup> The curate was to have prayed that ‘[w]e humbly beseche thee most mercifullye to accepte our almose’ and also ‘to saue and defende all Christian Kynges, Princes, and Gouvernoures, and specialle thy seruaunt, Edward our Kyng, that under hym we maye bee godlye and quietly gouerned’.<sup>117</sup> Thus the donation of alms was received with a prayer that recalled the two duties of charity presented in the official homilies mentioned earlier.

What is particularly interesting from the statutory perspective is that this shift from an in-service donation to an in-service collection occurred in the same year that statutory collection mechanisms were reintroduced. Yet, as has been seen, this period in the late 1540s and early 1550s had not witnessed the cessation of urban collections, indeed, quite the opposite. Those years saw a period of consolidation, if not introduction, of urban collection systems. What role in-service devotions and collections may have played in these urban collection systems is difficult to determine. It is a query that will be addressed in the next section, where the focus returns to the statutory systems. Yet, however the liturgical and statutory charitable collections may have interacted with each other in practice, whether competing or complementing each other, there was some interrelationship that is important to understanding the statutes. This would be especially the case in the urban context, where statutory collections would operate at the town level. The liturgical context helps to explain some features of the statutory collections such as the issue of compulsory contribution, the appointment of officers, the storage of funds, and the timing of weekly collection itself. It seems clear that the differences in the

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<sup>116</sup> *The second prayer-book of King Edward VI*, 162; *The prayer-book of Queen Elizabeth*, 96-97.

<sup>117</sup> *The second prayer-book of King Edward VI*, 162; *The prayer-book of Queen Elizabeth*, 96-97.

mechanics of statutory collections evident between 1536 and 1552 onwards, and the lack of collections in the *1547* and *1550 Acts*, were related to changes in the offertory. These liturgical changes provide an important contextualising and explanatory aspect to the history of the parish collection. They also serve to seriously undermine any straightforward notion that in the early and mid sixteenth century poor relief was taken from a religious to a secular sphere.<sup>118</sup> However, the continued use of liturgical collections in the mid to late 1550s when statutory collections were revived raises the possibility of concurrent collection systems. It is to this possibility, amongst other problems, that the following section now turns.

### ***Section Three: 1552-1572***

That the *1552 Act* was developed with the liturgical offering in mind seems probable when it is considered that collectors were supposed to have been appointed ‘after Devyne Service’.<sup>119</sup> Furthering this view is the fact that when parishioners were to have been annually asked what they would weekly contribute, this was to have taken place ‘when the people is at the Church and hath hardde Godds hollie worde’ perhaps intending this to have taken place at that same part of the service as the liturgical collections.<sup>120</sup> This same statutory formula was evident in the *1555* and *1563 Acts* which indicated that the

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<sup>118</sup> Older histories, focused as they were on legislation, justices, administrative documentation and town councils, give the impression at times that the development of poor relief machinery in sixteenth-century Europe was a pan-European secular phenomenon: see for instance Webb and Webb, *English local government: English poor law history: part I*, 44-59.

<sup>119</sup> 5&6 Edw.VI.2.2, SR 4, 131.

<sup>120</sup> 5&6 Edw.VI.2.2, SR 4, 131.

determination of weekly contributions was to have taken place ‘when the people are at the Church at Dyvine Service’.<sup>121</sup> Whilst not explicitly stated, there may have been a statutory intention that weekly alms were to have been collected within the main weekly service, as suggested by the annual, and potentially very public, determination of contribution amounts.

That service-based collection was undertaken in a number of urban centres seems probable. In Norwich, the incident whereby Quasshe refused his full contribution in 1548 took place in the church on a Sunday.<sup>122</sup> Similarly, there are strong indications that in York in 1551, 1556 and 1561 collections were to have taken place on Sundays.<sup>123</sup> Such Sunday collecting may suggest that the initial stages of the collections were undertaken during church services. In Exeter in 1560, the delivery of parochially-collected funds was to have taken place ‘weklie upon everie moneday’, yet this highlights that collection in the urban context was often a two-stage process as this requirement related to the urban centralisation of parochial sums already collected.<sup>124</sup> Considering the Monday delivery, it seems likely that Exeter too had Sunday parish collections, again suggesting service-based collecting. The Monday delivery, however, may have allowed collectors to visit those who had not attended Divine service, thereby enabling contribution without attendance at communion.

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<sup>121</sup> 2&3 Phil.&Mar.c.5.2, *SR* 4, 280; 5 Eliz.I.c.3.2, *SR* 4, 411.

<sup>122</sup> *RCN* 2, 174.

<sup>123</sup> *YCR* 5, 51, 141; *YCR* 6, 23.

<sup>124</sup> *CDRO AB IV*, f. 11v.

This interaction between parochial and corporate collecting can be more fully explored in *The Book of the Accounts of the Poor* from Exeter, which details contributions and contributors, distributions and recipients of poor relief in that city throughout the 1560s.<sup>125</sup> This remarkable volume provides a useful framework for a discussion of urban poor relief collection systems due to the detail contained therein as to the totality of an operational system, with details of collection and distribution of funds in one volume. Remarkably, it has until now remained largely unexplored. Using the Exeter *Accounts* as a guide to the system of collection in Exeter, the following section illustrates the operation of this system, with analogous evidence from the other towns offered where such is available for such comparison. This will in turn allow the development of a composite picture of provincial urban collection systems, illustrated by Exeter, but partially evident in other centres.

As opposed to the better known Norwich census of the poor of 1570, the Exeter *Accounts of the Poor* contain the details of contributors as well as recipients of charity. As an example of these, the list of contributors compiled for the year 1564/5 from the feast of St John the Baptist reveals several points of interest.<sup>126</sup> Perhaps the first of these is a confirmation of the general conformity with statute law suggested by the notation that the list was compiled ‘accor[ding] to the statute provided yn this behalfe’.<sup>127</sup> This again highlights corporate familiarity with, and concern to follow, statute law as discussed in previous chapters. Such registers of contributors to the collection systems were supposed

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<sup>125</sup> CDRO ECA Book 157.

<sup>126</sup> CDRO ECA Book 157, ff. 6-11v.

<sup>127</sup> CDRO ECA Book 157, f. 6.

to have been kept according to all of the relevant statutes from 1552 onwards.<sup>128</sup>

Surviving memoranda from Norwich indicate corporate interest in the compilation of registers of contributors and their contributions in 1548 and 1557.<sup>129</sup> Similarly, in York the corporation had registers of inhabitants then contributing to the support of the poor compiled in 1551, 1561, 1563, 1569 and 1573 respectively.<sup>130</sup> Importantly, both of these cities were demonstrably interested in the compilation of such registers without statutory authority to have done so, further indicating the use of corporate authority to maintain urban collections when deemed necessary.

This should not necessarily be seen as conceptually ‘ahead’ of the statutory systems, however. After all, the *1536 Act* had provided that

the p[ar]sonne Vicar or Parisshe priest or some other honeste man of ev[r]y parisshe [was instructed to] kepe a boke of rekennynge, and therin shall entre writte and make mencion frome tyme to tyme in one place or parte of the boke as well of all and ev[r]y suche sōmes of Money as shalbe gathered by the charitable almes of the inhabitauntes of ev[r]y of the same parisshe, as to make mencion in one other place of the same boke howe upon whome and in what wise any p[ar]te of the same money shalbe spent [...]<sup>131</sup>

Whenever collections were statutorily enacted between 1536 and 1572 there were consistent auditing requirements which required collectors to ‘yeld accompte of all

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<sup>128</sup> 5&6 Edw.VI.c.2.2, *SR* 4, 131; 2&3 Phil.&Mar.c.5.2, *SR* 4, 280; 5 Eliz.I.c.3.2, *SR* 4, 411; 14 Eliz.I.c.5.16, *SR* 4, 593.

<sup>129</sup> *RCN* 2, 132-133, 174-175; NRO NCR Case 16 a/5, f. 533; NCR Case 16c/3, f. 95: neither list remains extant.

<sup>130</sup> *YCR* 5, 51, 57; *YCR* 6, 6, 23, 61, 159; *YCR* 7, 63-65: only the last of these remains extant.

<sup>131</sup> 27 Hen.VIII.c.25.15, *SR* 3, 561.

sommes of money as by them shalbe gathered, and howe and in what man[r] it was employed'.<sup>132</sup> These auditing procedures will be discussed in more depth below, as they provide a crucial means of interpreting the interaction between the liturgical and statutory collections.

Before that, however, it can be seen that the Exeter list of contributors for 1564/5 is also illustrative of the fact that the collections in Exeter were to have been undertaken by parishes and then centralised under the authority of the corporation. The list of contributors was arranged by parish, whereas lists of recipients of alms were arranged by city quarter.<sup>133</sup> It seems that this centralisation of funds was not actually carried out on a weekly basis, at least in 1564/5, as every few weeks (the number of weeks varied) those compiling the account noted the receipt of funds from the 'Coletars' of the parishes for the past weeks.<sup>134</sup> This record of income was followed by descriptions and details of the payments made with the received funds. On 17 July 1564 for instance, payment was made 'to the dystributors for the last wek past', then 'also to the bedells', who seem to have been paid out of the collection system.<sup>135</sup> Thus whilst the sums collected in parishes were not necessarily delivered to the city weekly, the administrators of the corporate collection system were well aware of what each parish owed. Illustrative of this is the fact that the final element of the record for this year was an account of 'such debts' owed.<sup>136</sup>

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<sup>132</sup> 27 Hen.VIII.c.28.14, *SR* 3, 560-561; 5&6 Edw.VI.c.2.4, *SR* 4, 131; 2&3 Phil.&Mar.c.5.4, *SR* 4, 280; 5 Eliz.I.c.3.6, *SR* 4, 412; 14 Eliz.I.c.5.20, *SR* 4, 594.

<sup>133</sup> Whilst recipient lists were listed by parish under the quarter divisions, this necessitated the splitting of several parishes, which indicates that distribution was principally arranged by quarter. Clearly collections were not undertaken by quarter as was the case with distribution.

<sup>134</sup> CDRO ECA Book 157, f. 16.

<sup>135</sup> CDRO ECA Book 157, f. 15.

<sup>136</sup> CDRO ECA Book 157, f. 34.

In 1565, for instance, ‘the collectors of St petroks’ had an outstanding debt of 12s 1d, whilst

[t]he paryshoners of St mary st[e]pys owe for iiijd a wek geven to a poore woman  
wthyn that parishe for xli weks w[c]h they promysed to dyschardge & have not  
done it [...] <sup>137</sup>

That final note is interesting in that it raises the possibility that parishes had some capacity to determine how their money was to have been spent, at least in so far as they could make promises to provide support for specific persons.

Whilst York and Norwich appear to have had corporately administered collections throughout the late 1540s and 1550s, in Exeter it seems that urban collections were only adopted in 1560. Amongst corporate memoranda for that year was an ‘order for the poore’ in April, with detailed instructions for the weekly receipt of money from the parish collectors and its redistribution ‘according to the book of distribution’. <sup>138</sup> This order required that parochial collectors gather the alms and then deposit them with the ‘vj p[ar]sones who shall weklie upon everie moneday be wt in the guildhall chapell’. <sup>139</sup>

These receivers were then to divide the money and hand it over to nominated distributors for each ward, who were then to see the money redistributed to the poor. <sup>140</sup> This notion of centralisation from parochial collections before redistribution may have been modelled on contemporary practice in other cities. Constables in Norwich and master beggars in

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<sup>137</sup> CDRO ECA Book 157, f. 34.

<sup>138</sup> CDRO AB IV, f. 11v.

<sup>139</sup> CDRO AB IV, f. 11v.

<sup>140</sup> CDRO AB IV, f. 11v.



York each seem to have had some centralising role in their respective cities.<sup>141</sup> According to the *Accounts of the Poor*, the system was still following this centralised collection and redistribution system in Exeter in the mid 1560s. That 1560 had been the start of corporate collections is further suggested by the churchwardens of St John's parish in Exeter having purchased 'a byll of names of suche as were contributory to the payment of the *fyste* dole to be showed before the mayor of Excestr' in the 1560s.<sup>142</sup>

Yet not all Exeter parishes had participated in the new corporate scheme. An incomplete list of contributors survives in the first pages of the *Accounts of the Poor*. 'This p[ar]ishe doth dyschardg it self & fyndeth there own poore' was noted in the margin beside the list of contributors of St Edmund.<sup>143</sup> The same was noted for St Mary Steps parish in that same partial list.<sup>144</sup> The latter parish appears only to have received funds from the centralised collection system in Exeter in 1565, which may indicate the continuation of some parochial gathering and redistribution independent of the city collection system then being instituted.<sup>145</sup> That such independent collecting activity could have occurred concurrently with corporate collections serves as a reminder that the commencement of urban collections was not necessarily the commencement of parish collections in the same town or city.

This is a problematic issue for the historian, because the degree of parish collecting is almost impossible to determine in the historical record, especially beyond centres that

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<sup>141</sup> *RCN* 2, 167; NRO NCR Case 16a/3, f. 32; *YCR* 4, 30, 93; YCA House Book vol. 13, f. 126-126v.

<sup>142</sup> CDRO DD36772: emphasis added.

<sup>143</sup> CDRO ECA Book 157, f. 2.

<sup>144</sup> CDRO ECA Book 157, f. 1v.

<sup>145</sup> CDRO ECA Book 157, ff. 96v-97.

saw the centralisation of funds. Generally collections can be inferred from memoranda or instructions, but this does not necessarily indicate collection, instead often only the intention to collect. The other main means of identifying historical collections is to chart the flow of money, through accounts of either collected or distributed sums. Yet the problem here is that apart from a few surviving accounts of collectors, generally from later periods, few financial records remain which can reveal such activities.

This difficulty in identifying collections without clear corporate records is illustrated by the case of Bristol. On the basis of a detailed examination of Temple Parish, Herlan could only suggest that ‘assessments collected in the parish for assisting its needy probably date from the early Elizabethan period’, an assertion based on ‘mention of a collector’s book for the poor’ in churchwarden accounts from 1582.<sup>146</sup> The earliest clear corporate note of collections in Bristol dates from 1595 when the city ordered an audit of some of the ‘soundrye accomptes by the hedde collectors for the poore people in every parishe of the money by them receyved’.<sup>147</sup> It is possible that Bristol did not adopt a corporate collections system until the 1580s or 1590s. Large charitable donations such as Robert Thorne’s £500 bequest ‘to socour yong men which ar full mynded to make cloth’ from the 1530s, and the money left by Edward VI who from ‘mere Goodnes gave to the Reliffe of the poore and Mayntenaunce off the great Bridge’, may have provided the corporation with a sizable poor relief fund throughout the middle decades of the century leaving little

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<sup>146</sup> R. W. Herlan, ‘Relief of the poor in Bristol from late Elizabethan times until the restoration era’, *Proceedings of the American philosophical society*, 126 (1982), 223.

<sup>147</sup> *The ordinances of Bristol 1506-1598*, ed. Maureen Stanford, Bristol Record Society, 41 (Gloucester, 1990), 89.

corporate enthusiasm for a centralised collection system.<sup>148</sup> Yet, despite this, the existence of parish poor boxes such as that for Christchurch parish in the early 1550s may suggest some parochial liturgical collections in individual Bristol parishes, although this must of necessity be a very tentative suggestion.<sup>149</sup>

Churchwardens' accounts rarely provide details of collections for the simple reason that churchwardens were not statutorily responsible for undertaking collections.<sup>150</sup> Cases of churchwarden accounts containing details about collections are therefore rare and generally only indicative of anomalous situations. For instance, in 1553/4 Holy Trinity Goodramgate parish in York had received 'money left of the collection of the power'.<sup>151</sup> Similarly, sometime between 1569 and 1572 the parish of St Martin Coney St in York also retained the remnants of collected funds.<sup>152</sup> What this reveals is that parishes were organising their own collections as a time when the corporation was overseeing centralised collections, and, in some instances at least, parishes retained excess collection funds for their own uses. That York utilised a method of parochial collection before ward-based centralisation is further indicated by a mid 1550s memorandum

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<sup>148</sup> *The maire of Bristowe is kalendar*, ed. L. T. Smith, Camden Society, new series, 5 (London, 1872), 53; BRO F/Au/1/5, ff. 270-279, 294; F/Au/1/6, ff. 11-17.

<sup>149</sup> BRO P.Xch/ChW/1/a, ff. 72, 72v.

<sup>150</sup> Churchwardens could, but the legislation principally provided for the delegation of this responsibility to other parishioners.

<sup>151</sup> BI PR Y/HTG 12, f. 92. This account is located after the 1577 account within the folio and is the earliest account from the period for Holy Trinity. It is thus difficult to assert whether this was a regular phenomenon before more regular accounts survive from 1558.

<sup>152</sup> BI PR Y/MCS 16, f. 84.

that the sayd wardens shall practise to knowe what every parochie within this Citie wilbe content to gyve wekely towards the releif of the poor to be allowed to lyve of almes [...]<sup>153</sup>

As with Exeter, it seems that York therefore had parish collection feeding into a centralised scheme in which there was some parochial discretion regarding the collected funds.<sup>154</sup> In the urban centres sampled, therefore, churchwarden accounts do not clearly indicate any parish collections prior to corporate collections. Yet these accounts provide further details of the nature of collection systems, such as illustrating autonomous parochial collection as the first stage of centralised urban collection systems in York and Exeter.

The corporate oversight of collections first undertaken at parish level entailed interactions between parish and corporation, many aspects of which were regulated by statute. It is in these administrative regulations that a number of changes are to be found between subsequent pieces of legislation. Generally these changes have been interpreted as evidence of an increasingly compulsive system of contributions, but, as will be seen, that position is not entirely accurate.

### *Parish and Town*

A number of historians have maintained that in the middle decades of the sixteenth century there was what McIntosh described as a ‘crucial shift from voluntary to

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<sup>153</sup> YCR 5, 141.

<sup>154</sup> Many other memoranda suggest parish-based collecting in York: e.g. YCR 6, 6, 14, 23.

compulsory support of the poor'.<sup>155</sup> This belief has been framed by the fact that the alms gathered under the *1536 Act* were to have been explicitly voluntary, whereas those collected under the *1572 Act* were based on assessments made on the contributor's behalf.<sup>156</sup> The 1572 formula that mayors and other administrative officers 'taxe and assesse all and every the Inhabitauntes' for weekly contributions seems a striking departure from earlier practice and supportive of what has usually been interpreted as the development of an increasingly compulsory system from 1536 to 1572.<sup>157</sup> To support this position, historians have pointed to the mechanisms for compelling 'obstinate' persons to contribute in successive statutes. Fideler's brief synopsis below is typical in describing this shift:

Halfway measures, which embarrassed or inconvenienced non-contributors more than anything, were enacted in 1552 and 1563. A fully mandatory rate was included in the statute of 1572.<sup>158</sup>

Essentially, under the legislation of the 1550s, the responsibility for addressing non-contribution was episcopal. The bishop had the responsibility to 'induce and perswade him or them by charitable wayes and meanes, and so according to his discretion to take order for the reformation therof'.<sup>159</sup> In 1563 bishops were granted the additional authority 'to bynde the saide obstinate and wilfull persons so refusing unto the Quene by Recognisance, in the some of Tenne Powndes' to appear before appropriate justices and not to depart the locality.<sup>160</sup> If the person refused to be bound under such conditions then

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<sup>155</sup> McIntosh, 'Poverty, charity, and coercion', 466; McIntosh, 'Local responses to the poor', 229-230.

<sup>156</sup> 14 Eliz.I.c.5.16, *SR* 4, 593.

<sup>157</sup> 14 Eliz.I.c.5.16, *SR* 4, 593.

<sup>158</sup> Fideler, 'Poverty, policy and providence', 210.

<sup>159</sup> 5&6 Edw.VI.c.2.5, *SR* 4, 132; 2&3 Phil.& Mar.c.5.4,5, *SR* 4, 280.

<sup>160</sup> 5 Eliz.I.c.3.7, *SR* 4, 412.

the bishop had authority ‘to comitt the sayd obstinatt person to Pryson’.<sup>161</sup> At sessions, the justices were authorised in conjunction with at least one of the churchwardens from the obstinate person’s parish to determine an appropriate sum from any person still refusing to contribute.<sup>162</sup> Failure to pay could result in imprisonment until payment, with any arrearages, was made.<sup>163</sup>

Similarly, from 1572 upon refusal to contribute or the wilful discouragement of the charity of others, ‘the said obstinate person or wyllfull dyscourager’ was to be brought before two justices of the peace ‘and to abyde suche Order therein as the said Justices shall appointe’.<sup>164</sup> Refusal to obey the judicial instructions resulted in gaoling until the instructions were performed.<sup>165</sup> Historians have, through their highlighting of 1572 as the key moment in which full compulsion was implemented, suggested that it was the removal of the bishop from this process that demonstrated such an increased concern to compel payment with a more effective mechanism.<sup>166</sup> However, in so doing they overlooked the fact that the bishop was not required in 1572 because the parish was not a specified administrative unit for the collection of funds under the *1572 Act*.

Whilst the parish was specified in the *1572 Act* in relation to residency of the poor, it was not otherwise mentioned as an administrative unit.<sup>167</sup> The *1572 Act* specified justices of peace with regard to ‘the Shyers of England and Wales’, and justices, mayors and other

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<sup>161</sup> 5 Eliz.I.c.3.7, *SR* 4, 412.

<sup>162</sup> 5 Eliz.I.c.3.8, *SR* 4, 412.

<sup>163</sup> 5 Eliz.I.c.3.8, *SR* 4, 412.

<sup>164</sup> 14 Eliz.I.c.5.21, *SR* 4, 594.

<sup>165</sup> 14 Eliz.I.c.5.21, *SR* 4, 594.

<sup>166</sup> Slack, *Poverty and policy*, 124-125.

<sup>167</sup> 14 Eliz.I.c.5.16, *SR* 4, 593.

officers with respect to ‘all & every Cytte Borough Ryding and Fraunchesies within this Realm’, in the clause which detailed the system of collections and spoke generally of divisions, limits and authorities.<sup>168</sup> Previous legislation had clearly utilised the parish as one of the units of collection administration but the *1572 Act* did not.<sup>169</sup> Whilst the *1572 Act* authorised the use of excess collection funds for the settlement of the poor, this was administered by justices, not churchwardens or other parish representatives or officers.<sup>170</sup>

Administrative changes reflected in legislation between 1552 and 1572 support the argument that the *1572 Act* marked an important point of departure in the administration of collections for the poor. Because the 1598 and 1601 statutes revived the use of the parish as an administrative unit, this shift may not have seemed important in the history of the development of the old poor law, but rather a short-lived anomaly. However, the *1572 Act* facilitated not so much a geographically-defined jurisdictional shift, but rather the final divorce of collections for the poor from liturgical practice.

Further administrative details bear out the shift away from the parish in 1572. For instance, the *1552 Act* made provision for the appointment in each town or parish of ‘twoo hable parsons or moo to be Gatherers and Collecto[rs] of the charitable Almes of all the residewe of the people for the relief of the poore’.<sup>171</sup> Between 1552 and 1572 there was a change from a parish election of collectors, to the appointment of officers by the secular authorities. Collectors were evident in the *1555*, *1563* and *1572 Acts* as well as

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<sup>168</sup> 14 Eliz.I.c.5.16, SR 4, 593.

<sup>169</sup> 5&6 Edw.VI.c.2.2, SR 4, 131; 2&3 Phil.&Mar.c.5.2, SR 4, 280; 5 Eliz.I.c.3.2, SR 4, 411.

<sup>170</sup> 14 Eliz.I.c.5.23, SR 4, 594.

<sup>171</sup> 5&6 Edw.VI.c.2.2, SR 4, p 131.

that of 1552.<sup>172</sup> However, this was not a gradual or incremental statutory development. Within the urban context it was essentially a mayoral responsibility to ‘electe nominate and appointe yerelie’ these collectors in 1552, 1555 and 1563, with this responsibility belonging to ‘the Parson Vicar or Curate and Churchwardens in everie other P[ar]ishe’.<sup>173</sup> However this seems to have reflected a mayoral duty to ensure collectors were chosen more than to personally make appointments. There was a requirement in the *1563 Act*

That every Parson Vicar Curate or Minister of every P[ar]ishe wthin this Realms, shall yerely for evermore upon the Sunday before Midsōmer daye, in the Pulpit, or some other convenient Place in the Church, gyve knowledge and warning at thend of some of the Morning Service, to the P[ar]ishioners then and ther p[re]s[en]t, to prepare themselves on the Sondaye next after Midsome Daye then next folloing, to cōme to the Church, and there tellect and choose Collectoures and Gatherers for the Poore, according to the Tenor of this Acte [...]<sup>174</sup>

This suggests that the nomination of collectors was a parochial decision. However in 1572 it appears to have been simply a mayoral responsibility to appoint collectors, as terms such as ‘parish’, ‘election’ and ‘nomination’ had disappeared from the formula.<sup>175</sup>

That this reflected a turning away from the parish as an administrative unit in 1572 is further indicated by the mechanics of a system of fines for non-performance of the office of collector. All of these statutes had fines for refusal to act as, or failure to perform the

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<sup>172</sup> 2&3 Phil.& Mar.c.5.3, *SR* 4, 280; 5 Eliz.I.c.3.3, *SR* 4, 411; 14 Eliz.I.c.5.16,19, *SR* 4, 593-594.

<sup>173</sup> 5&6 Edw.VI.c.2.2, *SR* 4, 131; 2&3 Phil.& Mar.c.5.3, *SR* 4, 280; 5 Eliz.I.c.3.3, *SR* 4, 411.

<sup>174</sup> 5 Eliz.I.c.3.5, *SR* 4, 411-412.

<sup>175</sup> 14 Eliz.I.c.5.16, *SR* 4, 593.



office of, collector.<sup>176</sup> However, there is a key difference between the *1572 Act* and those that preceded it. The responsibility for levying fines on such (non-)collectors lay on churchwardens prior to 1572, and on ‘High constables or Tythingmen’ in 1572, a distinction also reflected in the fact that these persons were likewise finable for failing to pursue fines with due diligence.<sup>177</sup>

These fines were leviable on collectors through the auditing procedures contained in each of the statutes. Under the *1536 Act* churchwardens were given the authority to instigate quarterly audits of the collectors.<sup>178</sup> Justices were given the power to enquire into the commencement and operation of collections within their jurisdiction in order to determine which parishes were in default and thus fineable.<sup>179</sup> Thus whilst the individual contributor’s alms of 1536 were voluntary, the notion of a parish collection was not. The auditing requirements thus need to be seen in an urban or regional context, where each parish was supposed to have cared for its own poor. More rigorous auditing procedures were initiated once more specific collection mechanisms were introduced in 1552. According to the *1552 Act* collection accounts were to be presented quarterly.<sup>180</sup> This was continued in 1555, but it was specified that on refusal to account within eight days of the appropriate time, the bishop had authority ‘to compel the said person or persons by censures of the Church to make their said Accomptes [to the Mayor or other appropriate

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<sup>176</sup> 5&6 Edw.VI.c.2.3, *SR* 4, 131; 2&3 Phil.&Mar.c.5.3, *SR* 4, 280; 5 Eliz.I.c.3.3, *SR* 4, 411; 14 Eliz.I.c.5.19, *SR* 4, 594: Such regulations may have been the source of a fine noted by Emmison as recorded in a poor relief account against an unnamed statute of 1563 in Northill, Bedfordshire: F. G. Emmison, ‘Poor relief accounts of two rural parishes in Bedfordshire, 1563-1598’, *The economic history review*, 3 (1931), 108.

<sup>177</sup> 5 Eliz.I.c.3.4, *SR* 4, 411; 14 Eliz.I.c.5.19, *SR* 4, 594.

<sup>178</sup> 27 Hen.VIII.c.25.14, *SR* 3, 560-561.

<sup>179</sup> 27 Hen.VIII.c.25.19, *SR* 3, 561.

<sup>180</sup> 5&6 Edw.VI.c.2.4, *SR* 4, 131.

officer] & to make immediat payment of the somes wherewith by determinacion of the said Accompt they shalbee chardged'.<sup>181</sup> In 1563 the bishop, together with a justice of the peace and a churchwarden, were authorised 'to comit the said person or persons so refusing to Warde' without bail until the accounts had been presented and any outstanding sums paid over.<sup>182</sup>

Thus it was the bishop's responsibility to ensure that accounts were presented, as the collections were supposedly undertaken under his jurisdiction, the parish. In 1572, however, those officers who were to have undertaken the audit were authorised to gaol the collector for refusal to account or the payment of outstanding funds.<sup>183</sup> Under the *1572 Act*, the collections were not necessarily parochial, and therefore no spiritual jurisdiction applied. This shift was about more than geographical jurisdiction, however. There was a long tradition within England of using the parish as a convenient unit of administration for secular purposes, but it is important not to read the latter history of the parish collection back into its early past.<sup>184</sup> It is true that even after the passing of the *1572 Act*, many towns continued to utilise parish collections as the basis of their urban collections and the Elizabethan codifications of 1598 and 1601 saw the parish reintroduced in the statutory schema, forming the basis of practice for almost two centuries.<sup>185</sup> However when the parish collection was first introduced in 1536 and

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<sup>181</sup> 2&3 Phil.&Mar.c.5.4, *SR* 4, 280.

<sup>182</sup> 5 Eliz.I.c.3.6, *SR* 4, 412.

<sup>183</sup> 14 Eliz.I.c.5.20, *SR* 4, 594.

<sup>184</sup> This is not to deny the existence of pre-statutory parochial charity, only to indicate that the earliest parish collections probably did not necessarily resemble those of the mid nineteenth century when histories of the development of the parish rate were first being written.

<sup>185</sup> York and Exeter both continued to use the parish as the basis of collecting. In Ipswich in 1574 the assessments for contributors were recorded by parish, suggesting parish-based collection in that town after

liturgically defined from 1547 to 1558, the parish was being used in its religious context; in those later uses of the parish it was principally in its geographical sense.

In effect, the *1572 Act* disconnected the parish collection from the liturgy. It is instructive to note that before the *1572 Act* the clergy had a number of roles within the statutory regime. For instance, under the *1536 Act* the parish priest had the responsibility to compile accounts of the parish collections.<sup>186</sup> In 1552 the York city government gave instruction that ‘every of the sayd constables with the helpe of the parsones, vycar or curat of the paroche shall lykewise wright the names of every inhabitant and householder within their paroche and also of every impotent, aged and nedy persone within the same.’<sup>187</sup> That such clerical oversight was required with regard to compiling a register of parishioners suggests the continued influence of the *1536 Act* in York for decades after its initial implementation.

Whilst not strictly having such a responsibility under the *1552 Act*, ‘the Parsone Vicar or Curate’ in each parish joined churchwardens in having a responsibility to ‘gentillie exhorte him or them towards the relief of the Poore’.<sup>188</sup> Who ‘he’ or ‘they’ were, was defined as someone

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the introduction of the *1572 Act*. See: *Poor relief in Elizabethan Ipswich*, ed. John Webb (Ipswich, 1966), 96-102.

<sup>186</sup> 27 Hen.VIII.c.25.15, SR 3, 561.

<sup>187</sup> YCR 5, 76.

<sup>188</sup> 5&6 Edw.VI.c.2.5, SR 4, 132.

being hable to further this Charitable worke, doe obstinatlie and frowardelie  
refuse to give towards the hellp of the poore, or doo wilfullie discourage other  
from so charitable a dede [...]<sup>189</sup>

This same formula was repeated in 1555 and again in 1563, indicating the continued role of the clergy in encouraging contributions amongst parishioners.<sup>190</sup> This extended beyond the public exhortations noted earlier in this chapter, and encompassed a private role in encouraging participation and charity amongst parishioners.

If such an exhortation to obstinate persons failed, the *1552 Act* provided that the resident clergyman was to certify this obstinate person to the bishop, who was then to ‘sende for him or them to induce and p[er]swade him or them by charitable wayes and meanes, and so according to his discretyon to take order for the reformacon therof.’<sup>191</sup> The *1555 Act* extended this responsibility to the ‘Ordinarye of the Place’ as an alternative to the bishop and specified that obstinate persons were to be persuaded ‘textende their Charitee as in this Acte is well ment & intended’.<sup>192</sup> The *1563 Act* further extended this responsibility to ‘Chauncellors or their Comissaries or Gardyan of the Sp[irit]ualties’ as well as bishops and ordinaries, demonstrating a broad net of clerical participation in the statutory system.<sup>193</sup>

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<sup>189</sup> 5&6 Edw.VI.c.2.5, *SR* 4, 132.

<sup>190</sup> 2&3 Phil.&Mar.c.5.5, *SR* 4, 280; 5 Eliz.I.c.3.7, *SR* 4, 412.

<sup>191</sup> 5&6 Edw.VI.c.2.5, *SR* 4, 132: note that the churchwarden did not participate in this sequence.

<sup>192</sup> 2&3 Phil.&Mar.c.5.5, *SR* 4, 280.

<sup>193</sup> 5 Eliz.I.c.3.7, *SR* 4, 412.

By canon law, the church held jurisdiction over a number of areas broadly related to spiritual dues and duties and various moral offences.<sup>194</sup> Church courts dealt with breaches of canon law, such as the non-payment of tithes owed to the church, and such proceedings may have provided a conceptual precedent for the role the bishop was given regarding any non-contribution to the poor.<sup>195</sup> Various punishments were enforceable from a church court, and these ranged from being banned from attending church to either greater or lesser excommunication.<sup>196</sup> Such excommunication meant not only a possible ‘social death’, but also inhibited a person from suing at the common law.<sup>197</sup> Swanson also noted that various penitential penalties had sometimes been inflicted such as fines, public confessions, offerings made to the altar, some whipping, and imprisonment in cases of heresy.<sup>198</sup> Thus the episcopal ‘charitable wayes and meanes’ available to encourage contributions should not be discounted as necessarily ineffective.<sup>199</sup>

Whilst historians have hinted that the removal of the bishop from the processes for compelling contributions in 1572 was part of a means of making the system more effective, that argument fails to account for the new roles given to bishops at that time.<sup>200</sup> Indeed, the bishop played no role in compelling accounts of collections under the *1572 Act*, but then neither did churchwardens, further highlighting that the disappearance of the bishop from this procedure was largely a function of the shift away from the parish as the

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<sup>194</sup> G. R. Elton, *The Tudor constitution: documents and commentary* (Cambridge, 1960), 214; R. N.

Swanson, *Church and society in late medieval England* (Oxford, 1989), 173.

<sup>195</sup> Elton, *The Tudor constitution*, 214; Swanson, *Church and society*, 173.

<sup>196</sup> Elton, *The Tudor constitution*, 215.

<sup>197</sup> Swanson, *Church and society*, 179.

<sup>198</sup> Swanson, *Church and society*, 178.

<sup>199</sup> 5&6 Edw.VI.c.2.5, SR 4, 132.

<sup>200</sup> Slack, *Poverty and policy*, 124-125.

basic unit of collections.<sup>201</sup> Yet bishops continued to have the responsibility to enquire into Henry VIII's 'several erectynons and foundacons' and 'somes of moneye to the use of the Poore' in cathedrals, churches and colleges which had been given to them in 1552.<sup>202</sup> Bishops also gained new duties and responsibilities under the *1572 Act* in that they had the responsibility to 'yerely visyte all Hospitalles in the Diocesse' not otherwise subject to some form of visitation, and they were given the authority to compel accounts from such hospitals.<sup>203</sup> These new responsibilities for bishops further suggest that the legislators were not relieving duties due to a belief in episcopal inefficiency. Rather, it was the fact that the statutory collections were divorced from parish collections that resulted in the removal of the bishop from the process.

There is a fairly simple explanation lying behind this jurisdictional shift that relates to one of the key themes of this thesis, that is, the continuation history of the statutory regime. As already noted, some towns such as York and Norwich already had urban collections when the *1552 Act* provided a schema of collections with support for 'the said poore and impotent parsons' being provided by 'charitable Almes wekelie' gathered amongst parishioners and inhabitants of the towns.<sup>204</sup> These collections may have operated since the 1530s. For York at least, such collections can be confidently suggested to have been consistently maintained from the 1550s through to the 1570s and beyond. Also already seen, York and Exeter in the 1550s and 1560s administered their collections by parish, even though they each centralised their funds differently. All of this activity

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<sup>201</sup> 14 Eliz.I.c.5.20, *SR* 4, 594.

<sup>202</sup> 5&6 Edw.VI.2.7, *SR* 4, 132; 2&3 Phil.&Mar.c.5.6, *SR* 4, 280; 5 Eliz.I.c.3.9, *SR* 4, 413; 14 Eliz.I.c.5.37, *SR* 4, 597: in 1572 they did share this responsibility with three JPs.

<sup>203</sup> 14 Eliz.I.c.5.32, *SR* 4, 596.

<sup>204</sup> 5&6 Edw.VI.2.2, *SR* 4, 131.

operated against a statutory background of stability, as the basic concepts of 1552 remained in 1555 and 1563 respectively.<sup>205</sup>

However, as noted in Chapter Two, there was some contemporary belief that the *1563 Act* had lapsed in 1567. Such contemporary uncertainty about the statutory authority for collections is an important contextual element behind the Norwich revision of its system of poor relief in 1571, similar to Norwich's apparent focus on this same issue in the late 1540s where statutory collections had likewise been lacking. This connection between the Norwich scheme and the confusion surrounding the status of statutory collections in 1571 is furthered by the fact that Norwich's 1571 orders for the poor were developed in May of that year, and were thus contemporaneous with the very session of parliament that clarified the statutory situation.<sup>206</sup>

After the confusion surrounding the *1563 Act* between 1567 and 1571, it is perhaps no surprise that a new statute was constructed in 1572. However, of particular interest here is the clear connection between the Norwich scheme of 1571 and the *1572 Act*. Hasler has already noted that one of the Norwich members of parliament in 1572, John Aldrich, was part of a committee that developed the *1576 Act*, and Pound has pointed to a number of similarities between the Norwich scheme and the *1572 Act* which may suggest a similar hand in its authoring by the member from Norwich.<sup>207</sup> This is the only instance where the legislative origin of one of these statutes can be linked through the parliamentary process

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<sup>205</sup> 2&3 Phil.&Mar.c.5.2, SR 4, 280; 5 Eliz.I.c.3.2, SR 4, 411.

<sup>206</sup> RCN 2, 347; M. A. R. Graves, *The Tudor parliaments: crown, lords, and commons, 1485-1603* (London, 1985), 160.

<sup>207</sup> J. Pound, *Tudor and Stuart Norwich* (Chichester, 1988), 146; P. W. Hasler, *The house of commons, 1558-1603* (London, 1981), 333.

to one of the four survey towns. Yet the Norwich scheme did not provide many details about the collection system in Norwich, other than noting a doubling of the amount to have been collected.<sup>208</sup> One significant similarity between the Norwich scheme and the *1572 Act* is that the registers of the poor and the distributions of money to them were not undertaken by parish, but rather by ward.<sup>209</sup> Indeed, the parish did not feature as a significant element of the Norwich scheme of 1571, furthering a possible connection to the *1572 Act*.

It may have been the case that Norwich had developed a system of collection which was not focused on the parish as early as the late 1540s. Certainly by 1557 the Norwich Assembly queried contributions by ward, but this was not necessarily unusual, as other towns undertook similar investigations of contributions by civic divisions yet still maintained parish collections as the basis of urban collection systems.<sup>210</sup> Yet corporate collections of the kind undertaken by York, Norwich and Exeter throughout the sixteenth century provide some of the earliest evidence for collecting activity in England, but also highlight the tensions between liturgical and statutory collections.

Whilst it seems very likely that the liturgical and statutory collections from 1552 were supposed to have been interrelated, neither system of collection made any particularly clear reference to the other in contemporary documentation. Collections undertaken weekly at church on Sunday may have provided the basis of parish support of local poor,

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<sup>208</sup> *RCN* 2, 347.

<sup>209</sup> *RCN* 2, 353-355.

<sup>210</sup> *RCN* 2, 132-133; NRO NCR Case 16c/3, f. 95; NCR Case 16d/3, f. 43v.

<sup>210</sup> 2&3 Phil.&Mar.c.5.2, *SR* 4, 280; 5 Eliz.I.c.3.2, *SR* 4, 411.



or have fed into a corporate collection system. As seen in Exeter in the 1560s, the two possibilities were not mutually exclusive. However, some tentative evidence of the connection may be inferred in the fines which were to have been paid by collectors failing in their statutory duties. Under the 1550s statutes, such fines were to have been placed in ‘the Allmes boxe of the poore’, which was the only clear statutory use of a poor box under the statutory regime.<sup>211</sup> In 1563 however, the levied fines were to be divided between the churchwardens and ‘to thuse and relief of the Poore of the said P[ar]ishe’.<sup>212</sup> This maintained a parochial poor relief focus, but was not explicitly connected to the repository of liturgical collection funds. In 1572 the collector refusing office was subject to a 40 shillings fine ‘to the use of the Poore of the same Place’.<sup>213</sup>

Statutory injunctions respecting the custody of collected funds also provide tentative links between statute and liturgy. In 1536, the collected funds were supposed to have been

kepte in the comen coffre of boxe standing in the Churche of ev[r]y parisshe, or els it shalbe comitted unto the handes and saffe custodie of any other such good and substanciall trustie man as they can agree upon [...]<sup>214</sup>

No mention of such a repository was made from 1552 onwards, except to note that undistributed funds were to have been placed ‘in the comon Chest of the Church or in some other safe place to the use of the poore’.<sup>215</sup> Those surpluses noted earlier in churchwarden accounts from Holy Trinity Goodramgate and St Martin Coney St parishes

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<sup>211</sup> 5&6 Edw.VI.c.2.3, *SR* 4, 131; 2&3 Phil.&Mar.c.5.3, *SR* 4, 280.

<sup>212</sup> 5 Eliz.I.c.3.3, *SR* 4, 411.

<sup>213</sup> 14 Eliz.I.c.5.19, *SR* 4, 594.

<sup>214</sup> 27 Hen.VIII.c.25.18, *SR* 3, 561.

<sup>215</sup> 5&6 Edw.VI.c.2.4, *SR* 4, 131; 2&3 Phil.&Mar.c.5.4, *SR* 4, 280; 5 Eliz.I.c.3.6, *SR* 4, 412.

in York are probable example of these provisions being followed.<sup>216</sup> Significantly, they indicate that these funds were not delivered to the poor box or the collection funds. This was a parish fine, to encourage parochial administrative diligence.

From 1572, however, such funds held by collectors at the end of their term were to have been simply handed over the mayor or head officer.<sup>217</sup> This reflects the more centralised and top-down nature of the system of 1572 and again reasserts a shift away from the parish. Previously, for the most part it would seem that urban parishes held a fair degree of autonomy in undertaking their collections, even within towns with large centralised schemes. In York, for instance, from 1550 onwards

the constables and churchwardens of every paroshe [were] to levy and gather the sommes of money appoynted for the releyf of the power people and to pay the same every sonday to the wardens of the warde [...]<sup>218</sup>

This system appears to have been in operation from thenceforward for at least a few years. In 1550, 1551, 1561 and 1569 the York government provided an assessment of what each ward and parish within that ward were to have weekly collected.<sup>219</sup> The corporation may have determined what each parish was supposed to have contributed, it even facilitated the centralisation of the collected funds, but it left the front-line collection to individual parishes. The same situation appears to have been the case in Exeter as just noted.

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<sup>216</sup> BI PR Y/HTG 12, f. 92; PR Y/MCS 16, f. 84.

<sup>217</sup> 14 Eliz.I.c.5.20, *SR* 4, 594.

<sup>218</sup> *YCR* 5, 34.

<sup>219</sup> *YCR* 5, 33-34, 50-51; *YCR* 6, 23, 159-160.

A potential problem with parish collections undertaken as part of the liturgy, however, was attendance. According to the *1552 Act*, collectors were annually to ‘gentellie aske and demaunde of everie man and woman what they of their charitie wilbe contented to give wekelie’.<sup>220</sup> Within the framework of liturgical collections, the success of such a scheme was predicated upon regular attendance at the Sunday service by most parishioners. It is probably no accident that the Elizabethan settlement recusancy fines for non-attendance at the weekly divine service were supposed to have been delivered ‘to thuse of the Poore of the same P[ar]ishe where suche offence shalbee doon’.<sup>221</sup>

Yet the notion that statutory collections were necessarily connected with liturgical practice was implicitly negated by the *1555 Act*, which by its very existence indicated the continuation of a form of statutory collections identical to the 1552 form. Such collection must have been undertaken without the use of the *Book of Common Prayer* Communion Service and its attendant liturgical collection for the poor due to the Marian restoration of the Catholic Mass. The implication is that there was a process whereby liturgical and statutory collections parted ways. Whilst the 1552 service and *1552 Act* may have been drafted with each other in mind, the drafters of the *1572 Act* divorced the statutory collections from their liturgical counterparts. They perhaps borrowed the use of secular divisions from the experience of Norwich, but it is easy to make too much of limited evidence. The relationship between statute and liturgy is an issue fraught with complexity. Whilst there is no moment before 1572 when a clear statutory distinction between secular and liturgical collections can be made, it seems that, in practice, towns

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<sup>220</sup> 5&6 Edw.VI.c.2.2, *SR* 4, 131.

<sup>221</sup> 1 Eliz.I.c.2.3, *SR* 4, 357.

may already have adopted more secular approaches to collections for the poor. Yet it is clear that it was only from 1572 that the statutory construction of the collection, however undertaken in practice, was no longer primarily a religious duty, but a secular one, distinct from any liturgical collecting.

This conceptual shift needs to be firmly located with respect to the earlier sections of this chapter. Whilst there were clear religious aspects to the constructions of collections in 1536 and during the late 1540s and early 1550s, there was also a great continuity in urban practice. The legislation indicates a conceptual change that may have had little bearing on community practices. York and Norwich had implemented collections much earlier and more consistently than is often thought, yet this consistency in practice was based upon the relative constancy of statutory law and principles evident in 1536 and repeated in the 1550s. The most basic principle of a local collection of funds for the local poor remained unchanged from 1536 to 1572 and beyond. Corporations such as York and Norwich had maintained urban collections without statutory authority at a time when the royal government was more focused on building parochial charity into a program of religious change. This however maintained the parish as a focus of charitable collections of sorts. Likely Sunday collections such as those in York and Exeter even suggest that liturgical collections at parish level may have been undertaken as the basis of urban collections. In this respect the *1572 Act* may simply have made permanent what may have always been a largely secular conceptualisation of the urban collection by corporate governments.

Yet it is also important to recall that such parish collecting within the urban context, known to have occurred in some towns, has left little or no evidence at the parish level. The lack of evidence pertaining to collections in Bristol only suggests the corporation there did not administer collections until late in the century, similar to the adoption of corporate administration of an urban collection in Exeter from 1560. If indeed parishes obeyed the religious injunctions in the late 1540s, then widespread collecting for the poor may have occurred without leaving a trace. It is as difficult to ascertain parish collecting as it is to determine church attendance, because in many instances it may have been the same thing, that is, until 1572.

**Conclusion: ‘...shall contynewe and remayne a parfytt Act of Parlament for ever’<sup>1</sup>**

Whether the *1531 Act* was as ‘parfytt’ as the drafter of the *1550 Act* supposed may depend upon an individual’s view of the appropriateness of whipping as a punishment for either beggary or vagabondage.<sup>2</sup> The longevity of the *1531 Act*’s operation to which a legislative drafter aspired when reviving it in 1550 is, however, less debatable. True, the *1531 Act* may have been repealed in 1547 and only restored in 1550, lapsed for a few months in 1555 and perhaps for a few years in the late 1560s respectively. It was certainly not in force ‘for ever’.<sup>3</sup> Yet even though the *1531 Act* was finally repealed in 1572, the concepts embedded in the 1530s legislation had a long statutory afterlife. Elements of the Tudor vagrancy legislation were paralleled in convict transportation mechanisms that facilitated the European colonisation of the Australian continent from the late eighteenth century onwards.<sup>4</sup> When in 1835 the colonial government of New South Wales enacted *An Act for the Prevention of Vagrancy and for the Punishment of Idle and Disorderly Persons, Rogues and Vagabonds, and Incurrible Rogues, in the Colony of New South Wales*, the document could almost have been drawn from the 1530s, due to the similarity of many central concepts contained therein as well as the retention of some late medieval terminology.<sup>5</sup>

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<sup>1</sup> 3&4 Edw.VI.c.16.1, *SR* 4, 115.

<sup>2</sup> 3&4 Edw.VI.c.16.1, *SR* 4, 115: i.e. ‘perfect’.

<sup>3</sup> 3&4 Edw.VI.c.16.1, *SR* 4, 115.

<sup>4</sup> For instance, the Tudor vagrancy statutes developed mechanisms for custodial transfer and transportation of paupers and vagabonds across counties and beyond the realm. This is the subject of ongoing research by the author in collaboration with Alan Brooks.

<sup>5</sup> *The acts and ordinances of the governor and council of New South Wales. Vol. II. – Part II. 1832-1837* (Sydney, 1838), 659-667.

Previous chapters have demonstrated that the statutory regime for the regulation of beggary, the punishment of vagabondage and the relief of the poor was more consistent in both legal operation and local application than generally has been believed. No longer can the sixteenth century be seen as a messy period of poor law development, but rather it should be understood as a backwards extension of that long and stable operation of the old poor law. Throughout most of the sixteenth century the chances were high, that at any given time, there was probably a contemporary statute granting authority to constables and magistrates to authorise a beggar to beg, or to punish a vagabond.<sup>6</sup> The chances were even higher that it was the *1531 Act* so granting that authority, as it was in operation for approximately a generation.<sup>7</sup> True, there were important developments after 1572, such as the 1576 statute enabling the establishment of hospitals, but there were similar important developments after 1601 which do not serve to dislodge a scholarly appreciation of the continuity of essential concepts and mechanisms between the 1530s and the 1570s. The fact remains that the three core aspects of the old poor law, that is the regulation of beggary, the punishment of vagabondage and the relief of the poor through the parish collection, had all been established by the late 1530s and had remained relatively consistently law throughout and beyond the period covered by this dissertation. Yet the Tudor period remains somewhat anomalous, particularly in that it demonstrated a shift away from the use of sessions for the punishment of vagabondage between the 1490s and the 1530s, then a return to the use of sessions for administering punishment from the 1570s. The fact that little is known about how the vagrancy laws were deployed in this period should come as no surprise. Punishment was intended to occur beyond the

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<sup>6</sup> See Chapters Three and Four.

<sup>7</sup> See Chapter Two.

reams of even those court records that do survive. That being said, useful lines of future inquiry following this thesis could endeavour to uncover these punishments as far as possible, knowing that there are indicators that often forgotten laws such as that of 1504 were indeed followed in a number of locations.

This story of sixteenth-century statutory constancy occurred against a background of serious economic, demographic, and social change. Whilst perhaps not an adequate explanation of the particularities of the statutory regime in its own right, the economic context nonetheless probably helped facilitate the adoption and acceptance of these statutes by magistrates of the realm and so the contextualising efforts of much previous scholarship remains relevant to this subject. Particularly prominent in the development of the particular mechanical and administrative features of the old poor law were the larger provincial towns such as York and Norwich, even if not as teleologically straightforward as has always been maintained. Previous chapters have explored the relationship between urban experimentation and statutory injunctions and developed a much more nuanced appreciation of the interplay between Westminster and urban magistracies. Towns may not have experimented to the degree often previously believed, but there are a number of nuances in their implementation of statutory regulations, and Leonard's urban experimentation model remains applicable with respect to some minor features of the legislation such as the use of registers. The statutory initiative may seem more central than local, but the local acceptance and application of such mechanisms provided a means of establishing the old poor law in practice during these decades.



This dissertation also bears on the study of the Tudor polity in that the towns of York, Norwich, Exeter and Bristol provide a series of case studies demonstrative of the degree to which parliament successfully regulated policy within the provincial urban context. Towns were familiar with statutes shortly after promulgation, were keen to adhere to statutory forms and, as the story of corporate collections in the late 1540s and early 1550s particularly demonstrates, these same towns continued to apply statutory concepts under their own authority where necessary. In this they demonstrated both the retention of a strong sense of corporate authority, but also deference to parliamentary authority. Yet amidst the statutory adherence found in urban regulation of beggary and corporate poor relief collections, the continuation of earlier practices such as the use of master beggars tempers any view that the development of urban approaches and policies were necessarily driven from above in totality. Statutory forms were followed when available, but did not necessarily override all local practices.

To some degree already aware that not all aspects of the Tudor statutes had urban origins, historians have been interested in the intellectual origins of the old poor law. Humanism in particular has been called into service as an explanation for why Tudor legislators turned their attention to drafting poor laws, and some attempt has been made, albeit generally unsatisfactorily, to determine how humanist thought influenced the particularities of the mechanical attributes of certain legislative documents.<sup>8</sup> To find

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<sup>8</sup> Humanism might best be thought of as having given a particular 'colour' to the terminology utilised by scheme authors, rather than necessarily providing any particular inspiration for particular concepts or mechanisms. For instance, Elton has demonstrated that there is a connection between Starkey's proposal of works to employ the unemployed in the early 1530s with contemporary continental schemes and English proposals, but it seems rash to label a comprehensive system, with earlier precedents and mechanical continuities 'humanist' simply for the notion that unemployed persons should be employed or the use of the term 'censor'. G. R. Elton, 'Reform by statute: Thomas Starkey's dialogue and Thomas Cromwell's

humanist-trained individuals involved in the drafting of documents within the context of an age of humanist training is no surprise and reveals little. Similarly, if humanism can be utilised to explain the statutes, then particularly humanist attributes such as a reliance on classical concepts should be evident. The only aspects of the vagrancy statutes with a definite and demonstrable humanist input in the form of classical modelling are the slavery provisions of the *1547 Act* as discussed by Davies.<sup>9</sup>

On the basis of the key concepts such as the regulation of beggary, the punishment of vagabondage and the relief of the poor, the statutes reflected earlier practices and demonstrated little change in attitude. Vagabondage was punishable by statute in the 1380s just as it was two centuries later in the 1570s. Similarly, beggary was subject to certain regulations and local poor were supposed to have been a local responsibility. This thesis has already detailed a number of the minor administrative changes, which generally have simple explanations, often grounded in a statutory or jurisdictional context. These changes are important for an appreciation of the development of the old poor law, but they are less important once that development is seen as less teleologically connected to the Elizabethan codification of 1598-1601, and rather part of a centuries-long process of change and minor adaptation. For instance, the *1555 Act* was not developed because of an extension of the details about the collection process; rather, the collection process was extended because a new statute was needed at that time anyway. It

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policy', *Proceedings of the British Academy*, 54 (1968), 174-175. The Dover works that demonstrably influenced the English draft legislation was, after all, inspired less by widespread idleness than by the blocking of one of the realm's most important harbours.

<sup>9</sup> C. S. L. Davies, 'Slavery and protector Somerset: the vagrancy act of 1547', *The economic history review*, new series, 19 (1966), 533-549.

is this kind of legislative process that explains minor modifications to largely verbatim documents in 1552, 1555 and 1563.

To a degree, minor mechanical modifications also explain what have been interpreted as wider conceptual shifts. Statutory change often reflected the conveniences of legislative uniformity. For instance the concatenation of beggary and vagabondage was played out in the administrative procedures of punishment.<sup>10</sup> It was the statutory requirements for constables that saw beggary subsumed within vagabondage, not necessarily any action by beggars or vagabonds themselves. It would be a gross historical presumption to assume that all beggars were poor or that vagabonds were simply migrants in search of labour. Historians have traditionally made these assumptions because the first historians to have addressed this period and these issues did so from late Victorian perspectives.<sup>11</sup> These Victorian scholars sought the origin of the distinction between the worthy and unworthy poor, because that was a then contemporary paradigm, not because it was self-evident in the Tudor legislation.<sup>12</sup> But the story of the statutory regime for the punishment of vagabondage, the regulation of beggary and the relief of the poor is more nuanced than a statutory reflection of changing definitional values over time.

As already indicated, there are a number of contextual explanations for what kinds of social and economic conditions may have influenced legislation in a general sense. This

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<sup>10</sup> See Chapter Four.

<sup>11</sup> See Chapter One.

<sup>12</sup> Terms such as worthy and unworthy poor did not feature in Tudor legislation. Baker noted that even poverty itself did not have a contemporary legal definition, thus these sub-definitions seem even more anachronistic: J. H. Baker, *The Oxford history of the laws of England, volume 6: 1483-1558* (Oxford, 2003), 96-97.

context certainly may have contributed to the acceptance and implementation of the statutory mechanisms by constables and justices throughout England. Furthermore, there are statutory and administrative explanations for the appearance of a number of statutes, and the changes made in a number of others, which diminish the sense of urgency that is invested in discussion of this subject in this period. Historians of poverty often examined only the vagrancy statutes, and therefore have read contemporary panic or concern, whereas the number of vagrancy statutes, if read within a wider statutory sequence and context, are far less indicative of contemporary panic.

What no previous history has successfully answered is the most difficult question of all, that is, why 1531? Why was it that in 1495 the parliament enacted legislation treating beggars and vagabonds in the same document? Why in 1531 did the government introduce a statute authorising whipping and licensing? Why was a poor relief mechanism developed in 1536? Why slavery in 1547? Why the restoration of the legislative status quo with whipping, licensing and collections in the early 1550s? And why repeal all and start again in 1572? These questions are not so much about the substance of the changes made or even the general period in which the various statutes were enacted. Rather, these questions pertain to the particularity of the statutory action and the particularity of the parliamentary session from which they derived, and to these questions the answer can only ever be political. The precise origin of most of bills is often unknown, and their content generally also unknown, with only a few noted exceptions such as that of 1535. By its very nature, the introduction of a bill, its passage

through parliament, and its proclamation as a statute must be political actions.<sup>13</sup> A statute must therefore be the result of a political dialogue concerning a bill or bills between competing interests, whether the representatives of local, regional or central governments. Without any clear local precedents for major legislative conceptual departures such as that of the 1530s, nor any specific evidence that points to these statutes being authored by any of these four towns (excepting a close correlation between the *1572 Act* and the 1570 Norwich scheme), the legislative programme does seem to be principally of central government origin between 1495 and 1547, and at the very least, central government management from 1550 onwards.

Ultimately these were the monarch's statutes, and without royal support it is hard to see how they would have become law. Why then was the *1531 Act* enacted in the parliamentary session that opened in the twenty-second year of the reign of Henry VIII? Part of the answer is simply because it was politically possible and expedient to have done so. With respect to this particular statute, it has generally been ascribed to Christopher St German, but that is predicated on dubious dating of a document more likely to be a product of the years following the *1531 Act*.<sup>14</sup> Similarly, Marshall's printing of the Ypres poor relief scheme in 1535 may have provided some inspiration for the *1536 Act*, but surely so too does the dissolution of the monasteries initiated in the same session

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<sup>13</sup> Naturally historians have been comfortable with treating pamphlets and preaching as politically-motivated, but there is a need to move towards recognition that legislation itself was public documentation that could be used to convey political messages. This also applied to the international context where in the mid 1530s, for instance, events in England were considered newsworthy on the continent. For recent research of this sort see: T. A. Sowerby, 'All our books do be sent into other countreys and translated': Henrician polemic in its international context', *The English historical review*, 121 (2006), 1271-1299.

<sup>14</sup> Baker, *The Oxford history of the laws of England*, volume 6, 98; G. R. Elton, *Reform and renewal: Thomas Cromwell and the common weal* (Cambridge, 1973), 76. See also Chapter Four.

of parliament.<sup>15</sup> It may never be possible to identify the precise moment or reason behind any particular statute, but that does not mean the historian should not try. In both of these instances from the 1530s, the political context of the statutory action extended beyond the realm of social policy as understood in the nineteenth and twentieth centuries. When read as the political documents, that these statutes at least in part were, they may take on a new and to contemporaries, potentially frightening meaning.

The *1495 Act* that provided for the placement of persons in stocks was framed as a lesser punishment than the gaols of the Ricardian statute it replaced. Yet it provided for a means of publicly humiliating any persistent retainers of over-mighty subjects, violent gentry, or other problems of the late fifteenth century that the first Tudor monarch may have been addressing at that time. At the same time it announced the concern of the monarch for the well-being of those same persons potentially subjected to its provisions. It may indeed have helped reduce the cost and inconvenience of holding run-of-the-mill vagrants awaiting trial, but just because the mechanics may have had practical origins or implications does not mean the monarch may not have drawn political mileage out of them. The vagrancy legislation needs to be factored into recent scholarly debate about the role of Henry VII and his successors in the growth and application of royal power.<sup>16</sup>

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<sup>15</sup> In a specific example of the political reading of one of this statute, Zeeveld acknowledged the political import of the *1536 Act*, which highlights the potential for such ‘social’ legislation to be deployed for political purposes. In this instance, however, Zeeveld had misdated the statute and placed it within the slightly later context of the Pilgrimage of Grace: W. G. Zeeveld, *Foundations of Tudor policy* (London, 1948).

<sup>16</sup> S. Cunningham, *Henry VII* (London and New York, 2007).

Similarly, the *1531 Act* provided for the whipping, without trial, of any person without a visible means of making a living, caught in begging, found outside of their home locality, or otherwise suspicious. Certainly the traditional vagabonds and mighty beggars of the period may have suffered a greater degree of physical punishment as a result, and magistrates in a number of towns were more than happy to utilise these provisions once they were available. But from a textual perspective, the document bears a striking similarity to the recommended treatment of the clergy in Simon Fish's *A supplicacyon for the beggers* of 1529, and the *1531 Act* became law in the early stages of a most remarkable parliament where the church was nationalised and many of its elements dissolved.<sup>17</sup> It can be no coincidence that a provision of the *1536 Act* exempted friars from punishment for gathering alms. Indeed, because the punishments granted under vagrancy legislation were summary, the appending of such a provision may stem from undocumented experience. In the 1530s a wandering beggar could just as easily have been a friar as an unemployed labourer. Perhaps Lehmberg was right in assuming the number of provisions to the *1536 Act* indicated 'lively debate in both Houses'.<sup>18</sup>

The *1536 Act* was enacted in the same session of parliament that commenced the dissolution of monasteries and hospitals. By then head of the church, Henry VIII may have entered parliament with a bill demonstrative of his desire to see the poor charitably supported whilst in that same session some of the key traditional supporting mechanisms

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<sup>17</sup> S. Fish, *A supplicacyon for the beggers*, ed. J. Meadows Cowper, Early English Text Society, extra series, 13 (London, 1871).

<sup>18</sup> S. E. Lehmberg, *The Reformation Parliament, 1529-1536* (Cambridge, 1970), 233.

for the poor were dismantled.<sup>19</sup> That the document proposed a scheme to deal with vagabonds through large construction works such as the already-operational Dover harbour scheme was a collateral benefit. Indeed, the bill and the eventual statute both had aspects of liturgical reforms implemented in the late 1540s.

Whilst the slavery act of 1547 has been generally attributed to Somerset, when considered in terms of previous legislative details and context, the origins may have been Henrician. Whether developed under the reign of an aging Henry and thwarted by his death, or considered and decided against only to reappear under his successor, the *1547 Act* shared a number of similarities with the 1530s legislation and drafts including works schemes and liturgically-based charity.<sup>20</sup> With enslavement a potential punishment, again without a need for much in the way of public judicial process, the *1547 Act* articulated a government confidence in the power of statute. It was a confidence that may have been misplaced judging by its repeal three years later.

From 1550, the vagrancy statutes seem to have lost much of their political impact. The restoration of the *1531 Act* was by then a return to the law that most magistrates will have been familiar with, and the development of a statutory parish collection in 1552 was probably modelled largely on the urban practices that had survived since the late 1530s, again suggesting that familiarity was the main motivator. With widespread application of

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<sup>19</sup> Recent research suggests that the monastic charitable output prior to the dissolution may have been much more significant than has traditionally been thought: N. S. Rushton, 'Monastic charitable provision in Tudor England: quantifying and qualifying poor relief in the early sixteenth century', *Continuity and change*, 16 (2001), 9-44; N. S. Rushton and W. Sigle-Rushton, 'Monastic poor relief in sixteenth-century England', *Journal of interdisciplinary history*, 32 (2001), 193-217.

<sup>20</sup> See Chapters Four and Five.



statutory precepts within a number of urban contexts, major legislative change may have been difficult. Rather than the towns having aided the development of the old poor law, it might be better to see the large provincial towns of England as having thwarted the likelihood of any major change to the vagrancy legislation and poor law. Whilst minor administrative changes, greater uniformity, and later the introduction of further aspects such as Bridewells were possible, this was a period of consolidation rather than development and experimentation. The abandonment of collections, policies regulating local beggary and the punishment of vagabonds seems to have become increasingly unlikely from the mid sixteenth century onwards. Towns were keen to follow statutory principles, but such statutory principles had to remain relatively constant, which is exactly what is reflected in the sixteenth-century statutory experience.

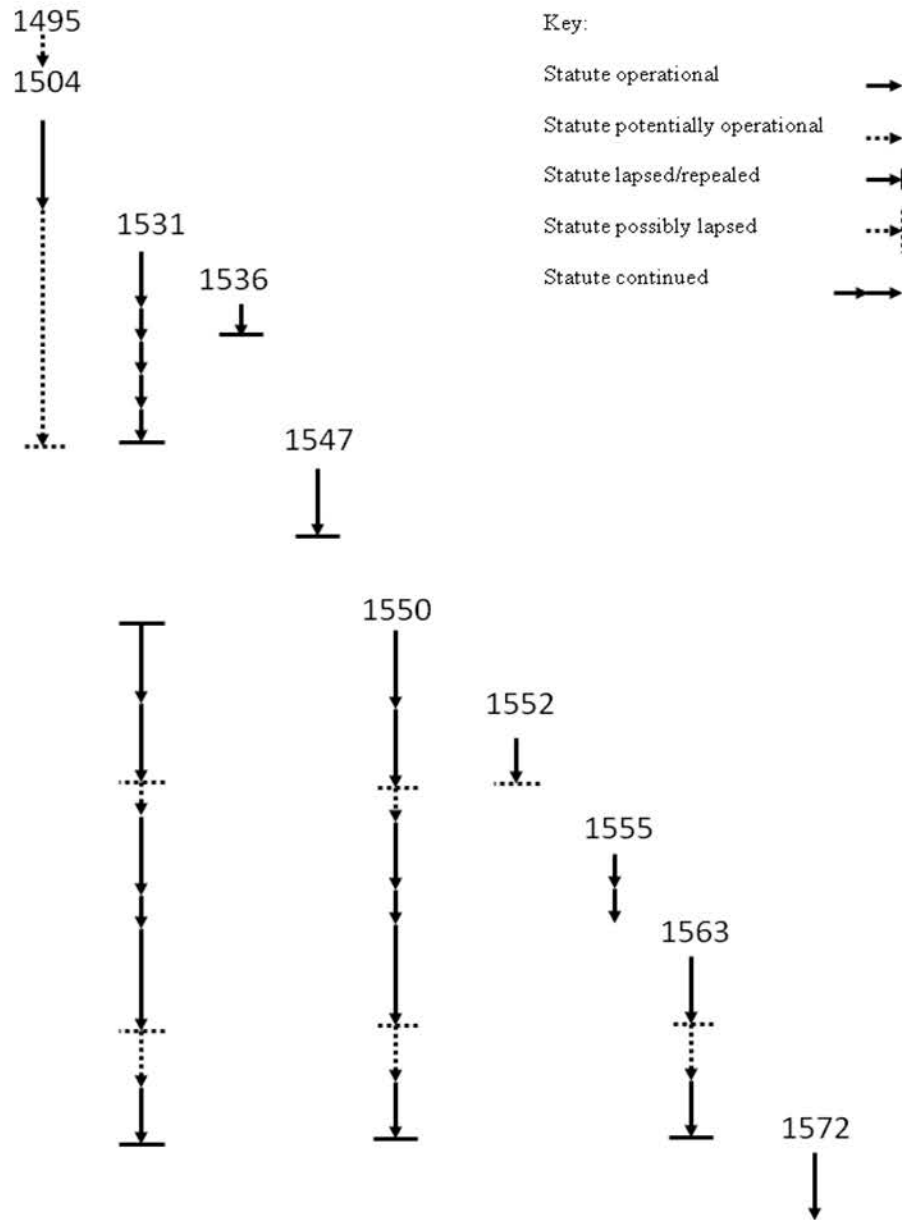
The anti-vagabond language may have survived and retained some of the anti-clerical flavour of the 1530s for those old enough to remember, but the claim that there were a great multitude of beggars and vagabonds was the main theoretical justification for what were, regardless of the necessity or frequency of their application, no doubt very convenient laws to have available for use by magistrates. Such claims remained a part of vagrancy law for many centuries and it may be profitable for future researchers to explore the wider political history of the vagrancy laws beyond the more narrow confines of poor relief studies. The reality of the claim is less important from a legislative perspective than the fact that the claim justified and in some cases continues to justify the remedy. But it is appropriate to close this dissertation not with the problem, but with the legislation regulating the ostensible problem. This dissertation has charted the development of the

administrative, mechanical and conceptual attributes of the statutory regime for the punishment of vagabondage, the regulation of beggary and the relief of the poor throughout the Tudor period, and the first three quarters of the sixteenth century in particular. Yet to say that the old poor law was developed in the middle of the sixteenth century is somewhat anachronistic. This is because, from the perspective of the mid sixteenth-century legislators, their actions seem largely to have been an attempt to return to what was, even by then, the old poor law.

## **Appendix 1: Statutes for beggary, vagabondage and poor relief, 1495-1572**

<b>11 Hen.VII.c.2</b>	<b><i>1495 Act</i></b>
<b>19 Hen.VII.c.12</b>	<b><i>1504 Act</i></b>
<b>22 Hen.VIII.c.12</b>	<b><i>1531 Act</i></b>
<b>27 Hen.VIII.c.25</b>	<b><i>1536 Act</i></b>
28 Hen.VIII.c.6	Continuation statute (1536)
31 Hen.VIII.c.7	Continuation statute (1539)
33 Hen.VIII.c.17	Continuation statute (1542)
37 Hen.VIII.c.23	Continuation statute (1545)
<b>1 Edw.VI.c.3</b>	<b><i>1547 Act</i></b>
<b>3&amp;4 Edw.VI.c.16</b>	<b><i>1550 Act</i></b>
<b>5&amp;6 Edw.VI.c.2</b>	<b><i>1552 Act</i></b>
7 Edw.VI.c.11	Continuation statute (1553)
1 Marie.St.2.c.13	Continuation statute (1553)
1 Marie.St.3.c.12	Continuation statute (1554)
<b>2&amp;3 Phil.&amp;Mar.c.5</b>	<b><i>1555 Act</i></b>
4&5 Phil.&Mar.c.9	Continuation statute (1558)
1 Eliz.I.c.18	Continuation statute (1559)
<b>5 Eliz.I.c.3</b>	<b><i>1563 Act</i></b>
13 Eliz.I.c.25	Continuation statute (1571)
<b>14 Eliz.I.c.5</b>	<b><i>1572 Act</i></b>

## Appendix 2: Schematic representation of the statutory regime



## Bibliography of Primary Materials

### Manuscript Sources

#### *British Library, London (BL)*

Harley MS 1231.  
Royal MS 18 C vi.

#### *Bristol Record Office, Bristol (BRO)*

F/Au/1/1	Mayor's Audit Book 1.
F/Au/1/2	Mayor's Audit Book 2.
F/Au/1/3	Mayor's Audit Book 3.
F/Au/1/4	Mayor's Audit Book 4.
F/Au/1/5	Mayor's Audit Book 5.
F/Au/1/6	Mayor's Audit Book 6.
F/Au/1/7	Mayor's Audit Book 7.
F/Au/1/8	Mayor's Audit Book 8.
F/Au/1/9	Mayor's Audit Book 9.
33041/BMC/1/4	Bailiffs' Accounts: Trinity Chapel.
33041/BMC/1/5	Bailiffs' Accounts: Trinity Chapel.
33041/BMC/1/6	Bailiffs' Accounts: Trinity Chapel.
33041/BMC/1/7	Bailiffs' Accounts: Trinity Chapel.
P/AS/ChW/3	Churchwardens' Accounts: All Saints.
P/St.S/ChW/2	Churchwardens' Accounts: St. Steven.
P/Xch/ChW/1/a	Churchwardens' Accounts: Christchurch.

#### *Cornwall and Devonshire Record Office, Exeter (CDRO)*

AB II	Exeter Corporation Act Book.
AB III	Exeter Corporation Act Book.
AB IV	Exeter Corporation Act Book.
ECA Book 157	The Book of the Accounts of the Poor.
2945A-99/PW 1	Churchwardens' Accounts: St Mary Major.
4768A-99/PW1	Churchwardens' Accounts: St Mary Steps.
4768A-99/PW2	Churchwardens' Accounts: St Mary Steps.
4768A-99/PW3	Churchwardens' Accounts: St Mary Steps.
4768A-99/PW4	Churchwardens' Accounts: St Mary Steps.

4768A-99/PW5 Churchwardens' Accounts: St Mary Steps.  
 4768A-99/PW6 Churchwardens' Accounts: St Mary Steps.

DD36765 Churchwardens' Accounts: St John.  
 DD36766 Churchwardens' Accounts: St John.  
 DD36767 Churchwardens' Accounts: St John.  
 DD36768 Churchwardens' Accounts: St John.  
 DD36769 Churchwardens' Accounts: St John.  
 DD36770 Churchwardens' Accounts: St John.  
 DD36771 Churchwardens' Accounts: St John.  
 DD36772 Churchwardens' Accounts: St John.  
 DD36773 Churchwardens' Accounts: St John.  
 DD36774 Churchwardens' Accounts: St John.  
 DD36775 Churchwardens' Accounts: St John.

EDRO/PW 2 Churchwardens' Accounts: St Petrock.  
 EDRO/PW 3 Churchwardens' Accounts: St Petrock.

*York City Archives, York (YCA)*

House Book vol. 13 Corporation Minutes Book.  
 House Book vol. 15 Corporation Minutes Book.

YC/FA cc.3 City of York Chamberlain's Accounts, vol. 3.  
 YC/FA cc.4 City of York Chamberlain's Accounts, vol. 4.  
 YC/FA cc.5 City of York Chamberlain's Accounts, vol. 5.

YC/G 105:1 St Anthony's Hospital Accounts.

YC/G 104:1 Guild of Corpus Christi and St Thomas's Hospital, Accounts 1.  
 YC/G 104:2 Guild of Corpus Christi and St Thomas's Hospital, Accounts 2.

*Borthwick Institute, York (BI)*

PR SH 13 Churchwardens' Accounts: Sherriff Hutton.  
 PR Y/HTG Churchwardens' Accounts: Holy Trinity Goodramgate.  
 PR Y/MB 33 Churchwardens' Accounts: St Michael le Belfrey no. 1.  
 PR Y/MCS 16 Churchwardens' Accounts: St Martin Coney St.  
 PR Y/MG 19 Churchwardens' Accounts: St Martin cum Gregory.

*Norfolk Record Office, Norwich (NRO)*

NCR Case 16a/2	Mayor's Court Books.
NCR Case 16a/3	Mayor's Court Books.
NCR Case 16a/4	Mayor's Court Books.
NCR Case 16a/5	Mayor's Court Books.
NCR Case 16c/2	Assembly Minute Books.
NCR Case 16c/3	Assembly Minute Books.
NCR Case 16d/2	Assembly folio book of proceedings.
NCR Case 16d/3	Assembly folio book of proceedings.
NCR Case 18a/5	Norwich Chamberlains' Accounts.
NCR Case 18a/6	Norwich Chamberlains' Accounts.
NCR Case 18a/7	Norwich Chamberlains' Accounts.
NCR Case 18a/8	Norwich Chamberlains' Accounts.
PD 153/42 [MF897/16]	Churchwardens' Accounts: St Margaret.
PD 461/48 [MF939/10]	Churchwardens' Accounts: St John Baptist at Maddermarket.
PD 484/116 [MF/RO 652/2]	Churchwardens' Accounts: St Stephen.

**Primary Volumes Accessed Electronically**

(All accessed from *Early English Books Online*: <http://eebo.chadwyck.com/home>)

*Anno XXVII Henrici VIII actes made in the session of this present Parliament holden vpon prorogacion at Westm[inster], the iiii. daie of Februarye, in the xxvii. yere of the reygne of our moste drad soueraygne lorde Kynge Henri the VIII. and there continued and kepte till the XIIIII. day of Apryll next ensuing, to the honour of God, and for the common weale and profite of this realme*, Thomas Powell (London, 1557) STC (2nd ed.) / 9392.5.

*The boke for a justyce of peace neuer so well and diligently set forthe*, Richardi Kele (London, 1546) STC (2nd ed.) / 14879.5.

*The boke for a justyce of peace neuer so well and dylygently set forthe*, Wilhelmi Middilton (London, 1544) STC (2nd ed.) / 14878.3.

*The boke for a iustice of peace the boke that teacheth to kepe a courte baron or a lete : the boke teaching to kepe a courte hundred : the boke called Returna breuium : the boke*

*called Carta feodi conteyning the forme of dedes, releases, indentures, obligations, acquytaunces, letters of attorney, letters of permutation, testaments, and other thynges : the boke of theordynance to be obserued by the officers of the Kynges Eschequer, for fees takynge : a boke conteynynge those statutes at lengthe, which iustices of peace, mayres, sheryffes, baylyffes, constables, and other offycers were of late commaunded by the Kynges Maiestie to put in execution, Thomae Bethleti (London, 1539) STC (2nd ed.) / 1929:03.*

*The boke of iustices of peas the charge w[ith] all the processe of the cessyons, warrantes supersedias and all that longeth to any justyce to make endytementes of haute treason, petyt treason, felonyes, appeles, trespass vpon statutes, trespass contra regis pacem nocume[n]tis with dyuers thynges more as it apperyth in the kalender of the same boke, John Skot (London, 1521) STC (2nd ed.) / 14866.*

*Bonner, Edmund. Homelies sette for the by the righte reuerende father in God, Edmund Byshop of London, not onely promised before in his booke, intituled, A necessary doctrine, but also now of late adioyned, and added thereunto, to be read within his diocesse of London, of all persons, vycars, and curates, vnto theyr parioshioners, vpon sondayes, & holydayes, Iohn Cawodde (London, 1555) STC (2nd ed.) / 3285.2.*

*Certayne sermons appoynted by the Quenes Maiestie, to be declared and read, by all persones, vycars, and curates, euery Sondaye and holy daye in theyr churches : and by her Graces aduyse perused & ouer sene, for the better vnderstandyng of the simple people : newly imprinted in partes accordynge as is mencioned in the booke of commune prayers, R. I[u]gge (London, 1559) STC (2nd ed.) / 13648.5.*

*Certayne sermons, or homilies, appoynted to be declared and redde, by all persones, vycars, or curates, euery Sonday in their churches, where they haue cure, Edward Whitchurche (London, 1547) STC (2nd ed.) / 13641.9.*

*Charyte hath caused our Souereygne Lorde the Kynge to consyd[er] howe meritorious & howe pleasande a dede ... and what greate rewarde they shall haue of God for it that prayth for ye soules of them that weyr sleyne at Bosworth feel[de] ..., R. Pynson (London, 1511) STC (2nd ed.) / 14077c.36.*

*Charyte hath caused our Souereygne Lorde the Kynge to consyd[er] howe meritorious & howe pleasande a dede ... and what greate rewarde they shall haue of God for it that prayth for ye soules of them that weyr sleyne at Bosworth feel[de] ..., R. Pynson (London, 1511) STC (2nd ed.) / 14077c.37.*

*A collection of the substaunce of certayne necessarye statutes, to be by the iustices of peace diligently executed, within euery sheare of the realme, Richard Jugge and John Cawood (London, 1561) STC (2nd ed.) / 9339.5.*

*Copeland, Robert, The hye way to the spyttell hous, Robert Copeland (London, 1536) STC (2nd ed.) / 5732.*



Cranmer, Thomas. *Certain sermones, or homelies, appoincted by the kynges Maiestie, to bee declared and read, by all persones, vicars, or curates, euery Sondaie in their churches, where thei haue cure*, Richardi Graftoni (London, 1551) STC (2nd ed.) / 13647.

Fitzherbert, Sir Anthony, *The boke of iustices of peas the charge with all the processe of the cessions, warrantes supersedias [and] all that longeth to ony iustyce to make endytements of haute treason felonyes appeles trespass vpon statutes, trespass contra regis pacem nocumentis with dyuers thynges more as it appereth in the kalender of the same boke*, Richard Pynson (London, 1505) STC (2nd ed.) / 14862.

Fitzherbert, Sir Anthony, *The contentes of this boke Fyrst the booke for a iustice of peace. The boke that teacheth to kepe a courte baron, or a lete. The boke teachynge to kepe a courte hundred. The boke called returna breuium. The boke called carta feodi, conteynynge the forme of dedes, releasses, indentures, obligacions, acquitaunces, letters of attorney, letters of permutacion, testaments, and other thynges. And the boke of the ordinaunce to be obserued by the offycers of the Kynges Eschequer for fees taking*, Richard Tottill (London, 1559) STC (2nd ed.) / 14882.

Fitzherbert, Sir Anthony, *The contentes of this booke first the booke for a iustice of peace. The booke that teacheth to keepe a courte baron or a leet. The booke called charta feodi, conteynynge the fourme of deded, releases, indentures obligations, acquitances, letters of attorney, letters of permutation, testaments, [and] other thinges. And the booke of the ordinance to be obserued by the officers of the kinges Eschequer for fees takinge*, Richarde Tottyl (London, 1574) STC (2nd ed.) / 14885.

Hooker, John, *The order and vsage of keeping of the parlements in England*, J. Charleswood (London, 1572) STC (2nd ed.) / 24886.7.

Hooker, John, *A pamphlet of the offices, and duties of euery particular sworne officer, of the citie of Excester: collected by Iohn Vowell alias Hoker, Gentleman & chamberlaine of the same*, Henrie Denham (London, 1584) STC (2nd ed.) / 24889.

Marshall, William, *The forme and maner of subue[n]tion or helping for pore people deuysed and practysed i[n] the cytie of Hypres in Flaunders, whiche forme is auctorised by the Emperour, [and] approued by the facultie of diuinitie in Paris. Cu[m] priuilegio regali*, Thomas Godfray (London, 1535) STC (2nd ed.) / 26119.

More, Thomas, *The supplycacyon of soulys made by syr Thomas More knyght counsellour to our souerayn lorde the Kynge and chauncellour of hys Duchy of Lancaster. Agaynst the supplycacyon of beggars*, W. Rastell (London, 1529) STC (2nd ed.) / 18092.

*A proclamation concernynge apparayle, mayntenaunce of archerye, punysshemente of beggers, and unlawfull games*, Tho. Berthelet (London, 1536[?]) STC (2nd ed.) / 7788.

*The statutes concernynge the comon wele made in the parliament holden at westmynster the xiii day of October in the reygne of oure souereyne lorde the kynge: kynge henry the seuenthe: eleuenth yere, Richerd Pynson (London, 1496[?]) STC (2nd ed.) / 1355.*

*Statutes made in the Parliamente, begon at Westminster the fourthe daie of Nouembre, in the first yere of the reigne of our moste dread souereigne Lorde Edvvard the. VI. By the grace of God, kyng of Englande, Fraunce, and Irelande, defendor of the faithe, and of the Churche of Englande, and also of Irelandes, in yearthe [sic] the supreme hed: and from thence continued to the xiii. Daie of Decembre, then next ensuing, that is to saie, in the first session of the same Parliamente, as foloweth, Richardi Graftoni (London, 1548) STC (2nd ed.) / 9421.1.*

*The statutes or ordinaunces concernynge artificers, serauntes, and labourers, iourneymen[n] and prentises drawn out of the common lawes of this realme, sith the tyme of Edward the fyrst, vntyll the thyrd and fourth yere of oure dread soueraygne lorde Kynge Edward the .vi. wyth the statute and order of the measuryng of landes, Iohn Tysdale (London, 1562) STC (2nd ed.) / 9344.*

*The statvtes whiche the Iustices of peace, mayres, sheriffes, bailyffes, constables, and ther offycers haue ben commanded by the kynges maiesty, not only by his proclamations, to put in execution, vpon peyne of his hygh displeasure: but also by an acte of parlyment made and establysshed the 33.yere of his hyghenesse mooste graciouse reigne, Thomae Bethleti (London, 1543) STC (2nd ed.) / 9339.*

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