‘Allowable or Not?’ John Stokesley, the Court of Requests and Royal Justice in Sixteenth-Century England

While late-medieval treatise writers depicted the laws of the realm as the ‘nerves and sinews’ of the English body politic, they agreed that the uniting principle and ‘preserver’ of the whole polity was justice, projected outwards by the monarch.[1] Justice entailed the administration of codified law through prosecution and litigation, but also a care for unwritten notions of fairness, tolerance, and even mercy. The due dispensation of justice was a political duty and a moral virtue of monarchical government. Towards the end of the fifteenth century, the direct mediation of civil disputes through the king’s grace had become a convenient recourse for litigants otherwise facing a relatively inflexible common-law system. Following the accession of the Tudor regime in 1485, new royal tribunals for justice emerged out of the main Council: including the courts of Star Chamber and Requests, and a host of more transient central and regional commissions. Each proved popular with litigants for their efficient procedures, flexible petitioning mechanisms, and authoritative judgments – all overseen by royal councillors in the king’s name, and unbound by legal maxims, customs, or precedents. Expanding this provision was also politically expedient for a regime desperate to establish stability and legitimacy. By the end of the sixteenth century, though, the place of these courts within the wider English legal system was hotly contested and increasingly undermined. Their jurisdiction would be drastically curtailed in the early sixteen-forties, when Star Chamber and Requests were dissolved. Between the close of the Wars of the Roses and the eve of the English Civil War, the administration of extra-legal (specifically extra-*common law*) justice was continually defined and delimited.[2] Criticism was most clearly expressed in flashpoints of controversy, like that surrounding John Stokesley and Requests in the fifteen-twenties.

In the high-profile arguments about equity and the legal hierarchy that flared up in the early seventeenth century, the long-established court of Chancery took centre stage.[3] But another prominent target for criticism during the earlier phase of these jurisdictional disputes was the Court of Requests. The notional association between the thriving (but comparatively novel) conciliar courts and the monarch was still strong enough by this point that there was little opportunity for either individual appeal or systemic regulation of their business – except in the royal common-law courts. From the fifteen-nineties onwards both Common Pleas and King’s Bench issued numerous prohibitions against proceedings in Requests when it was seen to be intervening in matters, often involving real property, that had already been determined at the common law.[4] Within the following decade this hostility escalated to declarations by the Common Pleas justices that Requests lacked ‘authority… [or] power by common law commission’.[5] In 1600, they argued that Requests had always been ‘an office of discretion rather than correction’, designed to channel petitions but not judge them.[6] As Edward Coke later remarked, Requests went untreated in sixteenth-century law reports, unmentioned by treatise-writers, and unsupported by statute. Hence, according to the rule of law, Requests had never possessed ‘jurisdiction of judicature’; in fact, the predominance of civil lawyers on its bench meant that its procedures might even be construed as ‘foreign’ to the English system.[7]

Modern scholars have been less definitive but, at times, just as dismissive about Requests' place in the legal landscape. The last large-scale survey of Requests, written by I. S. Leadam in 1898, depicted the Court as an ally of tenants in the agricultural revolution of the late fifteenth and early sixteenth centuries, a conclusion that has often been repeated in overviews of the period produced more recently.[8] The careful attention lavished on the records of the early Tudor central government by the administrative historians of the twentieth century – primarily Geoffrey Elton and his students – included curiously little appraisal of Requests and its archives. In fact, this scholarship largely recast Requests as an experimental and transient conciliar committee, subsidiary to the reform programmes of Thomas Wolsey and Thomas Cromwell.[9] Legal scholars, meanwhile, have typically subsumed Requests into analyses of the court of Chancery, which survived well into the nineteenth century and so has left a firmer mark on English jurisprudence. Indeed, Requests has typically been interpreted in jurisdictional terms as simply the 'poor man's Chancery'.[10] In the last few decades, the rush of social historians to the rich documents of the early-modern equity courts has served to revive interest in Requests and restate the benefits that it offered to a broad range of litigants by the later sixteenth century.[11] Although there is still much to be understood about Requests, what seems clear is that suggestions of its insignificance overlook the reality that it was the most enduring and consistently well-documented of those tribunals established in the early Tudor period. They also fail to fully appreciate the specialised role of Requests, and the ways in which it was thereby functionally and physically distinct from the other discretionary courts at Westminster – and hence difficult to challenge.

Emerging in the fourteen-eighties, the conciliar committee of Requests gave quasi-institutionalised form to an older provision for handling poor suitors' petitions to the monarch within the royal Council. Through to the fifteen-thirties Requests orbited the king's person, as a facet of his attendant entourage. Any member of the Council who happened to be present determined cases presented on the road of royal progresses. It was on the grounds of this heritage in the customs of the Council that Requests was defended by its proponents. Chief amongst them was Sir Julius Caesar, the Elizabethan Master of Requests. Caesar's treatise on *The Ancient State, Authority, and Proceedings* of the Court, published in 1597, responded to attacks on Requests' jurisdiction with a series of 'acts' drawn from its order books, devised to prove the consistency of its business and legitimacy as 'parcell of the Kings most honourable Councell'.[12]

In truth, Requests' jurisdictional development is no more authentically captured by Caesar's reverential (and self-interested) vision of a constant, unchallenged prerogative court than it is by the dismissiveness of Coke and some modern scholars. Like other aspects of central government, Requests became increasingly routinised in the first half of the sixteenth century. Over time it started to observe legal terms, settled more frequently in the White Hall at Westminster, and obtained a set of formally appointed judges. Still, the course of its development ebbed and flowed in response to the life cycle of successive monarchs, political and diplomatic requirements, government policy, and the press of litigation. Requests therefore embodied the principle of accessible, personalised royal justice. Yet interwoven in

its history is a sustained deliberation over the administration of novel but authoritative extra-legal remedies.

The earliest known reference to a 'Court of Requests' appears within an account of an unsuccessful bill put forward at the 1485 Parliament to 'annul' that Court altogether.[13] The grievances behind the bill probably related to the judicial function within the royal Council already known by the shorthand 'requests'. This function had been given greater distinction by the appointment of civil lawyer and Yorkshire public notary John Harrington as the 'clerk of the council' for 'requests and supplications of poor persons' in December 1483.[14] The unknown proponents of the 1485 bill likely took advantage of the administrative vacuum engendered by the sudden accession of Henry VII a few months earlier (which had seen Harrington sent back to York) to call for the dissolution of this newly discrete provision.[15]

Requests was not subsequently suppressed, however. Supplications to the king were continually made at the royal court, and so it was pragmatic to retain some mechanism for receiving them. By 1493 Requests had become distinct enough from the Council to commence its own records.[16] Yet contentions against its practices only mounted from then on. Criticisms reportedly levelled against a 'Court of Requests' established by the mayor of London in 1501, especially that it favoured the poor 'more somtyme than Justyce & good lawe requyrid', might also have applied to the national Requests arena.[17] The paradox of supposedly 'indifferent' justice being loaded in favour of a specific subsection of society was nowhere better epitomised than in the royal 'poor man's court' of Requests, after all.

Defendants in Requests cases capitalised on the ambiguous status of its jurisdiction, routinely claiming in their written answers to the Court that they were 'not compellable [under] the lawe of this realme' to obey its process.[18] From the early sixteenth century onwards, a small number of defendants aggrieved by the processing of suits in Requests sought restitution by countersuing at King's Bench. Citing the rights to due process enshrined in Magna Carta and various fourteenth-century statutes, their pleas described how they had been peremptorily summoned to appear before royal councillors.[19] Their cases – which, they suggested, were properly actionable at the common law – had therefore been denied judgment by the king's justices according to the 'law of the land'.[20] Pleas of this sort were not, so far as we know, typically successful. Yet a bill exhibited by the Commons at the 1510 Parliament similarly framed the use of the privy-seal summons (as opposed to an original writ) and hearing by untrained councillors in common-law matters as contrary to statute law, suggesting that the summoned party be allowed recourse to an action of debt against the original petitioner.[21] The bill clearly touched a nerve, passing both Houses only to be vetoed by Henry VIII. So, even in the early sixteenth century, the legitimacy of the jurisdiction, process, and personnel of royal justice faced scrutiny from several quarters.

This simmering discord forms the backdrop to the case study around which this article is based: the dismissal of Dr John Stokesley as one of Requests' judges in 1523. By that time, Requests had been a thriving judicial tribunal for over forty years. But where it had once been managed by a sizeable and diverse group of royal councillors, now it was increasingly in the hands of a small band of household clergymen.[22] Since the later reign of Henry VII, the presiding judge in Requests was the Dean of the Chapel Royal. Usually trained in either

canon or civil law, or both, the Dean oversaw all the clergy in the peripatetic royal retinue and was responsible for the king's spiritual needs. Thomas Wolsey's project to expand and open up the conciliar courts in the mid-fifteen-tens generated a substantial volume of business for the Dean in Requests.[23] The Court's caseload more than doubled in the final years of that decade, reaching around 300 cases in 1520.[24] However, the Dean at that time, John Clerk, left England for over a year from March 1521 to deliver Henry VIII's *Assertio Septem Sacramentorum* to the Pope in Rome. In his absence it was John Stokesley, first as the king's chaplain and then as the royal almoner, who shouldered the business of Requests, settling it temporarily at Westminster.[25]

Stokesley soon attracted the scrutiny of the Court's parent stem, the main royal Council. On 27 January 1523 the Council ordered that:

> …the Lord Cheife Baron of the Exchequer Mr Brooke Mr Fitzherbert Judges Sir Thomas Moore Sir Robert Drurie knights Mr Wotton of the Exchequer Mr Englefield and Mr Port serjeants are appointed… to review & examine such causes as Mr Stokesley had judged in the White Hall and to report whether they bee allowable or noe, and Brok and Fitzh. to drawe a forme after which the Dean & his Cort in Whitehall shall be ordered.[26]

The formal outcome of this review is unknown, as it has left behind no other records. Yet one near-contemporary petition to the Lord Chancellor related that Stokesley had been 'deposid his office' shortly after January 1523.[27] Stokesley appears to have stopped working in Requests after June of that year, and was replaced as royal almoner by the autumn.[28] This would therefore seem to be a rare, early instance of the persistent complaints against the administration of royal justice resulting in action and tangible change. So what, exactly, went wrong in Requests under Stokesley?

The chronicler and common lawyer Edward Hall would later remember Stokesley as 'a man yt had more learning, then discrecion to be a judge.'[29] For historians – and likely for Hall as well – this aspect of Stokesley's career has been mostly overshadowed by his later role in Henry VIII's divorce proceedings and his spell as the conservative Bishop of London in the fifteen-thirties.[30] It has received only brief attention, albeit from some of the leading scholars of sixteenth-century law and politics. Both John Guy and Sir John Baker have argued that Stokesley's downfall was instigated by his 'handling of questions of common law, in which he was not trained.' Baker has placed the impetus for the review with those early-sixteenth-century King's Bench pleas against conciliar process. Guy, meanwhile, has pointed to a general 'hostility of the legal profession to the principles on which the learned doctor's decisions were given' as the driving force.[31] It has also been suggested that Stokesley's removal caused a welcome 'return to greater regularity in Requests', where he was 'succeeded by a series of common lawyers'.[32] Although these inferences seem reasonable, they are not based on any examination of Requests' archive during or around Stokesley's time in the Court. There is, in fact, a general shortage of extensive work on the early Requests and its records. Analysis of this archive through the lens of individual judges and officials has proven valuable for later periods in the Court's history.[33] Hence, there is still

much worth exploring about this seemingly consequential moment of controversy and its implications for what was 'allowable or not' in the legal culture of the sixteenth century.

This article will examine what may have been deemed *ir*regular about Requests and its special brand of justice by the early fifteen-twenties, undertaking a thorough analysis of the business and personnel of the Court before, during, and after Stokesley's tenure. It will shift the focus of enquiry slightly from the doctrinal battle between common law and equity to the daily administration of justice and the practical problems therein raised from the perspective of litigants as well as legal theorists. Re-contextualising Stokesley's dismissal has the effect of improving our understanding of the little-studied Court of Requests. By illustrating the experience of seeking royal remedy, this analysis also adds colour to more theoretical accounts of law and justice in sixteenth-century England.

By the early fifteen-twenties, John Stokesley was respected and supported by key figures in English politics and the Church, well-known for his erudition, and experienced in administration. He had been ordained as a subdeacon, deacon, and priest in 1505, and was appointed to various benefices in 1506, but had spent much of his early career managing affairs at his *alma mater* of Magdalen College, Oxford. His spell as Magdalen's vice-president was controversial, however: at a visitation undertaken in 1507 the college's scholars accused him of conspiracy against the previous President, of committing adultery with his own servant's wife, of practising 'illicit conjurations' to find treasure, and even of baptising a cat.[34] He soon turned his sights instead to theology, removing to Rome to study Latin, Greek, and Hebrew between 1510 and 1515.[35] During this time he rubbed shoulders with some of the most prominent humanist scholars in Europe. Erasmus later praised Stokesley as a 'most accomplished theologian', and as a 'credit to the court of Henry VIII' on par with Thomas More, Thomas Linacre, John Colet, Hugh Latimer and Cuthbert Tunstall.[36]

Once back in England, Stokesley completed a doctorate in theology and quickly captured the attention of Richard Fox, the Bishop of Winchester and Lord Privy Seal. Notwithstanding the allegations presented at the Magdalen visitation, which Fox had overseen, Stokesley was employed as Fox's chaplain from 1515 onwards.[37] Fox resigned the privy seal in 1516, but through his connections Stokesley rose through Henry VIII's inner circle, serving in quick succession as the king's chaplain and almoner. He therefore played an active role in court life: routinely preaching before the assembled court, taking breakfast alongside members of the royal household, joining Thomas More in defending humanism over the dinner table in 1519, and attending the Field of the Cloth of Gold in the summer of 1520.[38] He was reported to be a member of the king's Council in 1521.[39]

Stokesley's constant proximity to the king by the late fifteen-tens made him a convenient judicial administrator, on hand to conduct any business that arose in his presence, both within and outside the structures of Requests.[40] For this service he was rewarded with several preferments, including the archdeaconries of Surrey and Dorset. Unusually, by mid-1521 Stokesley had become virtually the only active judge in Requests, whilst still a mere chaplain. Chaplains had worked in Requests before, but always alongside the Dean of the

Chapel Royal, their superior in the household clergy. When committing a man – likely a contemptuous Requests defendant – to the Fleet prison in mid-1522, Stokesley was said to have been acting with the authority of the absent Dean, John Clerk.[41] Yet in August 1521 he was described as the '*president* of the court of our lord the king'.[42] In fact, Stokesley remained isolated in Requests even after the return of Clerk, who appears never to have taken up business there again.

The direct, sustained involvement of Stokesley in Requests' business is signified by the appearance of his signature and personal annotations on around one hundred pleading files found in the Court's surviving archive.[43] A few cases were transferred to Stokesley from Chancery and Star Chamber, while his presence within the royal entourage as it moved around southern England put him routinely within reach of attendant petitioners and their legal representatives.[44] Once in Stokesley's hands, petitions were immediately actioned, the first directive usually being to summon the accused party or to arrange a commission to determine the case locally. Many of these initial processes were recorded on the back of petitions not by the Court's regular clerk but in Stokesley's own distinctive, italic hand (the only evidence of his humanist influence on Requests, probably learnt in Rome).[45] In a handful of cases he also countersigned the writs for commissions issued under the royal signet seal, which had also been endorsed with a crude, stamped version of Henry VIII's signature.[46]

Thereafter Stokesley ensured the attendance of defendants and heard their answers, listened to witness testimonies, examined written evidence, and made final determinations in the cases before him.[47] Justice in such extraordinary circumstances operated on the basis of conscience, a precursor to equity that had initially manifested as a means to try the unconscionable (even if ultimately legal) actions of defendants but which, by the early sixteenth century, alluded to more universal ideals of decency and fairness to which accused parties, judges, and the king himself could be held.[48] In this earlier period, it was acceptable – preferable, even – that justice according to these principles be overseen by churchmen, who were often civilians by training but might also be inexperienced in law (like Stokesley).[49] Their extra-legal, exceptional judgments neither relied on nor set legal precedent and bound only the relevant parties. As such, Requests' decisions often resembled arbitration rather than a binding verdict. Nevertheless, Stokesley sometimes oversaw their terms very closely: on at least one occasion he edited and signed the drafts of his determinations before they were entered into the order book.[50] He also took pains to ensure that orders were observed by defendants, with several parties in mid-1521 bound to pay substantial sums to the king if they did not 'obey performe and fulfil thawarde order and jugement of Maister John Stokesley'.[51]

According to the terms of the 1523 Council order, the '*causes…* Mr Stokesley had judged' were singled out as the target for review. Moreover, whereas Stokesley possessed no prior legal training or professional practice, the eight commissioners appointed to investigate him were some of the leading common-law practitioners and scholars in England. Five had been made serjeants-at-law: Richard Broke and Anthony Fitzherbert in 1510, and John Fitzjames (the Chief Baron of the Exchequer), Thomas Englefield, and John Port in 1521.[52] A few had held office as justices of the king's benches, with Fitzherbert as Chief Justice of

Common Pleas, and Broke and William Wotton as barons of the Exchequer, alongside Fitzjames.[53] Some of the commissioners had first-hand experience of the royal courts of conscience: Fitzherbert, Wotton, Port, and Thomas More had even acted as legal counsel in Requests in their early careers.[54] Port's surviving legal notebook contains extended notations on debates about conscience in Chancery and on equitable readings of statutes.[55] In 1514 Fitzherbert had published his *Graunde Abridgement*, an organised summary of English law with digests of legal reports arranged by subject matter. Overall, then, the commission comprised those individuals most able, and perhaps also the most inclined, to find fault with Stokesley's unlearned judgments.

As the technical capacities of the royal courts of justice were still evolving, identifying which of the 'causes' heard by Stokesley might have been deemed not 'allowable' is no simple task. More than half of the cases known to have been handled by Stokesley concerned disputes between private parties over possession of property. These petitions typically featured generic allegations of wrongful or forceful entry into and seizure of lands held by the plaintiffs and their ancestors. Stokesley was therefore required to assess and re-affirm various contractual landholding arrangements. Some newer forms of agreement, such as copyholds and enfeoffments to use, technically lay outside of the common law. But those cases involving more traditional arrangements, like leases, might have found recourse under real or personal actions at the common-law courts, where a growing number of landholding mechanisms were being offered protection by the early sixteenth century.[56] Several of the countersuits brought to King's Bench concerned title to lands, arguing that these matters should never have been processed by royal councillors in Requests, though none were successful in obtaining damages.[57] Indeed, despite hints of dissent, the acceptance of a wide range of land cases in Requests accorded with a general shift towards more personalised landholding deals, with uses, enclosures, customary tenancies, and trusts increasingly hashed out in the similarly flexible royal courts of justice.[58] As Eric Ives observed, this newer jurisdiction simply offered a more realistic, 'up-to-date' procedure to landed litigants.[59] Even so, shortly after the 1523 review commenced, Stokesley himself ordered that a case under his care ought to be sued at the common law should it not be resolved by local arbitrators, 'forasmoche as it concernythe the right and title of lande'.[60]

Meanwhile, just over a quarter of the petitions processed by Stokesley were straightforward cases of debt or detinue of goods. These included disputes about the withholding of wages or agreed payments for goods and property, as well as the failure of executors to enact the testamentary bequests of the deceased and the refusal of fathers to pay the agreed dowry on their daughters' marriages. As such issues could have been rendered as actions at common law, Requests' authority to adjudge them may have been tenuous. Indeed, the only King's Bench countersuit to mention Stokesley as the summoning judge concerned the distraint of a large collection of household goods. After a lengthy suit in Requests in late 1521, one Thomas Butler had been subjected to the arbitration of Stokesley and Richard Rawlins (then the royal almoner) and bound to return the goods to the petitioner, Robert Fuller. Butler's plea to King's Bench in Trinity term 1523 cited Magna Carta, which he fancifully described as the statute 'against the pursuit before the King's council under the privy seal of causes that touch the common law'.[61] As well as emphasising the availability of

an action of detinue in his dispute with Fuller, Butler repeatedly pointed out Requests' deviations from due process, focusing particularly on the lack of original writ and of any hearing before the king's justices.[62] The timing of Butler's suit in mid-1523 means that it may have exploited Stokesley's dismissal, at the very least.

Disputes about contracts for land or money were broadly acceptable when framed as another type of complaint that Stokesley often dealt with: the breaking of spoken promises, often classified as a breach of faith rather than of any legal agreement. This was increasingly considered the standard fare of conscience or 'equity' and its reasonable, common-sense remedies. Christopher St German's *Doctor and Student*, published in 1528, would argue that equity rightfully protected individuals in exceptional cases, the chief example being the debtor whose foolishness in failing to acquire or keep safe their written acquittance had left them open to being retried by the debtee for money already paid.[63] Care for such suits aligned with the common-law maxim that isolated 'mischiefs', or deviations from the letter of the law, were preferable to an 'inconvenience' that might undermine the entire legal system.[64] In these matters, at least, Requests' jurisdiction seems entirely appropriate. But its perceived suitability evidently varied greatly from case to case.

Yet, put into the broader context of Requests, the case typology of Stokesley's tenure was entirely in keeping with that of the Court in previous years and under different judges. Between 1515 and 1519, when presided over by the civilian John Veisy as Dean of the Chapel Royal, determinations over title to land were the subject of sixty-two percent of all decrees. Under Stokesley this proportion stayed virtually the same, and across the entire period from 1493 to 1547, rulings on land title comprised roughly seventy percent of the Court's business. These figures are also closely comparable to those in the other conciliar court of Star Chamber, where Guy has shown that somewhere in the region of fifty to sixty percent of proceedings in the fifteen-tens and fifteen-twenties concerned title to land, and to Chancery, where Franz Metzger found that land comprised the main subject of around sixty-seven percent of suits.[65] Debt and detinue cases remained proportionately level across the period, at between twenty and twenty-five percent in Requests and twenty-eight percent in Chancery, compared to less than ten percent in Star Chamber.[66] Simple quantitative analysis like this admittedly yields a rather surface-level view of what was going on in these tribunals, especially when case categories are created using common-law terminology (such as 'detinue', 'trespass' or 'disseisin', vocabulary rarely used in petitions to the conciliar courts). Still, by these figures, the causes judged by Stokesley do not seem remarkably irregular.

Nevertheless, simply enumerating types of suits in Requests does not capture the nexus of justifications evoked for litigating directly to the king for justice. Of course, petitioners sometimes sought extraordinary justice on technical grounds, including the loss or theft of documents essential to common-law proceedings, the multifaceted and multi-targeted nature of a case (where only a single issue could be tried at the common law), or the residence of opponents outside the reach of the king's ordinary writ (for instance in the Welsh marches). But the more typical explanation for presenting a suit in Requests was that the petitioner felt themselves to be barred from accessing a common-law verdict for reasons that extended beyond the purely jurisdictional. Most commonly they made rhetorical claims

to debilitating poverty: they were either genuinely destitute, possessed 'nothinge but that [they] gettethe by [their] daylie labor', had been 'utterly undone' by recent damage or dispossession inflicted by their opponent, or had become impoverished by a previous, unsuccessful common-law suit.[67] Often, they described proven or potential corruption of local judicial processes by their powerful, well-connected neighbours. In other words, it might be supposed that any matter technically actionable by the normal course of the law was allowable in Requests if the petitioner either had been or would be unsuccessful in finding fair trial elsewhere.

So, it should be emphasised that the causes judged by Stokesley were regular by the standards both of Requests and of the king's other conscience-based justice courts. Notably more King's Bench pleas alleging the illegitimacy of Requests' procedures were brought against cases managed by the Court's earlier judges, though none of these attracted any formal investigation akin to that in 1523.[68] Like Stokesley, several of the earlier Deans, and *all* of the royal almoners who had previously worked in Requests, had been theologians, without legal training or practice. Moreover, in 1523 Chancery and Star Chamber were under the direct personal control of Wolsey, who was equally deficient in formal legal education. He was also the *de facto* head of the king's Council, and so historians have always attributed the foundation of the 1523 review of Stokesley to him – though the obvious parallels between the two men make this scenario unlikely.[69] In all, the Council's concerns were likely not limited to the technical nature of the cases heard in Requests by Stokesley, which reflected the provision of royal justice more widely. Perhaps other issues, beyond the purely doctrinal, had attracted their attention by 1523.

Objections to Stokesley's work in Requests expressed in and before 1523 were preoccupied not with jurisdictional technicalities but with more tangible aspects of his conduct and management style. He and all the men to whom royal justice was delegated had to represent the king's personal care for 'right and good conscience', as specifically requested by litigants, whilst applying their own reason and common sense to successfully arbitrate and settle an array of different local matters. At the same time, the emerging tribunals that they oversaw were expected to address and avoid the perceived pitfalls of the common-law courts: to be accessible, speedy, inexpensive, and sensitive to social disparity. Royal advisors therefore suggested that the king only choose to be judges in these courts those men who were themselves of 'good conscience' and were capable of passing 'without delay a just judgment on anyone requesting it'.[70] Contemporary legal theorists were sceptical about the stability of such delegation, though: as one put it, 'diverse men, diverse conscience[s]'.[71]

Stokesley's conscience inflected all aspects of Requests' business, amplified by his isolation as a judge there but also by his exceptionally personal interventions in its established procedures. Where normal practice had long been to communicate instructions to Requests' parties by way of formulaic writs issued under the king's signet or privy seal, Stokesley often took the time to convey his commands more directly. He sometimes put quill to paper himself, writing to appointed commissioners to describe the case they were to hear and to explain their duties, and replacing the standard first-person missives said to be 'By the

King' with his own, candid declaration that 'I desire and praye you that you will groundely examine the said variaunce'.[72] In December 1521, Stokesley even wrote to one of the defendants in the Court, Sir William Skeffington, the master of the ordnance. Stokesley claimed that he was 'dayly called upon for… determinacion' of the case against Skeffington, brought by William Coke, a clerk of the ordnance. Stokesley's letter decreed that Skeffington 'ought in conscience to see [the petitioner] restored to the grett parte of his demaunde' for the restitution of his wages – for the sake of Stokesley's own 'quietenes and rest' as much as that of the parties. Stokesley warned that if Skeffington would not repay the complainant, 'I must procede in sentence as the matier afore me is proved which I entende to doo'.[73] That there is no reference in these letters to colleagues with whom he might share his workload suggests that Stokesley perceived himself to have sole authority over the determination of these cases. This autonomy afforded him an unprecedented level of flexibility in conducting day-to-day business in Requests: defendants might even be ordered to 'personally apper afor Maister John Stokesley' at 'his lodging at Warwykes Inn in the Citie of London', two miles away from Westminster.[74]

On balance, the personal manner in which Stokesley dealt with cases of any type may well have undermined the very principles of royal justice as it had come to be manifested in Requests. On occasion he appears to have withheld normal aspects of judicial process from defendants in order to force a final end to their disputes. Arbitration was supposed to be undertaken with the assent of both parties. Yet Butler's King's Bench plea implied that he had felt 'compelled' to compromise as a result of his repeated spells of attendance on the Court, without licence to leave.[75] Usually defendants were permitted to nominate representatives to make such appearances in their stead, but Stokesley seems to have restricted this right: during his tenure only a quarter of all cases were permitted the admission of an attorney, compared with almost half of those under the previous Dean of the Chapel Royal.[76] The financial strain associated with long spells of attendance and substantial penalties for failing to appear had always been an especially contentious aspect of royal justice. Stokesley's heavy-handed way of ending cases thus only augmented the disruption and disadvantage already perceived to be visited upon defendants by this extraordinary process.

Stokesley's behaviour was problematic for petitioners as well. Several complainants to Wolsey as Lord Chancellor accused Stokesley of withholding copies of the examinations of witnesses and evidence taken in Requests hearings; he would allegedly give them up 'neither for money nor request'.[77] A general ambivalence towards proper record-keeping during Stokesley's tenure could be reflected in the annotation beneath several entries in the Requests order books from mid-1521 with the simple statement that 'the cause has been determined by Master Stokesley'.[78] In no other Requests book from the early-Tudor period do we find a single councillor referred to as having individually closed cases in quite the same way. Furthermore, only one of the six cases so annotated had a decree recorded in the books. The rest remained off the record.

Given the great volume of business pouring into Requests in the early fifteen-twenties and Stokesley's lack of support in handling it, these tactics might be regarded as an attempt to

cut corners and keep business moving. Still, the result was to delay process in an otherwise efficient tribunal. Where traceable, the average length of a case (the duration between a petition and a final decree) both before and after Stokesley's tenure was around six months, with each aspect of the process expected to be completed within a single term. Yet Stokesley admitted to having 'long forborne' delivering his judgment of the case against Skeffington in the hopes of saving this relatively prominent individual from a court order.[79] Avoiding a court-mandated decree was often preferred by parties and judges alike in early-modern litigation, but incidents of procrastination like this caused expense and frustration on both sides of a case. While Stokesley made up his mind, William Coke attended on Requests for the resolution of his suit against Skeffington for almost two years.[80] A later petition to Wolsey alleged that a case had pended before Stokesley for 'a yere and iij qwarters', while another claimed that a 'matier hathe depended in [Requests] of longe season and noo maner of ende nor Justice doon.'[81] Only four of the one hundred or so cases for which Stokesley signed documentation ever received a recorded final decree. From this admittedly limited evidence, the average case length under Stokesley can be estimated at around ten months – a little slower than his predecessors, unsurprisingly. When one petitioner 'putte the charge' of these delays to Stokesley's 'soule and conscience', Stokesley allegedly threatened to 'laye hym faste by the helys in prison'.[82]

The implications of Stokesley's capricious handling of a powerful and unregulated court would have been particularly troubling to lawyers. According to contemporary legal theory, arbitrariness was a natural consequence of courts operating on the fluid concept of conscience rather than the letter of the law. In a reading on enfeoffments to use in 1526, the common lawyer and future Lord Chancellor Thomas Audley argued that the 'law called "conscience"… is always uncertain and depends for the greater part on the whim of the judge in conscience.'[83] These problems were further compounded when a judge in conscience had no legal expertise or professional training. Although Christopher St German was an apologist for equity, so long as it was executed in accordance with the law, he later admitted that conscience in the absence of knowledge might be led astray.[84] A replication to his *Doctor and Student* written by an anonymous serjeant-at-law went further, reminding readers that the Lord Chancellors had historically been 'spirituall men' rather than men of law, possessing a 'superficiall knowledge of the lawes of the realme'.[85] Crucially, 'not knowing the goodnes of the commen lawe' meant that such a judge was unlikely to be capable either of fully comprehending whether a case ought to be considered under conscience or of recognising when they were in danger of causing an 'inconvenyence' to due process.[86] Although many of Stokesley's problems in Requests resulted from an overwhelming caseload, the same criticisms could just as easily have applied to him.

Overall, Stokesley's autocracy probably reminded contemporaries of another prominent theologian, former household clergyman, and Requests judge, against whom most of this legal commentary was written: Thomas Wolsey. John Skelton's poems vividly depict the omnipotent Wolsey 'clapping his rod on the board' of Star Chamber and ruling 'royally' over Chancery, displaying open contempt for the gathered lords and lawyers or 'for law canon, or for the law common, or for law civil' because all judgments 'shall be as he will.'[87] On one occasion in 1519, Wolsey personally expressed to Henry VIII his wish to see the

'new law of the Star Chamber' ministered to belligerent courtiers.[88] According to the articles submitted against him by prominent lawyers, councillors, and courtiers at his fall in 1529, Wolsey had utilised his presidency in these high courts to override common-law judgments and to redirect cases proceeding before the chief justices into his own purview.[89] The effect was that he had 'mysorderyd and subvertyd' the laws of the land 'and sore impoverisshed our saide subiectes and realme thorough his inordinate pompe vainglory and rather ipocrasye will and command'.[90] Accusations against Stokesley were not so grandiose. Yet in 1523 Wolsey, as head of the Council, ironically helped to weaponise criticisms that would later be turned against his own judicial activities.

No single criticism, whether from litigants or legal theorists, can be proven to have instigated the 1523 review of Stokesley. Overall, though, it seems that it was as much the causes as it was the judging of them that was at issue. Unlike similarly untrained judges from previous years, Stokesley was unsupported and unmediated by any colleagues or advisers in managing a busy conciliar tribunal. While this was simply impractical for litigants, the lawyers behind and on the 1523 commission would probably have found his singular control over such a subjective arena of justice particularly problematic. Stokesley did not go as far as Wolsey in trying to promote the king's conscience arenas to the top of the jurisdictional hierarchy. Nevertheless, his *in*discretion in handling extraordinary processes may have raised questions as to whether his means had facilitated entirely 'allowable' ends.

Stokesley's dismissal was not the watershed moment or 'return to regularity' in the composition of Requests that we might expect, however.[91] After 1523, Requests experienced a substantial decrease in caseload, perhaps as a result of the transition instigated by Stokesley's departure.[92] The small number of cases thereafter exhibited were assigned not to household clergymen but to the common lawyer Thomas Englefield, one of the commissioners appointed in 1523, and to Richard Wolman, a doctor of canon and civil law.[93] In the late fifteen-twenties, as business picked up again, they were joined by William Sulyard and Thomas Neville, both common lawyers, and occasionally by William Fitzwilliam, the treasurer of the king's household, who had no legal training. It may have been around this time that a stipend was introduced for one of the Council's common lawyers – first Englefield, then Sulyard and others – seemingly to enlist their regular input in Requests.[94] So, a demonstrable consequence of the 1523 review was that it moved Requests into the hands of a larger and more diverse set of administrators, who were mostly trained in the law. Even so, the proportion of cases determined in Requests concerning title to lands rose to eighty percent through the latter half of the fifteen-twenties, while the number of straightforward debt or detinue cases declined – the opposite of what we would expect if criticising Stokesley's ignorance of land law and restricting Requests' jurisdiction had been the intention of the review.

This was no clean sweep for the common law over the civilians, canonists, and theologians in Requests, either. After all, the Council's order directed two of the commissioners to 'drawe a forme after which the Deane & his Cort in Whitehall shall be ordered' thereafter. Hence the expectation in 1523 was that Requests would be returned to the

Dean of the Chapel Royal's control. In December 1523, John Clerk was replaced as Dean by Richard Sampson who, as a canon *and* civil lawyer, had the most comprehensive legal training of all the occupants of that office since the beginning of the century. Yet for most of the fifteen-twenties he and the almoner, the theologian Edward Lee, were out of the country on embassies. In their absence, the little business that came before Requests was simply directed to other men present around the attendant household – though now always in pairs, at least. Later, in 1529, Dean Sampson was named as one of fifteen 'Counsaillours as be appointed for the heryng of power mennes causes in the kynges Courte of Requestes'.[95] Accompanying him on that list were four theologians, two men trained in canon and civil law, three common lawyers, a pair of clergymen without degrees, and a handful of courtiers and knights, though Sampson would emerge as the most active judge in the early fifteen-thirties. Hence the Court's discretion was eventually dispersed amongst a broader, more balanced judiciary, which featured more routine common-law oversight but which retained a link to the king and his household. By these means, conscience and the common law might come to complement each other.

In conclusion, while it represented no simplistic fracture between common law and equity, the investigation of Stokesley in 1523 reflects the uneasy relationship between the established common law and the much more nebulous principles and practices of 'justice'-giving in the sixteenth century. Star Chamber, Requests, and the more established court of Chancery were politically and socially significant venues for exceptional remedy in cases where the normal course of the law seemed restrictive or inaccessible to litigants. Yet over time they became touchstones for the evocation, contestation, and formulation of early-modern legal rights. Of course, all forms of law, from informal arbitration to trial before justices, and from the manor to Westminster, came down to the discretion of individual magistrates. But the Crown's discretion over the entire justice system facilitated intervention into social structures, landholding patterns, and seigneurial rights across the realm – all at the express invitation of subjects themselves.[96] Dangerous precedent might therefore be set when this virtually unchallengeable jurisdiction was channelled through an inappropriate person, cloaked in institutional authority and royal favour.

To even the least conservative common lawyer, John Stokesley probably embodied the worst possible result of the quasi-institutionalised justice of the early-Tudor period and the informal means by which its judges were selected. He was a particularly ill-qualified and arbitrary judge, with an unconstrained remit to execute an already controversial form of judicial process. Stokesley's removal from the king's inner circle after 1523 signifies his perceived mishandling of the royal jurisdiction – though he would be trusted to represent the king's conscience once again during Henry VIII's 'Great Matter', when theological expertise was at a premium. Still, John Foxe would later characterise Stokesley in the *Acts and Monuments* as a man 'counted to be of some witte and learning, but of little discretion… which caused him to be out of favour of the common people.'[97] This and other late-sixteenth-century accounts of Stokesley's personality are coloured by his controversial tenure as the conservative Bishop of London, during which time Stokesley himself alleged that the

capital's priests had plotted to 'murder and slay' him for trying to tax them on the king's behalf.[98] Stokesley seems to have been a continually divisive figure, both within and beyond his work in Requests. His isolation in that Court served to illuminate its potential flaws as well as his own.

The 1523 investigation represented an attempt to correct the swing towards arbitrariness that Requests had taken as well as to reflect on its business and process more generally. Yet the Council also sought to secure those aspects of Requests' procedure that were beneficial to the broader legal system, and which Stokesley had undermined: its speed, rigour, and perceived fairness. The limitation successfully imposed on this tribunal was personal rather than technical, then. Processes of justice beyond the normal course of the law were necessary, but they had to be dispensed with discretion of proper quantity and quality. In the late sixteenth and early seventeenth centuries, as litigation levels boomed, the common-law profession expanded, and the king's courts jostled for business, more contentious battles over jurisdictional boundaries could be waged. In its formative years, though, justice was moulded in a manner far more corrective than antagonistic. Notably, criticism landed against justice-giving individuals, but not yet against its broader ideals and developing institutions.

[1] Evoked by John Fyneux, Chief Justice of King's Bench, at the trial of the Duke of Buckingham in 1521: *The Notebook of Sir John Port*, ed. J. H. Baker, Selden Society 102 (Selden Society, 1986), p. 125; *John Spelman's Reading on Quo Warranto, delivered in Gray's Inn (Lent 1519)*, ed. J. H. Baker, Selden Society 113 (London: Selden Society, 1997), p. 76.

[2] To use the terminology for the equitable jurisdiction applied in Charles M. Gray, 'The Boundaries of Equitable Function,' *The American Journal of Legal History* 20 (1976), 192-226, at pp. 200, 221, 225.

[3] John P. Dawson, 'Coke and Ellesmere Disinterred: the attack on Chancery in 1616,' *Illinois Law Review* 36, no. 2 (1941), 127-152; R. W. Hoyle, 'Fountains of Justice: James I, Charles I and Equity,' in *Law, Lawyers and Litigants in Early Modern England: Essays in Memory of Christopher W. Brooks*, ed. Michael Lobban, Joanne Begiato and Adrian Green (Cambridge: Cambridge University Press, 2019).

[4] Gray, 'The Boundaries of Equitable Function,' pp. 192-226; John Baker, *The Reinvention of Magna Carta 1216-1616* (Cambridge: Cambridge University Press, 2017), pp. 277-84.

[5] British Library, Additional MS. 25248 fo. 54; Sir Edward Coke, *The fourth part of the Institutes of the laws of England: concerning the jurisdiction of courts* (1644), p. 97.

[6] Baker, *The Reinvention of Magna Carta 1216-1616*, p. 281.

[7] Coke, *The fourth part of the Institutes of the laws of England*, pp. 97-8; Gray, 'The Boundaries of Equitable Function,' pp. 198-9, 201.

[8] *Select Cases in the Court of Requests, A.D. 1496-1569*, ed. I. S. Leadam, Selden Society 12 (Bernard Quaritch, 1898); S. J. Gunn, *Early Tudor Government 1485-1558* (Basingstoke: Palgrave Macmillan, 1995), 84. This view of Requests' jurisdiction was challenged in M. L. Bush, 'Protector Somerset and Requests,' *The Historical Journal* 17 (1974), 451-64.

[9] G. R. Elton, *The Tudor Constitution: Documents and Commentary* (Cambridge: Cambridge University Press, 1982), pp. 187-8; J. A. Guy, 'Privy Council: Revolution or Evolution?', in *Revolution Reassessed: Revisions in the History of Tudor Government and Administration*, ed. Christopher Coleman and David Starkey (Oxford: Clarendon Press, 1986), 59-86, at pp. 68-67; D. M. Loades, *Tudor Government: Structures of Authority in the Sixteenth Century* (Oxford: Blackwell, 1997), p. 78; S. J. Gunn, *Early Tudor Government, 1485-1558* (Basingstoke: Palgrave Macmillan, 1995), p. 83. An exception is the unpublished thesis of D. A. Knox: 'The Court of Requests in the Reign of Edward VI 1547-1553' (unpublished Ph.D. thesis, Cambridge University, 1974).

[10] For example, Louis Knafla, *Kent at Law, 1602, Volume V: Courts of Equity: Requests*, List and Index Society 53 (6 vols., Surrey: List and Index Society, 2009-2016), pp. xiii-xv; John Guy, *The Court of Star Chamber and its records to the reign of Elizabeth I* (Her Majesty's Stationery Office, 1985), p. 62; Franz Metzger, 'The last phase of the medieval Chancery,' in *Law-making and Law-*

makers in British history: papers presented to the Edinburgh Legal History Conference, 1977, ed. Alan Harding (Royal Historical Society, 1980), p. 82; John P. Dawson, *A History of Lay Judges* (Cambridge, MA: Harvard University Press, 1960), p. 172. For a more specialised study see Emily Kadens, 'The Admiralty Jurisdiction of the Court of Requests,' in *Texts and Contexts in Legal History: Essays in Honour of Charles Donahue*, eds. John Witte, Sara McDougall, Anna di Robilant (Berkeley: Robbins Collection, 2016), 349-66.

[11] Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 1998); Tim Stretton, *Marital Litigation in the Court of Requests 1542-1642*, Camden Fifth Series 32 (London: Cambridge University Press, 2008); Paul Seaver, "A Social Contract? Master against Servant in the Court of Requests," *History Today* 39, no. 9 (1989), 50-56; Lamar M. Hill, "'Extreame Detriment': Failed Credit and the Narration of Indebtedness in the Jacobean Court of Requests," in *Law and Authority in Early Modern England: Essays Presented to Thomas Garden Barnes*, ed. Buchanan Sharp and Mark Charles Fissel (Newark: University of Delaware Press, 2007), 136-56; Ralph Houlbrooke, *Love and dishonour in Elizabethan England: two families and a failed marriage* (Woodbridge: Boydell & Brewer, 2018).

[12] Sir Julius Caesar, *The Ancient State, Authoritie, and Proceedings of the Court of Requests* (1597), p. i.

[13] *The Red Paper Book of Colchester*, ed. William Gurney Benham (Colchester, 'Essex County Standard' Office, 1902), p. 64.

[14] Hannes Kleineke, 'Richard III and the Origins of the Court of Requests,' *The Ricardian* 17 (2007), 22-32; *Calendar of the Patent Rolls, A.D. 1476-1485* (Her Majesty's Stationery Office, 1901), p. 413.

[15] In Nov. 1485 Henry VII recommended that Harrington retain his position as common clerk of York, and he was regularly in attendance at common council meetings in York thereafter: *The York House Books, 1461-1490*, ed. Lorraine C. Attreed (York: Sutton Publishing Limited, 1991), pp. 388-89, 394, 399, 440, 474, 491, 505, 508, 510.

[16] The earliest known records for Requests date to 23 March 1493: The National Archives of the U.K., REQ1/1 fo. 77.

[17] *The Great Chronicle of London*, eds. A.H. Thomas and I.D. Thornley (1938), p. 320. See also the common lawyer Edward Hall's complaint that the popularisation of conciliar justice in the 1510s encouraged a wave of 'untrue surmises & fayned complaintes' from 'poore people': *Hall's Chronicle: containing the history of England during the reign of Henry the Fourth, and the succeeding monarchs, to the end of the reign of Henry the Eighth* (1809), p. 584. For more on this policy see J.A. Guy, 'Wolsey, the Council and the Council Courts,' *English Historical Review* 91, no. 360 (1976).

[18] For example, T.N.A. REQ2/2/76, 2/3/122, 190, REQ2/5/84.

[19] These statutes included 2. Ed. III c. 8 (1328); 25 Ed. III, stat 5, c. 4 (1351-2); Liberty of Subject Act, 28 Ed. III c. 3 (1354); Observance of Due Process Act, 42 Ed. III c. 3 (1368).

[20] For example, T.N.A. KB27/972 m. 92, KB27/978, m. 26v, KB27/981 m. 104v, KB27/992 m. 37, KB27/1013, m. 40v, KB27/1016 m.62, KB27/1017 m. 58, KB27/1022 m. 60; see Baker, *The Reinvention of Magna Carta 1216-1616*, pp. 456-62.

[21] Parliamentary Archives of the U.K., HL/PO/PU/1/1509/1H8, no. 22. This was similar to an unanswered bill 'concernyng pryve sealis' submitted to the 1495 Parliament, which suggested that all writs require sureties for any damages that might later be owed to the recipients: *Parliament Rolls of Medieval England* xvi, eds. Chris Given-Wilson, Paul Brand, Seymour Phillips, Mark Ormrod, Geoffrey Martin, Anne Currey and Rosemary Horrox (16 vols., Woodbridge: Boydell, 2005), p. 279; P.R. Cavill, *The English Parliaments of Henry VII 1485-1504* (Oxford: Oxford University Press, 2009), p. 90.

[22] Laura Flannigan, 'Conscience and the king's household clergy in the early Tudor Court of Requests', *The Church and the Law*, Studies in Church History 56 (July 2020).

[23] Guy, 'Wolsey, the Council and the Council Courts,' 484-500.

[24] Compared to 120 in 1516-17 and 1517-18, and just nineteen in 1523-24, according to REQ1/104, REQ1/105, REQ3/22, 3/29, 3/30, and REQ1/5.

[25] One commission certificate is addressed 'To the right honorable Maister Dean of the Kynges Chapel & in his absence to Maistre Doctor Stokesley chapleyn to the kinges good grace': REQ2/7/68. See REQ2/7/128, 2/11/148; REQ3/7 Husbond v Lowere; REQ1/104 fo. 132v, 137v, 138v, 145v, 146v, 147, 147v; SP1/26 fo. 216.

[26] San Marino, Huntington Library, Ellesmere MS. 2652 fo. 4v; London, British Library, Lansdowne MS 639 fo. 56v.

[27] T.N.A. REQ 3/1 Orgor v Hovill.

[28] *Letters and Papers of Henry VIII* iii. 3275 (hereafter *LP*). Stokesley was appointed as a receiver of Gascony's petitions at the opening of Parliament in April 1523 – an honorific role, perhaps, but one that would seem to point away from that Parliament being the main forum for criticism of Stokesley after it had been called in November 1522: *LP* iii. 2956.

[29] Hall, *Hall's Chronicle*, p. 585.

[30] Andrew A. Chibi, *Henry VIII's Conservative Scholar: Bishop John Stokesley and the Divorce, Royal Supremacy and Doctrinal Reform* (Bern: Peter Lang, 1997).

[31] John Baker, *The Oxford History of the Laws of England VI: 1483-1558* (6 vols., Oxford: Oxford University Press, 2003-2012), p. 205; John Guy, *The Cardinal's Court: The Impact of Thomas Wolsey in Star Chamber* (Hassocks: Harvester Press, 1997), pp. 44-5.

[32] Baker, *The Reinvention of Magna Carta 1216-1616*, pp. 97-8.

[33] Bush, 'Protector Somerset and Requests'; R. W. Hoyle, 'The Masters of Requests and the Small Change of Jacobean Patronage,' *English Historical Review* 126 (2011), 544-81; L. M. Hill, *The Ancient State, Authoritie, and Proceedings of the Court of Requests by Sir Julius Caesar* (Cambridge: Cambridge University Press, 1975).

[34] *A Register of the Members of St. Mary Magdalen College, Oxford, from the foundation of the college, Volume I*, ed. William Dunn Macray (8 vols., Oxford University Press, 1894), pp. 47-51.

[35] *Letters of Richard Fox, 1486-1527*, ed. P.S. and H.M. Allen (Oxford: Clarendon Press, 1929), p. 161.

[36] *Collected Works of Erasmus* (89 vols., Toronto: University of Toronto Press, 1974-2019) vi., p. 63, viii, p. 261.

[37] *Letters of Richard Fox, 1486-1527*, pp. 120, 163.

[38] *LP* iii. 577, 704, 906; *Collected Works of Erasmus* viii, pp. 9-10. For more on the royal almoner see R. A. Houston, 'What did the Royal Almoner do in Britain and Ireland, c. 1450-1700?', *English Historical Review* 125 (2010), 279-313.

[39] *LP* iii. 1870. There is no evidence that he was present for Council hearings amongst the extracts taken from the now-lost Council registers, however: San Marino, Huntington Library Ellesmere MSS. 2654, 2655.

[40] Including two pieces of non-Requests business that he conducted as a councillor: *LP* iii. 1870, 2214.

[41] Alnwick Castle, Duke of Northumberland MS. 475 fo. 95-95v.

[42] Notes from an examination that he presided over on 12 August described him as 'Johnis Stokesley doctoris theologia p[rae]sidentis Curiae domini n[ost]ri Regis': REQ2/11/148. The title of 'president' of the Council had been applied to Thomas Savage, Bishop of London, when he oversaw Requests business in the late 1490s: REQ1/1 fo. 45v, REQ1/2 fo. 79, REQ2/11/197.

[43] In REQ 2/1-13 and in REQ 3.

[44] REQ3/6 Wilson v Slade, Newman and Clanford, REQ3/10 Pante v Knighte, REQ3/22 Doughton v Kenterton.

[45] For example, REQ2/4/28, 320, 362, 2/6/217, 2/7/98, 130, 148, 2/9/54, 2/10/63, 2/12/65, 79, 80, 88; REQ3/5 Taverner v Etwell, REQ3/6 Wilson v Slade et. al., Martyn v Tunsted, REQ3/10 Pante v Knight.

[46] T.N.A. REQ2/1/1, 2/4/167, 192, 2/7/51, 2/9/75, 2/13/111, REQ3/5 Palmer v Clif, REQ3/6 Palmer v Clif.

[47] As in REQ2/3/44, 2/7/76 (where the testimony of a witness is taken 'coram Mr Joannes Stokisley'), 2/11/148; REQ3/1 Orgor v Hovill; REQ1/104 fos. 135v, 137v, 143v, 146v; REQ1/105 fo. 225v; REQ1/5 fo. 11v; see also KB27/1048 m. 75.

[48] See Mike Macnair, 'Equity and Conscience', *Oxford Journal of Legal Studies* 27, no. 4 (2007).

[49] Gwilym Dodd, 'Reason, Conscience and Equity: Bishops as the King's Judges in Later Medieval England,' *History* 99, (2014), 213-40; Dawson, *A History of Lay Judges*, pp. 146-51.

[50] REQ3/6 Butler v Fuller.

[51] REQ1/104 fos. 145v, 147, 147v.

[52] *The Reports of Sir John Spelman*, ed. J.H. Baker, Selden Society 94 (2 vols., Selden Society, 1978), II, pp. 394-5.

[53] *The Men of Court 1440 to 1550: a prosopography of the Inns of Court and Chancery and the Courts of Law*, ed. John Baker, Selden Society Supplementary Series 18 (Selden Society, 2012), pp. 369-70, 607-8, 640-41, 679-80, 1120-21, 1704.

[54] REQ1/3 fos. 54, 88v, 128, 272v, 299v.

[55] *The Notebook of Sir John Port*, ed. Baker, pp. 13-14.

[56] Baker, *Oxford History of the Laws of England, Volume VI: 1483-1558*, p. 633.

[57] KB27/978 m. 26v; KB27/997 m. 75; KB27/992 m. 37; KB27/1022 m. 60.

[58] Baker, *Oxford History of the Laws of England, Volume VI*, pp. 46, 633-35, 645-48, 651, 655, 665.

[59] E.W. Ives, *The Common Lawyers of Pre-Reformation England: Thomas Kebell, A Case Study* (Cambridge: Cambridge University Press, 1983), p. 198; Gray, 'The Boundaries of Equitable Jurisdiction,' pp. 207-216, 217-18.

[60] REQ1/5 fo. 11v.

[61] In fact, the 1225 version of Magna Carta made no reference to specific process. These ideas were appropriated from the statutes 2 Ed. III c. 8 and 42 Ed. III c. 3 instead: Baker, *The Reinvention of Magna Carta*, 98.

[62] REQ3/6 Butler v Fuller consists of two drafts of a memorandum dated to 12 November 1521; KB27/1048 m. 75.

[63] Christopher St German, *Doctor and Student*, ed. T.F.T. Plucknett and J.L. Barton, Selden Society 91 (Selden Society, 1974). Chancellor Stillington had argued in 1468 that Chancery heard breaches of faith because 'God is the guardian of fools': Year Books, Pasch. 8 Edw. IV. 11, 4b.

[64] An idea expressed by Justice Guy Fairfax in King's Bench in 1493: *Reports of Cases by John Caryll, Part 1: 1485-1499*, ed. J.H. Baker, Selden Society 115 (2 vols., Selden Society, 1998), p. 128.

[65] Metzger, 'The last phase of the medieval Chancery,' pp. 84-85. Guy, *The Cardinal's Court*, pp. 16, 52-3

[66] Metzger, 'The last phase of the medieval Chancery,' pp. 84-85. Stanford E. Lehmberg, 'Star Chamber: 1485-1509,' *Huntington Library Quarterly* 24 (1961), 189-214, at p. 202; Guy, *The Cardinal's Court*, p. 53.

[67] REQ2/3/4.

[68] Three cases were brought against proceedings under Geoffrey Symeon as Dean: KB 27/972 m.92, KB 27/978 m.28v, KB 27/981 m.104v., KB 27/997 m.75; two against William Atwater as Dean: KB 27/992, m. 37, CP 40/991 m.529; one against John Veisy: KB 27/1022 m.60.

[69] Guy, *The Cardinal's Court,* p. 45; Baker, *Oxford History of Laws of England, Volume VI: 1483-1558*, p. 205.

[70] Edmund Dudley, *The Tree of Commonwealth*, ed. D.M. Brodie (Cambridge: Cambridge University Press, 1948), p. 34; Stephen Baron, *De regimine principum (1509)*, ed. P.J. Mroczkowski (New York: Peter Lang Publishing, 1990), p. 79.

[71] 'A Replication of a Serjeant at the Laws of England,' in *Christopher St German on Chancery and Statute*, ed. John Guy, Selden Society Supplementary Series 6 (Selden Society, 1985), p. 101.

[72] REQ2/4/160, 2/11/148.

[73] T.N.A. SP1/26 fo. 216 (*LP* iii. 2727). Protector Somerset also wrote to defendants in relation to Requests cases (albeit as an external minister, not as a judge in the Court): Bush, 'Protector Somerset and Requests,' pp. 451-53, 463-64.

[74] REQ1/104 fos. 132v, 145v, 147, 147v; Warwicks Inn was probably that residence once owned (and possibly built) by Richard Neville, the Earl of Warwick, on Warwick Lane in Farringdon ward, London: John Stow, *A survay of London* (1598), p. 278.

[75] KB27/1048 m. 75.

[76] Evident by comparing the entries in REQ1/4 to those dating to between March 1521 and July 1522 in REQ1/104, REQ1/105.

[77] REQ3/1 Orgor v Hovill; REQ3/22 Foster v Treherne.

[78] Each entry reads 'Det[erminata] est causa inter partes predicta per Magistrum Stokesley': REQ 1/104 fos. 135v, 137v, 138v, 143v, 146v.

[79] SP1/25 fo. 212 (*LP* iii. 2727).

[80] As mentioned in the bill of costs he submitted to Requests, along with several petitions: REQ2/3/244.

[81] REQ3/1 Orgor v Hovill; REQ3/22 Foster v Treherne.

[82] REQ3/22 Foster v Treherne.

[83] *The Reports of Sir John Spelman*, ed. Baker, II, 198.

[84] Christopher St German, *Doctor and Student,* 89.

[85] Guy has suggested that the 'Replication' was written by St German: *Christopher St German on Chancery and Statute*, 64; but others have suggested that St German faced a 'real adversary': D. E. C. Yale, 'St German's Little Treatise Concerning Writs of Subpoena', *Irish Jurist* 10 (1975), 327; Baker, *Oxford History of the Laws of England VI*, p. 43 n. 225.

[86] 'A Replication of a Serjeant at Laws of England,' 101.

[87] John Skelton, 'Why Come Ye Not to Court?' in *The Complete Poems of John Skelton, Laureate*, ed. Philip Henderson (J.M. Dent, 1931), pp. 344, 348, 350-51.

[88] SP1/16 fo. 16v (*LP* ii. App., 38).

[89] *LP* iv. 5749, 5750, 6075.

[90] SP1/54 fo. 211v (*LP* vi. 5749. 3. ii).

[91] Baker, *The Reinvention of Magna Carta 1216-1616*, pp. 97-8.

[92] There were 200 recorded cases in 1522-23, but just 19 in 1523-24 and 2 in 1524-25, according to REQ1/105, book fragments in REQ3/22, 29, and 30, and REQ1/5.

[93] REQ 3/1 Orgor v Hovill.

[94] An undated grant of £150 and a 'judgys roome' was held by Englefield and amended to £200 for Sulyard according to Thomas Cromwell's later memoranda: SP1/126 fo. 173. An annuity of £100 was later granted successively to Nicholas Hare, Robert Southwell, and Robert Dacres: *LP* xii. II., 1008 (38), xv., 436 (56), xvi. 1135 (8).

[95] REQ1/5 fo. 43v.

[96] For more on the reciprocal power dynamic fostered through petitioning in the context of Parliament, see Gwilym Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages* (Oxford: Oxford University Press, 2007), pp. 318-23.

[97] John Foxe, *Actes and Monuments of matters most special and memorable* (1583), 1076.

[98] STAC2/2, fos. 171-73 (now STAC2/2/70). I am grateful to Dr Daniel Gosling, Early Modern Legal Records Specialist at The National Archives, for providing this reference. A copy of the petition is also filed at SP1/67 fo. 9. Both Edward Hall and John Foxe recounted that Stokesley deceived the priests by exaggerating their rioting at St Paul's Cathedral in a formal complaint to his old friend, Lord Chancellor Thomas More, resulting in the arrest of several priests and laymen: *Hall's Chronicle*, 783-84; *Actes and Monuments*, 1076. For analysis, see Seymour Baker House, 'Sir Thomas More and holy orders: More's views of the English clergy, both secular and regular' (Ph.D. thesis, University of St Andrews, 1987), 171-74.