

Cambridge University Press

978-0-521-08556-4 - The Ancient State Authoritie, and Processings of the Court of Requests by Sir Julius Caesar

Edited by L. M. Hill

Excerpt

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The Ancient State
Authoritie and Proceedings of
the Court of Requests

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1

THE EPISTLE DEDICATORY FROM
CAESAR TO LORD BURGHLEY

[fo. 25r]

Myne humble dutie done to your Lordship. About vii yeares since, shortlie after I was made Maister of Requests, I found a great contention on foote betwene the Judges of the Comon Pleas and the Masters of Requests then being, touching the jurisdiction of her Majesties court at Whitehall; whereby would have growne manie bitter inconveiences to to [*sic*] her Majesties poore subjects, if the Masters of Requests had not quenched the same in tyme, by their owne suffering, yet necessary patience and forbearance. To meet with these mischeiffs, I held it a necessary worke, and a labor worthie of some thanks, to gather into one volume, the principall records of that court from the begining of the Registrie, nowe dispersed in xvii great volumes in folio, and to make them knowne, that in this Court (as in the Chancery, Kings Benche, Comon Pleas and Exchecquer) acts past [fo. 25v] might be precedents of things to come. In the perusall and gathering whereof I have observed: First, the severall names names [*sic*] wherewith that Court hath bene termed; Secondly, what the Judges have bene whoe have satt in that Court; Thirdly, in what places that Court hath bene kept; Fowerthly, what forme of proceeding that Court hath observed; Fiftly, whoe the persons were which have bene plaintiffs and defendants in that Court; Sixtly, what causes said Court hath embraced and decreed. And lastly howe the said Court hath bene accustomed to execute her orders and decrees, with manie other things worthy of note not unproperly to be referred to some of the seaven heads.

Wherein as myne intent was, first to satisfie myne owne conscience and to understand what apertained to the place wherein I sitt as a judge, thereby onely intending the glorie of God, [fo. 26r] the good of my contrie, and the dischardge of a good conscience and not anie private vaine glorie or affected singularity, so I have desired that some others (no doubt as well affected as my self) might veiwe my labors, that uppon this ground, they might frame some

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further building not unworthie the perusall. And to that purpose, finding it overchargeable to write manie copies, I caused: First, a brieffe table of my collections themselves to be imprinted, not to the end to make them common but of purpose to deliver some of them to suche, either Counsellors of Estate or Counsellors at Lawe, or such students of antiquities and of histories, as from whose wisdomes and good observacions either in lawe, or storie, or antiquities there might be drawne suche admendment of things amisse or addition of things wanting or justification of things misconstrued, or explaining of things obscured [fo. 26v] or reducing into course, things wrested out of course as might breed hereafter a continewall peace betwene the Judges of the Common Lawe and her Majesties Counsell and might without offence of the subjects, establishe her Highnes prerogative for ever. To the mainetenance wherof every one sworne of her Majesties counsell is directly tyed by his oathe. And for that your Lordship hath the most justly deserved the most honorable and highe tytyle of *Pater patriae* and have for manie yeres (especially these xvii yeres of my knowledge since I came to be judge) bene the Father of Englishe Justice and my good lord and onely maister, whome ever I served, and from whome (next to her most excellent Majestie) I acknowledge my self to have resived that poore advancement in this common wealth which I nowe enjoye, I have [fo. 27r] made choice of your good Lordship to be the disposer of these my labors that either under your allowance, after your perusall of them, they maie receive some comfort of further proceeding, or else upon your mislyke, they maie be committed to the fire, as things unprofitable for the common good.

But if your Lordship, being continewally employed in the great affaires of this state, shall finde no leisure to read over matters of this nature then it maie please your Lordship that Master William Lamberd, whoe is a gentleman of great learning and sincerity, or some other one or more of like sufficiency might be intreated to peruse such collections as I have gathered, bothe of precedents of the said court and of expresse Acts of Parliament, auneynt records, histories, and Common Lawe touching this cause. And thereupon to make report of so muche as he or they shall finde proved, that her Majesties Court of Whitehall maie enjoye suche [fo. 24v] authoritie as to the same of right belongeth.

And so humbly craving pardon for this my tedious letter and the

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continewance alsoe of your Lordships most honorable favor towards me I beseech the Almighty to vouchsafe your Lordship a long life, encreas of honor and of healthe, and a full accomplishment of all your godly desires.

St. Catherins, this xvi th of January, 1598.

Your good Lordships most bounden,

*Jul. Caesar

Copie

To the right honorable my singular good Lord, the Lord Burghley,
Lord Highe Tresorer of England.

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THE COURT'S AUTHORITY AS
DEMONSTRATED IN THE RECORDS OF
THE COURT OF REQUESTS

[fo. 9r] The Ancient state,
 authoritie, and proceedings of the
 Court *of Whitehall or* of Requests

2 October 1596

The Court *of whitehall or* Requests now so called, was, and is parcell of the Kings most honourable Councill, and so always called, and esteemed.

29 April and 1 July, 17.H.7; 27 May, 21.H.7; and 18 September, 6.H.8; [28 November, 12.H.8; 18 July, 14.H.8]; 30 November, 27.H.8; 6 November, 30.H.8; [21 April, 31.H.8]; 3 July, 32.H.8; 8 July, the same; 14 March, 33.H.8; 15 November, 35.H.8; [11 November 36.H.8]; 1 February, 37.H.8; 1 June, 38.H.8; 29 July, the same; 25 September, the same; and 5 July, 6.Edw.6; 1 February, 7.Edw.6; 8 May, the same; and 7 May, 1 Mary; 25 October, 1&2.P&M; 21 November, the same; [28 November]¹ 2&3.P&M; 12 June, [the same; 19 June, 3&4.P&M and 29 June, the same; and 12 February, 19.H.7]

[fo. 9v]

The Judges of that Court were alwaies of the Kings most honorable Councill appointed by the King to keepe his Councill² [board]

¹ There is no corresponding entry in the text.

² These are generally lists of names of the various judges and other councillors who sat in the Court particularly in the early part of the sixteenth century when the Court was more clearly associated with Council. The numbers of councillors became much smaller as Henry VIII's reign progressed. Caesar's notations were eventually reduced to two or three of the Council who took order and such-like.

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12 February, 9.H.7; 21 March, 12.H.7; 28 May, 13.H.7; 29 June, 14.H.7; 11 March, 15.H.7; 9 March, 17.H.7; 22 November, 21.H.7 and 28 January, 20.H.8; [10 July, 24.H.8; and] 23 May, 25.H.8; 24 November, 26.H.8; 23 January, 29.H.8; 28 June, 33.H.8; 6 November, the same; 10 February, the same; and 27 November, 1.E.6; 29 January, 6.E.6; [12 June,¹ 7.Edw.6; and 19 November,¹ 1 Mary; 26 January, the same; 1 June the same; 20 January]¹ 1&2.P&M; 6 May, [the same; 24 November, 2&3.P&M]; 25 November, 3&4.P&M; 3 November, 4&5.P&M.

[fo. 183v]

*4.H.4, cap. 23. That neither by the king himself, [the] nor the kings counsell nor the Parliament any judgement given in the kings court shalbee reversed but by attainr or errour.

[fo. 186r]

*34.H.8, cap. 4, the kings most Honorable Privy Council

*Abridgement of Statutes, *titulum* champertie, sect. 3. Gilbert Rowbery, Clerk of the Kings Counsell, 20&21.E.1.

*13.Ric.3, cap. 2, in a question betwene two jurisdictions, the kings Counsell the judge.

[fo. 9v]

The keeping of this Court was never heretofore tied to any place certeine; but onely where the Councell sate, the suitors were to attend: But [now of late] *a. in 11.H.7.* for the ease of suitors, it [hath bene]*b. began to bee* kept in the White-hall in Westminster, [and onely] in the terme time. [viz.]* and so hath continued ever since, saving onely at such times as the common lawe terme hath bene kept elsewhere, and then this Court hath followed the same course,² *videt* at Hartford, 3 February, 6.Eliz. and 6 November, 24.Eliz. and at St Albans 15 November, 35.H.8.

At Sheene: 3 March, 9.H.7

At Canterbury: 12 April, the same

At Windsor: 20 July, the same

At Langley: 6 September, 10.H.7

At Woodstock: 7 October, the same

At Worcester: 9 July, the same

At Nottingham: 24 August, 11.H.7

At Leicester: 29 August, the same, etc.

¹ There are 'Masters of Requests' mentioned in these entries rather than members of the Council.

² These locations have only one date following them but there were in fact several meetings at each location on many days.

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The Court of Requests is a Court of Record. 5 July, 3&4.P&M.¹ Recognizances taken by the Kings Councill (in his Court of *c. Whitehall or* Requestes) at Westminster.

13 June and 18 June, 13.H.8; 15 October, the same; 26 April, 21.H.8, 11 June, the same; 8 July, 25.H.8.

[fo. 12r]

The forme of the proceeding in this Court was altogether according to the processe of summary causes in the Civill Law.

5 February, 13.H.7; [14 November];² 14.H.7; 3 December, [the same]; 20 March, the same; [18 March, 15.H.7];³ 17 December, 10.H.8; and 18 November, 22.H.8; 18 November, 31.H.8; and 21 May, 3&4.P&M; and 5 June, 1 Elizabeth.

The persons plaintiffs, and defendants, betweene whom they judged, were alwayes either privileged as officers of the Court, or their servants, or as the Kings servants, or necessarie attendants on them; or els where the Plaintifs povertie, or mean estate was not matchable with the wealth, or greatnes of the Defendant; or where the cause meerely contained matter of equity, and had no proper remedy at the Common Law: or where the cause was specially recommended from the King, to the examination of his Councill: or causes concerning Universities, Colledges, Schooles, Hospitalles, and the like. As

18 November, 11.H.7; 27 November, the same; 11 December, the same; 26 November, 14.H.7; 1 May, the same; 6 July, 17.H.7; 13 March, 18.H.7; 31 July, the same; 28 May, 21.H.7; 14 February, 23.H.7 and 27 October, 3.H.8; 13 July, 11.H.8; 4 February, 12.H.8; 21 February, the same; 6 June, 13.H.8; 18 October, 22.H.8; 4 July, 24.H.8; 17 November, 25.H.8; 6 June, 29.H.8; 2 and 4 November, 30.H.8; 6 February, 31.H.8; 8 June, 32.H.8; 12 February, the same; 17 October. 38.H.8; 20 November, the same; 26 November, the same; and 4 February, 1.E.6; and 6 February, the same; 22 May, the same; 28 June, the same; 5 July, the same;⁴ 18 October, the same; 30 January, 2.E.6; 9 February, the same; 9 June, the same; 26 November, 4.E.6; and

¹ This entry states simply that there was 'a complaint remaining of records in [the] Court'.

² There is no apparent reason for Caesar's having stricken this entry. These cases reveal the use of the summary process as much as do the cases which remain.

³ This entry notes that the Council was held in Baynard Castle.

⁴ This should read 5 July, 1.E.6.

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24 January and 24 April, 5.E.6; 26 May, 6.E.6; 26 April, 1 Mary; 28 May, the same; *7 May, 1 Mary; 1 May, 2&3.P&M; 24 October, 3&4.P&M;¹ [5 May, the same]; 10 February, 4&5.P&M;² 9 May, the same; 24 June, the same;³ *19 May, 3.Eliz.

[fo. 11r]

The causes wherewith they deale, and whereof they judge, are of all sorts: as Maritime, Ecclesiasticall, Temporall, but properly of Temporall causes, and onely of the other sort as they are mixt with Temporall. *But it is to bee understood that causes ecclesiasticall, maritime and ultramarine and causes triable by the common lawe are not to bee determined in this Court, unles there bee some matter of equitie in them not remediable in their proper Courts, *videt*, to remidie fraudes, breach of trust, extremity of common lawe, or undue practises.*

Ecclesiasticall.

2 March, 17.H.7; 15 July, 20.H.7; and 25 November, 8.H.8; 12 February, 21.H.8; 25 May, 33.H.8; 25 November, 34.H.8; 20 November and 21 February, 35.H.8; [[and 22 June]];⁴ 2.E.6; 28 November, [the same; 20 May, 3.E.6;⁵ 28 November, the same];⁶ 23 November, 5.E.6; 22 June, 7.E.6; and 7 May, 1 Mary; 18 November, 4&5.P&M; *and 1 May, 25.Eliz.; and 8 February, 6.E.6.⁷

Maritime.

3 March, 9.H.7; 24 March, 10.H.7; 21 April, the same; 25 April, the same; and 30 March, 11.H.7, *27 E.3, c. 13; and 2.Rich.3, fol. 2.*

Ultramarine.

21 May, 15.H.7; 13 July, 17.H.7; and 16 February, 10.H.8;

¹ This cause was dismissed out of the Court of Requests and sent to the common law as title to an annuity was properly determined at common law.

² This cause was sent to the manor court for trial because plaintiff alleged no partiality in the Lady of the manor or in her steward.

³ This cause dismissed because the parties were rich and could appear in the City court or elsewhere.

⁴ There is no clear reason for Caesar having stricken this entry. Many of his prior citations have been to marital and testamentary causes heard in the Court of Requests. This cause was sent to 'the Kings Delegates' on appeal of a testamentary cause from the Prerogative Court. The council would not hear the cause any further until the appeal was settled.

⁵ A cause of tithes remitted to ecclesiastical judges because the appropriate statute required that it be tried by those judges.

⁶ A legacy decreed.

⁷ 6.E.6 may be 7.E.6 but the cause was for an annuity.

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stet¹ [[and 27 February, the same; and]] 4 November, 6.E.6; 25 October, 3&4.P&M; *and 16 November, 37.H.8.²

Temporall: as temporall offices, etc.*

25 February, 14.H.7; and 22 October, 31.H.8; 4 July,³ 38.H.8; and 4 June, 3.E.6; 30 April, 5.E.6; 19 February, 7.E.6; *13.Rich.2, cap. 2; and 11 May, 5.E.6; and 20 October, 1&2.P&M;⁴ and 5 July, the same.*

[fo. 15r]

Temporall: as matters of title, and possessions of lands.

17 February, 11.H.7; [[15 February]]⁵ 12.H.7; 17 February, [the same]; 30 November, 14.H.7, 2 May, the same; and 9 May, the same; and 17 August, the same; [[and]] *9* November, 18.H.7; 15 November, 19.H.7; and 16 December, 2.H.8; 15 May, 7.H.8; 1 July, 8.H.8; 27 May, 9.H.8; 9 November, 15.H.8; 6 July, 31.H.8; *37.E.3, cap. 18.*

Matters of title onely.

28 November, 3.H.8; 10 and 13 November, 8.H.8; [[23 May, 11.H.8]];⁶ 13 November, 13.H.8; 9 December, 17.H.8; [[18 May, 26.H.8]];⁷ 2 June, 30.H.8; 15 May and 16 November, 37.H.8; 14 July, 38.H.8;⁸ [[and 28 October, 4.E.6];⁹ *7* July, 6.E.6]]; 10 May, 7.E.6;¹⁰ **Assisarum librarum* 20, *assisa*. 14, and 20.E.3, Fitzherbert, *tit.* verdict, 32.*

Matters of possession onely.

18 October, 11.H.8;¹¹ 5 February, the same; 15 February, 12.H.8; 8 November, 13.H.8; 25 May, 28.H.8; 25 October, 31.H.8; 22 December, 37.H.8; and 20 April, 2.E.6; 18 May, 4.E.6; 31 May, 2.Eliz.

Matters of annuities, estents, debt with specialities and without [[deteining of evidences, rent, assurance of lands, etc.]]

¹ In those cases where Caesar has reconsidered a notation he has entered the notation *stet* in the margin. I have placed the notation before the deletion which should be read as an integral part of the text.

² There is no corresponding entry in the text. ³ 4 July should read 4 June.

⁴ There is no corresponding entry in the text.

⁵ This entry concerns itself with title and possession but it is also concerned with enclosures.

⁶ Caesar has noted in the margin of the text that this cause was in fact for a lease.

⁷ This cause was for title to a messuage. There seems to be no reason for this deletion.

⁸ This cause was not for title but for the value of the land.

⁹ 28 October should read 24 October. No apparent reason for its deletion.

¹⁰ The cause concerns titles to certain tenements.

¹¹ There is no corresponding entry in the text.

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[[24 October, 13.H.8];¹ *3 March, 12.H.7; 14 November, 15.H.7;² and 3 June, the same*; 18 May, 22.H.8; 30 November, 27.H.8; 29 May, 33.H.8; 6 May, 34.H.8; 30 April, 37.H.8; and 8 July, 3.E.6; 30 May, 6.E.6; 8 February, 7.E.6; 13 May, 2.Eliz.; *21 June, 16.H.7.*

[fo. 15v]

Matters of contracts, villainage, water courses, and covenants, and high wayes. 10 February, 8.H.8; 24 November, 10.H.8; [[13 February, 11.H.8];³ 6 November, 26.H.8; 25 June, 36.H.8; 25 November, the same; 27 November, 37.H.8; *stet* [[6 June,⁴ 38.H.8 and]]; 31 January, 2.E.6; 11 February, 4.E.6. *17.R.2, cap. 6. and 13.E.4, fol. 9.*

Matters of dower, joynture; [[and contracts for marriages.]]

[[15 March, 11.H.7;⁵ 14 November],⁶ 14.H.7; 24 February, [[the same]]; 16 February, 24.H.8 *and 26 November, 4.Eliz.*

Matters of wilfull escape.

23 May, 4&5.P&M; 20 October, 5&6.P&M.

Forfeitures to the King by recognizance, or otherwise. 9 November, 11.H.7; 5 March, 13.H.7; 26 February, 19.H.7; 14 October, 22.H.7; and 4 *June* 38.H.8; and 4 February, 2.E.6; and 12 May, the same;⁷ *Fitzherbert *Natura Brevium*, 233 A, in brief *de ideota inquirendo* and 46.E.3, forfeiture, 18 Fitzherbert *abridgement*.*

Riots, and routs, forgerie, and perjurie.

9 February, 13.H.7; 23 February, 14.H.7;⁸ 16 November, 16.H.7; 6 December, 18.H.7; and 15 May, 14.H.8; 10 November, 33.H.8; *32.H.8, cap. 9 in the abridgement of statute title maintenance, membrane 7, Whitehall there called one of the Kings Courts, likewise 5.Eliz. c. 9.*

Causes tried heere, whereas the defendant dwelt in the Marches of Wales, or in the North.

[[27 April]* 1May *2&3.P&M; [[and] *9* November, 3&4.P&M.

¹ A matter of enforcing the payment of rent. Caesar struck out this category.

² 14 November should read 24 November.

³ A cause for delapidations. See fo. 13r *infra*, 'causes of delapidations'.

⁴ A cause to recover goods and chattels seized by the Lord of the manor.

⁵ A cause which was returned to common law as it was first raised there, concerning 'certain title and right of dowry'.

⁶ A cause concerning joynture but the issue turned on disseisin from the joynture.

⁷ This cause concerns the restitution of goods improperly seized.

⁸ There is an action for riot on 6 February of this year.