Introduction

Justice was central to conceptions of good governance in Tudor England. Yet it was difficult to put into practice without attracting scrutiny about the proper remit of a government over its subjects. This book demonstrates how and why, despite the potential for controversy, the first two Tudor monarchs started to dispense justice more regularly from their own hands. A determined expansion of powerful conciliar and equitable courts in the early sixteenth century has been identified in the ascent of provincial councils, where disruptive subjects were kept in check, and in the delineation of the Court of Star Chamber, where ministerial careers were made. This book seeks to understand why so many people readily accepted and even invited the judicial intervention of courts like these into their lives. Its analytical focus is the lesser-studied but furthest reaching of the new royal tribunals of this age, known as the Court of Requests. From the 1480s onwards, this small and fluid court provided a channel for ordinary people from across the realm to petition their king for aid in resolving disputes between neighbours, friends, and kin. Yet it is the social depth of Requests’ activities that has caused it to be overlooked by historians of this once heavily studied period.

Most importantly, Requests was reputed contemporarily to be the ‘poor man’s court’. Theoretically, then, it excluded the great men of the realm with whom scholars of governmental reform and court politics have traditionally been preoccupied. In fact, among its abundant paperwork we find everyone from ‘paupers’ and ‘the porist prior of Englond’ to Henry VIII himself, the ink of his signature smudged as his sleeve moved across the page. It therefore mobilised perhaps the largest social range of any lawcourt in the enterprise of justice-seeking and justice-making – and of defining one of the key tenets of the commonwealth. Moreover, its casefiles may tell us little about the machinations of monarchs and ministers in matters of state, but they do record some of the Crown’s more quotidian business: its involvement in run-of-the-mill disagreements in far-flung
parts of the realm about relatively small amounts of land, money, and property. These matters had little direct relevance to the king’s estates or interests and nor, it has been supposed, to our narratives of the early Tudor regime’s grasp for legitimacy and power. Yet they were life-and-death to the people who suffered the great costs of litigation to seek royal aid. Taking up their perspective reveals common experiences of dearth, plague, poverty, war, and religious transformation under the auspices of a new governing dynasty; a real belief that the king could and would step in to relieve his subjects of their troubles; and how far faith in the fount of royal justice might pay off. In the analysis that follows, this Court’s supposed ordinariness proves a virtue, expanding our vision of who shaped the very principles and practices of government, and to what end. This has obvious implications for our conceptualisation of a period that is still associated principally with the lens of high politics and central government, and which has remained peculiarly sealed off from the advent of sociopolitical history besides studies of the reception of certain policies and rebellions against them.

The new tribunals of royal justice represented a responsive, sensitive, and possibly quite popular means of governing the realm. At the same time, offering fair and impartial justice on a regular basis arguably legitimised the monarchical regimes of early modern England in the eyes of their subjects. And yet this book checks the temptation to trace a simple and untroubled evolution in this sphere into early modernity, on two grounds. Firstly, no obvious moment of modernisation presents itself here. Contrary to any lingering perception of early modern novelty, the judicial institutions formulated in the early Tudor period prove to have been less an innovation of hands-on monarchs or efficiency-minded bureaucrats than a late-medieval principle of rule simply given fresh life through further routinisation. Requests received no definitive moment of foundation: no statute, proclamation, or commission established it as a fully fledged court. Instead, it gradually formalised in response to demand for better judicial procedures from subjects themselves. Such was its apparent social utility that one eighteenth-century lawyer memorialised this royal court as having ‘descended from above, to still the passions’, checking mischiefs and ending contests with little cost to litigants.1 Secondly, and just as importantly, improved access to the king’s grace and mercy was not always warmly received. Curiously, the 150-year history of Requests is bookended

1 William Hutton, Courts of requests: their nature, utility, and powers described, with a variety of cases, determined in that of Birmingham (Birmingham, 1787), 17–18.
Introduction

by attempts to remove it from the political and legal landscape. Its debut in the historical record is in reference to a bill at the 1485 parliament calling for the annulment of the ‘C[ow]rt of Requests’; and one of its last is in another parliamentary bill calling for its ‘suppressing and abolishing’ in 1641. Encapsulated in this tribunal’s history is the rise and fall of a royal justice system that put long-standing principles of governance into practice and brought sovereign and subjects together in the process.

It is to the conditions shaping the rise of royal justice that this book primarily attends. Focusing for this purpose on the early Tudor period represents a significant point of departure from existing scholarship. Histories of society, law, and politics have drawn almost entirely from the material surviving from the Tudor royal courts – from Star Chamber and from Chancery, predominantly – at their peak, in the later reign of Elizabeth I. By that time, these institutions had become more differentiated and had evolved into fully fledged equity tribunals. Litigation was at an all-time high, and so the petitions and depositions surviving to us are plentiful. Yet often left unexamined is how seeking civil justice from the state at this time or any other actually unfolded; what sorts of structures, personnel, and procedures litigants encountered after petitioning; and what an accumulation of litigation towards central institutions meant for the function, reputation, and authority of those institutions in turn. In fact, the rationale behind the early modern tribunals for royal justice is most apparent not at their height but in their formative years. For that, we must look further back in time, to the political crucible of the late fifteenth and early sixteenth centuries. There, despite dynastic vulnerability, the meticulous Henry VII and the self-absorbed Henry VIII presided over a whole host of major political and social transformations. Their regimes centralised governmental processes, revised the relationship between monarchy and the landed nobility, established a more professional and bureaucratic system around the Crown, introduced a host of new laws and punishments, and installed a royal supremacy over Church and state. Judicial expansion was just one part of their governmental agenda, but one that has received noticeably less articulation and contextualisation than others.

Scepticism justifiably remains about the precise scope and speed of any so-called ‘revolution in government’ encompassing these changes, as set out by Geoffrey Elton nearly seventy-five years ago. Elton’s characterisation of a shift in the 1530s from medieval household government, entirely

---

5 W. Gurney Benham ed., The Red Paper Book of Colchester (Colchester, 1902), 64; JHC II, 184.
4 Introduction

determined by the personal whim of the king and flexible to a fault, to a bureaucracy centred around permanent ‘out-of-court’ offices and professionalised departments receives particular scrutiny in the analysis that follows here. Yet this book joins other recent contributions to the field of Tudor government in maintaining that the early sixteenth century did mark an advancement in the ‘pretensions of the state’, with the creation of centralised archives and a nation-wide ‘information revolution’ just one element given recent attention. Indeed, after decades of debate about the exact terms of the developments of this time having lain largely dormant, we are presently witnessing renewed engagement with the archives of early Tudor government. For example, one recent project has published and analysed the chamber account books of Henry VII and Henry VIII with an eye for the insights they can provide about how kingship worked on a daily basis. Here the traditional sources of financial administration are examined with fresh eyes, and with emphasis once again on the personality of the ruler, the rhythms of the court, and the networks around the Crown.

This rekindling of interest and refreshing of the agenda does not diminish the ‘liminality’ once ascribed to the years around the turn of the sixteenth century. The precise paths of this debate over periodisation are worn enough that they hardly require rehashing in detail here; in short, the organisation of university courses and subject groups either side of a dividing line around the year 1500 (though sometimes 1485 or 1529, depending on which aspect of English history is emphasised) means that anyone taking this as their centre-point finds themselves drawn into the intellectual currents of both late-medieval and early modern studies. In particular, scholars of the early Tudor period remain subject to a clash between different interpretive frameworks for characterising political society, its bounds, and its relative importance in governing the realm. At odds in this divide – once represented by K. B. McFarlane and Elton, respectively – is whether we look to the centre or the localities for the real power in the realm; whether the early sixteenth century was marked by continuity with the past or by a deliberate, rapid reform of governmental structures; and

---

whether our primary sources are family papers and chronicles or the fledgling archives of the state. Although specific points of chronology may always be open to debate, the reception of both social and political outlooks by those working in these in-between years has already proven an advantage as much as a challenge. Combining these approaches has revealed the ‘multidimensional nature’ of certain central institutions overseen by the early Tudor kings, such as Parliament. Here the potential of the ‘point of contact’ between Crown and subjects has been fully realised, particularly for keeping the institutional, the interpersonal, and the ideological dimensions of personal monarchy in careful balance.

Nowadays, the firmer border is that between the early Tudor period and the rest of the early modern age. Steven Gunn’s observation in 1995 that there has been little social history of government for early Tudor England, of the kind produced even for later decades of the sixteenth century, still rings true today. Some sociopolitical history on a smaller scale has been advanced in this period in recent years, including focused studies of popular politics and the exercise of authority in England’s cities; the concerns and ideologies shaping riots and rebellions, and government responses to them; and areas of law and justice in which the Tudor government took care of the poor, the disadvantaged, and the needy.

Yet, noticeably, much of this work has been undertaken by historians otherwise interested in the long fifteenth century, the civil disturbances of which are increasingly seen to have encompassed the reign of Henry VII, too – that is, by medievalists. Meanwhile, this same period forms only a prelude to many early modern histories. Much of the defining work on state formation has cut the sixteenth century down the middle, with only

---

7 For a summary of this historiographical positioning see S. J. Gunn, Early Tudor Government 1485–1558 (Macmillan, 1999), 2–8.
9 Gunn, Early Tudor Government, 7–8.
the second half taken to have been of longer-term significance even if the 1530s are accepted, from a distance, to have represented an earlier phase in the intensification of government. Admittedly, variables such as population growth, continuing religious reformation, and improving literacy provide some rationale for erecting another boundary line at 1550. But a consequence of this divide is that while we possess models for a more socially inclined study of government, they have yet to form a ‘ready bridge’ through the fifteenth, sixteenth, and seventeenth centuries.

At stake in this longer-term picture is our capacity to reconcile the moralistic ‘commonwealth’ attributed to the late-medieval polity with the bureaucratic ‘state’ described by early modernists. In classifying such concepts, historians of both fields have often circled similar points of discussion, particularly regarding the make-up and constitution of any ‘political society’, ‘public’, or ‘commons’ capable of making itself heard and felt in these visions of the realm. In the most generous interpretation, an emerging late-medieval ‘political society’ comprising ‘all ranks’ (though mostly husbandmen and upwards) was capable of exerting real ‘pressure’ on Crown and government. One implication of this interpretation is that the politicised public came into being only when central government acknowledged it, addressed it, and capitulated to its interests. John Watts contributed some cultural-history colour to this general outline, suggesting that a more politicised society was facilitated by improved literacy and modes of communication but also, theoretically, by a ‘common stock of political expectations and language’ shared across the realm and, in turn, written with this public in mind. He suggested that the public’s ‘pressure’ was thus felt not only in policymaking but also in ‘demonstrating to [rulers] what principles . . . were most widely accepted at any given time’ and flagging up gaps between expectations and action in governance.

This exploration of a discursive ‘imagined community’ emerging at either end of the social scale, evident in terminology such as ‘commons’ and ‘public’, found an echo in work undertaken around the same time by Andy Wood, John Walter, and others on the political languages and identities taken up by (and imposed upon) early modern

Introduction

Questions of *who* we might reasonably include in our visions of political society, how the lines between ‘popular’ and ‘elite’ cultures were imagined, and when ‘culture’ became ‘politics’ have driven scholarship on either side of this historiographical divide, then.

What tends to differ between these two fields is the emphasis placed by its respective historians on any *agency* identifiable among the wider populace of England, especially in its head-to-head engagement with the governing elite. The potential for ‘negotiation’ in managing political relations is apparent across the expanse of these several centuries, but it has been given greater practical definition by those working on early modern contexts. Putting the politics back into social history, scholars of the later sixteenth century in particular have unearthed from legal and local archives stories of class struggle manifested in constant (re)negotiations with the state for social regulation and financial aid. Micro-political studies by Wood, Walter, and Steve Hindle have identified an active ‘popular politics’ at the level of the parish, the neighbourhood, and the city. Here people were mobilised by conflict over resources, which manifested in rioting, assembling, hedge-breaking, and other actions designed to bring the ‘politics of subsistence’ to the attention of the Crown. Whether this pointed sort of ‘popular politics’ existed in the late medieval period has been doubted by its own historians, though this may reflect a lack of parity in evidence across the historical divide, the level of detail in early modernists’ accounts being made possible by the much greater array of surviving sources for everyday lives, legal and otherwise, available for Elizabethan England. Nevertheless, this vision of localised conflict touching

---


on various spheres of authority is yet to be reconciled with the emphasis on commonality and culture in the ‘commonwealth’ stressed by late medievalists.

With more pragmatic and pessimistic conceptions of popular politics and its ‘negotiations’ now prevailing, the old claim that central government itself could have been ‘moulded more by pressures within political society than by efforts of kings or officials to direct it from above’ may seem overstated. Yet establishing the extent to which wider society had any discernible impact on the centre of power has been demoted from the scholarly agenda for some time now, especially since politics itself has increasingly been located outside of formal institutions, offices, procedures of the Crown and in the localities, in social networks, and in culture instead. The new set of evidence examined in this book – the archives of the Court of Requests – returns our gaze to central government and lends support to the contention that such structures of governance were given shape by subjects. Here the aforementioned debates about the relative weight of political society and high politics are drawn into the early Tudor period, and into dialogue with the administrative-history methods traditionally associated with its study. Indeed, this book once again synthesises the dual historiographical framework of scholarship on these liminal years, looking both inwards to the preoccupations of central government and outwards to the people it reached. It also takes a step further, by situating the very development of government within the social realm.

While the detailed reconstructions at the heart of the following study are concentrated on the years before 1547, a much longer lifespan for the royal justice system also comes into view – one that brings minutiae and micro-studies to bear on the broader arc of litigation from the fifteenth to seventeenth centuries. The importance of justice-giving to the emergent early modern ‘state’ is hardly a new contention. In histories of the later sixteenth century and beyond, litigation to the Crown for justice (as opposed to prosecution by it) was promoted from a symptom to a primary cause of a more joined-up polity some twenty years ago. Michael Braddick located some of the participatory qualities of the emerging English state in both criminal and civil justice procedures. Ordinary people were engaged in reporting and testifying against their deviant neighbours before local and national authorities, but increasingly they used the same avenues to initiate lawsuits on their own behalf. By invoking

20 Harriss, ‘Political Society’, 33.
traditional notions of hierarchy and order in their own causes, petitioners contributed to the maintenance of the ‘patriarchal state’.21 Steve Hindle similarly identified ‘popular legalism’ as a cornerstone of the ‘increase in governance’ underway in the sixteenth and seventeenth centuries, manifested most clearly in the growth of the Court of Star Chamber.22 Both historians concluded that law became ‘an important social resource’ for English subjects by the Elizabethan era, used as much to pursue individual interests and ‘secure collective ends’ as to impose state power.23 The correlation between an expanded administration of royal justice, particularly in a form characterised as equitable, and the growth of centralised ‘state’ apparatus has been identified by historians in a range of contexts in Europe and beyond – in Scotland, France, the Iberian peninsula, the Netherlands, Sweden, and overseas in the colonies of ‘New Spain’ and Virginia – within the centuries up to c. 1700.24 This phenomenon was so widespread from the late Middle Ages onwards that Richard Kagan called it a ‘legal revolution . . . in which the formal adjudication of disputes was sharply and dramatically on the rise’.25

In searching for the originating impulses of this ‘revolution’, this book demonstrates that people ‘invited the state in’ to their lives through pleas for justice much earlier than the emphasis in the English-focused literature on the period after 1550 suggests. This revision is not only chronological but contextual. It was in the political turmoil of the early Tudor years that a more formal system of royal justice, built on existing procedures and principles, took shape. After all, how better for the new regime taking the throne in 1485 to demonstrate good governance of the realm and its people than to show a care for subjects’ troubles, and (conveniently) for the distribution of power and resources in local communities? And how better for the country’s politicised society to exploit this vulnerability and lay claim to the reciprocity inherent to the commonwealth ideal by invoking royal aid in their personal disputes? The evidence uncovered in this book of constant petitioning to the king in the early Tudor period and long before

21 Braddick, State Formation.
23 Ibid., x, 68; Braddick, State Formation, 162.
Introduction

contradicts depictions of the years prior to the 1530s as being marked by a ‘decline’ in litigation, limited notions of the state, and minimal judicial sophistication around the Crown. 26 By examining the initial shaping of royal justice in these formative years, it becomes possible to address some of the vaguer claims made about the cause and effect of litigation in Elizabethan state formation; to set out more sharply the relationship between the ‘massive growth in business’ in royal lawcourts and the ‘increase of governance’, other than the fact that they occurred simultaneously. 27 Did justice-giving give order to society and legitimacy to authority?

The apparent popularity of royal justice certainly has ramifications for our understandings of why, and on what terms, the far-reaching changes unfolding in early Tudor England and beyond were accepted by its wider populace. Inhabitants of cities, towns, and villages were suffering from the consequences first of economic stagnation and then of a rapidly rising population: vagrancy, poverty, and crime, worsened by regular outbreaks of plague, the enclosure of land for pasture, the depopulation of rural settlements, and price and rent inflation. Within the first few decades of the early sixteenth century alone, they were subjected to unprecedented programmes of taxation and an extraordinary requirement to pledge public allegiance to monarchical supremacy. And yet, no matter how personally powerful the sixteenth-century monarchs became, they lacked the force and infrastructure necessary to communicate with or physically coerce their subjects. At the same time, those subjects were hardly ignorant or blithely accepting of profound changes to traditional political and religious structures around them; though nor were they as given to rebellion as we might have once presumed. 28 The binary between outright resistance and simple acquiescence in popular responses to rule is beginning to dissolve. In studies of the Henrician regime’s contentious religious policies, in particular, conformity to the state in such life-changing circumstances has been reconceived as collaboration with it, with certain ‘points of contact’ between Crown and society – courts, commissions, churches – making government more visible and encouraging changes in practice to take hold. 29 This is one field in which

27 Ibid., 15, 32.
29 Ibid., 424–5; E. Duffy, _The Voices of Morebath: Reformation and Rebellion in an English Village_ (Yale University Press, 2001); E. H. Shagan, _Popular Politics and the English Reformation_ (Cambridge