



## New Evidence of Justice-Giving by the Early Tudor Council of the North, 1540–43\*

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# NEW EVIDENCE OF JUSTICE-GIVING BY THE EARLY TUDOR COUNCIL OF THE NORTH, 1540–43\*

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The Council of the North was regularly reinstituted under the early Tudor kings to keep the peace in a region that they saw as unsettled and susceptible to sedition. Yet this was not simply an imposition of governmental supervision from on high. The Council also served to meet popular demand for more accessible royal justice in the northern counties. Analysis of this provincial judicial activity and its potential benefits are limited by the lack of any central surviving archive for the Council today. This short article examines a series of judgments that it made between 1540 and 1543 in a suit between two Yorkshiremen, newly discovered among miscellaneous and uncatalogued legal materials at The National Archives. It provides a transcription of four orders made in this case, seemingly copied out of original order books, and contextualises them within the re-development of the Council under the Bishop of Llandaff in the late 1530s.

**Keywords:** Tudor; justice; council; conscience; Yorkshire; law

In line with the trend for intensified conciliar governance under the early Tudor kings, a solution for settling the northern parts of the realm was sought in commissions of royal servants installed to oversee peace and justice. Like its analogous body in the marches of Wales, the Council of the North evolved out of the retinues of medieval magnates, which meted out punishments to offenders against the law and offered arbitration in feuds between disputatious tenants in their own lands. Richard, Duke of Gloucester, Lieutenant of the North, and later the third king of his name, was the transitionary figurehead here, as his ducal council at Middleham became the King's Council in 1483. For the century and a half that followed this body, or one like it, intermittently held court in the lands beyond the Trent, across Yorkshire and into the frontier regions around the border with Scotland. Its

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functioning as an independent body was not exactly consistent, especially when compared with the regular running of justice each law term down in Westminster. Although Henry VII borrowed much in the way of organisation from the Yorkist kings, this northernmost arm of the Council languished in his reign, aside from a brief flurry of activity under Thomas Savage as Archbishop of York between 1502 and 1507, before apparently being allowed to lapse at the accession of Henry VIII in 1509.<sup>1</sup>

It was only once the north became a true problem for the Tudor government, particularly in the aftermath of the Pilgrimage of Grace and the circulation of seditious rumours in Yorkshire throughout the later 1530s, that Henry VIII saw fit to restore a more regular conciliar body in the county capital. But this impression of the imposition of a supervisory government from on-high should not distract us from more popular demand for a provincial Council to turn to for aid in seeking justice. By 1523, the region was felt to be so *unjust* that the Earl of Surrey complained to Wolsey that he had been made to sit ‘at York with the justices iiij [w]hole days’ to deal with ‘infynyte complaints of the poore people’, such that it was their opinion that ‘it [is] x tymes more necessary too have suche a counsaill here as in the marches of walys’.<sup>2</sup> And at the height of the Pilgrimage of Grace, the articles prepared at Pontefract in December 1536 included the demand that ‘no man uppon subpo[n]a is from Trent north [to] apeyr but at York or by attorney’ – that is, that nobody from the north be summoned all the way to Westminster to defend themselves against litigation.<sup>3</sup> Accessible, regular justice in the region was crucial for both complainants and accused alike.

The account of the Council’s early years provided above is derived from the only extensive work on this tribunal to date: primarily, from R. R. Reid’s comprehensive study of the Council from its emergence in the late fifteenth century right up to its abolition by the Long Parliament in 1641, published in 1921; and from F. W. Brooks’s short pamphlets on the Council and its base in York, written in the 1950s.<sup>4</sup> That these works were produced in the last century and we have yet to see any up-to-date, full-length study of this important judicial body reflects the substantial documentary lacuna that we are faced with when trying to reconstruct its work. Reid’s efforts in tracking down just about every reference to the Council in central and local archives and in state records, letter collections, and chronicles makes her study the most comprehensive guide even today, especially for the various instructions, commissions, and orders issued from the Crown to this satellite body across the sixteenth

<sup>1</sup> For some evidence of the Council’s work in the first decade of the sixteenth century, see R. W. Hoyle, ‘The Earl, the Archbishop and the Council: The Affray at Fulford, May 1504’, in *Rulers and Ruled in Late Medieval England: Essays Presented to Gerald Harriss* (London: The Hambledon Press, 1995), 239–56. Letters between the Prior of Durham and members of the ‘Some honorable counsell of Yorkshire’ suggest that they were still determining civil disputes in spring 1509, after Savage’s death: Durham Cathedral Archive, Registrum Parvum IV fols 171v–72.

<sup>2</sup> National Archives: Public Record Office, State Papers SP49/2 fols. 17–17v.

<sup>3</sup> TNA: PRO SP 1/112 fol. 118 (*LP* xi. 1246). Printed in Anthony Fletcher and Diarmaid MacCulloch, *Tudor Rebellions* (5<sup>th</sup> edn, London: Routledge, 2014), 148.

<sup>4</sup> R. R. Reid, *The King’s Council in the North* (London: Longmans, Green and Co., 1921); F. W. Brooks, *The Council of the North*, Historical Association 25 (London: G. Philip, 1953); F. W. Brooks, *York and the Council of the North* (London: St Anthony’s Press, 1954).

century. But even with all of this evidence in place Reid recognised that she was working with only ‘the scantiest remains’.<sup>5</sup>

Certainly, compared with the rich collections of pleadings, writs, and decrees surviving for the central discretionary courts of Star Chamber, Chancery, and Requests, the Council of the North has left little trace. To this day it has no centralised repository, although searching its name in The National Archives’ ‘Discovery’ catalogue turns up dozens of individuals bits of paperwork related to the Council, scattered across archives in Yorkshire, Cumbria, and Northumbria. Most of these are either petitions – documents produced *for* the Council through the collaboration of complainants and legal counsel – or instructions, commissions, and writs *to* the Council, and much of what survives is from the Elizabethan period and later.<sup>6</sup> Among the artificial State Papers collection and the calendars of the same in the *Letters and Papers of the Reign of Henry VIII* we also find numerous letters sent back and forth between the northern Council and the main Council in the south, reporting business, requesting finances, and instituting new members.<sup>7</sup> What we still lack is much of the Council’s own records, particularly its orders to parties and its final determinations, though we have good reason to presume that these were kept even in the earliest days of its activity.<sup>8</sup> Reid doubted the old story that the court’s registers were destroyed in the 1640s along with their main repository at St Mary’s Tower in York, especially since antiquaries and historians of the region appear to have made use of them later on.<sup>9</sup> Nonetheless, the unfortunate consequence of the absence of these in-house registers today is that we are left to focus almost entirely on the surviving instructions and commissions from the Tudor Crown for the general administration of the north. Meanwhile, the routine, justice-giving element of its activity remains obscure.

Just as the repositories situated within the northern Council’s old lands turn up incidental evidence for its work, so too do the larger archives of the royal administration under which it worked. As R. B. Smith commented in his study of the early Tudor West Riding of Yorkshire in 1970, the Court of Requests – a tribunal supposedly for poor men’s causes, attached to the attendant royal Council – is where ‘we are likely to find the best evidence of the growing importance of royal justice in Yorkshire, as in other counties’.<sup>10</sup> And so, it is Requests’ extended archive that is the origin of the set of documents printed below: four orders made in a civil dispute between two men, James Fox and Christopher Vincent, proceeding before the Council of

<sup>5</sup> Reid, *The King’s Council in the North*, 468.

<sup>6</sup> For an example of the former, see the ‘testimonial’ produced by the tenants of Rothwell in the early 1530s, possibly for the Duke of Richmond’s council in the North: printed in R. W. Hoyle, ‘Thomas Lord Darcy and the Rothwell Tenants, c.1526–1534’, *Yorkshire Archaeological Journal* 63 (1991), 107.

<sup>7</sup> Of relevance to the period under investigation here see, for examples, TNA: PRO SP1/124 fol. 183, SP1/176 fol. 122; LP xii. I, no 98, xiii. I, no. 1269, xviii. II, 34.

<sup>8</sup> An exception for the earlier years of the Council is the order made between John Maners and Roger Swynborne at Newcastle Upon Tyne in 1531, surviving in the Northumberland Archives, which appears to be an endorsed copy of the Council’s decision to dismiss the plaintiff’s case, perhaps acquired by the defendant: Northumberland Archives ZSW/3/14.

<sup>9</sup> Reid, *The King’s Council in the North*, 468–69.

<sup>10</sup> R. B. Smith, *Land and Politics in the England of Henry VIII: The West Riding of Yorkshire: 1530–46* (Oxford: Clarendon Press, 1970), 164. For more on Requests, its jurisdiction, and clientele in this period see Laura Flannigan, ‘Litigants in the English “Court of Poor Men’s Causes”, or Court of Requests, 1515–25’, *Law and History Review* 38, no. 2 (2020).

the North between 1540 and 1543. These orders were found at The National Archives (TNA) in the 'Miscellaneous' and uncatalogued boxes of the Court of Requests series (REQ 3). It is not immediately apparent how or why these Council of the North documents ended up here; a search of Requests' order books and that court's catalogued pleadings (TNA REQ 1 and REQ 2 respectively) suggests that the case between Fox and Vincent was never pursued in this central tribunal, and nor does it seem to have been submitted to Chancery or Star Chamber. Certainly, once a civil cause like this one had been presented to early Tudor royal councillors, wherever they sat, it could move around the various arms of government. If a matter turned out to be particularly complex, it might be sent from the provinces to the central tribunals of Requests, Star Chamber, or Chancery for consideration. Conversely, if any of these courts felt that on-the-ground investigation and influence was needed to reach a final peace, they would remit the matter back out to its relevant regional commission. As a result, people and paperwork criss-crossed the countryside in the pursuit of justice, sometimes settling far from where they originated.

In the absence of any evidence that the case between Fox and Vincent was shuffled around in such a manner, what we appear to have here instead is evidence for the Council of the North's independent judicial activity. Materially speaking, the Fox v Vincent paperwork discovered in REQ 3 comprises a small booklet of three sheets of paper, bound along their top edge in what appears to be their original thread. These pages contain copies of four orders, each scribed in the same, neat secretary hand, containing no interlineations or edits and few errors (apart from small things like the crossing out of 'delyv[er]' for 'redelyv[er]' in the first one, the replacement of 'excepted' with 'accepted' in the final one, etc.). On the basis of their presentational appearance and contextual evidence we can posit quite confidently that these orders were originally recorded within now-lost register books kept to record the Council of the North's business. Sometime in the mid-seventeenth century, Thomas Widdrington, the recorder of York, took notes from these books which survive in British Library Harley MS 1088 in the form of lists of the judges present for Council hearings. Helpfully, each list is dated and given a location too: among them we find hearings ranging from 1537 through to 1587, at York, Newcastle, Carlisle (in 1567) and Durham (1579 and 1583).<sup>11</sup> This gives the impression of a well-preserved and consistent set of registers of hearings, accessible to Widdrington during his duties in York even after the Council was no longer functional. That there was regular enough maintaining of these books and some importance placed on their contents as a form of institutional memory by at least the middle of the sixteenth century is indicated by the court's own order (itself recorded in Widdrington's notes) that the President and Council would set aside Saturday afternoons for 'the books of decrees to be read'.<sup>12</sup> Elsewhere, in his *Analecta Eboracensia* of c.1660, Widdrington referred to 'the first Court or sitting' taking place on 23 April 29 Henry VIII (1537), as recorded in 'the *Book of Decrees* there'.<sup>13</sup>

<sup>11</sup> British Library Harley MS 1088 fols 1–39.

<sup>12</sup> Ibid. fol. 18v.

<sup>13</sup> Sir Thomas Widdrington, *Analecta Eboracensia: Some Remaynes of the Ancient City of York*, ed. Caesar Caine (London, 1897), 107.

Given that the sitting to which Widdrington refers here took place one day into a regnal year, it is possible that a new book was commenced for that reset in the calendar – the implication being that there may have been earlier registers that he did not see, or which no longer survived by the mid-seventeenth century. The only suggestive evidence to the contrary is that this is not the typical organisational practice evident in the only other surviving conciliar court registers from this period, which appear to have been commenced anew at the beginning of legal terms.<sup>14</sup> Indeed, Monday 23 April 1537 was just a few days into Easter term, which began on the previous Wednesday, 18 April. Otherwise, we might follow Reid in taking this date as marking renewed activity in Council of the North after its recent re-establishment. Since Henry VIII came to the throne there had been various attempts to restore conciliar justice to the region, but none of them permanent; one such endeavour saw the Duke of Richmond, the illegitimate royal son Henry Fitzroy, provided with ‘instruccions signed with the gracious hande of the Kinges Highnes’ and a commission of oyer and terminer, shortly to be enacted in a hearing at Newcastle, to see a ‘great nombre of the Kinges subjectes of thies parties ... greatly eased, quyetid, and delyvered from the daunger of suche enormyties ... as heretofore they have bene molestid and disturbid’.<sup>15</sup> But this was short-lived, perhaps owing to the over-extension of the Council’s jurisdiction into the marches around the Scottish border and the unpopularity of a group of its lawyers and clergymen, all with links to Thomas Wolsey.<sup>16</sup> Thereafter, the model of deploying a royal child to govern the provinces was largely abandoned, with the Earl of Northumberland and Lord Dacre installed as wardens of the East and Middle and the West marches respectively in the last years of the 1520s. A ‘Council from Trent Northward’ proper was re-commissioned in 1530, with the learned Bishop of Durham, Cuthbert Tunstall, at its head alongside many familiar faces from previous iterations, including the archdeacons Thomas Magnus and Brian Higden and lawyers Thomas Tempest, Thomas Fairfax, and Robert Bowes.<sup>17</sup> In January 1537, hot on the heels of the Pilgrimage of Grace, Thomas Howard, Duke of Norfolk, was ordered in his role as the Lieutenant of the North to quell rebellion and convince the people of the region to forsake their oaths to the rebel cause and beg forgiveness of their king. Effectively taking over the Council too, his duties also involved sitting twice a week to receive the bills and supplications of anyone injured in the process of the insurrection – a judicial task, it seems, though one tied to the cleaning up of revolt.<sup>18</sup>

According to Widdrington’s notes it was shortly thereafter that hearings of the Council were recorded more consistently, with the first one he transcribed dating to 23 April 1537 at Sheriff Hutton, attended by the Duke and pre-existing members including Marmaduke Constable, William Babthorp, and John Uvedale.<sup>19</sup> Once things had died down later that year the Council was returned to the leadership of

<sup>14</sup> Most of the REQ 1 order books begin in either January or June, for example.

<sup>15</sup> *State Papers, published under the authority of His Majesty’s Commission: King Henry the Eighth* (London: His Majesty’s Commission for State Papers, 1836) IV, 392.

<sup>16</sup> Reid, *The King’s Council in the North*, 108–112; see, for example, Lord Darcy’s petition against the northern Council, written around the time of Wolsey’s fall: *LP* xii. II, no. 186 (38).

<sup>17</sup> This commission is printed in full in Reid, *The King’s Council in the North*, 502–503.

<sup>18</sup> *LP* xii. I, no. 98.

<sup>19</sup> BL Harley MS 1088 fol. 2.



Tunstall, who was issued with commissions to investigate criminal and civil matters.<sup>20</sup> Tunstall duly oversaw at least six more sittings of the Council, until he appears to have declared himself too aged, poor, and ‘in hate w[ith] the people of the northe’ to be much use in this role, and prayed to be left to ‘preache and teache in his dioces’.<sup>21</sup> In the summer of 1538 Henry VIII installed a new president, the Bishop of Llandaff, theologian Robert Holgate, and with this appointment came a fresh set of instructions. These detailed orders gave precedence to the ‘spedie and indiffrent administracion of iustice ... to be hadd betwene partie and partie’, and went on to establish the Council’s membership, schedule, fees, and rules for how to order litigants – for example, to limit proceedings to bill and answer, forbidding replications and rejoinders, so as to avoid delays, and leaving to the President’s discretion the ability to waive fees for the poorest suitors.<sup>22</sup> And so, the Council was back to the more regular business of hearing civil causes, this time on a more permanent basis. The four orders printed below – dating to August 1540, April 1542, December 1542, and February 1543 – represent some of the earliest material surviving for this restored tribunal’s judicial work.

In the first instance these orders provide us with some evidence with which to assess the effectiveness of the 1538 instructions in routinising the procedures of this tribunal. After all, an administrative history that takes into account the interpersonal and social dynamics behind institutions cannot assume that an ordinance automatically became reality. The early Tudor Council of the North had traditionally been ordered to gather for four main sittings each year, most often based at York. The 1538 instructions suggest that each Council member and their servants would be resident for an unspecified number of meetings at the ‘presidentes house or hall’, though the location of this house was not identified (and Holgate supposedly had no substantial residence in the north to begin with).<sup>23</sup> All of the orders for Fox’s suit against Vincent are recorded as having been made during hearings at ‘Palaci[um] Ebor[acum]’, referring to the King’s Manor in York; formerly St Mary’s Abbey, granted to Holgate and his Council by December 1539, and seemingly referred to as a ‘Palace’ after it had received some alterations and additions for Henry VIII’s visit to the city in 1541.<sup>24</sup> With Widdrington’s lists of attendees to hand we can be almost certain of who, exactly, determined the dispute between Fox and Vincent in the early 1540s. Holgate was present for all of these hearings as Lord President. Joining him in April 1542 were Bowes, Babthorpe, Robert Chaloner, and the Council’s secretary and keeper of the signet seal, Uvedale.<sup>25</sup> As before, these were all men with deep roots in the north; several, including the common lawyers Bowes, Babthorpe, and Chaloner had even been captains in the Pilgrimage of Grace.<sup>26</sup> At the next hearing

<sup>20</sup> For the renewed order to Tunstall in June 1537 see Reid, *The King’s Council in the North*, 505–507.

<sup>21</sup> BL Harley MS 1088 fols 1v–2v; SP 1/124 fols. 183–83v.

<sup>22</sup> SP 1/133 fols 211–221v.

<sup>23</sup> Ibid. fol. 214; H. L. Parish, ‘Holgate, Robert (1481/2–1555)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept. 2004, <https://doi.org/10.1093/ref:odnb/13504>, accessed December 2021.

<sup>24</sup> *LP* xiv. II, 698; Brooks, *York and the Council of the North*, 8–10. The lists copied by Widdrington refer to the ‘Palace of York’ rather than simply ‘York’ as the location for hearings from 15 November 1541 onwards: Harley MS 1088 fol. 7.

<sup>25</sup> For short biographies of each of these men and their tenures within the Council of the North, see Reid, *The King’s Council in the North*, 490–91.

<sup>26</sup> M. L. Bush, ‘The Tudor Polity and the Pilgrimage of Grace’, *Historical Research* 80, no. 207 (2007), 62, 69.

recorded in Fox and Vincent's case, in December that same year, the group of councillors accompanying Holgate instead consisted of Magnus, Babthorpe, Chaloner, Constable, and another man, Henry Savile. So, both of these sittings were attended largely by men named to the Council in 1538 (and to earlier iterations too), though not by *all* of them; the Earl of Cumberland and Lord Dacre of the North are conspicuously absent in these regular meetings. Conversely, the addition of Henry Savile, who had just served a term as Sheriff of Yorkshire, by December 1542 was likely owing to various personal circumstances affecting other established members: in August 1543, Holgate reported to the King that Tempest was unwell, Bowes absent, and Fairfax now aged, and so the Council required more men learned in the law.<sup>27</sup>

Otherwise, the other two known orders in Fox and Vincent's case *do not* match up with dates and locations in Widdrington's copied lists. The earliest one was made at a hearing that took place outside of term time, in August 1540. Activity during the vacation was less unusual than the references to quarterly sessions in the various instructions and commissions of earlier years would lead us to believe; the set of dates and locations copied by Widdrington includes sittings most years around this time in July, August, and September. The last of the orders below, dated to 23 February 1543, also does not align with the known sittings, though there was a meeting on 12 February.<sup>28</sup> We cannot be certain that Widdrington's transcriptions reflect the entirety of the Council's activity, of course. In comparable conciliar order books, such as those for the Court of Requests (TNA REQ 1) and the Duchy of Lancaster (TNA DL 5), only some entries have dates, locations *and* lists of present judges, while other entries are afforded none of this detail. Perhaps Widdrington copied only those that did supply him with these necessary details, which he later went on to rehearse in a few paragraphs on the history of the Council of the North in his *Analecta Eboracensia*.<sup>29</sup> What we might infer, then, is that the Council sat more regularly than previously thought. Indeed, the 1538 Council of the North was seemingly expected to sit whenever necessary, as is implied by the instruction that the Earls of Westmorland and Cumberland only had to attend at the 'iiij generall sitting[s]' while the rest of the named councillors had to be attendant at all times.<sup>30</sup> Presumably it acted more flexibly, with a smaller committee, outside of its main gatherings.

That we have a sequence of orders in the same suit here gives us insight into how a case could progress and escalate before this Council. It also tells us something of the potential benefits of their continued involvement for the parties involved. In this particular case, the Council oversaw a fairly standard civil dispute concerning title and occupation of lands. The plaintiff, James Fox, is referred to as a gentleman and so *might* be the common lawyer trained at either Lincoln's or Clifford's Inn and employed by the city of York as an attorney in November 1544.<sup>31</sup> Of the defendant,

<sup>27</sup> LP xviii, II., no. 34.

<sup>28</sup> BL Harley MS 1088 fol. 7v.

<sup>29</sup> Widdrington, *Analecta Eboracensia*, 107–110.

<sup>30</sup> SP 1/133 fol. 213v.

<sup>31</sup> Angelo Raine ed., *York Civic Records, Volume IV*, Yorkshire Archaeological Society 180 (Wakefield, 1945), 120; J. H. Baker, *The Men of Court 1440 to 1550: A Prosopography of the Inns of Court and Chancery and the Courts of Law*, Selden Society Supplementary Series 18 (London: Selden Society, 2012), 706.



Christopher Vincent, we know almost nothing, though he may have resided in Northallerton given the reference in the first folio to his keeping cattle on the fields there. He was also likely quite poor, at least compared with Fox, as we will see further below. The plaintiff's complaint concerned arrears of rents for lands on the north-western edge of the Yorkshire moors, in Stamfrey, Rounton (now East and West Rounton), and Siddle, along the river Wiske, leased by Vincent for term of years from Fox. Vincent had defaulted on £4 of this rent by Whitsuntide (in May) 1540, and Fox must have complained to the Council shortly thereafter since they heard the matter in August that year. As in other alike jurisdictions, these book entries represent later stages in the Council's business. By this point, Fox would have submitted a written complaint and Vincent likely provided a response in the form of an answer committed to paper or parchment and presented under oath. In the meantime, Fox may also have approached common-law authorities, perhaps during one of the biannual assizes, because by August he was able to show Holgate and the Council two writs for his immediate right to the properties in Siddle. Without the petition laying Fox's case out in full we can only assume that these writs had been ineffective in helping him gain the necessary restitution from Vincent, pushing him instead towards the authoritative ruling of the regional royal Council.

The Council's initial resolution on this evidence seems straightforward. They decreed that Vincent should pay the rent plus 6s 4d for the plaintiff's legal costs and should allow Fox to occupy Siddle fields, while Fox should return the cattle he had impounded in dstraint of the rent. But by April 1542 the matter had become more complicated. Vincent now allegedly owed £12 for the previous year and a half's rent in Stamfrey and Rounton to Fox, though when called before the Council he declared that he had paid £8 of this to another man, 'then owner' of the lands, Robert Warcoppe. Following a sale by Robert to Gabriel Warcoppe – a deal that was recorded in the feet of fines from Yorkshire too – the estate was somehow back in the hands of Fox, and so it was agreed that the defendant was to pay the remainder and arrears to him.<sup>32</sup> By December that year, instead of paying his debts Vincent had agreed to surrender his lease for the lands to Fox altogether, and in February 1543 this new arrangement was confirmed in the presence of the gathered Council. The sense here is of two parties willing to turn to the Council repeatedly for help in reaching acceptable terms, and of a set of judges and plaintiff eventually taking pity on an especially impoverished tenant.

Indeed, when taken together these orders demonstrate an emphasis on arbitration and supervision in dispute resolution, typical of conciliar justice as it developed under the early Tudors. That this Council turned to established legal mechanisms to make concise rulings is evident here: they bound Vincent by recognisance to depart from Siddle fields, accepted Fox's common-law writs as evidence for his title, and further acknowledged the importance of documentary evidence by storing Vincent's lease in their 'common chyst' while he decided whether to surrender it. On these facts the Council was surely led by its common law members – especially Babthorpe and Chaloner, present for at least two of these hearings – as well as by the disputants'

<sup>32</sup> *Feet of Fines of the Tudor Period (Yorks), Part 1, 1486–1571* (Leeds: Yorkshire Archaeological Society, 1887), 74.

legal representatives. Otherwise, this is a set of rulings grounded in reason and in the circumstances of the parties' lives as much as in specific legal principles. Especially interesting is the Council's specificity about when and where Vincent was to make good on his arrears, should he so choose – next to the so-called 'Haxbyes Tombe', that supposedly belonging to former Treasurer Thomas Haxey in York Minster, presumably within easy reach of both parties, on the feast of the purification the following February 'between xj & xij of the cloke'.<sup>33</sup> Here and elsewhere the orders read more like a mediation by impartial and flexible authorities than a firm verdict or award. When considering the circumstances of the sale to Warcoppe, the Council felt that the rent 'ought to be apporcyoned in consyence', presumably between the Warcoppes and Fox. The same sentiment of fairness between the principal parties can be discerned in the Council's willingness to allow Vincent to eventually walk away from the lease, leaving the lands and even being allowed to gather up the corn and oats sown there during his occupation. And the final sentence of the February 1543 order indicates that Vincent's poverty was part of the extenuating circumstances under consideration, with Fox 'of his good wyll ... contented at the request of the court ... to gyve unto the seyd Cristofer fourty shillynges sterlyng' if his departure from the lands was peaceful. This is not quite a payment for court fees *in forma pauperis*, of the kind inscribed in canon law and observed by the other conscience and conciliar courts of this period. But it is similar to the occasional practice in these tribunals of having the wealthier 'winning' party pay the charges of the 'loser', on the basis of the latter's impoverishment rather than any proven title in the case.<sup>34</sup>

In all, then, these orders confirm the assumption that conciliar justice, with its combination of ecclesiastical presidents and common-law support and its emphasis on conscience as the chief lens for determination, functioned consistently across different contexts. This insight into a provincial Council interested in relatively run-of-the-mill land disputes and engaged in passing socially sensitive judgments substantiates the contemporary impression of this as 'the Courte of requeste in the North parties' – the two tribunals shared these qualities, and the function of receiving 'requests'.<sup>35</sup> But did this meet the demands for order and justice in the north voiced in the preceding couple of decades? As the latest work on the court of Star Chamber has brought up, whether any early modern law court was 'popular' on the basis of either demography or caseload is difficult to prove definitively, and the data for the Council of the North needed for this kind of study simply does not exist anyway.<sup>36</sup> Where broader regional politics come into play, Holgate's seemingly efficient presidency of the Council was not enough to save him from a plot to murder him as part of the Wakefield Conspiracy of 1541.<sup>37</sup> Yet the fortuitous survival of the Fox v

<sup>33</sup> For details on this tomb and its potentially inaccurate attribution, see Sarah Brown, 'The Mystery of Neuton's Tomb', in *1414: John Neuton and the Re-Foundation of York Minster Library* eds. Hanna Vorholt and Peter Young, June 2014, <https://hoaportal.york.ac.uk/hoaportal/ym1414essay.jsp?id=10>, accessed 3 January 2022.

<sup>34</sup> E.g., TNA: PRO, REQ1/4 fol. 195v, REQ1/7 fol. 148.

<sup>35</sup> Raine ed., *York Civic Records, Volume IV*, 182.

<sup>36</sup> K. J. Kesselring and Natalie Mears eds., *Star Chamber Matters: An Early Modern Court and Its Records* (London: University of London Press, 2021), 1–17.

<sup>37</sup> *Calendar of State Papers, Spain* vi. I, 156; Christopher J. Sansom, 'The Wakefield Conspiracy of 1541 and Henry VIII's Progress to the North Reconsidered', *Northern History* 45:2 (2008).

Vincent orders suggests that some men, at least, gained accessible and regular justice from the administrative overhaul of these years.

### Transcription – TNA PRO REQ3/9 Fox v Vincent<sup>38</sup>

[fol. 1]

Ebor[acu]s xxv<sup>to</sup> die August[u]s a<sup>[nn]o</sup> xxxij<sup>do</sup> H viij [Wednesday 25 August 1540]

In the mater in travers between James Ffox pleyntyfe and Cristofer Vyncent for and concernyng the demaund of ffower poundes wherof fyve markes be claymed to be due by the seyd defendaunt to the seyd pleyntyf at the ffeast of Wytsontyde last past for such landes and tenementes as the seyd defendaunt then occupied in Saynfrey Rounton & Seddall ffeld and xiiij<sup>s</sup> iiij<sup>d</sup> for Thyrkeld landes/claymyng the same for term of certeyn yeres/The rev[er]cion therof to the seyd James Ffox & his heirs/fforasmuche as the seyd Vyncent haith confessed the seyd rent of iiij<sup>li</sup> to be due at the ffeast of Wytsontay last past Theifore it is ordered & decread by my lord p[re]sydent and counsaill/That the seyd defendaunt shall content & pay to the seyd pleyntyf the seyd rent of ffoure pondes and vj<sup>s</sup> viij<sup>d</sup> for his costes & charges in this behalff susteyned/and forther for as moche as the seyd pleyntyf haith shewed in this court a recov[er]ye in a wryt of entre in the nature of assise/And also one other recov[er]ye in a wrytt of entre in the post agaynst the seyd defendaunt of the foreseyd p[ar]cell of ground called Seddall ffeld/Therefore it is ordred and decreed by my lord p[re]sydent and counsaill that the seyd James Ffox shall have & occupie the same with out int[er]uption of the seyd defendaunt/And of eny other persons for hym or in his name/And forbycause the seyd defendaunt hath entred into the seyd Saddall ffeld and haith troubled the seyd pleyntyf in thoccupacion of the sam[e] contrarie to the foreseyd recov[er]yes/Therefore it is ordred and decreed that the seyd defendaunt with suyties with hym shalbe bounden in recognysaunce to suffer the seyd pleyntyf to occupie the seyd Seddall ffeld accordyng to the seyd recov[er]yes the sam[e] standyng in his force/And forther the pleyntyf shall redelyv[er] at the comon felde at Northallerton with out delay to the seyd defendaunt all such beestes and stressys as he haith taken for the seyd rent

[fol. 2]

Palaci[um] Ebor[acum] xxiiij<sup>to</sup> die Aprilis Anno xxxiiij<sup>to</sup> H viij [Monday 24 April 1542]

In the mater in travers between James Ffox gentelman playntyf and Cristofer Vyncent defendaunt for and concernyng the demaunde of ~~twelve~~ twelve poundes sterlyng claymed to be due to the seyd pleyntyf by reasson that the seyd defendaunt haith and occupieth certeyn landes and ten[emen]tes in Stanfrey and Rounton in the Countie of York the rev[er]cion therof beyng the seyd pleyntyfes and his heirs/for which landes and ten[emen]tes and others called Seddall ffeld the seyd defendaunt paid on[e] yeirly rent of eight poundes and the seyd pleyntyf allegyth that the seyd

<sup>38</sup> This is the current reference for the document, which will soon be listed as part of a project cataloguing REQ 3. As a document available under Crown copyright it is transcribed here under Open Government Licence: <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>.

twelf poundes<sup>is</sup> due unto hym for one hole yeir and a half rent endyng at the ffeast of seynt Martyn in wynter last past/fforasmuche as uppon examynacion of the mater before my lord p[re]sydent and counsall it apperith that the said defendaunt occupied all the p[re]mysses called Sanefrey Rounton & Seddall ffeld and payd yeirly theirfore onto oon Robert Warcoppe then owner therof viij<sup>li</sup> sterlyng at the ffeastes of seynt Martyn and penticoste by even porcions and after the seid Robert Warcoppe sold al the p[re]mysses to oon Gabriall Warcoppe whose estate in the sam[e] the seid pleyntyf nowe haith/And that the seid pleyntyf recov[er]ed the seyde ground called Seddall ffeld agaynst the seyde defendaunt in a wryt of entre in the nature of ass[ize] no[vel] diss[aisin]/and by v[er]tue of the same recov[er]ye yett doith occupie the sam[e]/Wherefore it is thought to my seyde lord and counsall that the seid rent of viij<sup>li</sup> ought to be apporcyoned in consyence/Therefore it is ordred and decreed by my seyde lord and counsell and by thassent of both the seid parties/That the seid defendaunt shall content & pay unto the seyde pleyntyf yeirly at the ffeast of penticoste & Seynt Martyn in wynter v<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup> sterlyng by even porcions for all rentes goyng forth of the sam[e]/so long as the seyde defend doith occupie the seid landes and ten[emen]tes called Rounton & Staynfrey/And forther it is ordred and decreed by my seyde lord and counsaill that the seid defendaunt shall content and pay unto the seyde pleyntyf viij<sup>li</sup> sterlynges for all the arrerages of the seid rent of Stanfrey and Rounton due unto the seyde pleyntyf for three half yeres rent endyng at the feast of seynt martyn in wynter last past

[fol. 3]

Palaci[um] Ebor[acum] quarto die Decembr anno xxxiiij<sup>to</sup> H viij [Monday 4 December 1542]

Memorand[um] that wher at the syttyng kept at the kyng our sov[er]aign lordes palice at York the xiiij<sup>ti</sup> day of Aprill in the xxxiiij<sup>ti</sup> yeir of our seid sov[er]aign lord it was ordred & decreed by my lord p[re]sydent and counsall and by thassent of James Fox playntif and Cristofer Vyncent defendaunt/Then in travers in this court for tharrerages of certeyn rentes goyng forth of certeyn landes & ten[emen]tes in Saynfrey and Rounton with in the Countie of York which the seyde Vyncent holdyth for terme of certeyn yeirs/The rev[er]cion therof to the seid James Ffox & his heirs/that the defendaunt shuld content & pay to the seyde James Ffox yerly at the feast of Penticost and seynt Martyn in wynter/v<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup>/sterlynges by even porcions for all rentes goyng furth of the sam[e]/So long as the seid defendaunt doith occupie the seid landes and ten[emen]tes called Rounton & Staynfrey/And forther it was ordred and decreed by my lord and counsaill that the seid defendaunt shuld content & pay unto the seyde James Fox viij<sup>li</sup> ~~poun~~ sterlyng for all the arrerages of the seyde rent of Staynfrey and Rounton then due unto the seid James Ffox/and forasmuche as it apperith by the confession of both the seyde p[ar]ties/that the seid defendaunt as yet haith payd no p[ar]te of the seid viij<sup>li</sup> nor no rente due for the p[re]mysses sethens the seyde tym[e] and so remaynyth unpaed twentye markes sterlyng/Therefore the seid p[ar]ties arr agreed and also the seyde defendaunt in this open court haith surrendred his seid lease of Staynfrey and Rounton to the seyde playntyf uppon condicion that yf the seid defendaunt pay unto the seid pleyntif the seid som of twentye markes at Haxbyes Tombe in York Mynster in the vigill of the purificacion of our lady next comyng between xj & xij

of the cloke the sam[e] day that then the seyd surrender shalbe void and elles the seid playntyf to inyoie & have all theafforseyd landes and ten[emen]tes in Samfrey & Rounton with out int[er]upcion of the seyd defendaunt/And forther the seid defend-aunt hath p[ro]mysed to bryng in hys seyd leas quindecimo die Decembris instant to be kept to thuse afforseyd in the comon chyst

Palaci[um] Ebor[acum] xxiiij<sup>o</sup> die Ffebruarij Anno xxxiiij<sup>to</sup> H viij [Friday 23 February 1543]

Memorandum that this present xxiiij<sup>ti</sup> day of Februarie Cristofer Vyncent in his p[ro]per p[er]son and in this open court haith ffrely surrendred to James Ffox then also p[re]sent all such title term lease and interest as the seyd Cristofer then hadd in Staynfrey and Rounton in the Countie of Yorke to the seyd James Ffox then havynge the rev[er]cion of the p[re]mysses to hym and his heires for ev[er]/Wherunto the seid James agreed and ~~excepted~~ ^accepted^/And forther it is agreed between the seid p[ar]ties that the seyd Cristofer shall leve the possession of the premysses at the feast of the invencion of the holy crose next co[m]myng sayvyng that the seid Cristofer shall take & have the corne now sown and also the corne of all suche landes as is redy to be sown with oittes of the p[re]mysses without any thyng payng for the same for any rentes and arrerages now & then due & to be due/And forther the seyd James of his good wyll is contented at the request of the court at the departyng of the seyd Cristofer if he do depart lovyngly and quyetyly at the dais before named to gyve unto the seyd Cristofer fourty shillynges sterlyng

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