

The Administration of Justice Whereunto We Be Professed

ANNE SUTTON

'THE ADMINISTRATION of justice whereunto we be professed . . . ' So wrote Richard III in September 1484 to the mayor and citizens of York about Katherine Bassingbourne who had appealed against ill treatment.¹ A year before on 23rd October, 1483, a proclamation had been issued from Leicester by Richard 'remembering the profession of mercy and justice made by him at his coronation'.² It seems from these two examples that Richard took his coronation oath seriously, particularly the clause concerning justice. This article is intended to illustrate Richard III's attitude to the practical administration of justice and the law as well as to the abstract ideal of the same then prevailing in fifteenth century England, and to describe briefly the background of legal administration in his day. We shall not be concerned with the lawlessness of Yorkist society which has been so frequently described,³ or with Richard's acts of justice and mercy to individual subjects such as Katherine Bassingbourne, important though they are, for they have been adequately described and publicised by Richard's more favourable biographers.

Armstrong described the Yorkist kings as reviving the idea of the king as a righteous judge in the lawless times of their reigns and found it 'more in keeping with high royalist theory than with constitutional usage'.⁴ Was it, however, so unconstitutional an act to assume this role and what significance is there in the fact that Edward IV and Richard III chose to assume it? The constitutional ideas of fifteenth-century England have been subjected to a thorough study by Professor Chrimes in his *Constitutional Ideas in the 15th Century* and it is clear that the idea of the king being a defender of his subjects in war and an administrator and dispenser of justice to them was both current and acceptable in the time of the Yorkists. 'Lo! to fight and to judge are the office of a king,' wrote Sir John Fortescue.⁵ This was the view of kingship expressed in the Old Testament. Likewise it was a common theme in the work of Thomas Hoccleve, a mid-fifteenth century Chancery clerk: 'A kyng is made to kepen and maynteene/Iustice . . . a kyng is, by covenant/Of ooth maad in his coronacioun,/Boundē to iustices sauacioun'.⁶ It is of more importance when the same idea is found in the works of the fourteenth century moral philosopher and poet John Gower, a man of greater stature with much knowledge of and concern for the law and its profession⁷ and an equal concern for the king and his judicial role.⁸ His *Confessio Amantis* is a long plea for the rule of selfless love, for social concord and a responsible king motivating the whole.⁹ Caxton printed the *Confessio* on 2nd September, 1483,¹⁰ making a

well-read poet even more accessible. The cumulative argument in favour of a responsible king working within the framework of the law and lines such as:

'Do lawe away, what is a king?

Where is the riht of eny thing,

If that ther be no lawe in londe?'¹¹

must have had an effect on its readers, were they king or commoner.

An equally important source for constitutional views in the fifteenth century, though less accessible to the general public of the time because written in law French, were the Year Books containing the opinions of lawyers expressed during pleadings and discussions of cases before the courts. Senior lawyers of the order of the Coif were the men best equipped to express the constitutional ideas of their day and it was they who drafted the new laws put before parliaments, who advised petitioners to parliament and who advised the king as his council 'learned in the law' and who might be called to advise in his wider council along with other legally trained men sitting there as administrators and servants of the king.¹² Such men as Sir John Catesby, a judge of the Common Pleas and uncle of Sir William Catesby, close advisor of Richard III, had their legal ideas recorded in the Year Books when they struck the reporter as being of particular significance and benefit to present and future students of the law.

The idea of the royal estate can be summarised as involving a particular liberty to keep the laws and statutes and to do right and justice according to the coronation oath. The king might not contravene the law nor was he above the law. The law bound his conduct and that of all his subjects,¹³ but he had a special relationship to the law and could be called both the fountain of justice and the chief magistrate. As chief magistrate he appointed all other justices beneath him. He also held the sword of punishment. Simply, it may be said that the king shall defend and shall rule 'in tranquillity, namely by the mene of deue ministration of justice.'¹⁴ The king was morally bound by his coronation oath to do this, the oath specifying that he was to keep the peace for the church and the people, to do justice mercifully and truthfully and to maintain the laws of the land. His oath bound him by the laws as much as it bound him to preserve the laws for the benefit of his subjects. He was thus limited in his power to do evil. He had a divine vocation, being called by God to his duty.¹⁵ If these ideas were commonly expressed among lawyers, and were to be found in writers of such influence and popularity as Gower, it must be concluded that a king of the fifteenth century who read the literature of his day and who came into constant contact with lawyers and who, above all, was conscientious and aware of the full obligations of his coronation oath, must have seen himself in his role of king as having a special concern for justice, both by tradition and in currently acceptable political thought. It should also be noted that it is likely that Richard III was the first king who took his oath in English and thereby ensured that both he and his subjects did understand it. As king, Richard III could impose his own personality open the legal administration in his care if he so chose to do.

On the first day of his reign Richard took his seat in the marble chair of King's Bench and there he made a speech to his justices and all who administered his law, charging them to dispense justice without delay or favour.¹⁶

There is no account of his precise words on this occasion but shortly after there is the text of the proclamation sent through Kent after the defeat of Buckingham's rebellion when the King went personally to the area to quiet it. It exhorted his subjects to give up any traitors to the law but strongly discouraged them from seizing the goods of traitors. Such matters were to be left to the King's officers so that unjust seizures might be avoided. The proclamation goes on to say that the King 'is fully determined to see due administration of justice' which is why he has come himself into Kent so that all may present bills of complaint to him and 'be heard and without delay have such convenient remedy as shall accord with his laws; for his grace is utterly determined that all his subjects shall live in rest and quiet' and so on with a final exhortation to his officers to withstand all who may go against this proclamation.¹⁷ Some such words he probably used on the first day of his reign to his justices, lords and officers. That this Kent proclamation was acted upon and that the bill which attainted Buckingham and certain of his followers in Parliament, and which carefully specified that the innocent dependants of the attainted and all innocent parties were not to suffer from the forfeitures, was likewise no mere form of words is found in the story of the forfeiture of the land of William Brandon, esquire and traitor. Thomas Lynom, then escheator of Essex, inquired into Brandon's forfeited estates to take them into the King's hands and found that William Brandon and Sir John Henyngham had married sisters and co-heiresses and had thereby divided an inheritance. Sir John's wife had died having borne her husband a son, whereupon Brandon had seized Henyngham's wife's property although Henyngham was legally entitled by courtesy to his wife's inheritance and was the father of the heir. Lynom, and thereby the King, became aware of Brandon's dealings and promptly restored Henyngham's rights to him and his son.¹⁸

That the spirit of the Kent proclamation of 1483 was still the policy of the King a year later in December, 1484, is proved by the text of another proclamation when he willed 'for the love that he hath for the ministracion and execucion of Justice for the common welthe of this Royme' that if any should find himself wronged by any officer or other person then he shall show it to the King and 'according to Justice and his lawes they shal have Remedy'.¹⁹

Apart from these two proclamations the most striking example of Richard III's concern for the good administration of the law and justice is one which survives from the second year of his reign when he called 'all the justices before him in the inner Star Chamber and asked of them three questions'.²⁰ Such an assembly was not uncommon by Richard's day and the advice of the justices and serjeants at law was sought over difficult points of law occurring in particular cases of every possible variety by the king, parliament, the council, chancery and the common law justices, although the summoning of the assembly by the first three was rare by Yorkist days. The assembly did not make judicial decisions on the cases before them for they did not operate as a court of the first instance but merely advised. Their delivered opinion naturally carried great weight and might effect the whole course of the law. It facilitated the expedition of the specific cases being delayed by the complications of the law relating to them. The justices usually met in the Exchequer chamber

during the fifteenth century and thus their assembly came to be known as the court of the Exchequer Chamber.²¹ On this occasion they met in the inner Star Chamber where, no doubt, it was more convenient for the King. The first question the King put to them was: 'If anyone brought a false writ and action against some man by which he was taken and imprisoned and kept in prison, shall there be any remedy in that case for the party or for the King, etc.' The King then specified a case where a Thomas Staunton had had a judgement in chancery against a Thomas Gate and had had execution but Thomas Gate had ignored the judgement against him and had re-entered the disputed lands and had imprisoned Staunton by a false action. The justices found that the false action could not be known as such until it was tried and only then did the king have his fine. For the contempt of the judgment by Gate the Chancellor might imprison him. The second question was also no doubt, says Miss Hemmant, about a specific case but no names have survived. It ran: 'If some justice of the Peace had taken a bill of indictment which had not been found by the Jury, and enrolled it among other indictments "well and truly" found etc., shall there be any punishment thereupon for such justice so doing?' To discuss this the justices withdrew apart from the council and then returned to say that in such a case an inquiry should be made by a commission and if the justice of the peace were convicted he should lose his office and pay a fine to the king according to the degree of his misprision.²² The third question concerned the erasure of a court record when a plaintiff, discovering that he had had writs made out in the wrong name of John Barret, had the correct name of William Barret inserted. There followed a very lengthy and complicated discussion of this case, for the offence appeared to be a felony against the statute 8 Henry VI cap. 12, but the statute had made no provision for such an offence. The case involved the plaintiff and his attorney, the keeper of the writs, J. Mundus, who had erased the original writ, and a clerk of one of the compters of London. There were so many ensuing complications that King Richard was 'perturbed' that these offenders should escape unpunished. Four of them were finally indicted for misprision concerning the erasure and in the King's Bench, Westminster, they were found guilty and fined, the King himself being present. For various reasons J. Mundus was tried separately for misprision and fined in London.

There had been two cases of misprision amongst the three placed by the King before his justices and after the last case had been tried, the Year Book describes the justices again meeting together, this time at the parish church of St Andrew, Holborn, and there discussing how those convicted of misprision should pay the fine. And they agreed unanimously that 'when a fine or ransom shall be paid, the justices before whom he had been convicted shall take security and pledges for the fine etc., and afterwards, at their discretion, they (and not the lord the King either by himself or in his chamber or otherwise before him, unless by his justices) shall assess the fine'. The most famous recent case of misprision had occurred in the reign of Edward IV, that of Sir Thomas Cook, a previous mayor of London and a very wealthy man, who had been indicted for high treason. For this he was not convicted but he was found guilty of misprision.²³ Edward IV duly fined Sir Thomas for misprision,

he and his council specifying the awful figure of 8000 marks though due allowance was to be made for the damage Cook had already suffered to his property.²⁴ The justices of the time had undoubtedly been shocked by the size of the fine and someone scrawled on the note of Cook's pledges on the file of his trial that the fine of 8000 marks was neither recognised nor assessed by the justices.²⁵ It seems very probable that this most notorious case was in the minds of the justices when they declared their decision in 2 Richard III, and in the mind of the King when he replied, especially since the Duke of Buckingham is supposed to have made play with the harsh treatment meted out to Cook in his speech at Guildhall when encouraging the citizens of London to have Richard as king.²⁶ Richard's reply to his justices is noteworthy in this context and for its revelation of his attitude to the administration of justice: 'And this is the King's will to wit, to say "by his justices" and "by his law" is to say one and the same thing.' The King thus graciously agreed to the finding of his justices. He has allowed that it is they, under the king, who administer the law. He has interfered by personally summoning the justices together in the interests of speeding three difficult cases through the courts. He has drawn attention to certain faults in the law and has shown concern that the offenders, officials in two of the cases, should not go unpunished. He has been concerned to respect his justices' decisions even when they reflect on the king himself.

There is another case showing Richard III's active interest in the law and its administration, that of Robert Duplache citizen and tailor of London versus Sir Gilbert Debenham of Wenham.²⁷ This dispute over a debt owed by Debenham to Duplache had started in October, 1470, and was still not settled. In the course of the case Duplache had resorted to the dubious method of having the original obligation which had bound Debenham, a statute staple, to be certified three times in the chancery, and against this Debenham petitioned the King. The King inquired how such a triple certification could come about and was told by his justices that it was the fault of the mayor of the Staple and of the chancery for the obligation should have been left in the court or cancelled at the first certification.²⁸ More about the ending of that case we do not know. Miss Hemmant comments that the King's 'main preoccupation seems to have been to draw attention to, if not to remedy, obvious defects in the administration of the law.'²⁹

Richard's record as a law maker in the 'place of wordely policie'³⁰ must now be considered. Bishop John Russell of Lincoln, as Chancellor, opened the proceedings on the urgent theme of peace. Peace could be maintained in the country by each of its members, represented by the estates of the realm, doing its duty, for example, the duty of the prince was 'to geue equalle iustice with pytie and mercy, and to defende hys londe from vtwarde hostilitie . . .'³¹ He spoke of the particular discords recently seen in the country and of some of the more persistent wickednesses harming the people 'where of at thys tyme no man ys ygnoraunte, that vndir colour of administracion of justice, by favour of syche offycers as make the panell, ofte tyme there ys more vengeable wronge committed thorowe fals informacion sene acceptoed, then yff the swerde were drawn . . . pursuyng openly yn apparence for justice, and

vndir that conuertly of purpensed entent doynge that ys most vnjustice.³² The Chancellor would probably have considered what the King might wish him to say in his opening speech and maladministration of the law and its remedy, we have already seen, is a recurrent theme of Richard's personal intervention in legal cases and in his proclamations. We shall see that it also concerned several of the statutes about to be introduced into Parliament.

Richard's legislation has been studied in detail,³³ but there are a few aspects that might be emphasised to show Richard's prevailing concern with the effectual administration of the law and justice. The statute of *Titulus Regius* which ratified Richard's title has a long description of the decay of the country: 'the laws of God and of Gode's church, and also the lawes of nature and of Englund and also the laudable customes and liberties of the same, wherein every Englishman is inheritor, broken, subverted and contempned, against all reason and justice . . .'. This was to be healed by Richard being 'naturally enclyned to the prosperite and comen wele' of the country. Allowing for the typically enthusiastic language of a parliamentary petition³⁴ the renunciation of the old evil ways of Edward IV's reign is significant. Richard is undoubtedly setting himself up to surpass his brother's no mean record as an administrator of justice.

Among the public statutes are two beneficially concerned with the quieting of title, that on uses (cap. 1) and that on the fine (cap. 7). While Duke of Gloucester, Richard must have come across myriads of cases where land disputes had lasted an unnecessarily long time because the law on the use or the fine was insufficient and alienation was thereby rendered insecure.³⁵ The latter statute, besides making the fine a viable instrument again, introduced a provision for the proclamation of the fine in the court where it was levied in the same law term and in the three following terms. A transcript of the fine was also to be sent to the assizes and quarter sessions in the counties concerned to be proclaimed there each session and assize for a year. After a due space of time parties who might have had an interest in the lands conveyed were effectively barred from putting in their claims. The proclamations assured publicity for the transaction and the fine by this statute could 'end strife, make peace, breede securitie and tranquillitie, which is the very . . . end of all goodly Lawes.'³⁶ This concern to make something in the law known to his people for their better safeguard is another theme of Richard's legal administration. From his parliament dates the practice of sending to chancery copies of the enrolled statutes so that further copies might be made and sent out for proclamation and be available for collection and regular publication. The first sessional publication of the statutes was for 1484.³⁷ It may also not be entirely unconnected that the Year Books of Richard's reign suddenly lapse occasionally into Latin among their usual law French and only return entirely to the latter in the early years of Henry VII.³⁸ Similarly all the statutes of Richard's parliament were in English for the first time. Could all this have been the result of the reforming hand of the King or perhaps of his Chancellor, the new supervisor of chancery routine? The *Titulus Regius* sums up the matter when it says that since most of the people of England are not learned in the laws their minds need to be quieted by a 'manifestation and declaration of trueth'

by parliament. A proclamation of the statutes and the King's mind was the nearest and simplest way to reach the people.

In his statute forbidding the benevolences (cap. 2) invented by his brother, Edward IV, Richard is following the spirit of reform voiced in the *Titulus Regius* that 'self-well, pleasure, fear and dread' should no longer prevail. He was also duly endorsing parliament's well-established right to vote all taxes to the king. He had already gone further in recognition of parliament's unique position by getting his own legitimist title to the crown ratified in it so that he has been flamboyantly styled as 'in a sense . . . the most "parliamentary" monarch of the 15th century'.³⁹

There are three other statutes all touching upon the good administration of the law and the good conduct of officials. A justice of the peace might bail a man in prison on suspicion of felony and no officer was to seize the goods of a prisoner until he was convicted (cap. 3). The standing of men who might be empanelled as jurors on the sheriff's tourn was laid down as a property qualification to guard against perjury (cap. 4), a particularly apposite regulation as the jury was the most sensitive area of the English legal administration, at this time being particularly vulnerable to pressure from parties in the cases before them. Finally a statute regulated the courts of Pie powder⁴⁰ and their officials and the clause imposing a penalty on official's misbehaviour was to be proclaimed 'in all goodly haste' throughout the shires by the sheriffs both inside and out of franchises (cap. 6).

Who were the men who drafted Richard III's statutes? The higher ranks of the judicial profession had a good reputation for competence and integrity by the reign of Richard III. They mostly avoided the political factions of their day, with a few notable exceptions such as chief justice Sir John Fortescue, and were regularly reappointed under each monarch, Lancastrian, Yorkist or Tudor.⁴¹ The upper ranks compared very favourably with the lesser officials beneath them who struggled with a comparatively brief term of office, little training, no regular pay and thereby a need to profit from their office. These officials were also notoriously difficult to prosecute in the courts especially because, in the middle ages, the King could not prosecute on his own account.⁴² They and the more common run of attorneys and lawyers came in for virulent attack, some of it justified and some of it undoubtedly based on ignorance of the law and its methods.⁴³ The law was of far greater significance in the fifteenth century than in the twentieth for it was the language of social obligation, defining the relations between the king and his people and person with person down to the lowest rank. Parliament itself was a court of law. The other courts held both administrative and legal responsibility. The king employed all ranks of lawyers and they were active in all councils including the king's, the nobles', the bishops', the colleges' and the towns'. They served as administrators on most estates belonging to the laity and the church and managed the local manorial courts.⁴⁴

By the time a man became a judge he would have gained a wide experience of the law and its administration and considerable competence in the technicalities of the common law.⁴⁵ Such an institution as the justices sitting in the Exchequer Chamber was dependent for its effectiveness on the integrity of its

members.⁴⁶ Some of the judges acquired a very considerable reputation like Sir Thomas Littleton who wrote, in the latter part of Edward IV's reign, his book on the land law of England called *Tenures* which was to remain the standard text book on the subject for centuries and was called the 'most perfect and absolute book that ever was written in any humane science' by Sir Edward Coke.⁴⁷ Coke also looked wistfully back, in his same work on Littleton, from the seventeenth century to the fifteenth century as the time of great Readings in the Inns of Court, while Sir Matthew Hale thought of it as the Golden Age of pleading. Richard III was thus surrounded by no mean talent and by men who could speak their mind on points of law and justice to the King himself, as we have seen in their decision over the settlement of the fine for misprision. Holdsworth quotes an example of Sir John Markham telling Edward IV that the king 'could not arrest a man for treason or felony, as any of his subjects might, because if the arrest were wrongful, the subject would be deprived of his remedy'.⁴⁸ It was Markham who was the leading common law judge who sat on the commission of oyer and terminer which tried Sir Thomas Cook in 1468 when he is held to have directed that a verdict of misprision, in this case a concealment of a treason, should be brought in. The present author believes that Edward IV may be entirely cleared of the charge that he dismissed Sir Thomas Markham for directing such a verdict,⁴⁹ though he may have evinced less respect for the law than was strictly necessary for a spotless record over the matter of Cook's fine. We may ask if Richard III did better? Again, we should refer to his own words: 'To say "by his law" and to say "by his justices" is to say one and the same thing'.

Richard III's knowledge of the law and its administration was gained during the reign of his brother. Edward set a standard and example which his successor might emulate or surpass. It has been thought that Edward may have received an education in the law in common with many other sons of the nobility and gentry.⁵⁰ This type of education may also be postulated as essential for Richard since few young men likely to be involved in administration could afford to ignore the law. The activity of Edward IV in personally dispensing justice all over the country from the very beginning of his reign, only slackening at the end, has been traced by Bellamy.⁵¹ The King's presence could make sure that high born prisoners were convicted and Edward was ruthless in sparing not even his own servants.⁵² Bellamy has answered some of the criticisms levelled at Edward IV for injustice in specific cases such as that of Sir Thomas Cook. Maurice Keen has shown that the charge that Edward IV invented a new summary court for his constable John Tiptoft needs to be severely qualified. Such a court was not new nor was it against the laws of England.⁵³ There was undoubtedly some change and development in the courts of the constable and the admiral, both being courts of the civil or Roman law. In 1482 Edward appointed a promoter of all 'causes civil and criminal or concerning crimes of lèse majesté before the king's judges of the constableness and admiralty of England.' Also in 1482 the office of constable was put into commission since the holder of the office, Richard of Gloucester, was marching into Scotland.⁵⁴ Under Richard III this development continued with the appointment of vice-constables and

similar measures were adopted in the admiralty.⁵⁵ While constable and admiral, Richard had undoubtedly worked through deputies but one may assume that he well understood his offices. Unfortunately the lack of records from both of these courts means that little can now be found out about their activities.

The council of the Yorkist king and its local off-shoots in Wales and the North and the further off-shoot of the office where poor men might have their petitions heard free of charge, later known as the court of Requests, the last two being developments, if not inventions, of Richard III, show the Yorkist kings capable of advancing the existing modes of administration and justice. Bellamy has stressed that they used and 'infused new life' into the traditional courts of common law, chancery, commissions of oyer and terminer and the justices of the peace rather than invented new courts. 'It would be by chance rather than design if any of the royal *modus operandi* grew into institutions.'⁵⁶

It may be said that they used the old institutions because they were still valid, active and vital. It has been seen that the judges were respected for their learning and probity and included notable thinkers. The great increase of the business heard in the common law court of Common Pleas in the fifteenth century has been described by Margaret Hastings as well as the revolution taking place in the legal methods of the day. It was the golden age of oral pleading, paper pleadings being introduced in the latter part of the century, and it also saw the transformation of the jury from a group of witnesses to judges of the evidence. Copyhold tenants gained protection and there was the development of the most important action of trespass as well as the common recovery.⁵⁷ The law of precedent was being stimulated by the great increase of activity in the judges' assembly in the Exchequer Chamber 1450 onwards, by the first Abridgement, compiled at Lincoln's Inn probably under the supervision of Nicholas Stathum, by the great work of Littleton and by the printing of legal works.⁵⁸ Equally important at this time was the harmony existing between the common law courts and that of chancery. The common law, the law of the land, had become a fixed set of rules by the fifteenth century and was subject to considerable delays. It could still to some extent alleviate its own defects by the activity of lawyers in creating fictions to bypass the rules and by the Exchequer Chamber assembly. But most of all its inadequacies were answered by application to the chancery which was well established as a court of equity by the time of the Yorkists. As yet the lawyers of common law did not resent this arrangement and in fact saw equity as an advantage and not a threat to their own courts and some of their judges sat regularly in the chancery to help the chancellor. One lawyer, John Catesby, in 1464, proclaimed 'the law of Chancery is the common law of the land . . .' to be not unnaturally told by the judge, 'that cannot be so here in this court', but his making the statement is some indication of the unity of the law as a whole in his time.⁵⁹ Plucknett saw this as a lost opportunity for combining common law and equity 400 years before they were so combined.⁶⁰ The chancery was going through a time of tremendous growth in business under the Yorkists though it remained smaller than King's Bench or Common Pleas.⁶¹ Chancery developed in response to this increased labour a highly trained legal personnel, including

such as Thomas Barowe, and it began to have as its head notable civil lawyers like Robert Stillington, Laurence Booth, Thomas Rotherham and John Russell.⁶² The chancellor had become, by Edward IV's time, the most important judge in the realm.⁶³ The increase in the use of civil lawyers in chancery was paralleled in the less visible, because less well documented, courts of the admiralty and the constable. Again, until the sixteenth century the civil law of Rome did not meet with any concerted opposition from the common lawyers. The Yorkist kings had the good fortune to live in a time of legal development and not confrontation.

Richard III undoubtedly continued the policies of his brother and he undoubtedly used the traditional forms of legal administration to do it as Bellamy maintains. If he had no opportunity to surpass Edward IV's achievement in his short reign he does seem to have left his own individual mark. He had shown a particular concern to control the official's behaviour and punish his offences. He had shown concern that the law should reach the people for whom it was made. He had interfered in cases for the benefit of the law, in a limited and proper manner, for already in his brother's reign this royal interference was becoming an anomaly unless 'specially justified'⁶⁴ and Richard may have been showing his awareness of this when he acceded so gracefully to the justices over the fine for misprision. He respected them as the administrators of his laws and as the body of men who best understood them. It is this respect for the law and justice that seems to exemplify Richard's attitude to them. He showed a respect bordering on devotion when he spoke of his 'profession' in his coronation oath. The king was, after all, called by God to his duty. It was essential for the spirit of the constitution that the king respect the law⁶⁵ and chief justice Hussey summarised the problem shortly after Richard's death: 'The law will never be well executed until all the lords spiritual and temporal are of one accord, for the love and dread that they have for God or for the king, or both, to execute them effectually, and when the king on his part and the lords on their part both want to do this—and do it.'⁶⁶ It seems that Richard made an attempt to do this in his short reign.

NOTES AND REFERENCES

1. P. M. Kendall, *Richard III*, Allen & Unwin, 1955, p. 310.
2. C. Halsted, *Richard III*, Vol. II, App. U.
3. A recent excellent summary of Edward IV's application to this problem has appeared in Charles Ross, *Edward IV*, Eyre Methuen, 1975, pp. 388–414.
4. C. A. J. Armstrong, *The Inauguration Ceremonies of the Yorkist Kings and their Title to the Throne*, T.H.R.S., 1948, p. 70.
5. Quoted S. B. Chrimes, *Constitutional Ideas in the 15th century*, C.U.P., 1936, p. 14.
6. *Ibid.*, quoted p. 17, and for another such quotation see p. 21.
7. J. H. Fisher, *John Gower*, New York University Press, 1964, pp. 154–163.
8. *Ibid.*, pp. 180–7.
9. *Ibid.*, pp. 183–203.
10. List of Caxton's works in N. F. Blake, *Caxton and his World*. Andre Deutsch, 1969.
11. *Confessio Amantis VII 3075*.

12. See below for the pervasive influence of the law and lawyers in the fifteenth century.
13. W. S. Holdsworth, *A History of English Law*, Vol. II, 3rd ed., pp. 429-30.
14. Chrimes *op. cit.* A quotation from *Proceedings and Ordinances*, Vol. V, 357.
15. *Ibid.*, especially pp. 3-21, for this summary as a whole.
16. *The Great Chronicle of London*, ed. A. H. Thomas and I. D. Thornley, 1938, p. 232.
17. James Gairdner, *Richard III*, pp. 342-4, from *B. M. Harleian MS.433*, f.128b.
18. *Calendar of Patent Rolls 1476-85*, p. 524.
19. *B. M. Harleian MS.433*, f.273.
20. *Select Cases before the Exchequer Chamber*, ed. M. Hemmant, Vol. II, Selden Society, 1948, pp. 86-94, and her introduction to the event, pp. xxxviii-xl. All quotations are from her translation.
21. *Ibid.*, Vol. I, Selden Society, 1933, introduction.
22. Misprision=wilful misbehaviour in office. Also a concealment of an offence against the king, e.g. treason. It carried no penalty of life or limb. J. G. Bellamy, *The Law of Treason in the Later Middle Ages*, C.U.P., 1970, pp. 216-224.
23. *Ibid.*, pp. 216-224 for his strictures on the misuse of the term 'misprision of treason' in this case, and pp. 222-3 for an account of this case.
24. *The Great Chronicle, op. cit.* pp. 207-8, wrongly makes the fine £8000 but the official record put this right, see below. If the chronicler is right in his assessment of the allowance made for damage being £1000 Sir Thomas was left owing the King 6500 marks.
25. *PRO Ancient Indictments*. KB9/319 m.1.
26. Sir Thomas More, *History of King Richard III. The Great Debate*, Folio Society, 1965, p. 90.
27. Hemmant *op. cit.* Vol. II, pp. 75-82 and her notes on the case pp. xxxiv-xxxviii.
28. By the means of a statute staple the mayor of the Staple took recognizance of a debt concerning merchants of the Staple and their goods. Upon default of payment the mayor might proceed against the debtor. If he was not to be found within the Staple the mayor had to certify the obligation into chancery and a process was obtained there against the debtor. Jacob: *Law Dictionary*.
29. Hemmant, *op. cit.*, p. xxxviii.
30. Chancellor Russell's sermon opening parliament in 1484, printed in Chrimes, *op. cit.*, p. 183.
31. *Ibid.*, p. 187.
32. *Ibid.*, pp. 184-5.
33. For comments on all his statutes see H. C. Hanbury, *The Legislation of Richard III. American Journal of Legal History*, Vol. 6, 1962. A very favourable assessment.
34. *Rot. Parl.*, vi. p. 240, printed Halsted, *op. cit.*, Vol. II, pp. 540-6.
35. The "use" of an estate lay with the person who took its profits, the legal ownership of the estate having been conferred on his several feoffees or trustees. By this means he who held the use could avoid feudal incidents, devise the land and do what he wanted with it. He could only complain about dishonest feoffees through chancery since the common law only recognised the legal estate. By the fifteenth century the "fine" in the sense of Richard III's act was the determination of a fictional action in law in order to make secure the title of a man in an estate, and have it recorded in the King's Court of Common Pleas. Jacob, *Law Dictionary*.
36. W. West, *Symbolography*, 1594, quoted by C. A. F. Meekings, *Final Concords, their History and Form*. Introduction to Surrey Record Society, 1946, p. ix. Meekings provides the best description of this legal instrument and its development. Richard III's act was, of course, re-enacted with modifications by 4 Henry VII cap. 24, known inaccurately as the first statute of fines, *ibid.*, p. xxvi.

37. Chrimes, *op. cit.*, Chapter on legislative procedure. J. R. Lander, *Conflict and Stability in 15th Century England*. Hutchinson University Library, 1969, p. 166.
38. Hemmant, *op. cit.*, Vol. II, p. xvi.
39. B. Wilkinson, *Constitutional History of England in the 15th century*. Longmans, 1964, p. 163.
40. From *pied poudre*—dusty foot. A court to deal with cases arising at a particular market or fair, so that buyers and sellers might have convenient and immediate justice on the spot.
41. For their careers and reputations see Edward Foss, *The Judges of England*. Also Holdsworth, *op. cit.*, Vol. II, pp. 564–6, on the great improvement of standards since the early part of the reign of Edward I.
42. J. G. Bellamy, *Crime and Public Order in England in the Later Middle Ages*. Routledge & Kegan Paul, 1973, Ch. 1.
43. Ives, The Reputation of the Common Lawyers in English Society 1450–1550. *University of Birmingham Historical Journal*, 1960.
44. *Ibid.* His concluding paragraphs for the importance of the law in the fifteenth and sixteenth centuries.
45. *Ibid.*, e.g. William Jenney, justice of the King's Bench, was famous for holding manorial courts.
46. Hemmant, *op. cit.*, Vol. I, Introduction.
47. Quoted Holdsworth, *op. cit.*, Vol. II, 573.
48. *Ibid.*, Vol. II, pp. 560–2 quoting *Year Book I H.VIII*, Mich. pl. 5.
49. The present author hopes to deal fully with the Sir Thomas Cook affair at a later date. J. G. Bellamy has also speculated on the credibility of the dismissal story in the face of the honourable position which justices held in the fifteenth century, immune to the whims of kings and to political change; Law of Treason, *op. cit.* and his Justice under the Yorkist Kings, *American Journal of Legal History*, 1965, pp. 143–5.
50. Ross, *op. cit.*, p. 9.
51. *Justice of the Yorkist Kings*, *op. cit.*, pp. 185–9. This article deals with the judicial policy of the Kings but Richard's reign is not discussed in any detail.
52. *Ibid.*, p. 137.
53. Maurice Keen, Treason trials under the law of arms. T.R.H.S. 1962, and Bellamy's views on this in *Justice of the Yorkist Kings*, *op. cit.*, pp. 139–142.
54. Bellamy, as last note, p. 142.
55. *Ibid.*, p. 142 n.40.
56. *Ibid.*, pp 154–5.
57. M. Hastings, *The Court of Common Pleas in 15th Century England*. Ithaca, 1941, Ch. 1.
58. Hemmant, *op. cit.*, Vol. II, p.p xviii–xix.
59. Y.B. 4 E IV Easter 9, quoted by K. E. Digby, *An Introduction to the History of the Law of Real Property*, 1875, p. 263.
60. *Concise History of the English Law*, 5th ed., p. 189.
61. Nicholas Pronay, The Chancellor, the Chancery, and the Council at the end of the 15th century, in *British Government and Administration, studies presented to S. B. Chrimes*, ed. M. Heorder and H. R. Loyn. University of Wales, 1974, p. 89.
62. *Ibid.*, pp. 89–92.
63. *Ibid.*, p. 101.
64. Holdsworth, *op. cit.*, Vol. II, p. 563. Fortescue was not in favour of a king acting as a judge, quoted by Armstrong, *op. cit.*, p. 70.
65. Chrimes, *op. cit.*, his conclusion.
66. Y.B. 1 H VII, quoted by Hastings, *op. cit.*