



Condon, M. M., & Jones, E. T. John Johns (Jonys) of Bristol, merchant vs. John Day alias Hugh Say: Chancery petition, c. 1502

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**Margaret M. Condon and Evan T. Jones (eds.), 'John Johns (Jonys) of Bristol, merchant vs. John Day *alias* Hugh Say: Chancery petition, c. 1502' (University of Bristol, ROSE, 2012)<sup>1</sup>**

The document transcribed below is one of two petitions filed in Chancery c. 1502 by two different inhabitants of Bristol against John Day 'now calling himself Hugh Say'. Both petitions sought to stop actions earlier brought in the Staple Court of Bristol by Hugh Say/John Day, and to have them heard in the king's court of Chancery rather than in Bristol.<sup>2</sup> Both record, in unmistakable terms, that John Day and Hugh Say are aliases that identify the same Bristol merchant.<sup>3</sup> This is significant because 'John Day' was the author of a letter that provides the most complete narrative of the voyages of discovery undertaken in 1496 and 1497 by the Venetian John Cabot/Zuan Caboto. The identification of Say's alias as John Day enabled the historian Alwyn Ruddock to construct a biography of an otherwise obscure merchant. Sometime before 1492 Hugh Say of London adopted the name John Day, moving to Bristol c. 1494. However, he changed his name back to Hugh Say c.1501/2, after which he returned to London – probably during the summer of 1502. By identifying Say/Day, Ruddock was able to confirm his letter's authenticity and authority, while also going on to demonstrate why this particular Bristol merchant might have been familiar with obscure Latin geographical texts.<sup>4</sup>

While the two Chancery cases are not directly related, both arose out of Day's ill-fated partnership with another Bristol merchant, John Rokes. John Johns's petition does not show Say in a good light.<sup>5</sup> Johns had, in conjunction with Rokes, entered into an obligation for the

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<sup>1</sup> The National Archives: Public Record Office, UK [TNA: PRO], C1/265/2. The following conventions were employed when transcribing the document: the line spacing, spelling, capitalization, and punctuation follow the manuscript; reconstructions of suspensions are in italics; 'u' and 'v' have been rendered according to the document rather than to modern usage. Squared brackets indicate editorial additions. Continuous lines of dots indicate areas of loss from the manuscript itself: about fifteen percent of the petition is missing, as a result of the decay of its bottom-left corner. As indicated in footnotes to the transcript, most of the missing material will have consisted of stock phrases commonly found in petitions in Chancery. This transcription was undertaken as part of the 'Cabot Project' (University of Bristol, 2009-) funded by the British Academy (SG100194) and Gretchen Bauta, a private Canadian benefactor. We would like to thank Dr Jeff Reed and Susan Snelgrove for commenting on an earlier draft of this paper.

<sup>2</sup> In return for the payment of a fine for entry, Day had been admitted to the Staple of Bristol in 1494 as John Day of London, mercer: A. A. Ruddock, 'John Day of Bristol and the English Voyages across the Atlantic before 1497', *Geographical Journal*, vol. 132, no. 2 (June 1966), pp. 225-26.

<sup>3</sup> Noted by Ruddock, 'John Day', pp. 226-27. For Nash *v* Day *alias* Say, see Margaret M. Condon and Evan T. Jones (eds.), 'Thomas Nash of Bristol, bowyer, vs. John Day *alias* Hugh Say: Chancery petition, c. 1502' (University of Bristol, ROSE, 2012): <http://hdl.handle.net/1983/1830>.

<sup>4</sup> Ruddock, 'John Day', pp. 225-33; for an easily accessible text of the letter, and of Cabot's patent, J. A. Williamson, *The Cabot Voyages and Bristol Discovery under Henry VII* (Hakluyt Society, Second Series, No. 120, CUP, 1962), pp. 204-5, 211-14. Ruddock's correspondence with the University of Exeter Press in the 1990s suggests that there may initially have been some concern over the authenticity of the letter, because of the seeming impossibility of further identifying its author: A. A. Ruddock to Genevieve Davy (UEP), 17 July 1996. For references to other texts of the letter, below, n. 11. A new study of Day/Say is in course of preparation by the current authors.

<sup>5</sup> One 'John Jonys' was engaged in a relatively small scale trade with Bordeaux, Lisbon and Andalusia in 1492/3, importing wine and exporting cloth: TNA: PRO, E122/20/9, fos.16r, 17v, 20r, 51r, 58r. This is likely to be the same 'John Johnes' who served as one of the bailiffs of Bristol in 1495/6 and the 'John Johnys' of Bristol who assisted in two appraisements made in 1500 of goods seized for non-payment of customs. The earlier of the two appraisement entries describes him as a 'vintner'; the second as a 'merchant'. Given the spellings adopted in these documents, 'Jonys' has been transliterated here as Johns rather than the alternative reading of Jones: Bristol Record Office, 04720; TNA: PRO, E159/276, Recorda Hil 15 Hen VII, rot. 7d; E159/277, Recorda, Mich 16 Hen VII, rot. 4. On the other hand, given the vagaries of name spelling, the same man may also be the 'John Jones' who is recorded as importing small quantities of wine from Bordeaux and Andalusia in

safe delivery of nineteen woollen cloths. It was agreed that these should reach Day in Spain by 31 October 1501. Simply put, this means that the two men had jointly signed or sealed a document stating that, if they did not fulfil the condition, they would have to pay Day £60. The debt would be voided if the conditions were fulfilled – that is, if the cloths were delivered on time to Day or his factor at St Lúcar de Barrameda, a port on the south-west coast of Spain, just north of Cadiz. The use of such ‘bills obligatory’ was an entirely normal, and, indeed, necessary part of mercantile procedure; but they could also be open to abuse.

According to Johns, Day rejected three of the nineteen cloths before they were laded in Bristol, presumably for short measure or faulty workmanship. He then deliberately delayed the sailing of the ship, which was jointly owned by Rokes and Day, so that there was little leeway left for her to complete the long sea voyage to Andalusia in time. He did this, Johns said, in the hope of profiting by the forfeiture of the bond. Moreover, Johns continued, the passage of the ship was further delayed by inclement weather. In consequence, she reached her destination late and, as a result, Johns and Rokes were in breach of their bond, because the cloths had not been delivered by 31 October. Some time after this Rokes died, leaving Johns to bear the whole burden of the penalty.

Day, by now calling himself Hugh Say, then brought an action of debt against Johns in Bristol’s Staple court, claiming that the bond was forfeit. Although he had received the cloths, technically, according to the law merchant that governed the proceedings of the court, he was in the right and had only to prove his bond: as Johns acknowledged.<sup>6</sup> Johns was thus in real danger of being charged not only with £60, the full amount of the bond, but also with costs and damages. In his petition, however, Johns asked that the legal record might be summoned into Chancery, and the case adjudged according to the laws of equity and conscience.<sup>7</sup> Unlike the Bristol court, where the case in law rested strictly on the authenticity of the bond and the performance or non-performance of its condition, the Keeper of the Great Seal, as head of the Chancery court, would be able to take Day’s alleged behaviour into consideration before delivering judgement.

Two other aspects of the petition seem worthy of note. It was not unusual for ships to be in shared ownership, but the records of named ownership are relatively sparse. The petition states that the *Michael Mark* was jointly owned by John Rokes and John Day/Hugh Say.<sup>8</sup> Since she operated on the Andalusian route, she is likely to have been at least eighty tons burden, and probably more.<sup>9</sup> Second, there are no surviving ‘particular’ accounts for

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1503/4: Susan Flavin and Evan T. Jones (eds), ‘Bristol ‘Particular’ Customs Account, 1503/4’ (University of Bristol, ROSE, 2011): <http://hdl.handle.net/1983/1296>.

<sup>6</sup> The Law Merchant had its own rules of pleading and proof. Say/Day would almost certainly have been able to produce the obligation in court and would also have been able to call on two of his fellow merchants to take an oath in court in ‘proof’ that the bond was true and not forged. The Law Merchant operated in both Bristol’s Tolsey and Staple Courts. Perhaps the clearest explanation of procedures is E. W. Veale, (ed.), *The Great Red Book of Bristol, Part III* (Bristol Record Society, vol. 16, 1951), pp. 6-24, 33-46. See also M.E. Basile et al., (eds.), *‘Lex Mercatoria’ and Legal Pluralism: A Late Thirteenth Century Treatise and its Afterlife*, (Cambridge, Mass., 1998); S.D. Cole, ‘English Borough Courts’, *Law Quarterly Review*, xviii (1902), pp. 380-84; E.E. Rich, (ed.), *The Staple Courts of Bristol* (Bristol Record Society, vol. 5, 1934), especially pp. 30-38, 43-4, 84-8.

<sup>7</sup> This could be done either by a writ of *corpus cum causa*, requiring the mayor and constables of Bristol to produce the body of Johns at Westminster, as well as a written record of the proceedings of the Staple Court; or a *certiorari*, which would bring in the record alone.

<sup>8</sup> See also Condon and Jones, ‘Thomas Nash vs. John Day *alias* Hugh Say’.

<sup>9</sup> It is not known whether she was the same ship as the ninety-five ton *Michael* which plied the same route – although it was not uncommon for Bristol ships with ‘double names’ to sometimes have one part of the name dropped in common usage: E. T. Jones, ‘The Bristol Shipping Industry in the Sixteenth Century’ (PhD, Edinburgh 1998), pp. 182-267. For the *Michael* see: J. Vanes (ed.), *Documents illustrating the Overseas Trade of Bristol in the Sixteenth Century* (Bristol Record Society, vol. 31, 1979), pp. 78, 133-4; Williamson, *Cabot Voyages*, pp. 262-3; E. T. Jones ‘The *Matthew* of Bristol and the financiers of John Cabot’s 1497 voyage to North America’, *English Historical Review*, 121 (2006), pp. 785-86.

Bristol customs between 1493 and 1503, by which time Say/Day had left Bristol for London. It is thus useful to prove that Day traded into San Lúcar de Barrameda – this being the port from which Christopher Columbus launched his third discovery voyage in May 1498, and to which he returned in 1504 after his fourth and last voyage.<sup>10</sup> If Day had a history of trading to San Lúcar, this could thus help to explain how he originally came into contact with the Spanish admiral.<sup>11</sup>

As is usual in Chancery petitions of this date, the outcome of the case is unknown, although it is clear from the endorsement on the back of the petition that John's request for the issue of the writ was granted.<sup>12</sup>

Unusually, the petition can be fairly closely dated through its reference to William Warham as bishop of London and keeper of the Great Seal.<sup>13</sup> In conjunction with the endorsement, which specifies a hearing in Michaelmas term, it was thus probably filed in September or early October 1502, although the late summer/early autumn of 1503 remains a possibility.

An abstract of this petition was published in 1979 by Jean Vanes as part of her study of Bristol's sixteenth century trade.<sup>14</sup>

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<sup>10</sup> C. Jane and E. G. R. Taylor (eds.), *Select Documents Illustrating the Four Voyages of Columbus* (2 vols, Hakluyt Society, 1930, 1933), vol. ii, pp. 8, 137.

<sup>11</sup> L.-A. Vigneras, 'New light on the 1497 Cabot voyage to America', *The Hispanic American Historical Review*, xxxvi, (1956), 503-509, and *idem*, 'The Cape Breton landfall: 1494 or 1497?' *Canadian Historical Review*, xxxviii (1957), 219-28; Vigneras's English translation of the Day letter is reprinted Williamson, *Cabot Voyages*, pp. 211-214. It should be noted that Professor Ballasteros-Gaibrois, who produced a variant edition of the Spanish text, did not accept Vigneras's identification of the un-named admiral to whom the letter was addressed: although it is unclear how far Gaibrois had followed Vigneras's developed argument. M. Ballasteros Gaibrois, *Juan Caboto*, (Serie Cuadernos Columbinos, xxi, Valladolid, 1997), pp. 104-5, 164, 223-225. Dr. Fernando Cervantes (University of Bristol) is preparing a new transcription and translation of the letter.

<sup>12</sup> The endorsement gives an initial date 'Coram Rege in cancellaria' of the Octave of Michaelmas, which was then altered to the morrow of All Souls. Since no pledges are noted on the front of the petition, these dates are likely to be for the return of the writ.

<sup>13</sup> Papal provision to be bishop of London 20 October 1501, consecrated 25 September 1502; Keeper of the Great Seal 11 August 1502 to 21 January 1504, when he became Chancellor.

<sup>14</sup> Vanes, *Overseas Trade of Bristol*, p. 137. Vanes avoids the issue of the date of the petition by concentrating on the trade rather than the legal process, so enabling her to give a date of 1501.

*The Petition*

To the Reverende fader in god and gracious lord

William Bischof' of London and kepar of the kynges gret seale<sup>15</sup>

In humble wyse shewith unto *your* good lordeship' *your* Orator John Jonys of Bristow marchant that where as oon John Rokes of the same towne marchant bargenyd and sold unto oon John Day now calling hym selfe hugh Say xix wollen clothes of dyuerse colors tobe delyueryd to the same John Day now calling hymselfe hugh Say or to his ~<sup>16</sup> assign' at the towne of Seynt Lucar of Barameda *within* the prouince of Andolazia<sup>17</sup> by the lastday of October in the yere of *your* lorde god A<sup>18</sup> m<sup>li</sup> v<sup>c</sup> & j<sup>19</sup> and for the *performans* of the *premissez*<sup>20</sup> according as it afore specified<sup>21</sup> *your* said orator and the said John Rokes were Joyntly bownden by there obligicion to the said John Day now calling hymself Hugh Say in lx li sterling<sup>22</sup> tobe payde at *acerten* day as more playnely hit doth apere by the said obligacion ~ And *your* saide orator saith that *afterwardis* the said John Rokes at Bristow ~~sewid~~ shewid the said John Day now calling himself Hugh Say the said xix clothes of the whiche xix clothes thesame John Day ~ ~ ~ ~

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<sup>15</sup> William Warham, consecrated as bishop of London 25 September 1502, Keeper of the Great Seal 11 August 1502 to 21 January 1504, when he became Chancellor. The office of Chancellor was vacant between 15 September 1500 and Warham's own appointment in January 1504.

<sup>16</sup> '~' denotes a line-filler, commonly added in official or legal documents to prevent alteration of the text.

<sup>17</sup> 'Andolazia': Andalucia.

<sup>18</sup> Probably for 'Anno' : in the year of – although no marks of suspension are visible.

<sup>19</sup> 31 October 1501.

<sup>20</sup> 'premissez': premises – i.e. the aforesaid conditions.

<sup>21</sup> 'is' should be understood here but has been omitted.

<sup>22</sup> 'lx li' – £60.

refused iij clothes and after that the saide John Rokes at Bristow forsaide the iiij<sup>th</sup> daye of October in the yere of *your* lorde god above rehersed Shippyd the saide xvj clothes in a shippe Callid the mighell marke of the which shippe the same John Rokes and John Day now calling himself hugh say were then Joyntly owners for to be delyueryd to the said John Dey or to his assign at Saynt Lucar for seid shipping the same John day now calling hymselfe hugh Say was *prive* and he hymselfe by crafty and subtill meanes causid the said shippe to Tarry at Bristow and wolde nat suffer the same shippe to depart by along space after that *your* said orator & the said John Rokes shulde lose the said lx<sup>h</sup> conteynyd in the sayde obligacion and so what for shortnes of tyme and gret Rages and tempestes of wether and contrary wyndes the forsaide last day of October was past or the said xvj clothes were delyueryd to the said John Dey now calling hymselfe hugh say and for that cause sethen<sup>23</sup> the deth of the said John Rokes the said John Day now calling hymselfe hugh say haue affermed aplaynt<sup>24</sup> of dette apou the said obligacion [a]genste *your* said orator by fore the mayre and constables of the staple of Bristow forsaide in the staple cowrt.....<sup>25</sup> there and there [...] <sup>26</sup> *your* said orator is likely tobe condempned<sup>27</sup> apou the .....d<sup>28</sup> conscience for asmoche as he cannot avoyde the same obligacion by the .....<sup>29</sup> [whic]h wilbe to the utter undoyng of *your* said orator unlesse *your* gracious lordshippe

<sup>23</sup> 'sethen': sithen – since.

<sup>24</sup> 'aplaynt': a plaint – i.e. Day is suing Johns on a plea of debt.

<sup>25</sup> The manuscript is damaged at this point.

<sup>26</sup> '?ore'. The word is deleted.

<sup>27</sup> 'tobe condempned': to be condemned – i.e. judgement is likely to be given against him.

<sup>28</sup> The phrase is lost. Since Johns clearly expects that the judgement of the Staple court will go against him on the obligation, the missing section may have been to the effect that the judgement would be 'against right and conscience'

<sup>29</sup> The precise continuation is lost – possibly a statement to the effect that he could not avoid being condemned 'according to the course of the common law'.

.....<sup>30</sup> Plese hit therfore *your* good lordshippe the premisses considerid to graunt awritt  
 .....<sup>31</sup> maire and constables<sup>32</sup> commaunding them by the same to *certyfy* the  
 .....<sup>33</sup> [Chan]cery at a *certen* day by *your* lordship' tobe lymet . there tobe hard ex-  
 .....<sup>34</sup> yd for the loue of god and in the vay<sup>35</sup> of charyte

[Endorsed]

Coram domino Rege in cancellaria sua<sup>36</sup> in ~~Octabis sancti michaelis~~<sup>37</sup> proximo futuro

[added in another hand] in Crastino Animarum proximo futuro.<sup>38</sup>

<sup>30</sup> Words such as 'show your favour in this behalf' could be expected here.

<sup>31</sup> The key missing request was probably for a writ of *certiorari*, addressed to the said mayor and constables; the alternative would be a *corpus cum causa*.

<sup>32</sup> A redundant 'o' between 'constables' and 'commaunding' has been noted but not transcribed.

<sup>33</sup> Words to the effect that the mayor and constables were to certify their doings/the record/the same to the king in his Chancery should be understood here. The actual phrase used is lost in the damage to the manuscript.

<sup>34</sup> 'there to be heard examined and determind' should be understood; another one or two words are lost as well, but are likely to be stock phrases.

<sup>35</sup> 'vay': way.

<sup>36</sup> Before the Lord King in his Chancery: this stock legal term defines the status of the Chancery court, which was presided over by the Lord Chancellor/Keeper of the Great Seal, acting in the king's name.

<sup>37</sup> Deleted. The reference is to the eight days following and including the feast of Michaelmas, observed on 29 September.

<sup>38</sup> On the morrow of All Souls next coming: i.e. 3 November. This would be the revised date specified for the return of the writ.