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The Star Chamber in Its Last Years

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In the course of English history many legal courts have been established and abolished. There were two types of legal courts: common law and prerogative. Common law courts had their basis in fundamental laws and custom while prerogative courts were established by the king's prerogative for different reasons. Most of the prerogative courts were developed during the medieval or early modern period and were abolished during the Stuart reign. One such prerogative court was the Court of the Star Chamber. It can trace its beginnings to the medieval period and was abolished during the reign of Charles I. The Court of the Star Chamber had a good reputation for most of its life, but the first two Stuart monarchs contributed greatly to its downfall. James I and especially his son Charles I used the great powers of the Star Chamber for their own purposes. As a result of the reputation this court received in the early seventeenth century, it was abolished by the Long Parliament.

No one knows exactly when the Court of the Star Chamber came into being. It is believed that it was established when the monarchy was strong enough to enforce its authority through the use of royal prerogative which is the legal exercise of royal authority. Under powerful kings, the jurisdiction of the Council was not confined to cases in equity or in error. The original jurisdiction was seen in cases which specially concerned the king or exceeded the competency of the original Common Law courts. An enormous number of cases could be made to fall within one of these two categories. Until the reign
of Henry VII though, there is no real mention of the court. In the third year of Henry VII's reign, there is a statute passed, Act 3 of Henry VII, which is sometimes called "the Star Chamber Act." This statute passed the reformation of the premises that the chancellor and treasurer of England for the time being, and Keeper of the King's privy seal or two of them, calling to them a bishop and a temporal lord of the King's most honorable Council and the two chief justices of the King's Bench and Common Pleas for the time being, or other two justices in their absence; upon bill or information put to the said chancellor for the King or any other against any person for any misbehaving afore rehearsed, have authority to call before them by writ or privy seal the said misdoers and them and others by their discretion by whom the truth may be known, to examine and such as they find therein defective to punish them after their demerits after the form and effect of statutes thereof made in like manner and form as they should and ought to be punished if they were thereof convict after the due order of the law. This act gave statutory authority to the core of the Council to try certain classes of offenses. Another statute issued in 1562 during the reign of Elizabeth I enumerates the Court of Star Chamber as one of the known courts of the realm.

The court was empowered to try seven offences under the act: unlawful maintenance, embraceries of the King's subjects, giving of liveries, signs or tokens, retainers, by writing or otherwise, untrue demeanings of sheriffs in the making of panels, or other untrue returns, taking of money by juries, great riots and unlawful assemblies. The name of the court came from the room in which the Council sat. The Star Chamber did not use common law writs, forms of action or procedure. It used various forms of bills or petitions between parties. The Star Chamber allowed private persons as well as officers of the Crown to put in informations.
The court consisted of the Lord Chancellor, Lord Treasurer, Keeper of the Privy Seal or any two of them with a bishop and a temporal lord of the Council and two Chief Justices or two judges in their absence such as two Puisne Judges or Chief Baron of the Exchequer. 7

Despite the fact that Henry VII issued Act in 1487, two of James I chief legal advisors, Sir Edward Coke and Francis Bacon, recognized that the Court had its origins before that act. Sir Edward Coke said that the doings of the Council in the Star Chamber "must have warrant from the Ancient Court". Sir Francis Bacon thought the authority of the Star Chamber was confirmed in certain cases by Act of Parliament. 8 For example, there was a statute issued the six-and-thirtieth year of King Edward the Third in which it is stated,

"it is amongst other things enacted, that all pleas which shall be pleaded in any court before any of the King's Justices, or in his other places or before any of his other ministers, or in the courts and places of any other Lords within the realm, shall be entered and enrolled in Latin." 9

This statute does not mention specific courts and it says that cases may be heard before any of the King's ministers in the Courts or places of any other Lords within the realm. This was taken to mean that cases could be heard by the Council outside of the established Courts. Another statute made earlier in the five-and-twentieth year of the reign of King Edward the Third said,

"it is accorded, assented and established that none shall be taken by petition or suggestion made to the King or to his Council, unless it be by indictment or
presentment of good and lawful people of the same neighborhood where such deeds be done, in due manner or by process made by writ original at the common law."

This statute says a person can only be brought before the King or his Council if the proper procedure is followed which can be through the common law writ or in due manner meaning that another procedure could be used and existed.

This confusion over the court's origins played a role in the early 1640's when the court was abolished. The Long Parliament abolished the court on the grounds that it usurped the power set out by Henry VII. These two statutes show that the King's Council had exercised its jurisdiction prior to 1487. The Act in 1487 did not deprive the Council of any jurisdiction it already had. 11

During the Tudor period, the Star Chamber acquired a good reputation. It provided people with an alternative to ordinary courts. It was acknowledged at the time of Henry VII's accession that the Council could punish those offences which common law courts were incompetent to handle except for felonies. The Star Chamber could not pronounce a sentence of death. This court brought many people under its jurisdiction who would have been able to bribe their way out of a conviction or were so powerful that juries were afraid to convict them. It also succeeded in punishing many crimes that would have gone unpunished, one in particular being libel. The government began to use the Star Chamber more because of the frailties of judges in weighing crimes of great men and their reluctance to extend criminal law, particularly in the fields of conspiracy and
constructive treason, and uncertainties of the jury system. James I favored prerogative courts. James I liked to attend meetings of the Star Chamber, although this did cause difficulties at times. By attending, James I split the opinions about the court. Some people did not like his attendance because they felt it dealt a blow to the independent judiciary while other people applauded his attendance because they saw it as a triumph of the principle of personal monarchy.

This attitude that the monarch had "absolute" or "prerogative" rights antagonized many of James I's contemporaries.

During the reign of James I and Charles I, the jurisdiction of the Star Chamber increased. Sir Edward Coke observed that the limitations set down by Henry VII were not observed in practice. There were no objections raised to the hearing of numerous cases in the Star Chamber which could be heard in the common law courts. The main purpose of the court remained as punishing breaches of King's peace by riot, assault of intimidation. Forgery, perjury, maintenance, fraud and conspiracy were claimed by the court to be under its jurisdiction because they were criminal acts which escaped existing classifications. The Star Chamber was not confined altogether to its criminal jurisdiction. Sir Edward Coke asserted that libel could be prosecuted on indictment as well as in the Star Chamber. As Attorney General, Sir Edward Coke was credited with the rapid increase in the number of libel cases brought to the Star Chamber, and in some cases of libel, it awarded a fine on the offenders.

The primary way in which the early Stuarts increased
the jurisdiction of the Star Chamber was by using it to enforce their proclamations despite the fact that Parliament said if an offence is not punishable in the Star Chamber prohibition of it by proclamation cannot make it punishable there. The proclamations contain a clause of warning that transgressors against them will incur the King's indignation and the censure of the Star Chamber. For example, in Proclamation 264 entitled "A Proclamation touching the Surveying of the Seacoales of Newcastle, Sunderland, and Blythe," 16 February 1625 dealing with an investigation of fraud, there is a clause that states

"Our said Court of Starre-chamber found to be a great and generall abuse and enormity to Our whole Realme, and very meete to be suppressed, reformed and punished, And did then decree, that the offenders, then the Defendants should be committed to the Flete and fyned twenty pounds a piece." The same type of clause appeared in proclamations issued by Charles I such as Proclamation 125 with carriages and the destruction of the high-ways. It says

"to prosecute them in a Legall course in Our Court of Starre-chamber, there to receive such Censure and Punishment, by Fine, Imprisonment and otherwise, as their contempts and offences shall deserve." 9 March 1630.

The proclamations were also used to extend the offences punishable by the Star Chamber. In Proclamation 247 "A Proclamation against the disorderly Printing, uttering, and dispersing of Books, Pamphlets, & c." issued 25 September 1623, the Star chamber was given the authority to try press offences. Under Charles I, the Star Chamber undertook regulating the trade of soap boiling through Proclamation 195, 25 January 1635.
Another trade which was being regulated by the Star Chamber was the East India Co. as stated in Proclamation 84, 15 February 1628. The crown found out about abuses that had crept into the trade and as a result it was losing money. The crown wanted to make sure it got all the revenues due to it so it began to regulate the company. The proclamations enforced by the Stuarts usually had to do with increasing the crown's revenue as seen above or with trying to regulate people's lives. For example, Proclamation 194, 9 December 1619 is entitled "A Proclamation for restraining Inholders, Cookes, Chandlers, Alehousekeepers, and other Victualles, from the use of Wine Caske, or other large vessels prohibited by Law." This states that if people use the caskes in violation of the proclamation that they will be brought before the Star Chamber. For the most part, the enormous jurisdiction of the Star Chamber was not based upon any Statutes.

The procedure used by the Star Chamber was different from that used in the common law courts, but it used many of the same punishments. The court sat regularly from nine o'clock to eleven o'clock in the morning on Wednesdays and Fridays during the term unless one of those days was the first or last day of the term. Sometimes the court sat after term if it had to finish a case or if an emergency arose. The Lord Chancellor or the Lord Keeper was the presiding judge in the court. The Lord Chancellor gave the rule and order of the court as well as directing which counsel should speak at bar or commanding the attendance in the court of any judge whose presence was felt needed for the case before the court. He
also had the deciding vote in the case of a tie and had the power to hasten or delay punishment. For example, on July 16, 1619, John Wraynham's sentence for presenting slanderous petition to the king was pardoned by the Lord Chancellor. Wraynham had been sentenced to imprisonment for life, fine £1000, standing in pillory and loss of ears & co.²⁶

Before the case got to the court it had to be brought to their attention. This was done by the plaintiff entering a bill directed to the King or the Lord Chancellor. The bill was engrossed on parchment, signed by the counsel and filed with the Clerk of the Council of State. The clerk had to receive, endorse, keep and certify the bill which could have a maximum of twenty sheets. The Plaintiff set forth the grievances and asked for a writ of subpoena to be issued calling for the defendant to appear before the court on the day named on the writ. If a defendant did not show up, the court gave him a few chances through the writ of attachment, proclamation of rebellion and finally a sargeant of arms was given the powers of search.²⁷ The defendant had to appear in court everyday until the case was discharged. He had eight days from the day of appearance in which to bring his answer to court. The answer was made upon oath, put on parchment and signed by counsel. After the answer was made the plaintiff had four days in which to draw up interrogatories for the examination of the defendant. If the plaintiff failed to do this, the defendant admitted to attorney and was licensed to depart. After the examination was done, the plaintiff had all next term to put in replication and the defendant rejoined if he did not confess. The parties next
produced witnesses to be examined by the examiner of the court. When all of this work was done depositions were published, the plaintiff went to the clerk and had cause entered in the general book of hearing to await the Lord Chancellor's appointment of a day for a hearing. For example, on February 1, 1637 the list of causes appointed for hearing in the Court of the Star Chamber were William Burnell and Andrew Burnell versus William Giles, clerk & others for conspiracies and wrongful vexations; Thomas Blundell and Mary, his wife versus William Buckland, alias Hutchin for combinations. When the case proceeded to this point, the court at the hearing listened to both counsels and then pronounced sentence "secundum allegata et probata". If the defendant confessed in answer or examination, the court waived further proceedings and brought it to court to hear the confession. The defendant was then sentenced. If a defendant refused to answer the plaintiff's bill continually, the court held him to be guilty and punished him justly. The defendant was treated more leniently if he confessed. The usual punishments handed down were fine and imprisonment accompanied by some corporal punishment. The Star Chamber acted upon many different bills of causes and gave out many different sentences. If it was decided that the plaintiff had filed false charges or had lied, he could be fined as well. One example is seen in the case of Humphrey Nichols v. John Billinge & others 1636, the plaintiff was fined £20 for "pro falsa clamore" by the court. The sentences imposed during James I reign were usually
more fair than those imposed during Charles I reign. For example, on 25-August 1620 Philip Burlamachi had a fine of £4000 imposed upon him by the Star Chamber but had his past offences pardoned by it 32 while in 1636 Sir Richard Wynne received a fine of £10,000 from a ruling in the court. 33 During the personal reign of James I, 1611-1614, arrears for fines inflicted in the Star Chamber were rigorously exacted in order to get revenue for the crown. Under Charles I, the fines were so heavy that many times they were never collected in full. Both James and Charles used "absolute power" grounds instead of strictly legal grounds to exercise the prerogative of punishment. The Star Chamber used Roman Law "libellus famosus" to extend native "scandalum magnatum" (public libel) and with it visited extraordinary punishments. 34

The claim of absolute power antagonized many of the king's contemporaries. Another and more important factor in the growing unpopularity of the Star Chamber was the punishment inflicted as the result of controversial religious, social and economic policies implemented during the 1630's and the influence of Archbishop Laud. The laws against nonconformists were enforced with great harshness because these laws were most amenable to royal influence. 35 The court also assumed legislative powers by making "decrees". 36 The Star Chamber was remembering its origins as part of the King's Council when it was issuing decrees. The Star Chamber was at one point indistinguishable from the Council which did hand down decrees. Although the Star Chamber was primarily a judicial tribunal, it did participate in the use of legislative powers usurped by the King and his Council. Many of the decrees issued were
very comprehensive and in some cases they were "so closely analogous to orders in the Council that they may not very incorrectly be regarded as such."37

An example of a decree issued during the reign of James I was Proclamation 160, Whitehall 25 March 1616, which is entitled "A Proclamation against Steelets, Pocket Daggers, Pocket Dagges and Pistolls." The decree states

"We do straightly will and command all persons whatsoever, that they doe not henceforth presume to weare of carie about them any such Steelet or Pocket dagger, pocket Dagge or Pistoll, upon paine of Our Princely Indignation and displeasure, Imprisonment and Censure in the Starre-Chamber."38

In 1636, a journeyman petitioned the Archbishop of Canterbury for redress of having suffered hard usage by his print masters which was a breach of a decree of the Star Chamber.39 The financial matters of the crown gave everyone a common grievance, in the fact that Tonnage and Poundage continued to be levied by royal authority and that those who refused to pay were imprisoned by the Star Chamber. One of the more famous cases of this type was against Richard Chambers. Chambers was a merchant who refused to pay duties on silk and when brought before the Council, informed them "that in no part of the world were merchants so screwed and wrung as in England and that they had more encouragement in Turkey." He was then brought before the Star Chamber and fined £2000 and also committed to the Fleet prison where he was under orders to make a submission. He refused to do this and remained in prison for six years as a result.40 Contemporaries said the court was now one of revenue because of this and its role in advancing and countenancing monopolies.41
The other important factor in the downfall of the Star Chamber was the fact that it became involved with ecclesiastical matters and began to inflict severe punishments on people who said and wrote things against the church and the state. Laud used the court to punish Puritan offenders and as a result, the Puritans came to hate the court. The Star Chamber passed down a decree that stated all churchmen were under the laws of the realm, "A Proclamation declaring that the proceedings of His Majesties Ecclesiasticall Courts and Ministers, are according to the Lawes of the Realme" 18 August 1637. In ten years, 175 actions were brought up concerning enforcement of proclamations. Forty of these were brought to conclusion and a great majority concerned breaches of proclamations. One such case was Attorney General versus Henry Sweeting and eleven others for transporting gold out of the kingdom in 1636. This case concerned Proclamation 69 "A Proclamation for the better execution of the office of His Majesties Exchanger, and Reformation of sundry Abuses and Fraudes practiced upon his Majesties Goynes" 25 May 1627. Most of them used the simplified procedure of ore tenus, which was when "the accused stood mute, which was held to imply confession; or when he confessed of his own accord, which in itself was an abuse." 

The King brought more business into the Star Chamber after 1630 by issuing further Proclamations. These proclamations again were to increase the king's revenue as is seen in Proclamations 174 and 233 or to restrict the rights of his citizens which is the purpose of Proclamations 165 and
192. For example, Proclamation 174 stated that all tin must be brought to a certain place of coinage so that the King may receive his due portion. The King usually received his money either by people complying with his wishes or by bringing people into the Star Chamber and fining them.

Usually in cases of seditious libel against the church or the state, people received corporal punishment as part of their sentence. The victims whose sentences aroused so much indignation could have been counted on one hand in the eleven year period of Charles' personal reign. The punishments of five men were mainly responsible for the bad name now given to the Star Chamber. In 1630, Alexander Leighton was sentenced to a fine of £10,000, to be degraded from his orders, to be whipped at Westminster, to be set in the pillory, to have one ear cut off, one side of his nose slit and one cheek branded S.S. (for sower of sedition) and imprisonment for life for writing Sion's Plea Against Prelacy. In 1638, John Lilburne was severely whipped from Fleet to Westminster, set in the pillory and kept in prison until released three later by the Long Parliament for refusing to swear to interrogatories while in charge of pamphlets against bishops. But the case that got the most attention and aroused the most popular indignation was the one against William Prynne, Henry Burton and John Bastwicke in 1637. These men were accused of writing material that was defaming the church and the state. Besides being imprisoned, these men had severe corporal punishments inflicted upon them. The public was upset because gentlemen, meaning Prynne, Bastwicke, Burton
and Lilburne, were sentenced to gross physical mutilation. The Court of the Star Chamber got a reputation for repression and severe punishments during Charles I's reign. There were mixed feelings on the matter of torture in the Star Chamber. Some people say that the Star Chamber lacked capital jurisdiction and in England torture was only used in capital cases. No variety of punishment inflicted following conviction should be regarded as torture. The other group of people feel that the Star Chamber did use torture as a means to extract confessions so it could then punish the offenders.

When the Short Parliament met, it started to attack the Star Chamber and the other prerogative courts. Members of the House of Commons gave speeches and brought up the grievances of the Church and Commonwealth. It spoke about the innovations and errors which crept in and inveighed against undue and unaccustomed proceedings in the several Courts of Justice and in particular the Court of Star Chamber. Mr. Pym made a two hour speech on the grievances of the Church and State on April 17, 1640 in which he said "Court of Star Chamber advancing or countenancing of monopolies which should be in succession of this great counsel of kingdom and the Star Chamber in now become a court of revenue. In formation there being put in against sheriffs for not making return of moneys upon writs of ship money." The Short Parliament never got to address properly the situation before it was dismissed.

It was the Long Parliament that finally did something
about the Star Chamber. The House of Commons appointed a committee in January of 1641 to investigate, "That concerning the Star Chamber and Proclamation Law and the High Commission and undue proceedings at the Council Table." On May 4, the Commons reviewed the cases of Bastwicke, Burton, Prynne, Leighton and Lilburne and pardoned them all. Prior to this, on April 1, the bill for reforming the unlawful proceedings of the Privy Council and Star Chamber was given its second reading. This bill never made it to the third reading because on May 31 a report was issued which recommended abolition of the Star Chamber. The Star Chamber was abolished in the grounds that it usurped the jurisdiction set out by Henry VII although this is now known to be untrue. As stated earlier, the King's Council had exercised this jurisdiction over judicial matters from remote times. Part of the Act abolishing the Star Chamber stated "and forasmuch as all matters examinable or determinable before said Judge, or in the Court commonly called the Star Chamber, may have their proper remedy and redress, and their due punishment and correction by the common law of the land." This meant that all of the Star Chamber's jurisdiction was taken over by the common law courts, mostly by the King's Bench. During the Restoration, none of the prerogative courts were re-established. The Council, though, still had the right to examine and commit persons charged with offences but everyone was entitled to habeus corpus.

The Star Chamber ended its long career with a bad reputation. Until the reigns of the first two Stuart monarchs,
the court was well received by the people as a just and fair court. It offered a much needed alternative to the common law courts. This court ran into trouble when the king decided to use his prerogative to extend his justice even further through the use of this prerogative court. The king was trying to show that he was above the law and unfortunately the Star Chamber was one means to this end. Both early Stuart monarchs used the court to collect revenues and to restrict their subjects' freedoms. By exploiting the legitimate purposes of the Star Chamber, James I and Charles I caused the court to lose its standing in the kingdom. Instead of people coming to the court willingly, people began to avoid it because they feared it. The Star Chamber was no longer considered a court of equity. It was seen as a tool of the State employed to bring unloyal subjects under control. It is too bad, though, that when one thinks of the Court of the Star Chamber, they think of it as it was known when it was dissolved.
Footnotes


4Scofield, pp. 9-10.


6Scofield, p. 11.

7Ogilvie, p. 59.

8Ibid., p. 59.


10Ibid., p. 180.

11Maitland, p. 262.


14Ibid., p. 197.

15Ogilvie, p. 60.

16Ibid., p. 107.

17Plucknett, pp. 488-490.


19Scofield, pp. 48-49.


22Larkin and Hughes, pp. 583-585.
23 Larkin, Proclamation 195.
24 Ibid., Proclamation 84.
25 Larkin and Hughes, pp. 455-457.
26 Calendar of State Papers, James I vol. 10 1619-1623 (Great Britain Public Record Office), p. 63.
27 Scofield, pp. 73-74.
28 Ibid., p. 75.
30 Scofield, p. 75.
31 Calendar Charles I, p. 450.
32 Calendar James I, p. 173.
33 Calendar Charles I, p. 68.
34 Plucknett, p. 487.
35 Ibid., p. 53.
36 Ibid., p. 183.
37 Scofield, p. 49.
38 Larkin and Hughes, pp. 359-360.
39 Calendar Charles I, p. 266.
40 Tanner, Conflicts, p. 74.
42 Larkin, Proclamation 244.
43 Calendar Charles I, p. 450.
44 Larkin, Proclamation 69.
45 Kenyon, p. 119.
46 Larkin, Proclamations 165, 174, 192, 233.
47 Ibid., proclamation 174.
48 Theodore Plucknett. English Constitutional History From the Teutonic Conquest to the Present Time (Boston, Mass.,
49 Kenyon, p. 118.


52 Ibid., p. 258.

53 Kenyon, p. 216.


55 Maitland, p. 262.

56 Gardiner, p. 181.
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Tanner, J.R. *English Constitutional Conflicts of the Seventeenth Century 1603-1688*, Cambridge, Cambridge University Press, 1957. The author shows the standing of the court during the reign of James I as well as some background information. It has a limited use but provides good material.