

**THE STAR CHAMBER. NOTICES OF
THE COURT AND ITS
PROCEEDINGS, WITH A FEW
ADDITIONAL NOTES OF THE HIGH
COMMISSION**

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JOHN SOUTHERDEN BURN

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NOTICES OF THE COURT
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WITH A FEW ADDITIONAL NOTES OF THE
HIGH COMMISSION.

BY
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PREFACE.

THE COURT OF STAR CHAMBER and that of the HIGH COMMISSION having for upwards of a century held a most arbitrary and unconstitutional control in England, it has been thought useful to concentrate some of the scattered notices of these Courts and of the variety of the cases entertained.

Some account of the Court of High Commission has already been published,¹ the following pages therefore will be devoted to the Star Chamber. Rushworth says, "there is little mention made of the Star Chamber Court, either in reports or treatises of the Law, except now and then, dispersedly in some one or two causes in an age." But there are now in the British Museum, at the Rolls, and in the Bodleian and Cambridge University Libraries, several volumes of Star Chamber cases, from which the following pages have been chiefly compiled, and there are at the Rolls Record Office many hundreds of bundles of proceedings which were for many years entombed at the Chapter house, but are now being arranged and catalogued under the direction of the Master of the Rolls. Five large volumes of indexes refer to these bundles. One of them is an Index, (from A to H) to suits in the reign of Henry VIII. and the other four to about 42,000 suits in the reign of Elizabeth. The bundles contain bills, answers, interrogatories, depositions, &c., but no decrees.

It is doubtless true that in the early days of this Court it served, as Sir Thomas Smith says, "to bridle such stout noblemen and gentlemen who would offer wrong by force to any meaner man, and cannot be content to demand and defend the right by order of law." The early cases thus show that the business of the Court was chiefly with noblemen, sheriffs, abbots, corporations and persons of the higher classes, and also with rioters and persons using "acts of violence," and taking forcible possession of lands. In course of time, however, the meshes of the net were contracted, and nothing escaped the power of the court,—it fined a nobleman £30,000, and sent three poor fiddlers to the whipping post. It fined ladies and gentlemen for not leaving

¹ "The High Commission—-notices of the Court and its proceedings." Lond. 1863.

London for their country houses,¹ and punished the poor sword-bearer of York for stopping in the street to laugh at a libellous song. It punished Sir John York for having players "to play the devil" at his house in Yorkshire, and sent to prison many juries on account of their verdicts.

These cases were a source of revenue to the Crown. Henry VII.² James I., and Charles I. were especially active in appropriating the fines for their own benefit, or assigning them to their relations or dependents. And who durst complain? A barrister was reprimanded for questioning the antiquity of the Star Chamber. The court seized Mr. St. John's papers, with a view of ascertaining whether he had drawn Burton's answer. An attorney was sued for giving advice contrary to the interests of the court.

It will be seen that the two Courts played into each other's hands, the Star Chamber inflicting fine and imprisonment, and then handing over the accused to the tender mercies of the High Commission, for deprivation or other ecclesiastical punishment, as in the cases of Zinzan, Leighton, Gill, and others. The High Commission, in return, handed certain cases over to the Star Chamber to avoid the obloquy of their proceedings; while the Star Chamber prosecuted (as in Madye's case) for scandal of the High Commission, and made an order in 1637 that if in the High Commission Court, a defendant would not take the oath *ex officio*, the information was to be taken *pro confesso*.

The amount and severity of the fines, imprisonments, and mutilations are almost incredible in these days of leniency and misplaced compassion. The fines would be considered heavy, even now after the changes in the value of money, effected by the lapse of more than two centuries. During Laud's primacy, the fines were much increased by his severity, as he almost invariably voted "with the highest," and in Hillyard's case "stood alone for a fine of £10,000." Sir David Foulis was fined £5,000 for not accepting knighthood, &c., and in that case, Laud was "in the highest sentence for fine and other punishments." Even Lord Clarendon says of Laud, that he never abated anything of his severity and rigour toward men of all conditions. But a great additional evil of those days was the grant of these fines by the Crown to private individuals, sometimes to the accusers themselves, as in the case of the Earl of Huntingdon who not only recovered from Sir Wm. Faunt £2,000 damages for a libellous letter, but obtained a grant of

¹ The court enforced the leaving London whether the gentry had country houses to go to or not. In Dec. 1637, the King licensed Lady Jane Bacon and Lady Cramond with their families to remain in London for six months without information in the Star Chamber.

² See Dudley's account of fines received by Hen. VII. p. 32.

the £5,000 fine, and thus obtained also the power to ruin his enemy, who would thus be deprived of his appeal to the Crown, as "the fountain of mercy to great offenders."¹ The Crown however was quite alive to the subject of fines, which generally far exceeded the amount of damages given to the complainants, the real sufferers. Thus James I. ordered £2200 out of the first monies received from the £20,000 fine of the Countess of Shrewsbury, to be paid to Adam Newton *for the use of Prince Charles*—and his Majesty was furious when he found that the fine of £30,000 on the Earl of Suffolk, could not be levied on *Audley End*, as the Earl had stripped it of its furniture. In the grant to Thos. Yonge of the fine of £1,000 imposed on Wm. Wall, a merchant, for importing logwood, the King reserved to himself one-eighth of whatever Yonge recovered, and he appointed the notorious Rd. Kilvert as his solicitor to levy the £10,000 imposed on the Bp. of Lincoln. There were not however wanting good men to remonstrate with the Crown on these grants. The Abp. of Canterbury, in 1613, wrote to the Lord Treasurer "that where we set the fine so high, it was with the intention of "lowering it on petition: but sure I am that there is not a fine "of any worth set with us, but it is immediately begged and "given away," and he proposes to the Lord Treasurer to move the King against such grants.

As regards corporal punishments, the reader is referred to the following pages, for it is painful even to repeat the cases of the rack, whipping of women, pillory, cutting off of ears, slitting of noses,² branding with a hot iron and other cruelties inflicted by the Right Revd. and Right Honble. Dignitaries³ who composed the Court of Star Chamber, in the front of whom must be placed Abp. Laud and Chancellor Finch. The result of the cruelties inflicted on Lilburne, was stated in the House of Commons to be, that by imprisonment he was made a *trunk*, by whipping a *rogue*, by pillory a *cheat*, and by gagging a *beast*. Yet Laud at his trial

¹ See p. 85.

² This was always perhaps an arbitrary infliction, and was abolished by "the Coventry Act." 23 Car. II. cap. 1.

³ As the Cases of Gill and Pickering are not given in the following pages, they may be here noticed. Alex. Gill was an usher at St. Paul's School and a friend of Milton. In a wine cellar at Oxford he had used some silly speeches for which he was sentenced in this Court, as follows:—fine £3,000, to be bound in good behaviour for life—referred to the High Commission for degradation and to the Vice Chancellor of Oxford for deprivation. Pillory at Westminster with a paper and one ear cut off, and pillory at Oxford where he was to lose the other ear. In 1637 Mr. Pickering, for saying that the King was reconciled to Rome, and for having built a pigstie on ground belonging to a churchyard, was fined £10,000, pillory, ears, whipping, branding with a hot iron, boring his tongue with an awl, and imprisonment for life!!

Account of the Life of Charles II.

justified his cruel sentences as being within the law laid down for the clergy, "to take away the ear," said he, "is not loss of hearing, and so no member lost; so for burning the face, or whipping, no loss of life or member."

But was all this misery the result of pure investigation, and were the sentences the verdict of even handed justice? The suit of Sir Rd. Strode v Sir John Strode, was 35 years in Chancery and 20 years in this court, where it was proved that Lord Bacon had large gifts "for getting such strange things done in Chancery." In Sir Rd. Wiseman's case, he had taxed the lord keeper with receiving a basin and ewer and £220 in money. The gift of this basin and ewer were admitted as a new year's gift but the receipt of the money was denied—for this accusation Sir Rd. was fined £10,000, £5000 damages to the lord keeper, and £1,000 to his servant, £1,000 to Mr. Justice Jones, to be pilloried, to lose both ears, to be incapacitated as a witness, to be degraded, and "have a whetstone about his neck." In Wraynham's case, Mr. Foss adds, the judgment appears to be just, but for the subsequent discovery that the Chancellor had shortly afterwards received a suit of hangings worth about £160. In Sir James Bugge's case, he had told Sir Anthony Pell that he would never get payment of his debt without giving money to the Lord Treasurer Weston, and "that he had laid many a thousand on his table and under his bed head"—the Court were divided 9 to 3, and the King ordered the Registrars to forbear entering the censure of the Court, and so the matter was hushed up.

There are a great many cases on the subject of "divided tenements, inmates, indwellers, or undersitters," (or lodgers as they would now be called), and "buildings on old or new foundations." In 1580, Q Eliz. issued a proclamation against these lodgers who were to provide themselves "other places abroad in the realm where many houses rest uninhabited," and no new building was to be erected within three miles of the City gates, and only one family to reside in a house. This was followed by an Act, (81 Eliz.), that no cottage should be built without the addition of four acres of land, under a penalty of £10, and no lodger be taken into a cottage under a penalty of 10s. a month. The Star Chamber in 1609 ordered this statute to be put into execution, and the visitations of the plague drew from the College of Physicians in 1637 a report to the Council, which among other things pointed out the unwholesomeness of over-crowding in houses, and this was followed on the 12 Aug., 1638 by a Commission of Inquiry as to the infringements of the law, and the Sheriffs of London and Middlesex were to destroy certain houses which had been built on new foundations contrary to the prohibition. And the Star Chamber also ordered that if landlords divided their tenements and let them to poor impotent

persons, such persons might occupy them for their lives *rent free*, and on their death, the tenements were to be pulled down!¹

In 1637, the year in which Bastwick, Burton, and Prynne were sentenced, the Court made the decree (11 July 1637) respecting books and printing. It imposed restrictions on the importation and sale of books, upon type founders, printers, merchants, and masters of ships, carpenters and smiths employed in making presses, &c.; it prohibited any "haberdasher of small wares, "ironmonger, chandler, shopkeeper," or any person not having served an apprenticeship to a bookseller to receive, buy or sell any "bibles, testaments, psalm books, primers, abcees, almanacks," or other books, upon pain of punishment by the Star Chamber or High Commission—it appointed 20 persons by name to have printing presses, and four persons to be letter founders. And it forbade any merchant, &c. to open any packs of books from abroad, before the Abp. of Canterbury or the Bp. of London had appointed their chaplain or some other learned man, to be present at the opening thereof, that all seditious, schismatical or offensive books might be seized. This decree was followed by Orders of Parliament, and occasioned Milton's "Areopagitica" which was written, he says, "in order to deliver the press from "the restraints with which it was incumbered, that the power of "determining what was true and what was false, what ought to "be published and what to be suppressed, might no longer be "intrusted to a few illiterate and illiberal individuals, who "refused their sanction to any work which contained views or "sentiments at all above the level of the vulgar superstition."²

One more subject must be noticed—that of the "salt-petre men." These men were appointed with great powers to search for salt-petre for the manufacture of gunpowder. Before the discovery and importation of rough nitre from the East Indies, the supply for the manufacture of gunpowder was very inadequate. Charles I. therefore, issued a proclamation that no dove-house or stable should be paved, but lie open for the increase of salt-petre, and that none should hinder any *salt-petreman* from digging for salt-petre; great annoyance was caused by this absurd system, and in 1627, another proclamation was issued, stating that a patent had been granted to Sir John Brooke, and Thomas Russell, Esq., for manufacturing the article, and the King's subjects are commanded to keep all human urine during the year, and as much of that of beasts as could be saved, to be collected by the patentees once in twenty-four hours in

¹ In 1627, the Vicar and others of Greenwich asked the benefit of the Decree and prayed that "persons living in Greenwich and having trades in London may be constrained not to go to and from, as Thos. Paternoster, a broker and John Grover, a brewer, often do."

² The decree and orders, with Milton's "Areopagitica," have just been reprinted by Mr. Arber at the marvellously low price of sixpence.