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"This Court Doth Keep All England in Quiet": Star Chamber and Public Expression in Prerevolutionary England, 1625–1641

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"THIS COURT DOTH KEEP ALL ENGLAND IN QUIET"
STAR CHAMBER AND PUBLIC EXPRESSION IN PREREVOLUTIONARY ENGLAND
1625–1641

A Thesis
Presented to
the Graduate School of
Clemson University

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
History

by
Nathaniel A. Earle
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Accepted by:
Dr. Caroline Dunn, Committee Chair
Dr. Alan Grubb
Dr. Lee Morrissey

ABSTRACT

The abrupt legislative destruction of the Court of Star Chamber in the summer of 1641 is generally understood as a reaction against the perceived abuses of prerogative government during the decade of Charles I's personal rule. The conception of the court as an 'extra-legal' tribunal (or as a legitimate court that had exceeded its jurisdictional mandate) emerges from the constitutional debate about the limits of executive authority that played out over in Parliament, in the press, in the pulpit, in the courts, and on the battlefields of seventeenth-century England. Too narrow a focus on the question of the court's legitimacy, however, impedes our ability to understand the historical Court of Star Chamber and the significant role it played in policing the boundaries of public expression in prerevolutionary England. This thesis attempts to capture an image of the Court of Star Chamber as it existed during the late 1620s and early 1630s by identifying the individuals who formed the 'core' of the court and by examining the court's decisions in a series of representative cases. This study exposes the fault lines of political allegiance, religious persuasion, and judicial temperament that divided the members of the court. On the other hand, it suggests that the men who sat as judges in the Court of Star Chamber shared a commitment to the preservation of the established order in church and state—a commitment fundamentally out of place in a society that was entering a period of radical change.

DEDICATION

for Amy

and for Noah, Isaiah, Hannah & Nadia

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CHAPTER ONE

INTRODUCTION:

A QUESTION OF ORIGINS AND A CRISIS OF LEGITIMACY

. . . by this uncertainty of Jurisdiction amongst Courts, causes are scourged from Court to Court . . . Therefore the only way to avoid this, is for you to keep to your owne bounds”

— James I, *Address in Starre-Chamber*, 1616.¹

It is the most honourable court, (our parliament excepted) that is in the Christian world, both in respect of the judges of the court and of their honourable proceeding according to their just jurisdiction

— Sir Edward Coke²

On March 5, 1641, the newly-created Lord Andover rose to deliver a “brisk speech” in favor of his motion to abolish the Court of Star-Chamber. He argued that the court owed its origins to a statute

framed, 3 Hen. 7. authorizing the Chancellor, Treasurer, and Privy-Seal, and the two Chief Justices, calling to them one Bishop and a Temporal Lord of the King's Council, to receive Complaints upon Bill or Information, and cite such Parties to appear, as stand accused of any Misdemeanor; and this was the Infancy of the Star-Chamber: But afterwards the Star-Chamber was, by Cardinal Wolsey, 8 Hen, 8. raised to Man's Estate.³

¹ James I, King of England. *His Magesties Speech in the Starre-Chamber, the XX of Iune*. (London: Robert Barker, 1616), 17.

² Edward Coke, *Institutes of the Laws of England* IV (London: M. Flesher, 1644), 65. These words were probably written long before Coke's death in 1634.

³ Rushworth, "Historical Collections: March 1641," in *Historical Collections of Private Passages of State: Volume 4, 1640-42*, (London: D Browne, 1721), 202-213. *British History Online* (hereinafter 'BHO'), <http://www.british-history.ac.uk/rushworth-papers/vol4/pp202-213>. Oddly, no mention of this monumental event appears in the House of Lords Journal for March 5,

From these beginnings, Andover suggested, the Court had grown “now altogether unlimited,” into “a Monster and will hourly produce worse Effects, unless it be reduced by that Hand which laid the Foundation.” For Andover, the Court of Star Chamber had become a black hole, swallowing not only the jurisdiction of the common law courts, but the authority of Parliament itself.⁴ King Charles I and his Archbishop of Canterbury, William Laud, were attempting to rule England through the Star Chamber just as Louis XIII and Cardinal Richelieu had done in France since 1614, casting off the Estates General and ruling instead through the *parlements*. More generally, Andover worried about the eclipse of the nobility. Legislation from the reign of Edward III required the holding of a Parliament at least once a year,⁵ he reminded the peers, and “yet who durst a year ago mention such a Statute, without incurring the Danger of Mr. Kilvert 's Persecution?”⁶ Andover urged the “whole Body of Parliament” to “join in one Supplication,” expressing confidence that “his Majesty will desire that nothing shall

1641—or, indeed, for any other day. “5 March 1641,” in *Journal of the House of Lords: Volume 4, 1629-42*, (London: His Majesty's Stationery Office, 1767-1830), 176-177. *BHO*, <http://www.british-history.ac.uk/lords-jrnl/vol4/pp176-177>.

⁴ See note 19 below, and accompanying text.

⁵ 4 Edw. 3. (1330).

⁶ Richard Kilvert was a lawyer who practiced before the courts of Star Chamber and High Commission. He was close to Windebank, Lambe, Laud, and others of Charles's inner circle. Here Andover may have been alluding to Kilvert's history of using Star Chamber prosecutions for extortion, as he did with the Vintners' Company in 1637, or to his role in toppling bishop John Williams. See “Kilvert, Richard (c. 1588-1650)” in *Oxford Dictionary of National Biography* (New York: Oxford University Press, 1885–2004), <http://www.oxfordDNB.com> (hereinafter, ‘*DNB*').

remain in force, which his People do not willingly obey.”⁷

Four months later, on July 1, 1641, members of both Houses of Parliament met to confer about the status of two bills, “one for taking away the Court of High Commission; and the other, to take away the Court of Star Chamber” and to “regulate” the Privy Council.⁸ The Lords apparently needed no persuasion to dismantle the Court of High-Commission, but some suggested that the Court of Star Chamber could be salvaged by reducing its jurisdiction “to what Power it had in Henry VII's Time.” The court no longer enjoyed the confidence of Parliament, however, and on July 5, 1641, Charles gave his reluctant assent to the legislation: “*Le Roy le veult.*”⁹ With these words, Charles not only assented to the destruction of the most visible pillars of royal prerogative government, but also ratified Parliament’s assertion that Star Chamber and High Commission had overstepped their lawful boundaries. The judges “in the Court commonly called the Star Chamber,” the statute declared,

have not kept themselves to the points limited by the said Statute but have undertaken to punish where no Law doth warrant and to make Decrees for things having no such authoritie and to inflict heavier punishments then by any Law is warranted.

The decrees that flowed from the bench at Star Chamber had “by experience beene found to be an intollerable burthen to the subjects and the meanes to introduce an Arbitrary Power and Government.” A ringing indictment—but was it true?

⁷ Rushworth, “Historical Collections: July 1641 (1 of 2),” 304-333. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol4/pp304-333>.

⁸ Rushworth, “Historical Collections: July 1641 (1 of 2),” 304-333.

⁹ “5 July 1641,” in *Journal of the House of Lords: Volume 4, 1629-42* (London, 1767-1830), pp. 299-301. *BHO*, <http://www.british-history.ac.uk/lords-jrnl/vol4/pp299-301>

The Act of July 5, 1641, abolishing the Court of Star Chamber, codified the proposition that the court owed its entire existence to a prior act of Parliament in the third year of Henry VII's reign (1487). This argument appealed to court's opponents for two reasons: first, it established Parliament's authority to dismantle the court—what Parliament had created, Parliament could destroy; and second, it served to delegitimize much of the court's recent work. It was less a legal argument, however, than a political tactic designed to exploit the ambiguities and uncertainties in existing law.

The Act of 1487 which forms the basis of the Long Parliament's legislation consigning the Court of Star Chamber to oblivion remains something of an enigma. On one hand, it confers jurisdiction upon a group of seven clearly-delineated officials to hear and decide a discrete but open-ended number of misdemeanors. The seven officials named in the statute were the Chancellor, the Lord Treasurer, the Lord Privy Seal, the two chief justices, a bishop, and a 'temporal lord'. (Subsequent legislation clarified that the position of Lord Keeper of the Great Seal was interchangeable with that of Chancellor.) On the other hand, Sir Edward Coke, William Hudson, and other contemporary commentators with firsthand experience of the court's operations insisted that the court's 'institutional memory'—its practices and precedents—stretched back to a time more distant than the reign of Henry VII. These competing visions of the court's origins and purpose have never been satisfactorily reconciled.

One possibility is that the 1487 act created a totally distinct court to deal with a discreet problem "for the time being." In other words, the statutory court might have

come and gone with the conditions that brought it into existence. Some commentators perhaps inadvertently default to this view by simply dismissing the 1487 statute as having nothing to do with the Court of Star Chamber, but ignoring the problem does not solve it. There is a remarkable similarity between the statutory (1487) court's personnel and procedures and the actual composition and practice of the Court of Star Chamber, and for that reason alone, it seems reasonable to deduce a connection.

Whatever may be the 'truth' concerning whether the origins of Star Chamber are legislative or organic (or both), what we are interested in here is simply an understanding of contemporary perceptions of the seventeenth century court. When Cora Scofield studied the Court of Star Chamber in 1900, she identified a savings clause in an Elizabethan statute¹⁰ that provides conclusive evidence that by the 1560s legislators believed that the Act of Henry VII had created (or definitively enhanced in some way) the powers of the Court of Star Chamber. The statute provides:

this act, or any therein contained, shall not extend in any wise to restrain the power and authority given by act of Parliament made in the time of King Henry the Seventh, to the Lord Chancellor of England and others of the King's Council, for the time being, to examine and punish riots, routs, heinous perjuries and other offences and misdemeanings: which Lord Chancellor and others sithence the making of the said act have most commonly used to hear and determine such matters in the Court of Westminster commonly called the Star Chamber.¹¹

Other evidence of the relationship between 1487 statute and the Court of Star Chamber is

¹⁰ 5 Elizabeth c. 9 (1562-63).

¹¹ Cora Scofield, *A Study of the Court of Star Chamber* (New York: Burt Franklin, 1900), 10. This language would also offer some support for the jurisdictional argument embedded within the text of the 1641 statute abolishing Star Chamber, were it not for the phrase "and other offences and misdemeanings," which completely explodes the notion that the statutory language was intended to be restrictive rather than illustrative.

the title “*Pro Camera Stellata*,” which was added to the Rolls sometime after the statute was originally engrossed.¹² This could have been a clerical misunderstanding, but given the other similarities between the court described on paper and the historical Star Chamber, the handwritten caption does not seem to be a mistake.

However, some historians have been unwilling to treat the 1487 act as having any bearing on the Court of Star Chamber. In 1922, for example, A. F. Pollard wrote that “so far as I can see, the act of 1487 had little or nothing to do with the star chamber.” After comparing the known composition and personnel of the Court of Star Chamber under the later Tudors with the composition of the court created in the 1487 statute, Pollard concluded that the statute’s provisions were “inconsistent with what we know of the personnel, the practice, and the procedure” of the Court of Star Chamber.”¹³ Cora Scofield also emphasized the discrepancy between the seven members of the court identified in the 1487 statute (the Chancellor, Treasurer, Lord Privy-Seal, the two Chief Justices, one Bishop, and a Temporal Lord of the King's Council) and the list of men who actually sat as judges in Star Chamber which, according to some early commentators, might lawfully include any of the barons who happened to be in London and chose to attend.”¹⁴

Pollard’s view recycles what contemporary legal commentators seemed to

¹² See, e.g., J.R. Tanner, ed., *Tudor Constitutional Documents A.D. 1485-1603: With an Historical Commentary*. Cambridge University Press, 1940 [1930].

¹³ A. F. Pollard, “Council Star Chamber, and Privy Council under the Tudors, II. The Star Chamber,” *The English Historical Review* 37, no. 148 (1922): 520.

¹⁴ See Scofield, *Court of Star Chamber*, 11-13.

believe. The most important of these was William Hudson, a Star Court practitioner and clerk during the court's final decades. In his treatise, which focuses mainly on the court's procedure, Hudson offered to prove

by judicial acts and records this court is most antient as it is now established, I mean in the same manner, place, and all circumstances, and not founded by act of parliament in the reign of king H. 7.; a doating which no man that had looked upon the records of the court would have lighted upon . . .¹⁵

Hudson pointed to a ruling by “the chief judges of England,” in a case between the Earl of Northumberland and Sir Stephen Proctor, to the effect that the statute 3 Henry VII “extended not any way to this court.” Hudson suggested that the act from Henry VII's time merely conferred upon (or recognized) the authority of the Chancellor and other councilors named to “determine of the matters therein specified” “at all times, in all places.”¹⁶ This explanation of the statutory court's function is somewhat less than helpful.

Hudson believed he had found an example of Star Chamber sitting during the reign of Edward III: “And 4c. E. 3. the king received the complaint of Elizabeth, wife of Nicholas Studley, and thereupon caused James Studley to appear before his chancellor, treasurer, justices, and other sages, assembled in *la chambre de estioles pris de la receipt* at Westminster, being the place where the court is now kept.”¹⁷ If Hudson is right, this

¹⁵ Hudson, *Treatise on the Court of Star Chamber*, [1633?]. In Francis Hargrave, ed. *Collectanea Juridica: Consisting of Tracts Relative to the Law and Constitution of England*, vol. 2 (London: E. & R. Brooke, 1792), 10. (Hudson acted as king's attorney during William Prynne's 1634 Star Chamber trial for the book *Histriomastix*.)

¹⁶ Hudson, 10-11.

¹⁷ Hudson, 12-13.

Studley family quarrel captures the Star Chamber in action early in the fourteenth century. But accepting that the Court of Star Chamber related back to a ‘greater antiquity’ than the Act of 1487, we are still in the position of having to explain what the 1487 was statute intended to accomplish.

In 1629, when Richard Chambers challenged the authority of the Star Chamber to fine him for his refusal to pay illegal customs duties on the basis of the 1487 act, the judges responded with more of a declaration than an answer: “all the Court informed him that the Court of Star Chamber was not erected by the statute of 3 Hen. VII, but was a court many years before.”¹⁸ The silence is perplexing, but Rushworth may have stumbled across the reason for it when he went in search of contemporary commentaries on the jurisdictional problem, probably during the late 1630s:

Only Sir Thomas Smith, in his *Common-wealth* hath glanced upon it, and Mr. Lambert, the ancient Antiquary, treateth of the Power and Jurisdiction of it; and the reason probably why the Learned of the Laws did, in their Reports, forbear to make mention thereof was, because it intrenched in those days, as of late time, too much upon the Common Law of England; and the abuse in the exercise of the Jurisdiction of the Court, might induce the Sages of the Law to pass it over in silence, as an Usurpation of Monarchy upon the Common Law of England, in the prejudice of the liberty of the Subject, granted by the Great Charter.”¹⁹

In any event, the best explanation of the Act of 1487 that I have found is that it conferred new or different authority on a pre-existing court. Some variation of this view gained a consensus among twentieth-century historians. J. R. Tanner, for example,

¹⁸ Rushworth, "Historical Collections: 1629," 662-691. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol1/pp662-691>.

¹⁹ Rushworth, "Historical Collections: 1637 (3 of 5)," 461-481. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol2/pp461-481>.

concluded that “the effect of the Act of 1487 can perhaps be best described by saying that it established what would now be called a ‘statutory committee’ of the [King’s] Council, empowered to act on behalf of the whole Council in respect of certain offences.”²⁰

Whatever the influence of the Act of 1487 on the Star Chamber’s composition or jurisdiction, there is no doubt that the Court of Star Chamber throughout its existence was essentially a ‘hat’ worn—or a room visited—by members of the king’s inner council (the body of advisors that during the reign of Henry VIII came to be called the Privy Council). Edward Cheyney characterized the Court of Star Chamber as

simply a special Wednesday and Friday session of the Privy Council. The difference between the ordinary meetings of the Privy Council and the Court of Star Chamber was not a difference of men, but a difference of time and place of sitting, of procedure, and above all of functions.”²¹

Two days per week, four terms per year, the king’s Chancellor and other chief ministers sat together as judges to hear cases involving riot, scandal, perjury, and abuse of process, just to name a few common categories. And although the Court of Star Chamber grew out of what was first and foremost a policymaking body, most commentators describe it as a ‘real’ court (although there is some question about whether Star Chamber constituted a ‘court of record’). Cheyney insisted that “Star Chamber was a court of justice with a settled body of legal precedents and practices.”²² In this we can agree with Hudson that throughout its existence the Star Chamber functioned “as an established court of settled

²⁰ Tanner, ed., *Tudor Constitutional Documents*, 250.

²¹ Edward P. Cheyney, “The Court of Star Chamber.” *The American Historical Review* 18, no. 4 (Jul., 1913): 728. Coke gives the same schedule. *Institutes of the Laws of England*, vol. IV, 66.

²² Cheyney, “The Court of Star Chamber.” *The American Historical Review* 18, no. 4 (Jul., 1913), 729.

justice.”²³

The abrupt legislative destruction of the Court of Star Chamber in the summer of 1641 is generally understood as a reaction against the perceived abuses of prerogative government during the decade of Charles I’s personal rule. The conception of Star Chamber as an ‘extra-legal’ tribunal (or, alternatively, as a legitimate court that had exceeded its jurisdictional mandate) emerged from the constitutional debate about the limits of executive authority that played out over the course of the seventeenth century in Parliament, in the press, in the pulpit, in the courts, and on the battlefield. Too narrow a focus on the question of the court’s legitimacy, however, impedes our ability to understand the historical Court of Star Chamber and the significant role it played in policing the boundaries of public expression in prerevolutionary England. In this thesis I want to step back from questions about the court’s legitimacy in order to understand the Court of Star Chamber as a human institution.

In order to accomplish this task, Chapter Two begins with an attempt to identify the individuals who formed the ‘core’ of the Court of Star Chamber during the early 1630s—that is, those who sat as judges with greatest frequency. I then briefly consider the biographies of the principal members of this ‘core’ group of judges, especially Thomas Coventry, who served as Lord Keeper of the Great Seal throughout the entire period (1625-1640), and Lord Manchester, who became Lord Privy Seal in 1628, serving

²³ Hudson, *Treatise on the Court of Star Chamber*, 16. Hudson notes that later in the reign of Henry VII, the President of the King’s Council, rather than the Lord Chancellor, presided over proceedings in the Star Chamber. Therefore, because the President of the Council isn’t mentioned in 3. Hen. 7., Hudson concludes that the court “sat not by virtue of that statute.”

until his death in 1642.²⁴ After introducing the most active judges, Chapter Two takes the reader into the Court of Star Chamber to listen to the sentencing speeches delivered in three representative cases in order to expose the fault lines of political allegiance, religious persuasion, and judicial temperament that divided the court. The case of Richard Chambers reveals the spectrum of political opinion among the judges, the case of Henry Sherfield exposes the judges' divergent religious views, and Lord Falkland's case offers a glimpse into the real differences in temperament and judicial philosophy which informed the judges' decisions. Falkland's case also demonstrates, however, that the judges of Star Chamber broadly shared the common goal of protecting the established social order.

In Chapters Three and Four I survey a sample of speech cases that came to hearing in the Star Chamber in the late 1620s and early 1630s in an attempt to evoke a sense of the 'message' the court was trying to communicate through its decisions. Whole books, chapters, and articles have been devoted to the sensational political trials the court conducted later in the decade—especially to the cases involving the lawyer and controversial Puritan author William Prynne, who, after all, lost both ears twice.²⁵ But by focusing on a discreet sample of cases from the early years of king Charles' reign, I hope

²⁴ William Laud, who served on the Court of Star Chamber first as Bishop of London and then, after 1633, as Archbishop of Canterbury, arguably deserves a separate chapter given his close association with the court's reputation for harsh, vindictive punishments, but for the sake of space I have chosen to focus most of my attention on the less well-known judges.

²⁵ The judges of Star Chamber seem to have felt a profound dislike for William Prynne. During Prynne's 1634 seditious trial for his book *Histriomastix*, the ordinarily sanguine Secretary of State John Coke (also spelled Cook) quipped, "He calleth his Book Histrio-mastix; but therein he sheweth himself like unto Ajax, 'Anthropomastix', as the Grecians called him, the Scourge of all mankind, that is, the whipper and the whip." Thomas Bayly Howell, ed., *Cobbett's Complete Collection of State Trials*, vol. 3, 1627-1640 (London: T. C. Hansard, 1809), 582.

to minimize the potential for distortion caused by paying too much attention to the period's political trials (though several such trials are considered) and to offer a more complete picture of the court's role in regulating public expression in prerevolutionary England.

The Conclusion will suggest that the Court of Star Chamber was defined as an institution by its commitment to the maintenance of the status quo in church and state. By 1640 a revolution was underway, in which William Laud's vision of Anglicanism and Charles I's vision of royal prerogative were under assault. As a prominent weapon for the suppression of political opposition and seditious opinion, the Court of Star Chamber was out of step with the changing attitudes toward authority that characterized the new environment. Although Charles I would retain possession of his crown—and the head upon which it sat—for another seven-and-a-half years, the abolition of Star Chamber was, perhaps, the political equivalent of lopping off the king's ears, branding his cheeks—perhaps with a 'T' for 'tyrant—and setting him in the pillory.

CHAPTER TWO

THE JUDGES OF STAR CHAMBER

*Ye see yon birkie, ca'd a lord,
Wha struts, an' stares, an' a' that;
Tho' hundreds worship at his word,
He's but a coof for a' that:
For a' that, an' a' that,
His ribband, star, an' a' that:
The man o' independent mind
He looks an' laughs at a' that.*

- Robert Burns (1795)

Up to this point, we have been speaking of the Court of Star Chamber as if it were a thing—a quiddity. Given the close identification of the name of the court with the ornate room in which it sat to deliberate, this way of thinking is perhaps especially unavoidable. But reification is a temptation when describing any human institution. British usage is somewhat less culpable in this regard, but most English speakers resort to monolithic nouns and singular pronouns to describe coordinated human activities: individual actors are swallowed up in the unitary concept evoked by words like ‘team’, ‘jury’, or ‘government’.²⁶ The very word ‘institution’ has the cold, inhuman ring of a concrete wall about it. The point of this chapter, however, is to suggest that although the Court of Star Chamber could, and often did, speak with one voice as it poured out the

²⁶ There are exceptions, of course. For example, we say ‘the police are on their way’, not ‘the police is on its way’—perhaps an ironic etymological development given the number of officers who typically respond to a call is typically fewer than two. But this usage reflects the understanding that policing is fundamentally a collaborative effort.

collective fury of offended power upon the real or perceived enemies of the established order, the ‘court’ at its essence was a collection of individual men—wealthy men, influential men, well-connected men—but men for all that.

As Cora Scofield and others have observed, the number of judges actually in attendance on any given Star Chamber day varied widely, from as few as four to as many as twenty-two.²⁷ From the sample of thirty cases transcribed by Samuel Gardiner for the Selden Society, it appears that during the early 1630s the average number of judges in attendance was nine. However, the large number of lords who showed up to decide the ‘high-profile’ cases may skew the average somewhat, because the median and mode in Gardiner’s sample are both seven.²⁸ Hudson suggests that during the reigns of Henry VII and Henry VIII, as many as “seven or eight bishops and prelates” might be in attendance on any given day.²⁹ Hudson thought this was a good thing, opining that the presence of fewer churchmen on the Court in his own day had led to an increase in the size of the fines levied as punishment. In earlier times, he believed, “the fines trenched not to the destruction of the offender's estate and utter ruin of him and his posterity, as now they do, but to his correction and amendment, the Clergy's song being of mercy.”³⁰ Hudson, it seems, was not well acquainted with William Laud or Richard Neile!

²⁷ Scofield placed the upper limit at eighteen, but Mark Kishlansky counted twenty-two judges at William Prynne’s 1634 sedition trial. Mark Kishlansky, “A Whipper Whipped: The Sedition of William Prynne.” *The Historical Journal* 56, no. 3 (2013), 610.

²⁸ Samuel Gardiner, ed., *Reports of Cases in the Courts of Star Chamber and High Commission*, (Camden Society, 1886).

²⁹ Hudson, *Treatise on the Court of Star Chamber*, 36.

³⁰ Hudson, 36.

Hudson was writing at the end of his career, and in several passing comments he suggests that the Court of Star Chamber had suffered a decline under Charles I. He lamented the “multiplying of officers,” fearing that the bureaucratic expansion would “in short time, be complained of as a great grievance for increase of fees”³¹ And he voiced a regret that every Star Chamber historian must feel when he added, “in the meantime the records are negligently kept, and many times lost.”³² Hudson clearly held the Court of Star Chamber in high regard, but even he worried that

latter times have rather introduced favourites or kinsmen as subjects for the judge's favour ; an error surely in great men, and a scandal to so high a seat of honour, where the suspicion of any inclination to partiality should be avoided as a dishonour to the majesty thereof, and any Countenance to unworthiness as a badge of infirmity.³³

It is not entirely clear what conflicts of interest Hudson had in mind, but family or financial relationships might help to explain some of the disparities in sentencing we will encounter in Chapter Four.

In beginning to distill the views of the judges who composed the Court of Star Chamber during the early years of Charles I’s reign, it will be helpful to de-emphasize the period’s most sensational political trials. The cases of Alexander Leighton and William Prynne in the early 1630s, and of Henry Burton, John Bastwick, Prynne (again) and John

³¹ The Court does seem to have developed a reputation for fee gouging in its closing decades. See, e.g., Anon., *The Star-Chamber Epitomized, or A Dialogue between Inquisition, a News-Smeller, and Christopher Cob-Web, a Keeper of the Records, for the Star-Chamber, as They Met at the Office in Grayes-Inne*. (London, 1641).

³² Hudson, *Treatise on the Court of Star Chamber*, 41.

³³ Hudson, 26.

Lilburne during the second half of the decade, will always remain central to the court's legacy, and they do not become less important simply because they are well-known. These cases represent the power of the state to exact exemplary retribution from those who chose not to play by the rules. Yet it is only when we examine a range of representative cases that the personalities of the individual judges begin to shine through, and on very rare occasions we even discern the ideological fissures that divided the judges—differences in political and religious points of view that were largely masked by the pressure to reach an 'approved' outcome in closely-watched cases. Even if certain members of the court felt sympathy for incendiaries like Prynne or Leighton, it would have been dangerous—or at least politically treacherous—to be caught seeming to side with them.³⁴ No one who sat as a judge in Star Chamber in the early 1630s would have been unaware of the fate of Sir Randolph Crewe, who was dismissed from his post as Chief Justice of King's Bench in 1626 for his role in notifying Charles of the common law judges' refusal to rubber stamp his attempt to circumvent Parliament via the forced loan.

The remainder of this chapter is an attempt to 'deinstitutionalize' the men who made up the Court of Star Chamber in hopes that thinking about them as individuals will help us reconstruct the collective 'mind' of the court. To accomplish this, I will briefly summarize the biographies of the four judges who, through regular attendance, can be said to have formed the 'core of the court during the early years of Charles I's reign. I

³⁴ We can be sure that such pressures were at work, as evidenced by Prynne's inability to find a lawyer willing to sign his answer. Howell, ed., *Cobbett's State Trials*, vol. 3, 761.

then step back to consider the court's decision-making process in several representative cases in which the judges' individual comments have been preserved in the record. At the close of each hearing, the judges publicly framed their ruling from the bench. The spontaneity of these deliberations is impossible to miss, although the order in which the lords presented their recommendations followed a standardized pattern. According to Barnes, "the court spoke in ascending order of precedence, from mere Privy Councillors through lesser officers of state, judges of the Common Law, peers, and finally great officers, the Lord Chancellor speaking last."³⁵ It is in these public deliberations that we have a chance to reconstruct the 'thought process' of the Court of Star Chamber. Before eavesdropping on the judges, however, it will help to know something about who they were.

As already mentioned, only fragmentary records of the Star Chamber's proceedings survive for the period of Charles I's reign, and it is not always possible to know which judges were present at the hearing of any particular case. Even so, it is possible to develop a sense of which individuals attended most regularly and thereby gain at least a hazy picture of the 'core' of the court. To my knowledge, no systematic study of this sort has yet been conducted, but I will attempt to suggest the outlines of what such a study might look like using as a sample thirty cases transcribed by Gardiner for the Selden society, all of which came to hearing in Star Chamber during the six terms of court beginning with Easter, 1631. During this period, at least thirty individuals sat as

³⁵ Thomas G. Barnes, "Due Process and Slow Process in the Late Elizabethan-Early Stuart Star Chamber: Part II," *American Journal of Legal History* 6, no. 4 (October, 1962): 229.

judges in the Star Chamber, although never, apparently, more than about twenty at the same time. Many individuals seem to have presided only rarely—once or twice in our sample—while others were present at nearly every hearing. The disparity in attendance records is probably attributable to geography and the pull of other commitments. John Egerton, Earl of Bridgewater, for example, was present at only five of the hearings in our sample; but this is actually impressive considering that 1631 was also the year in which he took on the role of President of the Council of Wales. And while I do not have direct evidence of this, I suspect that certain judges were brought in to ‘stack’ the court in important cases.

The judges with the highest attendance records in our sample are:

<u>Name</u>	<u>Cases Decided</u>
Henry Montagu, Earl of Manchester, Lord Privy Seal	19
Thomas, Baron Coventry, Lord Keeper	18
Sir Thomas Richardson, Chief Justice of Common Pleas (Chief Justice of King’s Bench from October 24, 1631)	17
Sir Robert Heath, Chief Justice of Common Pleas (former attorney general; replaced Richardson)	12
William Laud, Bishop of London	11
Henry Danvers, Earl of Danby	8
Sir Thomas Jarmin	7
Sir John Coke, principal Secretary of State	7
Edward Sackville, Earl of Dorset	7
Henry Cary, Viscount Falkland (former Lord Deputy of Ireland)	6
Thomas Howard, Earl of Arundel, Surry, and Norfolk	6

The average age of this group of regular attendees was about 56. At 68, Sir John Coke, one of Charles’ two principal secretaries of state, was the oldest, closely followed by Montagu, Lord Privy seal, at 67. Other than Justice Richardson, at 62, and Danby,

who at 40 was something of an outlier, all the others were in their mid-50s.³⁶ There is not space here to include comparative biographical sketches of all the judges in this subset of ‘core members’, so we will focus on the four names at the top of the list in hopes that their backgrounds will serve as an adequate gestalt for the court as a whole.

Manchester had the best attendance record in our sample, and we will come to him next, but as lord keeper from 1625-1640, Thomas Coventry is the individual most closely identified with the institution of Star Chamber under Charles I. Coventry was born in 1578 to a Worcestershire family. His father was a judge, and Coventry followed him first to Balliol College, Oxford, and then into the legal profession (he was called to the bar in 1603). His first wife, Sarah Sebright, was the paternal niece of the town clerk of London, and probably through this family connection Coventry became “counsel to the Skinners' Company” and obtained “the reversion of the town clerkship and the judgeship of the sheriff's court.” Sarah died not long after she and Coventry were married, possibly in giving birth to their son, Thomas. Coventry remarried in 1610, this time choosing “the widow of a wealthy London grocer.” As with Coventry’s previous marriage, it seems that this new relationship also led to career advancement, this time an appointment as counsel to the Grocers' Company.³⁷

³⁶ I have not been able to find an age—or indeed any reliable biographical information for Thomas Jarmin, although this may be the same individual as the Thomas Jarman who died in Wales in 1648. https://www.ancestry.com/genealogy/records/thomas-jarman_41459440

³⁷ Coventry, Thomas, first Baron Coventry (1578–1640), in *DNB*.

During the late 1610s and early 1620s, Coventry climbed the ranks in the Inner Temple, where he was mentored by Sir Edward Coke.³⁸ The relationship must have endured, because Coventry acted as executor of Coke's estate (along with Sir Randolph Crewe) after Coke died in September of 1634. In 1616, when Sir Henry Montagu was appointed to replace Coke as Chief Justice of King's Bench, Coventry took his place as Recorder of London. Coventry continued his ascent to the upper echelons of the legal profession, becoming solicitor-general in 1617, attorney-general in 1621, and finally, in 1625, Lord Keeper of the Great Seal of England. (His predecessor in this last post was the Puritan sympathizer, Bishop of York John Williams, who would become a Star Chamber defendant in 1637.)

Coventry seems to have been something of a 'yes-man' for Charles and the Duke of Buckingham, playing a prominent role in defending Buckingham in Parliament in 1626 and delivering the king's ultimatum. In 1628, during the debate that led to the Petition of Right, he defended the position that *habeas corpus* was not available to individuals detained at the king's direction.³⁹ On the other hand, while Coventry was willing to do what he had to do to stay in the king's good graces, he does not seem to have been an ideologue. This feature of his character is manifest in his friendships with Puritans such as John Preston, and in his unwillingness to take a hard line with Sherfield (as we will see below). If Coventry's had Puritan leanings, however, they are not

³⁸ "Sir Francis Bacon later described Coventry as 'bred by Lord Coke and seasoned in his ways'." Coventry, Thomas, first Baron Coventry (1578–1640), in *DNB*.

³⁹ Coventry, Thomas, first Baron Coventry (1578–1640), in *DNB*.

reflected in his conduct during the joint trial of Bastwick, Burton, and Prynne, in 1637. Instead he can be seen treating the defendants with a curt impatience. For example, at one point in the trial Dr. Bastwick appealed directly to the Earl of Arundel, imploring him to recognize the “base cowardice” of the prelates in taking away the defendants’ weapons before inviting them to single combat, concluding, “I know, my lord, there is a decree gone forth (for my Sentence was passed long since) to cut off our ears. L. Keeper.” Perhaps angered by the truth of the allegation, Coventry broke in to demand, “Who shall know our Censure, before the court pass it? Do you prophesy of yourselves?”⁴⁰ Coventry also repeatedly rebuffed the defendants’ pleas that their words not be taken out of context, as seen in the following exchange:

Lord Keeper: What say you, Mr. Burton, are you Guilty or not?

Mr. Burton: My lord, I desire you not only to peruse my Book here and there, but every passage of it.

Lord Keeper: Mr. Burton, time is short, are you Guilty or not Guilty! What say you to that which was read?⁴¹

Perhaps the result was not a foregone conclusion, but given the tenor of the proceedings, it is not difficult to believe that Dr. Bastwick’s suspicions were accurate. But despite Coventry’s aggressive tone in this highly-charged proceeding, his overall judicial temperament is probably better captured in the firm but measured admonition to the recalcitrant John Lilburn during his trial the following year, “Well, come, come . . . submit yourself unto the court.”⁴²

⁴⁰ Howell, ed., *Cobbett’s State Trials*, vol. 3, 723.

⁴¹ Howell, ed., *Cobbett’s State Trials*, vol. 3, 723.

⁴² Howell, ed., *Cobbett’s State Trials*, vol. 3, 1322.

The other judge with the highest number of appearances in our sample is Henry Montagu, the first Earl of Manchester. Like Coventry, he had a family connection to the judiciary: his grandfather had been appointed Chief Justice of King's Bench during Henry VIII's reign. Montagu entered the Middle Temple in 1585, and was called to the bar in 1592. He was elected to the House of Commons regularly, beginning late in Elizabeth's reign. The year 1603 was a good one for Montagu: he became recorder of London and obtained a knighthood from the new king. During the early 1600s, Montagu became involved in several joint-stock ventures and spent several years riding as a judge of the assizes, and by 1616 was in a position to spend the 10,000 *l.* He paid another 20,000 *l.* to become Lord Treasurer, but was forced out in 1621, after only ten months on the job, thanks to the shifting allegiances of the Duke of Buckingham. Despite this setback, Montagu obtained the lord lieutenancy of Huntingdonshire in 1624, and, after recovering the duke's favor was created Earl of Manchester in 1626 and appointed as Charles' Lord Privy Seal in 1628.⁴³

The timing of this last appointment is interesting, because in March of 1627 he and Coventry had blocked a government plan to punish loan refusers by pressing them into overseas military service. Brian Quintrell describes Montagu as a moderate, regarding the forced loan "as an exceptional measure in response to an immediate emergency," not a new constitutional norm:

With other moderates in the council, he drew freely on the advice of Sir Robert Cotton and made use of the precedents in his library in the search for compromise and common ground. His role in the two sessions of the

⁴³ Montagu, Henry, first earl of Manchester (c. 1564–1642) in *DNB*. The foregoing discussion is taken primarily from Brian Quintrell's thorough entry in the *DNB*.

parliament of 1628–9 was similarly constructive: both in his speeches and his contributions to conferences between the houses he showed the concern he shared with members anxious to preserve the integrity of the prerogative without damaging the liberties of the subject, as over the petition of right and the case of the five knights.⁴⁴

Montagu may have been a man of moderation, but his sons were pulled to opposing extremes. Despite the family’s Calvinist inclinations, his son Wat had become a declared Roman Catholic—a circumstance that apparently drove Montagu to drink—while his eldest son Edward, heir to his title as Earl of Manchester, became an officer in the Parliamentary Army.

As we saw in the Introduction, the Act of 1487 directed that two common law judges should form part of the Court of Star Chamber’s membership—although it does not seem that this rule was strictly observed. Sir Thomas Richardson, the judge with the third highest attendance record in our sample, changed hats during the period under consideration, transitioning from Chief Justice of Common Pleas to Chief Justice of King’s Bench in October of 1631. As the son of a Norfolk clergyman, Richardson came from a less well-to-do background than Coventry or Montagu. Perhaps for this reason, Richardson’s tone comes across as less supercilious than many of his colleagues.

After study at Cambridge, Richardson joined Lincoln’s Inn in 1587 and was called to the bar in 1595. Richardson’s rise was not meteoric, but his marriage and professional connections were eventually rewarded with a recommendation to become one of the crown’s ‘preferred’ candidates for Speaker of the House of Commons.

⁴⁴ Montagu, Henry, first earl of Manchester (c. 1564–1642), in *DNB*. Quintrell also suggests that Montagu and Coventry “did not help their chances of major political influence in the personal rule by their determination to keep alive hopes of future parliaments after 1629.”

Richardson comes across as a colorful character in many stories, and in this case, he is said to have been “dragged, sobbing, towards the chair early in February 1621” protesting his unworthiness, in what was apparently perceived at the time as a bit of theater. He engaged in similar theatrics after being named Chief Justice of Common Pleas in 1626—a position he must have badly wanted as he paid 17,000 *l.* to get it.⁴⁵

Richardson seems to have been something of a coward. Quintrell reports that during a 1634 Star Chamber prosecution, Richardson seemed prepared to second Sir Robert Heath in refusing to grant a conviction on the basis of an ambiguous Elizabethan statute, “but Richardson, following him and hearing adverse reactions in court to Heath's ruling, weakly contended otherwise and so undermined the colleague whose reservations he had appeared to share.”⁴⁶ But he could also be stubborn. In 1632, at the request of Somerset's Puritan magistrates, Richardson issued an order suppressing “wakes, revels, and church ales in the interests of good order and Sabbath observance.” Archbishop Laud ordered Richardson to rescind this order and eventually called in the king for assistance. In Jams Rigg's *Dictionary of National Biography* entry, he reports that Richardson responded to the king's countermand by presenting the matter “before the justices and grand jury, professing his inability to comply with the royal mandate.” Richardson felt that because the Somerset order “had been made by the joint consent of the whole bench,” and was supported by precedents dating back to the reign of Elizabeth,” the king had no right to interfere. “This caused him to be cited before the council, reprimanded,

⁴⁵ Richardson, Sir Thomas (bap. 1569, d. 1635) in *DNB*.

⁴⁶ Richardson, Sir Thomas (bap. 1569, d. 1635) in *DNB*.

and transferred to the Essex circuit.” This was considered a humiliating demotion, and Richarson supposedly “muttered as he left the council board,” that he was “like . . . to be choked with the archbishop's lawn sleeves.”⁴⁷ In view of this quarrel with William Laud, Richardon’s death in 1635 could only have helped to strengthen Laud’s position.

The last judge we will mention here is Sir Robert Heath, whose presence is recorded in 12 of the 30 cases in our sample. This is only one more appearance than William Laud, but Heath did not join the Court of Star Chamber until October, 1631, when he took over Richardson’s old job as Chief Justice of the Common Pleas. Before becoming Chief Justice, Heath had previously worked as king’s attorney—prosecuting many cases in the Star Chamber—including, most famously, Thomas Darnel in 1627 (the Five Knights’ Case).⁴⁸ In Darnel’s case, Heath had advanced the king’s argument that he was not bound to respect the writ of *habeas corpus* with respect to individuals detained by royal decree. John Selden, a lawyer for one of the accused knights, subsequently accused Heath of attempting “to alter the records in the case to establish a binding precedent so that men imprisoned by special command of the king could be held indefinitely.”⁴⁹ Mark Kishlansky has sought to rehabilitate Heath’s reputation, suggesting that Selden may have intentionally misled the House of Commons “in order to inflame

⁴⁷ Oxford Dictionary of National Biography, vol. 48. (New York: MacMillan, 1895). Also available at [https://en.wikisource.org/wiki/Richardson,_Thomas_\(1569-1635\)_\(DNB00\)](https://en.wikisource.org/wiki/Richardson,_Thomas_(1569-1635)_(DNB00))

⁴⁸ Howell, ed., *Cobbett’s State Trials*, vol. 3, 1.

⁴⁹ Kishlansky, “Tyranny Denied,” 55.

moderate opinion”⁵⁰ Kishlansky points to this incident as an example of the mutual distrust that resulted in the “breakdown of traditional government in the reign of Charles I.”⁵¹ Robert Heath may be our first example of the type of narrow royalist partisan we would expect to find based on traditional images of the Court of Star Chamber, but Heath’s royalism can be interpreted as an expression of what Paul Kopperman called his “preoccupation with order” and his self-image as a member of an elite whose function was to promote unity and social stability.⁵² This preoccupation was far from unique to Heath.

Before turning to consider the court’s decided cases, it is important to remember that there were limits on the Court of Star Chamber’s authority to inflict corporal punishment. From comments such as those made by Justice Richardson during the sentencing phase of Alexander Leighton’s 1630 Star Chamber trial, it is clear that the court—whether by statute or immemorial custom—lacked the power to inflict capital punishment. Sir Edward Coke, an earlier Star Chamber judge, addressed this point directly in his *Institutes of the Laws of England*:

Lastly, it remaineth to be seen what jurisdiction this court hath in punishment, and where, and in what cases this court may inflict punishment by pillory, papers, whipping, loss of ears, tacking of ears, *stigmata* in the face [i.e., branding], &c. (For it extendeth not to any offence that concerns the life of man or obtruncation of any member, the ears only excepted, and those rarely and in most heinous and detestable offences).⁵³

⁵⁰ Kishlansky, 72.

⁵¹ Kishlansky, 83.

⁵² Heath, Sir Robert (1575–1649) in *DNB*.

⁵³ Edward Coke, *Institutes of the Laws of England*, IV (London: M. Flesher, 1644), 66.

Coke (or his editor) includes beside this text a marginal reference to “23 El. ca. 2” with the admonition, “note where he shall lose his ears for defamation of the queen.”⁵⁴

King’s Attorney v. Richard Chambers

On September 28, 1628, Chambers was among a group of merchants summoned to appear before the Privy Council at Hampton Court. While there, he uttered “undutiful, seditious, and false words, That the Merchants are in no part of the world so screwed and wrung as in England; that in Turkey they have more encouragement.”⁵⁵ These words, according to the government’s attorney, amounted to an “endeavor to alienate the good affection of his Majesties Subjects from his Majesty, and to bring a slander upon his just Government” Chambers admitted to making the comment “out of the great sense which he had of the injuries done him by the said Inferiour Officers.”⁵⁶ Although these words could be construed as contempt of Court, spoken as they were in the presence of

⁵⁴ See 23 Eliz. c. 2. in *Statutes of the Realm*, IV (London: Dawsons of Pall Mall, 1963 [1819]), 659. Available at <https://babel.hathitrust.org/cgi/pt?id=pst.000017915519;view=1up;seq=753> The statute prescribes a series of increasingly draconian punishments for uttering ‘seditious words’ against the queen (although, in a nod, perhaps, to English notions of fair play and good sportsmanship, the statute contains a thirty-day statute of limitations). For the first offense, the offender was “to be set only upon the pillory . . . and there to have both his Eares cut of” unless he paid the requisite fine within two months. The second offense was a felony, for which the prescribed punishment was death and forfeiture of the felon’s estate.

⁵⁵ The Turkish analogy remained popular for several years. David Cressy relates the fate of a London physician, Robert Floyd, who in 1633 was charged “with ‘vain fancies’ against ‘sovereignty itself’ for saying ‘it was all one to be under the king and under the Turk’”. David Cressy, *Dangerous Talk: Scandalous, Seditious, and Treasonable Speech in Pre-Modern England* (Oxford University Press, 2010), 148.

⁵⁶ Rushworth, “Historical Collections: 1629,” 662-691. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol1/pp662-691>.

the Privy Councilors, Chambers could (and did) reasonably defend himself against the charge of sowing discord ‘among the People’ on the grounds that his audience was made up only of high officials. In any event, the Turkish comparison touched a nerve. Charles himself made mention of Chambers’ case more than once in March 10, 1629, proclamation attempting to justify his decision to dissolve Parliament prematurely for the third time:⁵⁷

Yet for all this, the Bill of Tonnage and Poundage was laid aside, upon Pretence, they must first clear the Right of the Subject therein; under Colour whereof, they entertain the Complaints, not only of John Rolles, a Member of their House, but also of Richard Chambers, John Foukes, and Bartholomew Gilman, against the Officers of our Customs, for detaining their Goods, upon refusal to pay the ordinary Duty, accustomed to be paid for the same.⁵⁸

Charles was not finished. He complained that after “Suits were commenced in our Court of Star-chamber, against Richard Chambers, John Foukes, Bartholomew Gilman, and Richard Phillips, by our Attorney General [Robert Heath], for great Misdemeanours,” the late Parliament had taken the defendants under their protection claiming “Privilege of Parliament.” Charles was also irate that the House of Commons had resolved to send a letter in its name “unto the Lord Keeper of our Great Seal, that no Attachments should be granted out against the said Chambers, Foukes, Gilman, or Phillips, during their said Privilege of Parliament.” How dare the Commons “give Direction to any of our Courts at Westminster”? Not that the letter had actually been sent, but “if any such Letter had come

⁵⁷ Rushworth, "Appendix: Charles I's Declaration on the dissolution of Parliament, 1628," 1-11. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol1/pp1-11>.

⁵⁸ Rushworth, "Appendix: Charles I's Declaration on the dissolution of Parliament, 1628," 1-11.

to the Lord Keeper, as it did not, he should have highly offended us if he had obeyed it.”⁵⁹

Charles could not have been more direct about his feelings about where the Lord Keeper’s loyalties should be—or about the result he expected when Star Chamber met to consider Chambers’ case in May:

And if any factious Merchant will affront us, in a Thing so reasonable, and wherein we require no more, nor in no other Manner, than so many of our Predecessors have done, and have been dutifully obey’d: Let them not deceive themselves, but be assured, that we shall find honourable and just Means to support our Estate, vindicate our Sovereignty, and preserve the Authority which God hath put into our Hands.”⁶⁰

As has already been discussed, in many Star Chamber cases it is impossible to determine how the individual judges voted—or for that matter what was the ultimate disposition of the case. Fortunately, on occasion a complete report of the decision survives, including the one in this case. The editor of *Cobbett’s State Trials* chose to include “the names of each several person who gave sentence,” given the “great difference of opinion in the Court about the Fine” and because he deemed it “a remarkable case.”⁶¹

As customary, Sir Francis Cottington, Charles’s Chancellor of the Exchequer since April of 1629, led the sentencing discussion.⁶² He recommended a 500 pound fine

⁵⁹ Rushworth, “Appendix: Charles I’s Declaration on the dissolution of Parliament, 1628,” 1-11.

⁶⁰ Rushworth, “Appendix: Charles I’s Declaration on the dissolution of Parliament, 1628,” 1-11.

⁶¹ Howell, ed., *Cobbett’s State Trials*, vol. 3, 374.

⁶²From Prynne’s 1633 trial in Complete Collection of State Trials, 401. “The first was of Francis Lord Cottington, Chancellor of the Exchequer, whose turn was to begin first to speak, as being in the lowest degree of Quality by his Place. And commonly he that beginneth, as he

to the king and that Chambers be obliged to acknowledge his offence “at the council-board, the Star-Chamber Bar, and the Exchange.” Sir Thomas Richardson, lord chief justice of the Common Pleas, and Sir Nicholas Hyde, lord chief justice of the King's-Bench, joined Cottington in recommending a 500 *l.* fine to the king, but felt that directing Chambers “to desire the king's favour” would suffice (instead of a formal submission.

The recommendations were as follows:

Cottington	500 <i>l.</i>	full submission
Richardson	500 <i>l.</i>	desire king's favour
Hyde	500 <i>l.</i>	desire king's favour
Sir John Cook, Secretary of State	1,000 <i>l.</i>	“
Sir Humphrey May, Chancellor	1,500 <i>l.</i>	full submission
Sir Thomas Edmonds	2,000 <i>l.</i>	“
Sir Edward Barret	2,000 <i>l.</i>	“
Dr. Neal, Bishop of Winchester	3,000 <i>l.</i>	“
Dr. Laud, Bishop of London	3,000 <i>l.</i>	“
L. Carlton, Principal Secretary of State	3,000 <i>l.</i>	“
[George Hay?], Chancellor of Scotland	3,000 <i>l.</i>	“
Earl of Holland	1,500 <i>l.</i>	“
Earl of Doncaster	1,500 <i>l.</i>	“
Earl of Salisbury	1,500 <i>l.</i>	“
Earl of Dorset	3,000 <i>l.</i>	“
Earl of Suffolk	3,000 <i>l.</i>	“
Earl of Mountgomery, Lord Chamberlain	1,500 <i>l.</i>	“
Earl of Arundel, Lord High Marshal	3,000 <i>l.</i>	“
Lord Montague, Lord Privy Seal	3,000 <i>l.</i>	“
Lord Conway	2,000 <i>l.</i>	“
Lord Weston, Lord Treasurer	3,000 <i>l.</i>	“
Lord Coventry, Lord Keeper of the Great Seal	1,500 <i>l.</i>	“

When there was a difference of opinion among the judges as to the fine, it was customary for the difference to be resolved in the king's favor, and in Chambers' case the

openeth the matter at large, so he inclineth thereby many Lords to forbear making of Speeches, and only to declare themselves to concur in Sentence with him that began first, or with some other Lord that spake before, as their Judgments lead them.

fine was settled to 2,000 *l*. The real sticking point, however, in which all but the two chief justices concurred, was the requirement that Chambers make a “submission”. (As we will see in Chapter Four, this was a routine matter in cases of libel and scandal.) Attorney General Heath prepared a draft of the Submission and had it sent to the warden of the Fleet. The words to be put in Chambers’ mouth were as follows:⁶³

I Richard Chambers, of London, merchant, do humbly acknowledge, that whereas upon an information exhibited against me by the king's attorney-general, I was in Easter term last sentenced by the honourable court of Star-Chamber, for that in September last, 1628, being convened before the lords and others of his majesty's most honourable privy-council-board, upon some speeches then used concerning the merchants of this kingdom, and his majesty's well and gracious usage of them; did then, and there, in insolent, contemptuous, and seditious manner, falsly and maliciously say and affirm, ‘ that they,’ meaning the merchants, are in no parts of the world so screwed and ‘wrung as in England; and that in Turkey “they have more encouragement.’ And . . . now I the said R. Chambers, in obedience to the sentence of the said honourable court, do humbly confess and acknowledge the speaking of these words afore said, for the which I was so charged, and am heartly sorry for the same . . .

The only problem was that Chambers *wasn't* heartily sorry. He was heartily outraged. He did sign the document, but above his signature wrote: “All the abovesaid contents and Submission, ‘I Richard Chambers do utterly abhor and detest, as most unjust and false; and never till death will acknowledge any part thereof. Rich. Chambers.’”⁶⁴ Needless to say, Chambers did not earn his release from the Fleet.

Sir Thomas Richardson, at this time Lord Chief Justice of the Common Pleas, and Sir Nicholas Hyde, Lord Chief Justice of the King’s Bench, recommended the smallest

⁶³ Howell, ed., *Cobbett’s State Trials*, vol. 3, 1627-1640 (London: T. C. Hansard, 1809), 374-75.

⁶⁴ Howell, ed., 375-376.

(though still hefty) fines of 500 *l.* each and did not join in the order for Chambers to sign a Submission, requiring him only to ‘desire the king’s favor’. Those recommending the highest fine of 3,000 *l.* were the two bishops (Neal, Bishop of Winchester and Laud, at this time still Bishop of London, Principal Secretary of State Carlton, the Chancellor of Scotland, the earls of Dorset, Suffolk, and Arundel, Lord Montagu, and Weston, the Lord Treasurer. This group may be safely regarded as the court’s political ‘hardliners’. The next two cases will introduce us to what might be called the ‘social’ hardliners (Falkland) and the ‘religious’ hardliners (Sherfield). These are the three ‘fault lines’ along which the Star Chamber judges divided.

Falkland v. Savage, et al.

In one of many cases in which the Star Chamber sat to defend one of its own members from a perceived slight, in the Easter term of 1631, the court heard *Falkland v. Savage, et al.* The facts of the case are somewhat complicated, but its principal feature was an accusation Lord Falkland, Lord Deputy of Ireland, had arranged to frame a freeholder named Philip Bushell with the murder of his wife. Because the crime was characterized as ‘treason’, Lord Falkland was in a position to order the sheriff to sequester Bushell’s goods, chattels, lands, and tenements (which included a castle). A variety of rumors began to circulate in Ireland, and then Bushell’s son (who, in addition to losing a mother and a father, had just been disinherited by the government), “came into England, and procured a Petition to be presented to his Majesty, containing divers Grievances touching the Execution of the said Bushell his Father” After the petition to the king was ignored, Bushell planned to “present his said Grievance to the Commons

House of Parliament then assembled,” but on the advice of Sir Arthur Savage, Bushell presented the petition instead to the Duke of Buckingham. The charges in Star Chamber were that through the petition Bushell had ‘subtly traduced’ Falkland and his management of affairs in Ireland by asking for the establishment of a “commission to examine the supposed practice.” Savage then sought “cunningly to entrap the Plaintiff [Falkland]” by suggesting that instead of having a commission appointed the Duke should just write a letter to Falkland “to cause some Relief to be given to Bushell's Wife and Children, and so to stop their Mouths . . .” This was essentially blackmail, of course, and if Falkland had acceded to the request “it would have argued him foully guilty.”

Buckingham obliged, allowing Sir Arthur to dictate the letter to his secretary. Importantly for the Star Chamber matter, Savage had then vouched for the truth of the claims in Bushell’s original petition “tho he knew them to be false.” Bushell took possession of the letter, but never gave it to Falkland. Instead, after Buckingham died, Bushel opened the letter, wrote yet another petition, and presented the whole package to the House of Commons “where it was publicly divulged to the Dishonour of the Plaintiff.”

The whole thing seems to have been turned into an elaborate hit-job on Falkland, engineered by his enemies, Savage and Lord Mountnorris, and the Court of Star Chamber seems to have kept this in mind when it came time to deliberate. Lord Cottington evidently sympathized with Bushell, whom he considered “the wretched sonne of a dead father, 80 yeares olde at his death.” Cottington was inclined to make allowance for a man who had seen “his father dead, his goods seized.” Under such circumstances, “there

should be more severity used, but more mercy, if offende in any parte, in the mercifull parte.”⁶⁵ Even so, Cottington would have imposed a total of 1000 *l.* in fines and damages. Savage’s reputation as a soldier seems to have argued in his favor to some extent, but even so, Cottington would have awarded 4000 *l.* in fine and damages.

Richardson also felt that Bushell should be punished, “though he be a sonne, and hath the warrant of nature to doe what he can for defence of his father’s reputation.” But the ‘impudent’ attempt to prey upon Falkland’s estate “is not to be given way to.”

Richardson recognized Bushell as “a poore and indigent man,” and felt that a the fine already suggested by Cottington would suffice. But in addition to the fine,

I hold fitt he should goe to the pillory, and his offence to be declared in paper wherfore he standeth there, and that he should be bound to the good behaviour, for he saith he will mainteyne the petition with his life; and to suffer imprisonment at the King's pleasure.⁶⁶

Richardson was impressed that Savage had been a “valiant man in his youth,” but “the dignity of his person” increased his offense. Moreover, Savage had also indirectly insulted the king:

the offence is not donne to my Lord Deputy onely, but it reflecteth upon his Majesty. What will the people say that the King should send such a deputy, *occulere et possidere*, never heard of since Jezabell's tyme. This is directly against the Statute of Westminster against telling of false newes, and what false newes more prejudiciall?⁶⁷

Here Richardson is clearly invoking the law of *Scandalum Magnatum* examined in Chapter One. Given the dignity of those whose reputations were besmirched, Richardson

⁶⁵ Gardiner, ed., *Reports of Cases in the Courts of Star Chamber and High Commission*, 11.

⁶⁶ Gardiner, ed., *Reports*, 15.

⁶⁷ Gardiner, ed., *Reports*, 16.

recommended doubling the fine proposed by Cottington. However, there was to be no pillory for the wayward knight.

Chief Justice Hyde gave his sentence next. Although he believed Savage to be the greatest offender, he felt that 1000 *l.* each for fine and damages would suffice on the theory that “it is not the greatnesse of damages will repair my Lord's honor, but the clearing of his justice.” Hyde also felt that the jury in the elder Bushell's treason trial had been browbeaten into delivering a verdict. Therefore, “though Bushell be poore and despicable, yet being wronged, it is fitt he should submitt himselfe to my Lord Falkland, and I discharge him of all the rest.”⁶⁸

Sir John Coke shared Justice Hyde's reservations about the conduct of the underlying treason trial. “Justice is to proceede moderately,” he cautioned, “and if we have but an apprehension of condemning this man we shall doe him injustice, although it fall out to be his just censure.” Even so, Coke concurred in the sentence recommended by Cottington as to both Savage and Bushell, finding that Bushell had an entire year-and-a-half to cool down before he delivered the petition. But Richardson's idea of setting Bushell in the pillory seems to have been dropped.

Sir Thomas Jarmin had only been present for a portion of the trial, and he therefore abstained from passing sentence.

Henry Vane spoke next, like Hyde believing Savage to be the principal culprit—although he had been “very attentive and would have been glad to have taken hould of any thing for his advantage and excuse” But since he hadn't heard anything in the

⁶⁸ Gardiner, ed., *Reports*, 19-20.

way of an excuse, Vane upped the total penalty assessed against Savage to 5000 *l.* 1000*u.* As for Bushell, “his case is to be lamented, I confesse; he may be wronged.” However, that was no excuse for slandering Falkland. Vane therefore concurred with the highest fine.⁶⁹ (It was a regular practice at this point in the sentencing for the judges to pick a sentence they had already heard and agree with it—probably in the interest of time.)

Sir Thomas Edmonds felt it “needful that a remarkable example be layd upon the raysers of such and soe great a scandal,” noting that Falkland had a long career and had “ever knowen to be free from covetousnesse.” Edmonds agreed with the highest fine and damages against Sir Arthur, but suggested that Bushell’s penalty should be lowered to a 500 *l.* fine (no damages) “because of his pressures.”⁷⁰

Lord Newburgh apparently felt that there was nothing left to say at this point that wouldn’t be redundant, so he simply concurred in Henry Vane’s sentence.

The Bishop of Winchester (Richard Neile), however, felt there was plenty left to say. He did not want to excuse the trial judge in the elder Bushell’s case if there had been a miscarriage of justice, but still he worried that “it will prove a president of great danger to all Judges for a cause after 7 or 8 yeares upon a backe reckoninge to be thus scanned” Neile concurred with the highest fine for Savage, and thought he would make a last-ditch effort to resurrect Richardson’s idea of corporal punishment for Bushell.⁷¹ (Neile, after all, had a hand in England’s last heresy burning in 1612).

⁶⁹ Gardiner, ed., *Reports*, 24.

⁷⁰ Gardiner, ed., *Reports*, 25.

⁷¹ Gardiner, ed., *Reports*, 26.

Thomas Wentworth, the future Lord Strafford (but Lord President of the Council of the North in 1631) lamented first the loss of revenue to the king in the way the executed Bushell's estate had been seized, then the slander of Falkland, and only then "an innocent olde man brought with sorrowe to his grave." Wentworth would make allowance for Bushell as "a sonne robbed of his Father," and therefore recommended the original fine suggested by Cottington, but added that "he make this recognition heere at this barre and at the Assizes at Kildare." Wentworth agreed with the highest fine for Savage.⁷²

Viscount Dorchester could "not but pity" Bushell, voting with the lowest fine. And as for Savage, Dorchester "had rather have seen him as heretofore in the head of English troopes nobly demeaning himselfe then heere to sentence him." Nevertheless, he felt it necessary to agree with the highest sentence.⁷³

The Earl of Danby also concurred in the original sentence against Savage, and agreed with the members of the court who felt that, on the whole, Bushell's situation was to be pitied, and therefore felt that the 500 *l.* fine was adequate. Danby also suggested that the attorney general should be directed "to bring that other cause against the Judge to hearing." Apparently Danby did not share Bishop Neile's concerns about hauling judges into court over old misdeeds.⁷⁴

The Earl of Dorset agreed: "It is well donne to have an eye to the absent Judge."

⁷² Gardiner, ed., *Reports*, 28.

⁷³ Gardiner, ed., *Reports*, 29.

⁷⁴ Gardiner, ed., *Reports*, 30.

He also felt it necessary to lament the need to censure a war hero, but as Savage was the “contriver of this scandall, as infamous a scandall as ever was,” who practiced “to shed bloud, and that with the sword of justice, and to take Naboth's Vineyard from him,” he deserved the highest censure. Bushell, however, “because of the lawe of nature” should not be penalized for presenting a petition, and therefore would not have fined him.

The Earl of Pembroke and Montgomery, likewise believed they had identified the real malefactor in Savage, and therefore would have chosen not to punish any of the other defendants.

The Earl of Arundel considered Savage a ‘malicious enemy’ of Falkland and joined in the highest fine. Bushell, on the other hand, was “an unfortunate sonne of an unhappy father, being provoked, he did well to complaine,”—just not about Lord Falkland. No pillory or damages, but 500 *l.* fine.

Manchester, agreed that he could “not blame a sonne for complaying of the unjust death of his father.” But Bushell seemed willing enough to “have sould his father's bloud for bread” and therefore deserved the 500 *l.* fine. Apparently Manchester felt that no one had yet recommended an adequate punishment for Savage, he raised his damages by another 1000 *l.*⁷⁵

Coventry, as usual, voted last, reflecting at length on the trial judge’s alleged improprieties and conjuring up images of jurors being beaten and pinched, concluding, “[I]t seemeth to me not soe hard a case that a Judge should answer his evil doings,” and “if a Jury acquitt a man contrary to their evidence it is punishable heere.” Coventry seems

⁷⁵ Gardiner, ed., *Reports*, 33.

to have changed his mind in the process of sentencing Bushell. At first he voted for a 500 *l.* fine, being careful to add that he was not sentencing someone for petitioning the king, but for passing along scandalous information to Buckingham (this seems like splitting hairs given the massive influence Buckingham wielded). Coventry also made it clear, however, that he was making an exception for the amount of suffering Bushell had already endured:

“This cause moveing every man to commisseration and pittie, I goe noe higher els I should have censured him deepely.” Later, however, Coventry backed off the fine, noting that Bushell was a poor man and that the fine would “come to nothing” anyway, and “in consideration therefore of his unparalleled damage I should spare him.” Coventry would even have imposed a lighter fine on Savage, but agreed with the highest recommendation of damages to Falkland.⁷⁶

After all the recommendations were sorted, Savage was ordered to pay a fine of 2000 *l.* to the King, and 3000 *l.* in damages to Falkland. Bushell seems to have spent some time in jail in addition to being ordered to pay a fine of 500 *l.*

Falkland’s case offers several insights into the collective ‘mind’ of the Court of Star Chamber. First, it seems abundantly clear from following the sentencing from beginning to end that the judges tried to achieve a measure of balance and proportionality. Falkland was probably a personal friend to many of the judges, and they believed a great injury had been done to his reputation, but the general sense of the court was that Bushell’s offense should be dealt with compassionately in light of the horrible

⁷⁶ Gardiner, ed., *Reports*, 36.

experience he had lived through. They even seemed genuinely to regret having to pass judgment on Savage. Only two of the judges, Richardson and Bishop Neile, ventured to recommend corporal punishment. Second, the judges did not seem to arrive with their minds made up about the outcome—as evident in Coventry’s apparent change of heart while he was giving his sentence. Third, as Justice Richardson’s remarks made clear, the judges believed they were applying a set of established legal principles to the facts of the case, although legal rules often seem buried so deep in Star Chamber discussions that they are difficult to identify. And finally, given the strong reactions of several judges to the alleged abuses in the elder Bushell’s treason trial, it seems that the judges of Star Chamber were not purely interested in saving face at all costs.

King’s Attorney v. Sherfield

The final case I want to consider is that of Henry Sherfield, the Recorder of Salisbury, who was brought before the Court of Star Chamber in 1632 on an Information brought by Attorney General Robert Heath. By the time the case came up for hearing he had been promoted to Chief Justice of Common Pleas and had become a regular member of the Court of Star Chamber—but his prior involvement with the case did not prevent him from ruling in the matter. Sherfield’s case is not a speech case except in a very tangential way, but I include it because it demonstrates the existence of what, for lack of better terms, might be called the Puritan-Arminian divide on the court. At the end of the case, Coventry remarked that a “great audience consisting of gentlemen from all parts of the kingdom,” had witnessed the proceedings, and he wanted to satisfy everyone in the

room of two points: first, that “we think it not fit nor lawful to represent the Deity by picture,” and that the court was united in condemning “Romish superstition”; and second, “on the other side, that we are resolutely bent to maintain the government by the reverend Fathers of the Church, the bishops.”⁷⁷ The Court of Star Chamber, in other words, stood firmly in the camp of Protestant Episcopacy.

As in Falkland’s case, the details of Sherfield’s case are messy and need not detain us here. Although nominally about Sherfield, the real issue in the case was not Sherfield’s window smashing. Sherfield himself was an outstanding and well-respected citizen throughout a long life, and he had obtained permission from the local vestry before smashing the idolatrous image of God the Father “in the form of an old man in blue and red.”⁷⁸ The real issue, then, was the vestry’s decision to ignore the Bishop of Salisbury’s inhibition by giving Sherfield license to destroy the glass. This was a minor act of insubordination, but one that nevertheless struck at the heart of episcopacy. One of the major battles amongst the Star Chamber judges was whether or not Sherfield should be allowed to retain his position as Recorder—a battle the ‘Puritan’ faction won by the narrowest possible margin.

As in Falkland’s case, Lord Cottington, Chancellor of the Exchequer, ruled first, condemning Sherfield’s behavior the act of ‘Puritans and Brownists’. Cottington mocked the idea that Sherfield was a ‘wise man’ ‘learned in the laws’, suggesting it would have been a better defense to plead madness. Cottington thought Sherfield’s offense serious

⁷⁷ Howell, ed., *Cobbett’s State Trials*, vol. 3, 559.

⁷⁸ Howell, ed., 544.

enough that he should lose his job, urging his fellow judges to “take order that he be justice no longer.” In addition, Sherfield was to give a public apology and pay a fine of 1000 *l*.⁷⁹

Robert Heath was next to speak—and given his prior involvement in the case it is perhaps surprising that he should be one of the most lenient. Heath started out by suggesting that some of the charges in the bill had not been proved at trial, adding “I must confess, I was informed that the Cause was much fouler than it is” He also enumerated several mitigating factors, such as the prosecuting attorney’s failure to prove that Sherfield technically knew that he was violating the bishop’s inhibition—although, as the Laudian faction pointed out, Sherfield must at least have strongly suggested the bishop’s feelings in the matter. Heath pointedly agreed that the window itself was ‘scandalous’ and only found fault with Sherfield for acting ‘privately’—although this, too, seems to have been something of a fiction. Heath believed that Sherfield’s ‘crime’ had no bearing on his job as recorder (another fiction!) and therefore recommended only a public acknowledgement and a fine of 500 marks.⁸⁰

Justice Thomas Richardson (who had offered to have Bushell stand in the pillory), agreed that idolatry was the cardinal sin. But at the same time, “the bishop, the supreme ordinary in his diocese, and the arch deacon, who is ‘*magnus oculus episcopi*,’ are the proper agents in a work of reformation; what mischiefs would else ensue?” Sherfield’s offense was, at bottom, one of “arrogating to himself power and authority not belonging

⁷⁹ Howell, ed., 540-41.

⁸⁰ Howell, ed., 543.

to him.” Even so, Richardson invoked the ‘rule’ that punishment must be for correction, not ruination. He therefore opted only for a fine of 500 *l.*, between the numbers suggested Cottington and Heath, but suggested that Sherfield also be imprisoned for a period of time.

Secretary Windebank did not indulge in any remarks, but in addition to agreeing with Cottington’s sentence—fine and loss of the recordership—and with Richardson’s suggestion to jail Sherfield. Despite his silence, Windebank’s subsequent conversion to Roman Catholicism may offer a hint as to the reasons for his sentence in Sherfield’s case.

Secretary John Coke had a very different idea about what the punishment should be: an acknowledgement to the Bishop of Salisbury. Although he recognized the danger of seeming to punish Sherfield too lightly—“the danger of example to encourage others to break down such windows”—this danger paled in comparison to the “occasion of triumph to ill-affected persons” that would result “if this court should too severely punish an error in pulling that down which the church disalloweth.”⁸¹

Sir Thomas Jarmin followed: Not wanting to “say anything to encourage those hot-spirited men” (Sherfield and his ilk), he would not say much at all. However, he found Justice Heath’s argument convincing and agreed with his (light) sentence. (Sir Thomas Edmonds, who spoke after Vane, also adopted Heath’s ruling as his own.)

Sir Henry Vane found it difficult to believe that Sherfield, being a lawyer, was ignorant that he was violating the bishop’s injunction, but Vane had encountered Sherfield professionally and had an otherwise favorable impression of him. Vane thought

⁸¹ Howell, ed., *Cobbett’s State Trials*, vol. 3, 547.

the 1000 *l.* fine and an acknowledgement to the bishop an adequate punishment.

Then it was William Laud's turn and, as usual, he offered a disquisition on the history of imagery, noting, for example that in "Tertullian's time (who was one of the ancientest Fathers) there was painted upon the Chalice the picture of the Shepherd bringing home the lost sheep upon his shoulders" Laud suggested that it was only by God's mercy that Sherfield hadn't "broken his back upon the edge of the pew," and noted that Sherfield had not even acknowledged his fault—instead he had claimed to be "persecuted for God's cause." Laud therefore concurred with Cottington in the 1000 *l.* fine and loss of the recordership.⁸²

Wentworth followed, comparing Sherfield to Uzziah, who was struck dead when he stretched out his hand to touch the Ark of God with a good intention. He condemned the vestries' "frequent and ordinary transcending their power," and suggested that it was "high time that the bishops be directed by the king's majesty, to regulate all such things, and to reduce all these vestry-men into order and obedience." In a slap at Coke, Wentworth added, "I shall not forbear to punish an offence of this dangerous consequence . . . for fear of giving an occasion of triumph to some." He followed every recommendation that had been suggested (although it is not clear that he intended to vote for imprisonment).⁸³

The next three members to vote (there were several abstentions) passed their sentences without comment: Lord Falkland and the Earl of Devonshire agreed with

⁸² Howell, ed., *Cobbett's State Trials*, vol. 3, 553.

⁸³ Howell, ed., *Cobbett's State Trials*, vol. 3, 554.

Cottington, and Lord Wimbleton with Heath.

The Earl of Dorset complained that the king's case was overblown. Sherfield acted with "a little too much zeal," but with a tender conscience. Dorset also noted the mitigating fact that although Sherfield was obviously a Puritan, he was a conformist. Dorset insisted that his opinion was not motivated by fear of what "three or four Papists" or "three or four Schisinaticks" might think. But Dorset did hope to "avoid the tumults of the rude ignorant people in the countries where this gentleman dwelleth, where he hath been a good governor . . ." and for that reason suggested that no punishment beyond an acknowledgement should be necessary.

The Earl of Arundel tersely faulted Sherfield for keeping his conscience bottled up for 20 years instead of bringing the matter of the window before the proper authorities. Instead, Sherfield had proceeded "in a fanatical humour" and should therefore receive the punishment first suggested by Cottington.

Manchester found no fault in Sherfield's zeal against idolatry, but suggested that he had been dishonest about gaining the vestry's permission to remove the window, and that he "would neglect authority, which is near Contempt." Like Coventry, Manchester eager that "[a]ll may take notice, that our votes are to maintain order and government, yet not to uphold superstition." And so, Sherfield was to make an acknowledgement to the bishop.

Dr. Neale, Archbishop of York, also agreed to Cottington's original recommendation: 1000 *l.* fine, and loss of the recordership. Perhaps, not to be outdone by Laud, Neale also took a long time to reach his decision. His main objective was to

reiterate that the vestry “hath no power to make reformation”.

Coventry concluded the proceedings by circling back to Heath’s formalistic logic, emphasizing, for example, that there was no formal proof that Sherfield had knowledge of the injunction. Moreover, Coventry observed that it was the depiction in the glass that was at issue, for “if he had taken down white glass, I do not see any reason why I should sentence him.” Again, probably acutely aware of the crowd from across the kingdom who had shown up for Sherfield’s trial, Coventry was careful to acknowledge that “council on both sides have carried themselves in the cause extremely well” In the end, however, he had to make a ruling, and so he sided with Sir John Coke in ordering “no Fine at all.”⁸⁴

The final tally was nine votes for a 1000 *l.* fine, removing Sherfield as recorder, binding him to good behavior, and compelling him to make acknowledgement, and nine others, including that of the Lord Keeper, for a private acknowledgement to the Bishop of Sarum. Because the second group was divided over the amount of the fine, however, Sherfield was ordered to pay 500 *l.*—Richardson’s amount—“because according to the rules and orders of the court of Star-Chamber, when there is a difference of fines in an odd, the king is to have the middle fine.” Sherfield also spent some time in the Fleet.

The three cases we have just examined collectively illustrate the danger of painting with too broad a brush when we picture ‘the’ Court of Star Chamber during the late 1620s and early 1630s. It is fair to say that a majority of the court’s membership

⁸⁴ Howell, ed., *Cobbett’s State Trials*, vol. 3, 561.

shared what might be called a broadly ‘royalist’ outlook—a point of view that valued, above all, the maintenance of order and the preservation of established authority. And yet the fault lines that ran through English society in the decades preceding the Civil War are also visible among the judges of the Court of Star Chamber itself. As members of the ruling aristocracy, these men had enough in common that they could unanimously condemn radicals like Alexander Leighton and William Prynne, in whose strident opinions they perceived the germs of violent revolution. But the case of Richard Chambers suggests that many of the judges felt a certain measure of sympathy for the moderate parliamentary opposition, while Henry Sherfield’s case reveals a court almost equally divided between Puritan and Arminian opinion. While the implications of these divisions are not altogether obvious, it seems reasonable to conclude that the unifying force amongst the judges of the Court of Star Chamber was not religion or royalism, but, as illustrated in Lord Falkland’s case, respect.

CHAPTER THREE

STAR CHAMBER IN ACTION: PART I, 'PRIVATE' SPEECH CASES

*But in crimes fit to be made examples, the Commonwealth hath an interest, which is the great subject of this court*⁸⁵

- William Hudson (c. 1630)

We are indebted for much of our knowledge of the proceedings of this period to a young law student, John Rushworth (born c. 1612 and called to the bar in 1647). A careful observer and copious note-taker, he informs his readers that he

did personally attend and observe all Occurrences of moment during the Eleven years Interval of Parliament, in the Star-Chamber, Court of Honour, and Exchequer-Chamber, when all the Judges of England met there upon extraordinary Cases; at the Council Table, when great Causes were heard before the King and Council.⁸⁶

Other responsibilities must have begun pressing in on Rushworth in the mid-1630s, because his reports of the cases in Star Chamber end abruptly in 1636. Rushworth is connected in another way to our present topic: in April of 1644, the "House of Commons appointed Rushworth licenser to the press with responsibility for pamphlets and newsbooks."⁸⁷ Writing sometime after William Prynne's second Star Chamber trial in 1637, Rushworth commented on the lack of good information about the Court:

There is little mention made of this Court, either in Reports, or Treatises

⁸⁵ Hudson, *Treatise on the Court of Star Chamber*, 21.

⁸⁶ Rushworth, "Preface," ix-xv. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol1/ix-xv>.

⁸⁷ Rushworth, John (c. 1612–1690) in *DNB*.

of the Law, except now and then dispersedly in some one or two Causes, in an Age where it is mentioned rather, as it seemeth, to manifest to Posterity that there was such a Court, than to enlighten the World with the lawful Power, Authority, and Jurisdiction thereof.⁸⁸

For no period is there greater truth to this remark than the one under consideration here.

The British National Archives hold most of the extant records pertaining to the court.

STAC 8, the collection from the reign of James I, contains over 8600 files of informations, answers, depositions, etc. Unfortunately, STAC 9, containing records of Star Chamber proceedings from the reign of Charles I, contains only 29 case files. All 29 have been catalogued by party name and case type, by which means it is possible to conclude that only one of the STAC 9 cases, *Thelwall v. Hollman* (late 1620s), is a ‘speech case’ of the kind we have been examining. The case arises out of a libel on Sir Eubule Thelwall’s conduct as a Master in Chancery in a previous lawsuit between Philip Hollman and Thomas Gotte.⁸⁹ Fortunately, other collections exist from which we can gain some understanding of how Star Chamber actually functioned. The names of most of these collections appear in the bibliography, but my study has been based primarily on the reported cases transcribed in Rushworth, including descriptive summaries of several cases for each year from 1625 to 1636, a collection of manuscript reports covering the years 1631 and 1632 compiled by Samuel Gardiner for the Selden Society in 1886 (these cases overlap those of Rushworth, but occasionally contain additional details), and the handful of major political cases contained in Cobbett’s *State Trials*. Cobbett’s reports are

⁸⁸ Rushworth, "Historical Collections: 1637 (3 of 5)," 461-481. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol2/pp461-481>.

⁸⁹ KEW STAC 9/1/9. <http://discovery.nationalarchives.gov.uk/details/r/C3163401>

rich in detail, and it is unfortunate that so few Star Chamber cases appear in the collection. It is difficult to determine the exact number of cases filed and brought to hearing before the Court of Star Chamber during the reign of Charles I. In 1939, Henry E. I. Phillips published a study on Star Chamber during the period 1630-41, in which he identified at least 308 cases as having been heard in Star Chamber between March of 1629 and March of 1640.⁹⁰ Of these, the nature of the case is discernible in at least 284 matters, and at least some aspect of the disposition is known in roughly 236 of these. Phillips found that 66 of the cases in his study involved a judicial response to ‘violent outrage’, representing a much smaller proportion of the total number of cases than in the time of Elizabeth.⁹¹ Fifty-three of the cases (18 percent) in Phillips’ study involved charges of conspiracy, which represents a dramatic increase from the 2 percent of cases heard in Elizabeth’s Star Chamber. Another seventeen cases in the period 1630 and 1641 are known to have involved ‘contempt of royal Proclamations and Orders’. The two categories we are most interested in at present, libel and scandal, made up a total of 41 cases. Assuming Phillips’ numbers are accurate, this means that a minimum of 15 percent of Star Chamber’s business directly involved the punishment of words, spoken or written.

Private Libel Suits in Rushworth, 1625-1636

The political trials rightly attract the lion’s share of the historical attention, and they are examined as a class below. But in order to recover the contemporary ‘meaning’

⁹⁰ Phillips, “Last Years,” 115.

⁹¹ Phillips., 116.

of the punishments meted out by the Court of Star Chamber to those who, by written or spoken word, intentionally or otherwise, became the enemies of the royalist establishment—Leighton, Prynne, Burton, and Bastwick, or smaller fry like Richard Chambers—we should contextualize these judgments as much as possible within the framework of the court’s ordinary (it may be too much to say ‘standard’) practices when confronting the less sensational libel cases that came before it.

Rushworth wrote summaries of about 218 Star Chamber cases during the period 1625-1636. As mentioned above, Henry Phillips found that at least 308 cases came to a hearing in Star Chamber during the period 1629–1640,⁹² and using the number 308 as a benchmark (although we are dealing with different opening and closing dates), it is possible to estimate that in Rushworth’s reports we have descriptions of at least seven out of every cases heard in Star Chamber during the period 1625-1636. Rushworth’s reports should therefore be regarded as a reliable sample from which to draw general conclusions about the court’s business during the first half of Charles I’s reign.

Only about 35 of the cases in Rushworth (less than one-fifth of the total) can properly be considered ‘speech cases’ (i.e., cases in which libel, slander, scandal, etc. is a central issue), and only ten of these involve what the court considered “meer Libel and Slander.”⁹³ The remaining 25 speech cases fall along a spectrum between what we might call ‘marginally political’ cases to the clearly political cases against Leighton and Prynne,

⁹² Phillips, “Last Years” 115.

⁹³ *Beverly v. Power* in Rushworth, “Star Chamber Reports: 1 Charles I,” 1-4. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp1-4>.

et al. These cases may be further subdivided into three rough categories, including: punishment of what would now be called contempt of court; punishment for slander of the great lords of the realm; and punishment of ‘seditious’ expression—that is, expression tending to undermine or subvert the established order in some way. Each category is examined in turn.

Beverly v. Power is the first speech case in Rushworth’s reports. It was heard during the Easter term of 1625—that is, around the time of Charles I’s accession. As with many of the ‘private libels’ heard in Star Chamber, *Beverly* is not purely a speech case. Probably the only reason it ended up in court is that along with offensive speech there was an assault—several assaults, actually. Power had assaulted Beverly on more than one occasion, once spitting in his face, and once kicking him “with his Spurs as he follow’d him up Sir James Leigh’s Stairs.” Beverly retaliated by charging Power and his associates “with other foul Crimes, whereof they made no manner of proof, but deserted it, at the hearing.” Apparently Beverly was simply attempting to smear Power’s reputation, but in any event he fined 500 *l.* “for meer Libel and Slander” and ordered to pay 500 marks to the ‘injured’ Defendants. Lest we conclude too hastily that here we have evidence of a miscarriage of justice, Rushworth notes that the Defendants were fined as well,⁹⁴ but from the point of view of Rushworth, the young law student, the fine to the Plaintiff is probably what caught his attention.

⁹⁴ Rushworth, "Star Chamber Reports: 1 Charles I," 1-4. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp1-4>.

The following winter, in Hilary term 1626, the Star Chamber heard *Cumbrie v. York*. The Defendant was a knight, Sir John York, who had been hunting Cumbrie's deer without permission. After a hunting party including the younger John York was confronted by Cumbrie's servants, "Sir John in a haughty manner sent the Plaintiff word he would hunt and kill Deer there if he could." Sir John, his son, and another man were convicted "for this hunting, and using braving and provoking Speeches." The lords had them thrown in the Fleet to cool their heels, and fines were assessed commensurate with the Defendants' relative net worth: "Sir John fined 200 *l.* Fenton 100 *l.* and John York 50 *l.*"⁹⁵

One year later, in 1627, the court heard *Frize v. Bennet* a case in which, for once, no violence seems to have been threatened. Bennet had published (either verbally or in writing) libelous songs such as, "*A proper Song of a great Blockhead Woollen-Draper, dwelling in Holborn, who gave a Tailor's Wife a yard of old Freize for a Jerkin.*" Bennet's ballad "contained obscene and scurrilous matter, not fit to be recited," but "the Court would give the Plaintiff no Damages, because he took delight in repetition of the Libel, and because he was of suspected Life and Conversation."⁹⁶ Perhaps the judges of Star Chamber secretly enjoyed a good pun.⁹⁷

⁹⁵ Rushworth, "Star Chamber Reports: 1 Charles I," 1-4. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp1-4>.

⁹⁶ Rushworth, "Star Chamber Reports: 2 Charles I," 4-6. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp4-6>.

⁹⁷ I can offer 'half a proof' of this. In 1794, the editor of John Dyer's law reports adds this note: "Richardson, Chief Justice of the C.B. at the assizes at Salisbury in the summer of 1631 was assaulted by a prisoner condemned there for a felony who, after his condemnation threw a brickbat at the said Judge, which narrowly missed; and for this an indictment was immediately drawn by Noy against the prisoner, and his right hand cut off and fixed to the gibbet, upon which he was

The following term (Easter, 1627), the court heard the first of the ‘political’ cases that will be discussed below—*Whitache* (contempt) and *Perkins* (Scandal of his Majesty). Indeed, perhaps because of the intensifying struggle between king and Parliament over Buckingham and the Forced Loan,⁹⁸ Rushworth includes no private speech cases during any of the following three years. This period covers the convening and dissolution of Charles’ third and final Parliament and the opening of the Personal Rule, and perhaps the political tension in the air is the reason Rushworth’s reports focus instead on political (or quasi-political) speech cases instead. These include *Mady’s case* (Easter, 1628) involving a fight over a parsonage that ended in contempt of High Commission, *Heron and Banier* (Michaelmas, 1628) for false news about the death of Buckingham, the revealing *Richard Chambers’ case* (Easter, 1629), analyzed in depth below; and from the same term *Maud’s case* (in which the Defendant alleged that the King attended Mass with the Queen), and *Lord Savile’s case* (filing, but failing to prosecute, a ‘libelous bill’). It is also possible, of course, that fewer private libel cases were brought in Star Chamber during these years.

The following year, 1630, was the year in which Star Chamber inflicted its infamous punishments on Alexander Leighton, but that same year it heard a large number of ‘contempt’ cases, including a prosecution for ‘scandal’ of Lord Coventry, a slander of a Master of Chancery, and a slander of two Justices in Flintshire. And in 1631 Star

himself immediately hanged in the presence of the Court.” James Dyer, ed. *Reports of Cases* [...] (London: Butterworths, 1794), [188b]. The other half of the proof, that I have not been able to substantiate, is the rumor that after this event, Richardson, who had stooped a moment prior to the assault, remarked, "You see, now, if I had been an upright judge, I had been slain."

⁹⁸ In February, 1627, Robert Sibthorpe had preached a sermon counseling submission to the Forced Loan, and Roger Maynwaring would present similar messages before the king in July. See Roger Maynwaring, *Religion and Alegiance* [...] (London: Richard Badger), 1627.

Chamber heard a case in which words turned violent with the result that a Justice was assaulted.

These cases illustrate a point that will be made in more detail below: the lords and ministers who sat as judges in Star Chamber were quick to protect those in authority from criticism. However, the Court of Star Chamber also occasionally punished those in authority who abused their power. During Easter Term, 1631, the Star Chamber judges entertained the case of an attorney named Caston against a Justice of the Peace (a knight named Hitcham)⁹⁹ involving the publication of ‘libelous Article’s against the Plaintiff.’ This case could just as easily have been included among the ‘contempt’ cases, but in this case, it was the representative of the law who had demonstrated his contempt for the legal process:

The Defendant the morning before he went to the Sessions, being a Justice of the Peace, received scandalous and libellous Articles against the Plaintiff, carried them to the Sessions in his Pocket; and in open Court, in disgrace of the Plaintiff, pulled them out, and said, You shall see what a lewd Fellow this is, and not fit to speak in this place: And then caused the said libellous Articles to be read in the publick Sessions; and the Plaintiff then desiring a Copy of them, and to be tryed upon them, the Witnesses to prove them being noted in the Margin, the Defendant did not suffer him to have a Copy, or to be tried thereupon, nor took any Course, that he might at the next Sessions, or at any time after, be questioned for them, but took the Articles again out of the Sessions, and carried them away; and after, farther to disgrace the Plaintiff in his Practice (being an Attorney) sent the said Articles to Mr. Justice Harvey, at the Reference of a Cause to him, which Caston attended

(In what was apparently an unrelated matter, Hitchman had insulted a jury by calling them “a company of Fools,” after they had voted with his opponent in a legal case.) The

⁹⁹ Rushworth, "Star Chamber Reports: 7 Charles I," 34-43, *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp34-43>.

Star Chamber committed to Hitchman to the Fleet and levied a steep—but not crushing—fine of 200 *l.* At the bottom of this summary, Rushworth includes the following note: “In this Cause the Defendant would have had Witnesses to prove the Matters of the said scandalous Articles to be true; but that was disallowed by the Court.”¹⁰⁰ The significance of this comment has already been addressed.

The year 1631 was also one in which the Star Chamber moved to avenge two of its own regular members—the Earl of Danby and Lord Viscount Falkland (or Falkland)—from harm caused by wagging tongues. But over the summer the court also dealt with a matter involving somewhat less exalted suitors. They had been engaged in a long legal battle with Defendants Crokey and Wright over possession of land in Gloucester County. After losing a case in Chancery,

the Defendant Crokey maliciously contrived and caused to be printed a great number of libellous Books, and many of them to be exhibited to the Lords and others then assembled in Parliament, and others, to be published in divers other places; and the Defendant Wright also published many of them

Once again, however, this case might properly be considered along with the ‘contempt of court’ cases below, because although the Star Chamber determined that the “Book contained much Matter scandalous to the Plaintiff Smith,” it also impugned “the Courts of Justice, where their Suits had depended.” For this “malicious Libel,” both Defendants were imprisoned at the Fleet, the chief offender, Crokey, was fined 200 *l.* and Wright 100 *l.* The Star Chamber also ordered its “Decree to be read at the Assizes to clear Smith’s

¹⁰⁰ Rushworth, “Star Chamber Reports: 7 Charles I,” 34-43, *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp34-43>.

Reputation, and Crokey then to acknowledge his Offence and ask him Forgiveness.” The books themselves were ordered “publicly burnt” at the Assizes—although not yet, as we learn from Prynne’s ordeal over *Histriomastix*, by the common hangman.¹⁰¹

In yet another example of a case that I have chosen to discuss under the heading of ‘private libel’ but that could also be analyzed as a ‘contempt’ of authority case, in the fall of 1631 the Court of Star Chamber heard the case of a priest named Dalton involving “Libellous Words against a Minister.” Apparently Dalton had gotten crossways with some of his parishioners. One of the defendants, a woman named Eleanor Beck, “did falsisy, and did libellously publish, and give out Speeches at several times, and to several Persons that the Plaintiff had got her with Child, and falsly named the Time and Place when and where it should be done.” Her husband Richard was complicit, having originally vouched for the authenticity of the tale. After being called out, however, “they now both swear they believe the Plaintiff to be innocent of any such Crime.”¹⁰²

Dalton had other enemies, however. Another defendant, Heyton, “out of Malice to the Plaintiff, published and said, that the Plaintiff lived in Adultery with the Pedler's Wife; and that a Priest had gotten a Pedlar's Wife with Child, meaning the Plaintiff and the Defendant Eleanor Beck.” The Becks “were committed to the House of Correction, to be set at work three Months, and be well whipped, and fined 40 *l.* a-piece,” while Heyton was “committed and fined 100 Marks.” The Defendants were also ordered to ask the

¹⁰¹ Rushworth, "Star Chamber Reports: 7 Charles I," 34-43. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp34-43>.

¹⁰² Rushworth, "Star Chamber Reports: 7 Charles I," 34-43, *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp34-43>.

Plaintiff's forgiveness "in his Parish-Church, and at the Assizes where the Decree shall be read."¹⁰³

The following year, in the fall of 1632, the court snuffed out another private libel.¹⁰⁴ The Defendants, Harrison and Spyer, "published an infamous Libel, which they called, 'Verses made of the purer sort', to the scandal and disgrace of the Plaintiffs." The gist of the libel seems to have been the suggestion that the Plaintiff, Smith, had lain with Martha Osmonton (also a Plaintiff). Upon being hailed into court, "all the Defendants" repudiated the story and acknowledge the Plaintiffs "to have lived in good repute, and to be of honest Life and Conversation." But apparently the 'Verses' were in high demand. Another Defendant, Tufton, had gotten hold of the 'Verses' and circulated them among the townsfolk of Rye, East Sussex. Another libeler, Martin, "said the Libel was true . . . and therefore it was not a Libel, but a True Bill." Rushworth reports that the Defendants were "committed to the Fleet" and incurred fines ranging from 500 marks to 200 *l*. The Defendants were also required "to acknowledge their Offences, and great Injury done to the Plaintiffs, both at this Bar, and at Rye . . . and shew themselves heartily sorry for the same."¹⁰⁵

Then, in the spring of 1633, the court heard the case of Henry Sherfield. His was not technically a 'speech' case, but it involved what might be called 'expressive church-window smashing'. I have chosen to address Sherfield's case among the political speech

¹⁰³ Rushworth, "Star Chamber Reports: 7 Charles I," 34-43.

¹⁰⁴ Rushworth, "Star Chamber Reports: 8 Charles I," 44-53. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp44-53>.

¹⁰⁵ Rushworth, "Star Chamber Reports: 8 Charles I," 44-53, *BHO*.

cases below, as it is one for which considerable evidence has been preserved and, perhaps more clearly than any other case, demonstrates the existence of political fault lines in the Court of Star Chamber (along, of course, a Puritan-Arminian divide). I mention Sherfield's case here only to provide some context. Several important speech cases were also heard in Star Chamber in 1633, but Rushworth mentions only one that seems to qualify as the kind of 'private libel' case we have been examining in this section. That case was *Webster v. Lucas*. The Defendant, apparently an illiterate woman, under the pen-name *Joan Tell-Troth* (and later *Tom Tell-Troth*), "procured a libellous and scolding Letter to be written to the Plaintiff and then to be written over by a Scrivener's Boy, and sent him by a Porter" The letter, which soon made the rounds of the taverns and alehouses, seems not to have amounted to much more than juvenile name-calling: "in the Letter she often termed *Scoggin*, with other disgraceful Names, and the Plaintiff's Wife *Jezebel*, and *the Daughter of Lucifer*, with other invective Terms" And so, whatever Joan Tell-Troth's motivation had been, she found herself committed by the High Court of Star Chamber, fined 40 *l.* (an amount probably higher than her annual income), and bound to her good behavior. As a female Defendant, Ms. Lucas was also sentenced "to be duck'd in a Cucking-Stool at *Holborn-Dike*" Although the fine seems heavy for an offense that did little harm beyond annoying the Plaintiffs (bear in mind that in 1626 John York, the knight's son was only fined 50 *l.*), it nevertheless appears that in *Webster* the court was once again attempting to tailor the punishment to the crime. The social rank of the *Webster* Plaintiffs does not appear in the record, but this case also seems to demonstrate the seriousness with which the lords of Star Chamber

could intervene in even the pettiest squabbles in the realm.

A last case from 1633, *Stace v. Walker*, although it is categorized under the heading, “Practice to defame,” is not really about libel but abuse of process. However, like *Sherfield’s case*, *Stace* may be helpful in assessing the relative severity of the sentences in the political cases decided at around the same time. Although the details are worth reading, the essence of the case is that Walker had deviously attempted to frame Stace with stealing his sheep (by killing several of them himself and nailing their skins to Stace’s trees). Walker then reported the ‘theft’ and Stace was tried—and, happily, acquitted. Except for the fine, Walker’s sentence was almost as severe as permissible in Star Chamber:

for these Offences the Defendant was committed to the *Fleet* during Life, fined 1000 *l.* be set on the Pillory at *Tenterden* before the Plaintiff’s Door, and at *Canterbury* at the Sessions, with a Paper on his Head declaring his Offence, and at each Place acknowledg his Offence, and have an Ear cut off; to be tied to the Tree where he hang’d the Wool a whole day, with the Wool about his Neck, be set in the Pillory at *Maidstone* with the like Paper on his head, and there acknowledg his Offence, and pay the Plaintiff five hundred Marks damage.¹⁰⁶

In *Stace*, we find Star Chamber judges once again finding creative ways to relate the punishment to the crime. The punishments inflicted seem designed, almost without exception, to achieve the maximum deterrent effect—to educate the inhabitants of England about the appropriate boundaries of public expression and to send a warning about what happens when those boundaries are transgressed. Although Walker’s sentence was severe (assuming it was carried out—and sentences were occasionally remitted), he

¹⁰⁶ Rushworth, "Star Chamber Reports: 9 Charles I," 53-69, *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp53-69>.

arguably escaped with less punishment than he deserved: Stace was tried for a crime he did not commit and would have been sentenced according to notions of justice at least as severe as those applied to Walker if he had been convicted. This sentence was meted out the year before William Prynne first arrived in the Star Chamber as a defendant (he had previously practiced there as an attorney). With Prynne's sentence in mind by way of comparison, it is interesting note that nothing in the record suggests that anyone on the court had any particular vendetta against Walker. They just thought he had done something terribly wrong and exercised their authority to inflict the harsh remedy they believed his crime demanded.

The final 'private libel' case in Rushworth's notes, *Peyton v. Penny*, was heard during the Easter term in 1634.¹⁰⁷ Here we have another 'Libellous Song' being "passed from man to man." The Plaintiff was not mentioned by name, but he "was generally conceived" to have been the intended victim. The original poet, and those who passed along the libel, "were committed to the Fleet, bound to their good Behaviour; fined 200 *l.* apiece," and ordered to pay damages to the Plaintiff in the amount of 200 marks. As usual, the sentence included public shaming of the perpetrator: the court ordered Penny "to stand on a Stool in the Church-Porch on a Sunday, while the Parishoners are coming to Church with a Paper on his Head declaring his Offence," and then, "after Service, and Sermon ended," the Defendants were required "to ask the Plaintiff

¹⁰⁷ Rushworth, "Star Chamber Reports: 10 Charles I," 69-72, *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp69-72>.

forgiveness, and acknowledg their Offences.”¹⁰⁸

The picture of the Court of Star Chamber that emerges from the preceding survey of private libel cases is a court engaged in the routine and impartial punishment of malicious speech—or at least ill-advised words. The court may have erred on the side of severity, but for the most part, as we have seen, the judges sought to impose sentences that were both just and proportionate. We also find a court wielding the didactic power of exemplary justice as it sought to police the boundaries of acceptable public discourse. This is the High Court of Star Chamber that emerges from the treatises of Edward Coke and William Hudson. But there is another Star Chamber—the one decried by William Prynne, and the one that lives on in the popular imagination.

¹⁰⁸ Rushworth, "Star Chamber Reports: 10 Charles I," 69-72, *BHO*.

CHAPTER FOUR

STAR CHAMBER IN ACTION: PART II, 'POLITICAL' SPEECH CASES

*. . .it is needful that a remarkable example be layd upon
the raysers of such and soe great a scandall.*¹⁰⁹

— Sir Thomas Edmonds (1631)

Although I have chosen to conceptualize the trials in this chapter as 'political', I want to emphasize that I am using that label broadly to talk about cases that involve any kind of speech about government officials or public affairs. The 'contempt' cases included here arguably belong to a category of their own; yet at the heart of every contempt proceeding is an effort to instill due reverence (or, to use the seventeenth-century word, 'fear') for established authority through a calculated display of state power. England during the 1620s and 1630s was in the midst of a prerevolutionary moment, and it therefore makes sense to examine the period's contempt proceedings for what they have to tell us about changing attitudes toward authority. It is always difficult, and often impossible, to know whether any given act of contempt was motivated purely out of particularized resentment of an individual magistrate or whether, instead, the act of contempt should be interpreted as a localized expression of a more generalized rage against established power structures. In the following discussion, we will attempt to understand the role played by the Court of Star Chamber in maintaining the status quo against the new spirit of rebelliousness that began to emerge in England in the 1620s and

¹⁰⁹ Gardiner, ed., *Cases*, 25.

1630s.¹¹⁰

The first ‘political’ case in Rushworth’s notes was heard during Easter term of 1627. One hint that we are dealing with a ‘political’ rather than ‘private’ case in Star Chamber is that ‘political’ cases were typically brought by the King’s Attorney in the form of an ‘information’ from the aggrieved party. Thus we have *King’s Attorney rel[ator] Tho[mas] Whitache v. Moody & wife*, involving a “scandal of the Court of Arches & Judge by libelous letters.”¹¹¹ The facts that gave rise to this case are difficult to surmise, but apparently Sir William Byrel, a judge of the Court of Arches, had granted to Moody’s nephew, a man named Adyn, “a Sequestration of the Body . . . and a Licence to marry” a young woman named Mary Rud. For some reason Moody did not appreciate this decision, “and thereupon . . . framed two libellous Letters, one in the name of his Wife, whereto she set her Hand after it was transcribed by a Servant.” The two letters, in which Moody committed scandal against the Court of Arches by calling it a “Lemman Court, where none but Lemmans and Knaves seek their Prey,” were “directed and sent” to Mary, the new Mrs. Adyn. Moody complained that the law applied in the Court of Arches was “cruel” and made other unspecified criticisms of the court. He also specifically impugned the reputation of the judge, Sir William Bird, along with “all others the Doctors and Proctors, and Officers of the Court, terming them Wolves that live by the rapine of innocent and harmless Virgins.” Moody expressed similar sentiments to

¹¹⁰ The ‘political’ cases of Richard Chambers, Lord Falkland, and Henry Sherfield discussed in Chapter Two are not revisited here.

¹¹¹ Rushworth, "Star Chamber Reports: 3 Charles I," 7-15. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp7-15>.

other people, and for this he was hauled in front of Star Chamber to answer for his contemptuous words. He and his wife were both, as usual, “committed to the Fleet,” and fined 200 *l.* and 100 *l.*, respectively. The husband—the guiltiest party—was also ordered to appear before the bar in Star Chamber, “and in humble and submissive manner, under his hand, acknowledge his great Offence in falsely scandalizing both the said Court and Judge.”¹¹² To the extent that the punishment in this case was elevated in comparison with the fines in the private cases reviewed above, the likely explanation is that the Defendant was guilty of defaming not just an individual officer of the court, but the entire court system.

The same spring in which the Star Chamber punished Moody’s contempt of court, it decided the first overtly political case of our sample. This was *King’s Attorney v. Perkins*, brought *ore tenus* (upon a deemed confession) on charges of scandal against the king, his Privy Council, and his judges, and for ‘seditious’ opposition to “his Majesty’s services.”¹¹³ The backstory to this case is Charles’ ongoing fight with Parliament over funding the government and his military endeavors. In an effort to supply by force the revenues Parliament refused to grant, Charles had sent commissioners to Nottingham to collect ‘forced loan’ payments. The Defendant, Perkins, had gone before them, littering the highway with “divers libellous scandalous and seditious Letters, both against the King and State.” These letters were addressed to the “Freeholders and true-

¹¹² Rushworth, "Star Chamber Reports: 3 Charles I," 7-15. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp7-15>.

¹¹³ Rushworth, "Star Chamber Reports: 3 Charles I," 7-15. *BHO*.

hearted Englishmen” of Nottingham “with intent to dissuade all the Freeholders of the said County . . . from yielding to subscribe to the said Loans.” It was a rousing call to action. Parliament had not authorized the loan, Perkins argued, and therefore the king’s commissioners had no right to collect it. This unambiguous argument in support of the right to refuse what amounted to an extra-parliamentary tax became, in the eyes of the king’s attorney, an act of disloyalty. In publishing his views, Perkins had also “slandered his Majesty and Privy-Council with Injustice, Oppression and Cruelty” by alleging that the king and his council intended “to subvert the Power of Parliaments.” Perkins warned his neighbors that if they capitulated to royal pressure, “they should never see more Parliaments, but they and their Posterity should be Slaves forever.” Perkins also blamed the king’s judges, who were implicated in the crime against the English nation by rubberstamping the king’s lawlessness. In addition to publishing these opinions, Perkins informed his neighbors (truthfully) that neighboring counties had also refused the king—clearly intending that Nottingham should follow their example. For this act of defiance, Perkins “was committed to the *Fleet* during the King’s pleasure,” and fined a hefty 3000 *l*. The Court of Star Chamber—comprised mainly of the king’s privy councilors—was clearly choosing sides.

A less exalted political fight played out in Star Chamber the following year—one involving a parsonage. The Defendant in *King’s Attorney v. Mady* stood accused of “Scandal of the High Commission Court” and its judges “by an Answer and Rejoinder in

the Court of Chancery.”¹¹⁴ The Defendant, a parson, had been “justly deprived by the Sentence of the High Commission Court” for some “irregularity” and ousted from the cure of the church at Blagden. He was replaced by a cleric named Parker—and the parsonage went with the job. Seven years later, Mady showed up at Parker’s door claiming that James I had issued a pardon reversing his deprivation and entitling him to recover the house. Parker found it necessary to sue Mady in the Court of Chancery, and Mady’s defense to the Chancery suit is what got him in trouble with Star Chamber. In his answer, Mady alleged that the High Commission’s sentence was illegal, unfounded, and procedurally flawed—the court had not even bothered to secure witnesses against him. Mady suggested that the real reason he had lost his post had nothing to do with his conduct as a minister. Instead, he had been pushed out of his benefice “that one of the Commissioners might have the bestowing thereof,” Parker being the presumed beneficiary of these machinations. For this scandal against High Commission, Mady “was committed to the *Fleet*, fined 200 *l.*,” and ordered “to acknowledge his Offence, and make his Submission to the High Commission Court.” Mady’s “Answer and Rejoinder” was so tainted that it was not to be preserved among the court records but “taken from the File and cancelled.” Finally, Mady was required to appear in the Court of Star Chamber to “publicly acknowledge his Sentence to be just.” Mady’s fine was small in comparison to Perkins’, but that does not necessarily mean that the court felt his offense less reprehensible. It should be recalled that the High Commission had already kicked Mady

¹¹⁴ Rushworth, "Star Chamber Reports: 4 Charles I," 15-20. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp15-20>.

out of his job—and his home—and apparently he had been unable to secure a new position. Why else would he have showed up to confront Parker after such an extended interval? Perkins' was thus probably worth much more than Mady at the time of sentencing and thus incurred a higher fine.

In the fall of 1628, Star Chamber decided *King's Attorney v. Heron and Banier*, another *ore tenus* case arising out of events surrounding the assassination of the Duke of Buckingham in August.¹¹⁵ In Cambridgeshire during the previous Whitsuntide (and therefore well before the assassination), Defendant Heron made the acquaintance of Defendant Banier, confiding to him that he had killed the Duke. Instead of informing on Heron, Banier helped him conceal his identity—apparently he approved of the 'crime'. After the assassination, Heron continued to inject himself into the narrative, accusing "divers Noblemen, and other Persons of good Rank and Quality" of having assisted Felton in Buckingham's assassination. Banier escaped with his ears, but was "committed to the Fleet, fined 1000 *l.* and bound to his good behaviour during Life." Heron, on the other hand, incurred the full wrath of Star Chamber. In addition to a life sentence and a fine double the size of Banier's, Heron was

to be whipt from the *Fleet* to *Westminster*, and be there set in the Pillory, with one of his Ears nailed and cut off, his Nostrils slit, his Face branded with the letter *F* in one Cheek, and the letter *A* in the other Cheek, for a false Accuser of himself and others: And at another time to be whipt from the *Fleet* to *Charing-Cross*, and be there set in the Pillory, with his other Ear nailed and cut off, and from thence be carried to *Bridewell*, there to be kept at work during life.

¹¹⁵ Rushworth, "Star Chamber Reports: 4 Charles I," 15-20. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp15-20>.

This punishment is in keeping with the one meted out in the ‘sheepskin’ case described above, and both cases share the common element of serious false allegations. It also demonstrates that mutilation as a punishment for serious crimes was still very much a part of English law.

The next three political speech cases preserved in Rushworth’s notes were heard during Easter term, 1629. We have already examined the case of Richard Chambers in the previous chapter, and keeping the outcome of that case in mind may add some color to the other two. One was *King’s Attorney v. Maud*, an *ore tenus* prosecution of a defendant charged with making speeches in which he “wickedly, undutifully, traiterously and seditiously” propagated a rumor “that the King went to Mass with the Queen.” When Maud was examined concerning the source of his information, he named several individuals “who, being examined, did deny it.” Although it imposed a crushing fine, the court went out of its way to point out that the sentence could have been much more terrible:

The Court declared, that it was his Majesties great Grace, that the Defendant was not dealt withal in a higher degree; and therefore fined him 5000 *l.* committed him to the *Fleet*; and ordered him to acknowledg his offence in this Court, with a Paper on his Head, declaring his offence, and to make the like acknowledgment at all the Bars of all the Courts at *Westminster*, and at the publick Assizes of *Suffolk* and *Huntington*, and at *Pauls* Cross, and the Preacher at that time to reprove the Raisers and Publishers of such notorious, false and slanderous Reports.

Note, once again, the theatrical nature of the punishment. Star Chamber was sending a warning to others who might be similarly inclined to cast aspersions on the royal family.

The other political case that term was *Lord Savile v. Viscount Wentworth*—although here we have a case that might have been included among the ‘private libels’ considered earlier, except that it involved a longstanding political rivalry. Savile’s bill, “containing mainy foul and odious Charges,” had been filed over three years earlier, but rather than pursuing the matter, Savile simply allowed his allegations to “hang as a Libel.” Both parties were probably well-known to the judges, but Wentworth currently enjoyed the favor of the king, whose help he had perhaps enlisted. In any event, Savile was “fined 100 *l.* to his Majesty, and ordered to pay to the Lord *Wentworth*,” along with 100 *l.* to Lord *Clifford* and 50 *l.* each to the Lord *Fairfax*, Sir *Richard Colmnley*, and Sir *Thomas Gower*, Sir *Edward Stanhop*, and Mr. *Jo. Ledgard*.” Savile’s rank did not shield him from the customary punishment in such cases: he was ordered “to make an acknowledgment, in such manner publickly in this Court, or otherwise, as should be thought fit.” The court did extend an olive-branch to Savile, offering him a chance to re-file his action—but only if he was sure he could win. And as in Maby’s case, in an act calculated to frustrate future historians, Savile’s “Bill was ordered to be taken from the File and cancelled.”¹¹⁶

By the time Richard Chambers, Maud, and Lord Savile were standing at the bar of Star Chamber in the spring of 1629, about 500 or 600 copies of a book by Dr. Alexander Leighton entitled *An Appeale to the Parliament, or, Sions Plea Against the Prelacy*, calling for the abolition of the episcopacy were already in circulation. In less than a year

¹¹⁶ Rushworth, "Star Chamber Reports: 5 Charles I," 20-28. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp20-28>.

Leighton would be languishing in Newgate prison awaiting his own fate in the Star Chamber. Rushworth's account of Leighton's case is not overly helpful—for example, he inexplicably refers to Leighton as being a Roman Catholic (though this was true of Leighton's father). Fortunately, Rushworth's account of this important case may be supplemented with details found in Cobbett's *State Trials*. By information to the king's attorney, Sir Robert Heath, Leighton was charged “with framing, publishing, and dispersing a scandalous book against King, Peers, and Prelates” full of “false and seditious assertions.”¹¹⁷ The information catalogued a long list of offenses: England was the world's greatest persecutor of God's People, “especially since the death of queen Elizabeth”; English prelates were “Men of Blood, and Enemies to God and the State” and should not have a voice in secular government; the Anglican prelacy was “Antichristian and Satanical,” and its ceremonies and canons were ridiculous; England suffered under the government of a ‘tractable’ king whose judgment had been corrupted by ‘prelates’; and he had married a “daughter of Heth” (i.e., a Roman Catholic).

More seriously, Leighton rehearsed the embarrassing details of Buckingham's blunder at La Rochelle and seemed to commend his assassination. Leighton also ventured into the dangerous argument that had ended the life of more than one bishop, questioning the king's authority to make laws and canons for the government of the church. The church received its laws from the scripture, and “no king may make laws in the ‘house of God’”. Although Leighton was too sick to appear at trial (his wife attended in his stead), the result was a foregone conclusion: in his Answer, Leighton had confessed writing the

¹¹⁷ Howell, ed., *Cobbett's State Trials*, vol. 3, 383-384.

Book, and the rest was, to borrow a common law phrase, *res ipsa loquitur*.¹¹⁸

The Star Chamber was duly apoplectic. “[T]heir lordships by an unanimous consent” agreed to a barbarous punishment. Leighton was “committed to the Fleet during Life, unless the King enlarge him,” subjected to a crushing fine of 10000 *l.*, referred to High Commission “to be degraded of his Ministry.” So far, this is punishment is more or less in keeping with other Star Chamber decisions, but in this case the court went much further: Leighton was “then to be whipped at the Pillory at Westminster, and standing on the Pillory to lose one of his Ears, his Nose slit, and his Face branded with a double ‘S’” for ‘sower of sedition’ and then “in like sort to be whipped and lose his other Ear at the Pillory in Cheapside. Possibly owing to a delay in carrying out the sentence occasioned by an outbreak of plague in London, the sources suggest that the second half of sentence was remitted.¹¹⁹

Leighton’s case is full of interesting features, including his failed escape and his refusal to doff his hat during his appearance before High Commission. But for present purposes, perhaps the most interesting detail is the attitude of the two chief justices toward Leighton. In sentencing Richard Chambers the previous year, both Sir Thomas Richardson, Lord Chief Justice of the Common Pleas, and Sir Nicholas Hyde, Lord Chief Justice of the King's-Bench, had displayed an obvious inclination toward leniency voting with Lord Cottington for the lightest feasible sentence. In sentencing Leighton, however, they “delivered their opinions, that they would without any scruple have proceeded

¹¹⁸ Howell, ed., *Cobbett’s State Trials*, vol. 3, 383-84.

¹¹⁹ Leighton, Alexander (c.1570-1649) in *DNB*.

against the defendant as for treason committed by him, if it had come before them.” This was apparently the sense of the whole court. Cobbett reports that the “other lords expressly affirmed, that it was his majesty's exceeding great mercy and goodness, that he was brought to receive the censure of this court, and not questioned at another tribunal as a traitor.¹²⁰ What the lords left unsaid is that in the charged environment of the early 1630s Attorney-General Heath might have encountered difficulty securing a common-law indictment. In other words, it may be that Leighton was before Star Chamber not as an act of mercy, but out of necessity.

The royal couple and Anglican bishops were not the only ones who required the protection of Star Chamber in 1630. That fall, the court heard *King's Attorney v. Norton, et al.*, involving a scandal of Lord Keeper Coventry. Lord Coventry had acted as a judge in Chancery in a case to which Defendant Bonham Norton was a party. The official version of the facts is that Norton attempted to bribe Coventry to secure a favorable outcome. When Coventry not only refused the bribe but also—predictably—ruled against Norton. Angered by this outcome, Norton—again predictably—complained that he had not been treated fairly in court. Norton sought to exact revenge by “Writing divers false and feigned Notes,” claiming to have learned from the Defendants Lee and May that Coventry had accepted “the Sum of 600 *l.* and of other several great Sums of Money . . . for Favour to be done.” Norton “traduced the Lord Keeper,” calling him “the Unjust Judge.” However, what probably ensured Norton and his hired associates a date at the bar

¹²⁰ Howell, ed., *Cobbett's State Trials*, vol. 3, 385.

of Star Chamber was their delivery of “a False and Scandalous Petition to his Majesty against the Lord Keeper.”

For these “foul Scandals and Aspersion,” Norton was fined 3000 *l.*, and was ordered “to acknowledge at the Chancery-Bar, with a Paper on his Head declaring his offence, that the Decree of that Court betwixt him and Barker was just and agreeable to the Rules of Equity, and a good Conscience.” He was also directed to make a humble acknowledgement of “and ask his Majesty and the Lord Keeper forgiveness.” The ritual of begging pardon was to be repeated in the Star Chamber and at the Salop Assizes.

Norton’s ‘agents’, Lee and May, were jailed, fined 1000 *l.* apiece, and sentenced “to ride to Westminster from the Fleet with their Faces to the Horse-tail.” Lest we are tempted to dwell too much upon the humor of this punishment, as usual, there was more to come. In addition to making public acknowledgment and asking forgiveness, the defendants were

then be set on the Pillory with one Ear nailed to it, while the Courts sit; and another day to ride into Cheapside in such manner as before, and be there set on the Pillory, with their other Ear nailed, and be carried to Prison, there to remain during Life.¹²¹

The message was unmistakable.

Norton was not the only disappointed Chancery litigant to appear before the Star Chamber during the 1630 Michaelmas term. In *King’s Attorney v. Jones*, the Defendant had “contrived a libellous Writing in the nature of a Petition,” suggesting that the judge, Sir Euble Thelwall, “had made a false Report in his Cause.” Jones suggested that

¹²¹ Rushworth, “Star Chamber Reports: 6 Charles I,” 28-34. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp28-34>.

Thelwall's decision was the product of a conflict of interest. Jones was "committed to the *Fleet*," fined 200 *l.*, and ordered to acknowledge his offence in public. (No damages were awarded to Sir *Euble*, "because he died before the Sentence."¹²²

A few months later, Star Chamber dealt with another contempt matter, *King's Attorney v. Morgan*, but in this case the Defendant actually had a basis for feeling himself wronged. Morgan was a Catholic and had been accused by two local justices of being a "popish priest." After Morgan refused to take the Oath of Allegiance, "he was indicted and attainted . . . and committed to Gaol." Sometime later, Morgan "wrote a libellous and scandalous Letter to the said Justices," complaining of his treatment. He had also written a bit of 'fake news' in which he "traiterously alledged his Majesty to be deposed, the Authority of his Privy Council abrogated, the Bishop of Chalcedon made King, the Inhabitants of Flintshire his Slaves." Morgan was imprisoned for life, fined 1000 marks, and ordered to stand in the pillory at Westminster, and again at the Flintshire Assizes, "with one Ear nailed at each Place." He was also directed to "shew himself heartily sorry and penitent."¹²³

Easter term 1631 included yet another colorful 'libel of a justice' case, *Moor v. Norris*, but as it also involved an assault, let us pass on to consider a more important (and even more colorful) case from that term *King's Attorney v. Ewer* for slander of the Earl of

¹²² Rushworth, "Star Chamber Reports: 6 Charles I," 28-34. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp28-34>.

¹²³ Rushworth, "Star Chamber Reports: 6 Charles I," 28-34. *BHO*.

Danby (like Coventry, himself a regular judge in Star Chamber). The facts speak for themselves:

The Defendant at several times, in several places, and to several persons, did, in scorn, disgrace, and contempt of the Earl of Danby, use these Words: My Lord of Danby, my Lord of Danturd; he is a base cheating Lord, and a cozening Lord, and a base Fellow, and I care not so much for him as I do for a Fart of my Arse, I am a better Mass than he: He hath cozened the Country People in taking away their Common, so as he hath daily the Curses of thousands.

For this bit of scatological indiscretion, Ewer “was committed to the Fleet during his Majesty's Pleasure, bound to his good Behaviour during Life, fined 1000 *l.* pay 1000 *l.* damage, and at the Bar of this Court, and at the Assizes at Oxon, to acknowledge his Offence, and ask the said Earl Forgiveness.” It is worth noting that Ewer was an armiger, which might have served to lessen his offense to some extent. On the other hand, the expectation that the ‘better sort’ should comport themselves with circumspection can be clearly seen in Falkland’s case (discussed in the preceding chapter) which was heard during the same term of court.

Ewer’s case should be compared with the 1634 case of *Kingston v. Pettinger*, in which the Defendant, in front of a crowd at Barnsley in Yorkshire, insulted the Earl of Kingston by calling him “a Base Lord; a T— in his Teeth; he is but Cur, and a Base Lord, and of no account.” Although I’m not sure what a T— is (and will not hazard a guess!), Pettinger’s remarks seem less “contemptuous, scandalous, and disgraceful” than those of Ewer. Yet Pettinger was “committed to the *Fleet*; fined 200 *l.* to pay 2000 *l.* damage to the Plaintiff, at Nottingham Assizes to be publickly whipped, and before his Enlargement out of the *Fleet*, to find Sureties for his good Behaviour.” Perhaps there

were aggravating factors in Pettinger's case that do not appear in the record, but I find it mysterious that two such similar cases could result in such different outcomes.

We will also pass over the 1632 case of *Kilbert v. Hanger*, except to note that it involved libel of an arbitrator by yet another disgruntled litigant followed by a large fine and a stint in prison.¹²⁴ Instead, as we have already considered the 1633 case of Sherfield (the 'Salisbury Smasher'), we round out our sample with three other cases heard in the Star Chamber in 1633, *King's Attorney v. Reignolds*, *King's Attorney v. Bowyer*, and *King's Attorney v. Fowlis*. All three of these cases underscore what I have been arguing was one of the core functions of the Court of Star Chamber: to defend the established power structures of Church and State.

The first case, heard in Trinity term, was *King's Attorney v. Reignolds* arising out of a 'scandal' of John Bridgeman, Bishop of Chester from 1618 until his death in 1652. Although the background is not entirely clear from Rushworth's account, this case may have arisen out of Bridgeman's longstanding quarrel with Manchester minister Thomas Padget and other Puritans. In the 1620s, Bridgeman had Padget brought before the Court of High Commission over Padget's resistance to kneeling at the communion table. Padget and other ministers had been fined, and the fines continued to compound. In 1631, efforts had been made to attach Padget's property in order to collect the fine.¹²⁵

¹²⁴ Kilbert's language was also reduced to a tantalizing one-letter abbreviation, this time the redacted word begins with "K."

¹²⁵ See John Padget, *A Defence of Church Government* (London: H.A., 1641).

In any event, it was not Padget, but a man named Reignolds who was at the bar of Star Chamber in 1633. He was accused of writing a “witless, malicious and libellous Letter” to a Proctor and a Consistory Clerk at York, alleging that Bishop Bridgeman “is so strong that if Bribery will be taken, you must lie all along, for the Bishop sh*ts Warrants at every Door” Predictably, “the Defendant was committed to the Fleet, fined 500 *l.*,” and ordered to be

set on the Pillory at Wigan, Lancaster-Assizes, at the City of Chester, with a Paper on his Head, inscribed with Words declaring the nature of his Offence, and at each place publickly and penitently acknowledge his Offence and Scandal of the Bishop in such manner as it should be penn'd, and deliver'd to him.¹²⁶

In the fall, Star Chamber heard another matter involving one of its own—this time William Laud, who in August had left his post as Bishop of London to succeed George Abbot as Archbishop of Canterbury. The Defendant in *King’s Attorney v. Bowyer* was accused of “scandal of the State,” and “especially of the Archbishop” for making spreading a tale in Reading, that Laud had been “confin’d to Fulham-House” for high treason, with a watch of twelve guards to guard him.¹²⁷ The grounds for Laud’s ‘treason arrest’ were that he was an Arminian who had corresponded with the Pope and several cardinals with offers of help (and promising a willing ear in the Queen and financial support from his own purse), that he had claimed “the Midwife of the Virgin Mary was a Mediatrix to our Saviour,” and that he had denied the Virgin’s humanity.¹²⁸ Apparently

¹²⁶ Rushworth, "Star Chamber Reports: 9 Charles I," 53-69. *BHO*, <http://www.british-history.ac.uk/rushworth-papers/vol3/pp53-69>. (Profanity muted with “*”).

¹²⁷ (Perhaps Bowyer was a prophet.)

¹²⁸ Rushworth, "Star Chamber Reports: 9 Charles I," 53-69. *BHO*.

the occasion for the libel was a sermon Laud had “preached a Sermon before the King in Scotland, that was fit to be preached before the Pope.”

In one of Star Chamber’s most brutal punishments, Bowyer was “committed to Bridewell, there to be kept at Work, during his Life, and never suffered to go abroad.” He was also to be fined 3000 *l.*, and be

set in the Pillory at Westminster, a Paper on his head declaring his offence, and there acknowledge, and confess the same; be set in the Pillory in Cheapside, with the like Paper, and there make the like submission and acknowledgment, and be burn'd in the Forehead with the Letters *l.* and *R.* and be set in the Pillory at Reading, with the like Paper, and both his Ears nailed thereto, and make the like submission and acknowledgment as before.

As in the case of Norton and his associates for the slander of Lord Coventry in 1630, the lords of Star Chamber were again leveraging the full weight of their authority to crush anyone with the temerity to meddle with the great men of the realm. The slander of Laud was not a ‘private libel’ but a “slander of State” and therefore the moral equivalent of treason.

The final case in our sample, *King’s Attorney v. Fowlis, et al.*, involved slander of Viscount Thomas Wentworth, upon whom Charles conferred the presidency of the Council of the North.¹²⁹ Wentworth was also commissioned to collect the fines assessed against all those who failed to show up at Charles’s coronation to take the Order of Knighthood “as they should have done.” Knighthood fines were one of the many improvisations to which Charles had resorted since dismissing his last Parliament, and Sir

¹²⁹ After becoming President of the Council of the North and being made a viscount, Wentworth sat as a judge in Star Chamber proceedings when he was in London.

David Fowlis had engaged in an act of resistance similar to the one for which Richard Chambers was still languishing in prison for refusing to pay illegal tonnage on a shipment of silk. The Defendant was a member of the Council of the North who had called together his neighbors to organize opposition to the knighthood fines, urging what could be called civil disobedience. He also accused his neighbors of cowardice in the face of tyranny, reminding them

That Yorkshire Gentlemen in times past had been accounted stout-spirited Men, and would have stood for their Rights and Liberties, and were wont to be the worthiest of all other Shires
But now, instead of coming to the aid of other shires, the men of Yorkshire had “become degenerate, more dastardly and more cowardly than the Men of other Counties.” Oxfordshire and Buckinghamshire were assessed lower fines, but even they had “utterly refused to compound,” solely on principle. Fowlis suggested that his neighbors had been bewitched by Wentworth, although “at Court he was no more respected than an ordinary man” This alone might have been enough to get Fowlis a date with Star Chamber, but he went on to accuse Wentworth of pocketing the revenue he collected, suggesting that Yorkshire would have to pay up again as a result.

This case is clearly one in which contempt of court was also at issue. As a member of the Council of the North, Sir David had sworn “to maintain and uphold the Honour, and Liberties thereof to his uttermost.” Instead, he had demonstrated “scorn and contempt of that Court,” calling it a “Paper Court,” subservient to the justices of the peace, and without authority to summon the county’s high sheriff. Had Sir David been the sheriff in question, “he would not care a Dogs Turd” for the Council.

At 5000 *l.*, Fowlis's fine was considerable, but not necessarily crippling for someone of his influence. He was also ordered to pay 3000 *l.* to Wentworth as damages, "committed to the Fleet during the King's pleasure," and directed "to acknowledge his offences in this Court, before the Council at York, and at the Assizes at York" Notably, however, Fowlis retained his ears and was not even required to stand in the pillory. Sir David's social station almost certainly saved him from corporal punishment.

Although I have characterized the cases in this chapter as involving some form of 'political speech', most of these cases, it turns out, are still actually about libel. That is to say, they are not secretly about something other than libel; there is no discernible ulterior motive at work in them. Instead, we find false and malicious words being uttered with an intent to injure, followed by a reckoning at the bar of the Court of Star Chamber, in the presence of the most august gathering of lords and judges in the realm. In the 'private libel' cases we examined in the preceding chapter, the punishments inflicted seem generally commensurate with the 'crime' and reasonably calculated to restore the reputation of the injured party, while at the same time serving as a warning to others who might be inclined toward similar mischief. This generally holds true for the 'political speech' cases, with this difference: speech directed against the great and powerful was regarded as an attack on the social order itself, and in such cases, the judges of the Court of Star Chamber were sometimes willing to sacrifice the strict demands of justice on the altar of the status quo.

CHAPTER FIVE

CONCLUSION:

REFLECTIONS ON THE FALL OF STAR CHAMBER

*And the stars of heaven fell unto the earth,
even as a fig tree casteth her untimely figs,
when she is shaken of a mighty wind.*

— Rev. 6:13 KJV

On June 30, 1637, hunched in the pillory in the palace yard at Westminster alongside John Bastwick and Henry Burton, William Prynne proclaimed to the throng of mostly supportive onlookers gathered to witness the spectacle, “This is the second time that I have been brought to this Place, who hath been the Author of it, I think you all well know.¹³⁰ Prynne referred, of course, to William Laud, the prolix Archbishop of Canterbury, who sat as a member of the Court of Star Chamber in both of Prynne’s libel trials, first for *Histriomastix* in 1634, and now again in 1637 for publishing “schismatical and libelous books against the Hierarchy.”¹³¹ Each of the sentences against Prynne had been unanimous, but this fact did not lessen Prynne’s conviction that the archbishop’s malevolent spirit exerted a powerful influence over the court. Laud’s habit of entering into long, learned disquisitions from the bench did nothing to diminish this impression. Prynne, however, could lecture too. From the pillory, possibly with blood dripping from

¹³⁰ Howell, ed., *Cobbett’s State Trials*, vol. 3, 475.

¹³¹ Howell, ed., *Cobbett’s State Trials*, vol. 3, 712.

the side of his head, Prynne explained the law applicable to his case:

You shall find in case of libel, two statutes: the one in the second of queen Mary, the other in the seventh of queen Elizabeth. That in the second of queen Mary, the extremity and height of it runs thus, That if a Libeller doth go, so far and so high as to libel against king or queen by denomination, the height and extremity of the law is, that they lay no greater fine on him than an hundred pounds, with a month's imprisonment, and no corporal punishment, except he doth refuse to pay his fine; and then to inflict some punishment in lieu of that fine at the month's end.¹³²

And yet, here he was adding new bloodstains to the pillory.¹³³ Prynne's message to the crowd was clear: the Court of Star Chamber was a lawless institution. Four years later, as we have seen, this characterization of the court would be so widely accepted that it was written into the text of the law abolishing the Court of Star Chamber (minus the reference to William Laud, who by the time the law was enacted was already under arrest and awaiting trial for treason). Yet Prynne's accusation does not comfortably align with the impression of the Court of Star Chamber that emerges from the foregoing study. William Laud certainly had allies on the court, especially in the persons of Thomas Wentworth and his fellow archbishop, Richard Neile. Moreover, as Lori Anne Ferrell has demonstrated, Archbishop Laud was unquestionably an intelligent man and a clever

¹³² Howell, ed., *Cobbett's State Trials*, 747.

¹³³ Prynne was quoting from 1 & 2 Phil. & Mar. c. 3, which provided that "every suche person . . . being therof convicted or attainted in fourme hereafter in this Acte expressed, shall for every suche Offence in some Markett Place within the Shire Citie Boroughe or Towne . . . bee set openly upon the Pylorye . . . and ther to have one of his eares cut of, onles he paye One hundrethe Markes to the Kinge and Quenes Highnes use, within one monethe next after jugement gyven of his said Offence, and also shall suffer Imprisonement by the space of one monethe after his . . . Execution." Available at <https://babel.hathitrust.org/cgi/pt?id=pst.000017915519;view=1up;seq=332;size=125>

politician.¹³⁴ We know, for example, that Laud effectively coordinated Star Chamber proceedings against enemies like Bishop John Williams.¹³⁵ We even know that when a Commons committee was appointed to assess Prynne's claims, it determined "that Laud was personally involved."¹³⁶ We must therefore be willing to accept the possibility that there is at least an element of truth in Prynne's accusations.

Laud himself quite naturally pushed back against the allegations during his 1644 trial for high treason before Parliament.¹³⁷ One of the many articles of impeachment presented against Laud involved a Star Chamber decree regulating the soap trade that had angered many manufacturers. As for these "Soap-boilers," Laud protested, "they have little cause to be so vehement against me. For if the Sentence passed against them in the Star-Chamber were in anything illegal, tho it were done by that Court, and not by me."¹³⁸ Later in his treason trial, Laud derisively recorded in his diary the presentation of the "great Charge (as at present it is accounted) concerning the Censure of Mr. Pryn, and Burton, and Bastwick, in the Star Chamber" According to Laud's parliamentary prosecutors, the censure of the three authors was "known and urged to be against Law."

¹³⁴ Lori Anne Ferrell, "Preaching and English Parliaments in the 1620s." *Parliamentary History* 34, no. 1 (2015): 142-154.

¹³⁵ Williams, John (1582-1650) in *DNB*.

¹³⁶ Nicholas Robert Charles Forward, *The Arrest and Trial of Archbishop William Laud*. Unpublished master's thesis (University of Birmingham, March 2012), 27-28. Available at http://etheses.bham.ac.uk/3660/2/Forward_12_MPhil.pdf

¹³⁷ Laud was well-acquainted with the outcome of Thomas Wentworth's treason trial in 1641 and probably had few illusions about his own fate.

¹³⁸ *A Complete Collection of State-trials, and Proceedings for High-treason, and Other Crimes and Misdemeanours, From the Reign of King Richard II. to the End of the Reign of King George I. With Two Alphabetical Tables to the Whole*, 827. *Statutes of the Realm, Vol. 4, pt. 1*, 240.

One aspect of the prosecution's case involved warrants issued to bar access to the prisoners (apparently while they awaited trial). But Laud maintained his innocence:

“These were Acts of the Lords sitting in Star-Chamber, not mine.”

On the same day of the treason trial, “Mr. Pryn himself in his own Cause” had risen to condemn Laud. No doubt Prynne relished the opportunity to present his version of the facts to a packed House of Lords with Laud a captive in the center of the room. Laud described Prynne's speech as “full of bitterness,” designed to portray the disgraced archbishop “as odious as he could to the Lords and the Hearers.” But Laud refused to shoulder the blame alone:

I shall assume nothing to myself, that was done by Order of the Court of Star-Chamber: Whatsoever was done there by common Consent, was their Act, not mine; and if any Treason be in it, they are as guilty as I; for Treason admits no Accessaries.¹³⁹

Laud was also accused of refusing to allow Bastwick and Burton to submit a joint answer during their Star Chamber trial. But this was a procedural detail for which Laud, yet again, claimed no responsibility: “All this was done by the Court of Star-Chamber, not by me. And your Lordships know well the Lord Keeper managed the Affairs of that Court, not I.”¹⁴⁰ (It is fruitless—but fascinating—to speculate as to whether Coventry would have faced a similar prosecution had he not conveniently died in 1640.)

Given what we have learned about the personnel and institutional practices of the Court of Star Chamber throughout the preceding study, there is reason to believe Laud's

¹³⁹ *A Complete Collection of State-trials*, 835-836.

¹⁴⁰ *A Complete Collection of State-trials*, 836.

blame-shifting was not entirely self-serving and that he did not exercise exclusive control over the court's behavior. But if Laud's claims were more or less true—if his was only, as our study suggests, one voice out of many—we must then conclude that in prosecuting—and in 1645 executing—the Archbishop of Canterbury for high treason, the Long Parliament was, in effect, passing judgment on the acts of the Court of Star Chamber itself. Here we risk circling back to the debate over the court's constitutional legitimacy that we have sought to avoid, but instead of competing the circuit, I would like to suggest an alternative interpretation of the fall of Star Chamber that has less to do with constitutional law and high politics more to do with the changing nature of English society in the seventeenth century.

As late as the reign of James I, the Court of Star Chamber was held in such general respect that it was often invoked as a metaphor for divine justice. The Buckinghamshire vicar Thomas Adams, for example, was particularly fond of the analogy. In 1615, Adams dedicated a work to his patron, Sir Thomas Egerton, the Lord High Chancellor of England, with the assurance that the “unerring hand of God” had placed the Chancellor “in the Seate of Justice, and Chaire of Honour.” The whole realm was blessed to have Lord Egerton “sitting as a Star in the Star-Chamber.”¹⁴¹ For Adams, the temporal Court of Star Chamber was a minister of justice to offenders, but the product of the court's activities was “Mercy to the Commonwealth.”

Adams also found in the ‘Star Chamber’ a useful spiritual metaphor, drawing a

¹⁴¹ Thomas Adams, *Mystical bedlam, or the world of mad-men* (London: George Purslowe, 1615).

clear analogy between the earthly court and its heavenly counterpart. Just as there was no appeal from the court that sat in the *Camera Stellata* at Westminster, neither was there an appeal from the court of heaven at the last judgment.¹⁴² Adams continued to employ the ‘Star Chamber’ analogy as late as 1633 in his commentary on the Second Epistle of Peter. Adams reminded his readers that death will one day “serve a Subpoena . . . from the Starre-chamber of Heaven,”¹⁴³ and earlier in the same commentary Adams wrote that “Satan no sooner spies our wandrings, but he presently [illeg.]nes with a complaint to God, bills against us in the star-chamber of heaven; here the matter would goe hard with us, but for the great Lord Chancelour of peace, our Advocate Iesus Christ.”¹⁴⁴ And in language which suggests that Adams possessed a degree of familiarity with the actual procedures of the temporal Court of Star Chamber (and perhaps also a sense of humor), he wrote,

Now men deale with our Sermons, as they doe with our Tithes: when wee preach Judgement, they sue out a Prohibition from an higher Court, or a Protection from the Chancery, their Mercie-seat, or a Commission for Composition: but whither will they appeale from this Court, the great Star-chamber of Heaven?¹⁴⁵

In making these analogies, Adams obviously intended a favorable comparison between the two courts, human and divine.

¹⁴² See, e.g., Thomas Adams, *The Happiness of the Church [...]* (London: John Grismand, 1619), 40. EEBO. “The rich man is brought in upon a *Premunire*, can his gold acquit him in this Starre-chamber?”

¹⁴³ Thomas Adams, *A commentary or, exposition upon the divine second epistle generall, written by the blessed apostle St. Peter*. (London: Richard Badger, 1633), 1270. EEBO.

¹⁴⁴ Adams, *A commentary or, exposition*, 529.

¹⁴⁵ Adams, *A commentary or, exposition*, 1241.

Adams was only one of many writers who found something noble or inspiring about the Court of Star Chamber. But by the 1640s, the ‘meaning’ of the Court of Star Chamber in the popular imagination had been completely transformed. A radically different set of analogies emerged in place of the type found in Adams’ writing. A few examples will suffice. In 1643, a royalist pamphlet by Yeldard Alvey puts the following rhetorical question into the mouth of a debater he calls Irenaeus:

What hath the King denied which concernes our Liberties, and are the undoubted securityes of our safety, freedome, and happinesse under the Regiment of a just and unquestionable *Monarchy*? Are not our Rights and Propertyes already established . . . are not . . . those arbitrary Courts of Justice, *High Commission, Star-Chamber, Marshalseyes, &* . . . [erly [..]m 'd and extirpated . . . ?¹⁴⁶

In 1645, an anonymous piece of Parliamentary propaganda appeared in defense of an ordinance prohibiting certain individuals from preaching without being ordained. Apparently the law provoked worries that Parliament was claiming the mantle of William Laud. Answering the charge that the new law would give advantage to “persecuting sprits,” the author asked:

would not this be an an establishing of Tyranny by Law, and incouragement for oppression? a justifying of what is already more then once condemned by this present Parliament? Were not the Courts of Star-chamber and High Commission therefore abolished by an Act, because the just Liberty of the Subject, not only in his estate and person, but also in the tendernesse of his conscience, and the innocency of his practice, in wayes of godlinesse, was so much struck at by them?¹⁴⁷

¹⁴⁶ Yeldard Alvey, *A vulgar or popvlar discourse [...]* (York: Stephen B., 1643), 16. EEBO. The illegible word could be ‘damned’, ‘condemned’, etc.

¹⁴⁷ Anon. *The cleere sense: or, A just vindication of the late ordinance of Parliament [...]* (London: M. Simmons, 1645), 8-9. EEBO.

The days of Star Chamber were over, the writer proclaimed, and it was preposterous to accuse Parliament of wanting to replace one kind of tyranny with another:

can it be now rationally imagined, that the Parliament of England, who with the rest of the Kingdome in those Star-chamber and high Commission dayes, so sorely smarted under Prelaticall pride and power, should now voluntarily inslave the whole body of the nation . . . under bondage and misery, far worse then the former . . . ?¹⁴⁸

And yet this is exactly the accusation leveled by a group of London aldermen in a petition presented to the House of Lords in 1648.¹⁴⁹ The impetus behind the petition was the impeachment of several members of their group who had refused to submit themselves on the grounds that a submission would “betray the common law,” and in so doing become instrumental in pulling “down al the *Judicatories of the Kingdom*,” in order to “re-edifie an *Arbitrary Government* many stories higher then ever the *Star Chamber*, *High Commission* or *Council Table* were”¹⁵⁰

What occasioned this dramatic shift in tone? In conclusion, I would like to suggest that, despite the regularity with which the Court of Star Chamber was condemned in contemporary literature for its ‘arbitrary’ decisions, what we are actually witnessing is a shift in English society’s view of authority. Or to put it more directly, we are seeing the

¹⁴⁸ Anon. *The cleere sense*, 8-9.

¹⁴⁹ Thomas Adams, et al. *To the right honorable the Lords assembled in PARLIAMENT. The humble Petition of Thomas Adams, John Langham, James Bunce Aldermen of London*. London: 1648), 5. EEBO. (This Adams is apparently not the same individual who authored the commentary on Second Peter—that would be a little too convenient!)

¹⁵⁰ Adams, et al. *To the right honorable the Lords assembled in PARLIAMENT. The humble Petition of Thomas Adams, John Langham, James Bunce Aldermen of London*. London: 1648), 5. EEBO.

birth of a revolution.

As we saw in the case of Richard Chambers, a tide of dissonant opinion began to emerge in reaction to Charles I's refusal to allow his first three Parliaments to participate in shaping public policy. The resentments of merchants like Chambers who found themselves in prison for expressing what must have been a widely-held political opinion did not dissipate during the years of Charles' personal rule; instead, they continued to accumulate along with the grievances of other groups who felt themselves oppressed. Chief among these were the Puritans, who found themselves losing ground in the ecclesiastical hierarchy, even as they watched the rise of a creeping Arminianism in the Church of England. Henry Sherfield may stand in for many others here. During the 1630s, even moderate Puritans like Richard Baxter and centrists like George Abbot (Laud's immediate predecessor as Archbishop of Canterbury), found themselves pushed to the margins as control of the episcopacy shifted to their Laudian opponents. Simultaneously, Arminian censors began to restrict access to the authorized channels of publication, forcing Puritan authors into the underworld of clandestine publishing.¹⁵¹ Perhaps as a consequence, Puritan authors began writing with a greater sense of urgency, in the process resorting to more inflammatory and intemperate language. Alexander Leighton and William Prynne are the most obvious examples of this trend. The increasingly strident Puritan rhetoric, especially in its anti-episcopal iterations, smacked

¹⁵¹ See, e.g., David R. Como, "Print, Censorship, and Ideological Escalation in the English Civil War," *Journal of British Studies* 51 (October 2012): 820-857; and, by the same author, "Secret Printing, the Crisis of 1640, and the Origins of Civil War Radicalism," *Past & Present* 196 (Aug. 2007): 37-82.

of sedition to conservative ears—especially to those of William Laud and Richard Neile, who sat at the top of the episcopal hierarchy (and who also sat as judges in the Court of Star Chamber). During William Prynne’s Star Chamber trial in 1634, Judge Richardson, who seems to have held moderate views in matters of religion, nevertheless took great offense when Prynne’s ostensibly pious rhetoric shaded into criticism of the king (and the queen). Richardson declared,

Now if this be so, then for any man cunningly to undermine these things, to take away the hearts of the subjects from the king, and to bring the king into an ill opinion among his people, this is a most damned offence; and if I were in my proper place, and Mr. Prynne brought before me, I should go another way to work. I protest unto your lordships, it maketh my heart to swell, and my blood in my veins to boil, so cold as I am, to see this or any thing attempted which may endanger my gracious sovereign: it is to me the greatest comfort in this world to behold his prosperity.¹⁵²

From the preceding study, it seems abundantly clear that when Judge Richardson spoke, he expressed the sentiment of every judge of the Court of Star Chamber. In seeming to touch the king, Prynne had disturbed what Charles himself had once called the “circle of Order”¹⁵³—the thing that the judges of Star Chamber valued, perhaps, above all else. In this regard, let us close with the words of another Star Chamber judge,

¹⁵² Howell, ed., *Cobbett’s State Trials*, vol. 3, 579.

¹⁵³ Larkin, James F., ed. *Stuart Royal Proclamations*, vol. II. (Oxford: Clarendon Press, 1983), 93. The concept of a “circle of order” may have been in general circulation. Elizabethan Privy Councilor Thomas Heneage used the expression in a 1586 letter from Utrecht to Lord Burleigh: “the very moving of an alteration of the present course of government (whereby the people’s complaints and cries be heard and satisfied, the soldiers ruled and disposed, the officers and ministers of all the finances and contributions called to account and limited, and all the scattered and broken course of things reduced into one circle of order) will remove them from ever bowing to the yoke of true reformation again.” “April 1586, 6-10,” in Sophie Crawford Lomas, ed., *Calendar of State Papers Foreign: Elizabeth*, vol. 20, September 1585-May 1586, (London: His Majesty’s Stationery Office, 1921), 523-540. *BHO*, <http://www.british-history.ac.uk/cal-state-papers/foreign/vol20/pp523-540>.

Thomas Wentworth, the Earl of Strafford, who like William Laud would lose his head in the coming revolution, who declared, “The authority of a King is the keystone which closeth up the arch of order and government” Once shaken, Wentworth warned, “all the frame falls together in a confused heap”¹⁵⁴

¹⁵⁴ C.V. Wedgwood, *Thomas Wentworth: First Earl of Strafford, 1593-1641, A Revaluation*. 74. (London: Phoenix Press, 1961), 74. Wedgwood gives her source as Bodleian Library, Tanner MSS, LXXII, fol. 300-3.

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