

THE STAR CHAMBER UNDER THE
EARLY TUDORS

by

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Bibliographical Preface.

This thesis is based largely on the source material published in the recent volumes of the Selden Society on Select Cases in the Star Chamber, Vol. I, 1902 and Vol. II, 1910. Over sixty cases are here reproduced. They were heard in the Star Chamber between 1477 and 1544. These were not all the cases which came before the court in the reigns of Henry VII and Henry VIII and hence any quantitative use of the different categories of cases can be only approximate. However, representative cases have been selected by the editor of the collections, Mr. Leadam, and the percentage of cases of one character will give a fair index to the total importance of that class. For each volume Mr. Leadam has written a comprehensive introduction. He has also made many comments on the more important cases. In almost every instance he has clarified the doubtful or obscure points.

Additional source material was drawn from Scofield, Cora L., A Study of the Court of Star Chamber, Chicago, 1900. This thesis has copious notes which include records of many cases before the Star Chamber which are unavailable except in the original form in which they have been preserved in the British Museum and Record Office. It is valuable also for its discussion of the development of the Star Chamber.

The following secondary works have been used in the preparation of this essay:

Bacon, Francis, A History of the Reign of King Henry VII, 1622.

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THE STAR CHAMBER UNDER THE EARLY TUDORS.

Chapter I.

THE ORIGIN OF THE STAR CHAMBER.

The Court of Star Chamber is no exception to the rule that most of the interesting and important developments of the English Constitution have evolved from the one great institution, the King's Council or the Privy Council. The theory of the origin of the Star Chamber is simple and much less baffling than the facts of its beginning, which are hard to discover and more difficult still to interpret. The King's Council was powerful and dominating largely because it combined executive, legislative and judicial powers. In connection with the present subject, its judicial functions are of special importance. From the beginning of English constitutional development, the king, or more particularly, the king in council, was recognized as the ultimate source of justice. It was within the province of the king's authority to over rule the decisions of the courts of first instance if, in his judgment, the decree or sentence of the court was unjust. Likewise, he had the power to redress grievances which could not for any reason be settled in the common law courts.

In general, there were two reasons for the constant appeals to the king to secure justice.¹ In the first place, law has always been technical and its rules do not contain directions for procedure in all possible cases of injustice. If the common law courts had no power in certain cases then an appeal to the reserve fund of justice of the king in council was the only course open to the offended parties. Secondly, in some cases, there might be ample provision for the punishment of certain offenses in the common law but, due to unwarranted influence on the part of the offenders, the court would be intimidated and justice could not be had by the ordinary process. In other words, "there was too great might on the one side and too great unmight on the other".² For these two reasons the king was constantly called upon to settle controversies. The powers of the Star Chamber are clearly derived for the residual jurisdiction of the royal council.

The object of this thesis is to show by an examination of the records how the court originated and to point out its position, scope of activity and importance under the Tudors from 1485 to 1547. The Court of Star Chamber has been much misunderstood in the past. It has been generally condemned largely, it must be admitted, upon sentimental grounds

1. Dicey, *The Privy Council*, p. 13.

2. The language comes from various old ordinances. Quoted in Dicey, *op . cit.* p. 13.

and not on the basis of scientific investigation. Most of the odium attaching to the Star Chamber is the result of Stuart misuse of its powers and not of the Tudor practices. An attempt will be made to show that the court, at least so far as the early Tudors are concerned, served a useful purpose and does not deserve the condemnation due to the confusion with Stuart tyranny and the employment of the court as a political agent of royal despotism.

To see the connection between the king's council and the Star Chamber and to trace the development of conciliar jurisdiction, it is necessary first to enquire into the nature of the original or earliest jurisdiction of the king's council. As early as the reign of Edward I¹ the judicial power of the council can be traced. At that time Parliament was more nearly like the Great Council and more closely related to the king's council. The smaller council was like a committee of Parliament and it is easy to confuse the jurisdiction of the two bodies. Soon, however, the two councils ceased to work in harmony and conflict began. From that time on Parliament constantly attempted to limit the judicial powers of the council. In this it was unsuccessful. The king's council never lost its peculiar jurisdiction, and it even developed its judicial powers at the expense of Parliament and the common law courts.

1. Maitland, Constitutional History of England, p. 216.

By this development the council gained and exercised three classes of judicial powers: (1) in cases appealed on account of errors from lower courts, (2) original jurisdiction in criminal cases and (3) original jurisdiction in civil cases. In cases of appeal the council did not long exercise jurisdiction as the House of Lords successfully claimed this power. In 1365 a case is recorded in which an ordinary court refused to submit to the reversal of its decision by the council. A statute of Henry IV in 1402 definitely forbade the council to interfere or hear appeals.¹ The history of the council's appellate jurisdiction, then, is unimportant. Its criminal jurisdiction as a court of first instance, however, has important bearing upon the Star Chamber and will be given separate consideration. Its civil jurisdiction underwent a similar development, and it is sufficient here to say that it finally emerged as the Court of Chancery or the Chancellor's Court of Equity.²

For the purpose of this essay, the original jurisdiction of the council in criminal cases is most significant as indicating the attitude of Parliament towards the council.³ During the reign of Edward III, in 1330, 1351 and 1354, statutes were passed denouncing the power of the council and decreeing that no charge should be brought nor convictions made except by due process of law. Many times during the reigns of

Maitland, op. cit. p. 216.

Ibid. p. 22.

Ibid. p. 217.

Henry IV and Henry V the Commons petitioned against such jurisdiction, but the attempts to put a stop to its exercise were utterly disregarded and here unsuccessful. Even the statutes were ineffective and only show us the growing power of the council. Thus we see that the forms of procedure in the council were in use under the Lancastrians but, under that dynasty, its jurisdiction was not oppressive. Soon, however, opposition to the council's jurisdiction lessened. Parliament began to realize the value of a court not bound by precedents and rules of formal procedure. In 1363 the council was given authority to hear cases of the violation of the statutes of Provisors and Praemunire. Here was a case in which Parliament was in earnest and, dropping its traditional opposition, it gladly accepted the jurisdiction of the council which could give rapid judgment. In 1388 the council was directed to enforce the statutes of laborers if the regular justices failed to hold the quarter sessions. In 1480 a general authority to take original jurisdiction was given the council because the inability of the ordinary courts was apparent, and Parliament took up with the idea of the council being the arbiter between "too great might on the one side and too great unright on the other". An elastic phrase was included giving the council these rights for "other reasonable causes".¹ Gradually between 1330 and 1340

1. Maitland, op. cit. p. 219.

Parliament completely changed its attitude toward the exercise of judicial power by the council and withdrew its opposition.

At the accession of Henry VII, therefore, the position of the council as a court was fairly secure. It is true that old statutes forbidding it to exercise judicial functions were unrepealed and hence, according to the strict letter of the law, its jurisdiction was illegal. However, it was not illegal or at least not unconstitutional because it had been sanctioned by Parliament. It was generally admitted that it could punish offenses which the common law could not reach, but it was not in the habit of pronouncing the death sentence. Its jurisdiction included cases of riot, interference with ordinary justice and the bribing of jurors. Some powerful men could not be brought to justice by the ordinary process, and more arbitrary methods were necessary. For example trial by jury was not practicable nor possible. Under normal conditions trial by jury was naturally preferred, but in many cases it was an ideal not to be realized. Under such conditions the value of the council's jurisdiction was recognized and a long step had been taken toward the crystalization of the extraordinary judicial powers in the hands of one particular body, the council or a committee of the council.

Maitland, *op. cit.* p. 219.

In the light of these facts, it is plain that the true origin of the Star Chamber is undoubtedly to be found in the council meeting in the star chamber. The theory of statutory origin which has been held by many is not now generally accepted by those who have made careful studies of the Star Chamber.¹ The weakness of the theory of statutory origin will be evident in considering the nature of the court under Henry VII. The early activity of the council in the star chamber can be traced back to the days of Edward III. In his reign the records show that the council sat in the chambre des estoyers. It here undoubtedly exercised judicial functions, but complaints from the Commons caused the judicial powers to be wisely exercised by the council. In the twenty-eighth year of Edward III's reign, it appears that some of the returns were "coram nobis in camera" (later called camera stellata).² However, the council rarely sat for judicial purposes in this period. Coke gives as reasons for this that the "enormous and exorbitant causes"³ which formed the chief business of this court "rarely fell out". Furthermore, the court was not intended to deal with cases punishable by common law; and another reason for the infrequent meetings is to be found in the fact that it was not desirable to take the councillors and judges away from their regular business in the king's council and courts.

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1. Busch, England under the Tudors, p. 267. "Neither the court, nor its name, were new. For a long time, the Privy Council in the Star Chamber had exercised an extraordinary jurisdiction in addition to that possessed by the Chancellor".
 2. Coke, Institutes Part IV, cap. 5. Prothero, Statutes and Constitutional Documents, p. 401.
 3. Coke, in Prothero, op. cit. p. 401.

In spite of these abstacles, however, the council had exercised considerable judicial powers before the reign of Henry VII. An examination of a few of the cases from the reigns preceeding that of Henry VII will¹ suffice to show the character of the jurisdiction of the Star Chamber. As mentioned above, even as early as the reign of Edward III, definite reference is made to the Star Chamber. It is called the camera stellata or the chamber of stars. The room itself was located on the² "outermost quadrangle, looking out over the river". From the records of the council during the reign of Edward III it is clear that this chamber³ was the home of the council when it transacted judicial business.

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1. The question of the origin of the name is interesting. Lambard thought that it was from the Saxon word steoran, "to steer or to govern"; or possibly from the fact that the room had a large number of windows. Smith, Coke and Cowell thought that it was from the gilded stars on the ceiling. Blackstone evolved the theory that it was so called from the fact that in this room were kept the contracts of the Jews before their expulsion. They were called starra or starrs from Shetar, a covenant. Hudson, a courtier, made it the theme of an elaborate compliment to royalty by comparing the king with the sun and the councillors with the stars shining by reflected light from the sun. The theory that it derived its name from the starred ceiling is probably the most plausible. Vide. Scofield, A study of the Court of Star Chamber, p. 1.
 2. Scofield, op. cit. p. 1.
 3. Scofield, op. cit. p. 1. The following cases are quoted from Miss Scofield's study. The original records are in the British Museum and the British Record Office and are accessible in print in her essay only.

"On march 7, 29 Edward III, William de la Pole, Senior appeared in camera stellata in the palace of Westminster near the pons regium before the Chauncellor, Treasurer, Chamberlain, Lord Privy Seal and others of the King' Council, and there restored certain charters and letters patent.

During the reign of Richard II there are similar records showing the use of the Star Chamber by the council or the judicial committee of the council.¹

The Lancastrian period also has records showing that the star chamber continued to be the meeting place or at least the customary meeting place of the council. Henry IV followed previous examples for in the year one of his reign new cushions and furnishings were bought for the Star Chamber council room. In 1547 under Henry VI the Duke of Norfolk was called before the council in the star chamber.² He was charged with riot and contempt of the council's writ in a previous summons. Under Henry VI we may conclude that the same situation existed. In the third year of his reign, there is again a record of the purchase of tapistries for the star chamber.³

"Feb. 25, 25 Edward III Sir Willain Conysby gave bail, coram consilio domini regis in Camera Stellata to keep the peace, to restore the money which he had extorted and to deliver up the bonds which the petitioner sealed under duress. In 40 Edward III, Isabel Falconberge appeared before the Chauncellor, Treasurer and others of the King's Council en la chambre du conseil esteillers pres la rescrette de leschequier. In 41 Edward III, the king at the suit of Elizabeth, wife of Nicholas Daudelye, caused James Daudelye to come deuant son conseil cest assauoir Chauncellor, Treasurer, Justices and autres sages assemblez en la chaumbre des esteilles pre de la receite".

1. In 1378 a pardon which had been granted but the conditions of which had never been complied with was cancelled before the Star Chamber. The minutes of the council for Oct. 5, 1389 refer to a conference of some of the lords of the council in the star chamber. In 12 Richard II a "Kalender was purchased for 7s" for the council in the star chamber.
2. Baldwin, The King's Council, p. 206.
3. Baldwin, op. cit. p. 206.

The close of Henry VI's reign and the Yorkist period are less satisfactory as fewer records have been preserved. There are, however, a few and it is natural to suppose that the custom of meeting there was continued. Coke speaks of a case "coram rege et conciliariis suis in Camera Stellata" for a misdemeanour concerning wools in 3 Edward IV. There is a record for an action in the council in the star chamber in 7 Edward IV and again Edward IV sat in the council in the star chamber in the eighth year of his reign. In 13 Edward IV en la starre chamber deuant the consaill et le roy" there was a discussion as to whether or not it was felony for one man to bargain to carry goods to one place and then to take them to another, break the bales and take the goods. In 20 Edward IV the Star Chamber issued a decree against the Abbot of St. Edmund's Bury for fraudulent elections. In 1481, also, there was a case¹ of dispute over nationality between Richard Whele and John Fortesque. By the end of this reign there is clear evidence of the meeting of the Star Chamber. In 2 Richard III a Spanish merchant brought into the Star Chamber council a complaint against English spoolation on the high seas. In the same term there is a record of Richard III calling all the justices into the inner or interior star chamber and demanding their opinions on certain matters.

1. Baldwin op. cit. p. 433.

At the beginning of the Tudor period, before the passage of the famous statute of 3 Henry VII, the statute Pro Camera Stellata, it has been asserted that Henry VII sat in the council in the star chamber twelve times, in this period of two years.

From these facts certain valid conclusions may here be summarized.

"The star chamber came to be the meeting place of the council under the last of the Plantagenets and the first of the Lancastrians. The custom was continued throughout the Yorkist period and into the first Tudor reign." From the cases it may be seen that the composition of the council in the star chamber was assuming a more or less definite form which approximated the structure of the court as crystalized in the statute "Pro Camera Stellata". The Chancellor, Treasurer and the Lord Privy Seal were already becoming the important figures that they were in later times. Then also, the jurisdiction of the court was taking shape and likewise approximating the nature of the cases for which the Star Chamber was later to become noted. During this period the summary methods of the Star Chamber were evolved. Baldwin says, "all the methods which ultimately made the Star Chamber a terrible power were developed under the House of Lancaster, but the government did not realize the possibilities of this extraordinary tribunal at its service nor use it to its full capacity."

What was lacking was not a judicial method, but a policy of action. This¹ did not come until after the accession of the Tudors."

Many governmental changes occurred in the later middle ages and in England, progress toward absolutism was noticeable.² The Yorkist dynasty introduced and the first Tudor Kings perfected a system of popular absolutism resting on the basis of middle class commercial support. A knowledge of the character of the government under the early Tudors is necessary for a complete understanding of the court of Star Chamber, as no institution can be considered apart from the age in which it existed. The fifteenth century had been an age of excessive baronial disturbances and disorders, but by this system of absolutism the Yorkists and Tudors were able to check baronialism and establish the "strong monarchy". This "new" or "strong" monarchy, the exaltation of the prerogative of the crown, was largely due to the power, especially the judicial power, of the council. The age was one of government by council and the Privy Council was vested with administrative, legislative and judicial authority, and, as occasion demanded, local councils, like the Council of the North, the Council of the West, and the Council of Wales, were created. Under such conditions it is not surprising that the crown made use of every possible instrument to maintain its authority. Neither is it surprising that there was no great objection offered on the

1. Baldwin, op. cit. p. 306.

2. Hallam, English Constitutional History, Vol. I, p. 47. "There had evidently been a retrograde tendency toward absolute monarchy between the reigns of Henry VI and Henry VII. Nor could this be attributed to the common engine of despotism, military force".

part of the mass of the free population to this system of popular absolutism. By this summary method of meting out justice, the council checked the disorders of the nobility giving the middle classes a chance to grow rich in commercial and industrial pursuits. In view of these conditions it is not surprising that, almost without opposition, the Star Chamber absorbed the jurisdiction of the council and became one of the strongest supports of popular absolutism. The increased power of the council or the court of Star Chamber under Henry VII was part of his program of judicial reform.¹ Henry's purpose was to enforce the laws better in order to combat a powerful nobility whose members had been extremely turbulent and unruly during the previous period of war and disorder.

Having now seen the origin of the Star Chamber in the previous reigns, the next problem is the effect of the legislation of Henry VII upon the position and powers of the court. It must be kept in mind that this king used the council in the building up of his strong monarchy, and gave its work much personal attention. Four-fifths of the work of the council was judicial but it was, of course, not clearly separated from the administrative activities. As yet its proceedings must be considered as those of the council. Its numerous judicial functions show concentration² of judicial and administrative duties rather than separation. Henry VII, seeing the disorders of his kingdom, found an offensive weapon against them

1. Busch, England under the Tudors, Henry VII, p. 266.

2. Baldwin, op. cit. p. 437.

ready made in the form of the judicial committee of the council. Immediately he attacked the nobles who were responsible for the disorders and, to cope with them successfully, seeks to strengthen his agent of attack. Hence, he instituted the judicial reforms which include the statute of 1487.

Aiming at the abuses of maintainences and the frequent riots springing from such abuses, the King in council by the ordinance of July 10, 1486¹ declares that a lord should be held responsible before the council for any riot caused by him or his servants. This is doubtless to be considered a preliminary to the legislation of 1487. Having enunciated the principle by executive order, Henry VII was then ready to embody his policy in positive legislation.

The statute of 1487, known as the statute "Pro Camera Stellata", is the center of much discussion as to the origin and activity of the court of Star Chamber and is important enough to be quoted in full. The statute reads as follows:-¹

Pro Camera Stellata.

An Acte geving the Court of Starchamber Authority to punnyshe dyvers Mydemeanors.

The Kyng oure Sovereygn Lord remembereth howe by onlawful mayntainences gevyng of lyveres signes and tokyns and reteyndres by endentur promyses and others writyng or otherwise, embraceries of his subgettes,

Seldon Society, Select Cases, Vol I, Introduction, p. ix.

ontrue demeanynges of Shrevys in makynge of pannelles and other ontrue retournes, by takynge of moneys by juryes, by greate riotts and unlawfull assemblez, the polacye and good rule of this realme is almost subdued, and for the nowne punushement of this inconvenience and by occasion of the premyssis nothing or lityll may be found by enquerry, whereby the Laws of the lond in execution may take litell effecte to the encres of murders roberies, perjuries and unsuerties of all men livyng and losses of their londes and goodes, to the great displeasure of the Allmyghty God by yt therfor ordyned for the feformation of the premysses by thauctorite of the parliament, That the Chauncellor and Tresorer of Englund for the tyme beyng and the Keper of the Kynges pryvye Seall or too of theym calling to hym a Bisshopp and a temporall Lord of the Kynges most Honorable Councell and the too cheyff Justices if the Kynges Benche and Comyn Place for the tyme beyng, or other too Justices in their absence, upon Bill or informacion put to the seid Chauncellor, for the Kyng or any other ageyn any persone for any mysbehavyng afore rehersed, have auctorite to call before theym by Writte or Pryvye Seall the seid mysdoers and theym and other by ther discreacions to whome the trouthe may be knowen to examyn, and such as they fynd therin defectiff to punyssh theym after their demerites after the forme and effecte of the Statutes therof made in like maner and forme as they shuld and ought to be punysshed if they were therof convycte after the ordre of the lawe.

It is thus seen that the statute of 1487 enumerates certain definite offenses such as maintainences, liveries, riots and unlawful assemblies; and seemingly creates a court to hear such offenses and punish the guilty. However, at no time were the provisions of the statute followed. As will appear later, the personnel of the court rarely coincided with statutory composition, being sometimes smaller but more often larger; and the court always dealt with a far greater number of offenses than is here enumerated. Such being the situation, it is necessary to inquire into the purpose of the statute. The reasons for its enactment seem baffling

at first, since it was not intended to create a new court and since the council had long enjoyed the powers herein delegated.

There were, however, several considerations which led to the enactment of the statute. In general "the customary powers of the council" (and the Star Chamber must be considered a judicial committee of the council) arose from the need of a court too powerful and independent to be in danger of being intimidated or bribed by influence or wealth, able to penalize gross miscarriage of justice fraudulently procured, and to take in hand cases with which the ordinary courts would have difficulty in dealing."¹ Baldwin says, "Like many another enactment of the middle ages, the statute proposed nothing new, but was designed to make a statement of policy, as well as certain definitions of the council's jurisdiction which might otherwise be doubtful."²

Four reasons for the promulgation of the statute may be mentioned.³ In the first place, it gave definite warning to offenders who were constantly putting themselves liable to prosecution before the council. In this way, it was hoped that the lawlessness of the nobility whose members had been unrestrained during the periods of the Hundred Years' War and the Wars of the Roses would be checked. Statutes against liveries and maintainences had been upon the statute books since the reign of Edward I, and new statutes were common during the reign of Edward IV,

1. Innes, *England under the Tudors*, p. 48.

2. Baldwin, *op. cit.* p. 439.

3. Scofield, *op. cit.* p. 40.

but they had never been enforced. Henry VII by this statute gave notice that a new attempt would be made to enforce the laws. Secondly, the statute of 1487 was intended to recognize a very summary procedure which up to this time had been only partly recognized. Thirdly, without denying any of the inherent judicial authority of the council, it outlined broadly its powers on a permanent statutory basis. It will be recalled that Parliament had never fully nor willingly granted these powers. Now it sees the necessity. The traditional opposition of the Parliament to the council's jurisdiction is silenced. It amounted to a removal of restrictions upon the council. And finally, it was intended to name a choice of judges. It was a recognition of the necessity of introducing the committee system. The council was large and had many other functions to perform. Great numbers of appeals to the council came in and would have engrossed the whole time of the council unless they resorted to this committee system.¹

1. Baldwin's conclusions agree with those of Miss Seefield and in addition, he names several other probable considerations. There was need for a separation of criminal and civil jurisdiction. Formerly, criminal cases had been sent alternately to the Court of Chancery and the council. By the statute of 1487 a division is made, implicitly at least; the criminal cases going to the council in the star chamber and the civil to the Chancellor's court. Irregularities in attendance upon the council in the star chamber were probably responsible for the statement regarding its composition. It was not expected that this provision would be strictly followed. Six was the quorum of the council. Also the Chancellor was the most important figure in the council, and hence it was intended to single him out as the one to whom the bills should be addressed. Here again the provision was not followed. Vide. Baldwin, *op. cit.* p. 440.

Probably an important consideration leading to its enactment was a knowledge of the weakness and delays of the common law courts.

We have now noted the beginnings of the Star Chamber under the Lancastrians and the Yorkists and have considered the statute of 1487. How the court itself interpreted the statute and its development under Henry VII and Henry VIII will be the problems of the second chapter. In general, it may be said that the "real importance of the Star Chamber statute is not after all of a judicial, but of a political nature, for beyond its immediate object--the subjugation of aristocracy--it became the foundation-stone of the structure of monarchical supremacy in the State".¹

Busch, op. cit. p. 268.

Chapter II.

THE TUDORS AND THE STAR CHAMBER. 1485-1547.

1. Procedure by Bill of Complaint.

There were two methods of procedure in the Star Chamber.¹ One was by 'ore tenus' and the other by bill of complaint. The latter was the regular process and by far the more used. The bill was to be a statement of grievances. It was not to contain charges of crimes not punishable in the Star Chamber. If such charges were included, the plaintiff was subject to indictment for slander. The bill, written on parchment, was a formal complaint to the Star Chamber filed with the clerk. It was addressed in a variety of ways even after the statute of 1487 directed the address to be made to the Chancellor. This variation is shown in the cases which came earlier before the council. In the case of the Mayor of Exeter² the bill is address to "the Kyng oure soueraigne lord". In that of John Taylorr³ it is addressed to "the Kyng oure souereyne lorde and to the lordys of his most noble Counsell". These are representative types of the address before 1500. After that date they were usually addressed to the Chancellor or to the Lord Keeper of the Privy Seal. In most cases, ecclesiastical titles are given pre-

1. Dicey, op cit. p. 102.

2. Selden Society, op. cit. V. I p. 1.

3. Selden Society, op. cit. V. I p. 6.

cedence. That is, if the Chancellor was also a churchman, it was usually addressed to him as a church official. In the case of the Abbot of Byland¹ the bill is addressed to the "right reuerent Fader in God William archbisshopp of Canterbury and Chauncellor of Englonde". In the petition of the Mayor of Gloucester² it is addressed to the "most reuerend fader in god Wilyyam archbishops of Canterbury" and others of the council. In these cases William Warham was Chancellor and therefore it was addressed to him as archbishop but only in virtue of his being Chancellor. In other cases only the lords of the council were addressed.³

At the close of the bill there was usually a prayer asking that the accused be summoned before the court. Ordinarily it was consistent with the address, but there were certain variations. In the case of *Idele v. the Abbot of St. Bennettes Holme*,⁴ the address was to the king in council and the prayer or complaint to the king alone. In the case of *Goryng v. the Earl of Northumberland*,⁵ the address is to the king and the prayer to the King in council. In the case of *Pynson and othere v. Squyer and others*,⁶ the address is to the Chancellor and the prayer is to

1. Selden Society, op. cit. V. I, p. 253.

2. Ibid. p. 209.

3. Ibid. p. 15. Parker here addresses his bill "to the right noble, sadde and discrette lordes of the kyng oure soueraigne lorde's counsaile".

4. Ibid. p. 50.

5. Ibid. p. 95.

6. Ibid. p. 114.

summon before the king and council.¹ In accord with the statute of 1487, the address and prayer should have been to the Chancellor. The only method mentioned in the statute is upon bill or information "put to the Seid Chauncellor". But certainly this provision was not strictly followed, as is seen by the variations in a few of the complaints and prayers here mentioned.²

The next step in the process was the summoning of the defendant to appear before the court. Certain forms of summons were often named in the bills. The most ancient method which was used in the council was for the king, chancellor or council to summon the accused person by letters missive. Another method was for any member of the council to whom the charges had been preferred to send for the offender and to see to it that he appeared before the court. Again the Chancellor might dispatch a serjeant-at-arms after the culprit. Ordinarily the king's messenger served a writ of Privy Seal. A rare form was for the subpoena to be served by the petitioning party and his servants. All of these methods were used to some extent under both Henry VII and Henry VIII. Letters missive were sealed by the king's signet and hence were of a more

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1. Such variations, however, were legally sanctioned in the statute of 1529 which provided that the address could be to the Chancellor, the Treasurer, the Lord Keeper or the Lord President of the council. This is simply another case of the recognition by law of prevalent customs.
 2. Upon receipt of the bill of complaint, it was variously endorsed by the clerk of the court. Several forms of endorsement may be noted here. In some cases appears the endorsement "Coram Rege in Concilio suo". (Selden Society, op. cit. V. I, p. 229.) Other bills bear the endorsement "Coram Rege et Concilio". (Selden Society, op. cit. V. I, p. 265.) Still others and perhaps more characteristically are endorsed "Coram dominis de consilio nostro in Camera Stellata apud Westmonasterium". (Selden Society, op. cit. V. I, p. 217.)

personal character than the writs of Privy Seal. The peers often claimed the right of being summoned by letters missive. Letters or writs of the Privy Seal were issued from the Lord Keeper's office and were probably the most used form. Often even the nobles had to submit to being summoned by Privy Seal writs.¹

In early times the answer to the bill was by personal appearance at every session until discharged by the court. The court then bound the defendant not to leave the vicinity without permission from the court. Later the defendant did not appear immediately. He was given eight days in which to make a formal answer, on oath, written on parchment and signed by counsel. The answer usually claimed that the bill of complaint was "insufficient and uncertain".² Or it might plead a technicality, saying that some necessary legal terms or words had been omitted in the bill. Sometimes the defendant claimed the right of being tried in an ecclesiastical court. If such demurrer were sustained by the court, the defendant was dismissed.

1. Scofield, op. cit. p. 74.

2. Selden Society, op. cit. v. I, p. xxx. A good example of such plea is to be found in the case of Pynson and Others v. Squyer and Others. Squyer claims that the bill charging riot and assault is "insufficient, uncertain and untrue". (Ibid. p. 114) To the Abbot of Byland's charge of trespass and wounding, Warcoppe replies that the serious accusations contained in the bill are "insufficient, uncertain and untrue". (Ibid. p. 253.) Similar examples could be multiplied indefinitely. A novel diversity in terminology is to be found in the case of the Principal of Furnivall's Inn v. Johnson and Others in which the complaint is cutting and wounding. Johnson maintained that the bill was "uncertain and devised by subtle and crafty immaginations." (Ibid. p. 237.)

Replication was the term applied to the counter-answer of the plaintiff to the answer of the defendant. It was usually merely a repetition of the charges in the original bill. No new charges could be found in most cases and the replication was unnecessary. It is not generally found, only about ten or twelve being noted in all the cases now printed.¹

The trial closed with the examination of the witnesses. The examination took place either before the court or in a private hearing before commissioners appointed by the court for that particular purpose. The court did not hesitate to use torture to force^{ce} a witness or an accused person to testify before the court. Torture was introduced into the judicial processes of the council as early as 1468, under Edward IV.² This evil practice did not become a part of the regular court procedure as it did on the continent, but as an instrument of the council in the Star Chamber the bad precedent was handed down from the reign of Edward IV. Torture was frequently resorted to by the council under the Tudors.³

1. Selden Society, op cit. V. I, p. xxxiii.

2. Maitland, op. cit. p. 221.

3. Hallam, op. cit. V. I, p. 154. "The common law of England has always abhorred the accursed mysteries of a prison-house, and neither admits of torture to extract confession, nor any penal infliction not warranted by a judicial sentence. But this law, though still sacred in the courts of justice, was set aside by the privy council under the Tudor line. The rack seldom stood idle in the Tower for all the latter part of Elizabeth's reign".

For the earlier Tudor reigns there is not so much evidence of the use of torture.

After all the pleadings were finished, the court pronounced its judgment. The decree of the Star Chamber is supposed to have been given in turn by all the judges from the member of lowest rank up to the archbishop, and finally to the Chancellor if present. The presiding judge cast the deciding vote in case of a tie.¹ Whether the justices of the King's Bench and Common Pleas also gave opinions is a disputed question. They probably were there only for legal and technical advice and did not share in making the judgment of the court.²

2. Procedure by Ore Tenus.

The method of procedure by ore tenus was far more arbitrary.³ Upon mere rumor or suspicion a person could be apprehended and examined before the court. No definite charges were brought against him. Suspicious answers to questions were considered condemning. A man literally condemned himself and was punished without knowing his accuser nor the crime with which he was accused. The danger in such a procedure is plainly apparent, but this was less used than the regular process by bill which was the ordinary method of procedure. A king so disposed could easily

1. Scofield, op. cit. p. 76.

2. Selden Society, op. cit. V. I, p. xxxv.

3. Dicey, op. cit. p. 102.

make the court an agent of royal will and despotism, but as long as the method was not abused, justice was obtained more easily and more effectively than in the local and common law courts, where procedure was iron-clad and justice was hedged about with technicalities and precedents.

In connection with judicial processes, one fundamental difference between the court of Star Chamber and the council in the Star Chamber was in the nature of the sessions. The Star Chamber, contrary to the general impression, was an open court. The public was not barred, and it was a source of annoyance to some of the great nobles that their affairs were paraded before the public if they happened to be summoned before the court of Star Chamber.¹ On the other hand, the council in the Star Chamber was a secret court to which none except the council and the parties concerned were admitted.² Another difference between the two bodies was in the time of meeting and the location of the meeting place.³ The court of Star Chamber met twice a week on Wednesdays and Fridays, and then only during the four regular term times, and always in the Star Chamber at Westminster. The council, on the other hand, met at any time and any place to which the king chose to call it. The difference in the duties of the two is apparent. The Star Chamber was a judicial body, while the

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1. Cheyney, *The Court of Star Chamber*, *American Historical Review*, V. 18, p. 731.
 2. *Selden Society*, op. cit. V, I, p. lvi.
 3. Cheyney, op. cit. p. 728.

council had administrative powers as well.¹ The justices were not present at the meetings of the council, but they were an important addition to the Star Chamber.²

3. The Composition of the Star Chamber.

The records on the composition of the Star Chamber are not complete. This is largely due to loss of manuscripts. The names of those present rarely appear.³ In some of the records, however, are found the names of the members present. In 9 Henry VII the Lord Chancellor, the Lord Treasurer, the Chief Justices and the Chief Baron heard an injunction against liveries.⁴ This was a case in which the jurisdiction was statutory, but the composition of the court was not. There were only five judges instead of six or seven. In 8 Henry VII the Chancellor, Treasurer and Privy Seal were declared to be the only judges in the court, but if the others were not called in as assistants and advisers, the case was in error. But even after this decision the court was often composed of a smaller number than enumerated in the statute of 1487. In 13 Henry VII there is a case in which four members of the court were present. Another case of the same kind appears in 11 Henry VII. On another occasion in the same year only three judges were in the court, and on two other occasions

1. Cheyney, *op. cit.* p. 728.

2. *Ibid.* p. 729.

3. Scofield, *op. cit.* p. 24.

4. *Ibid.* p. 24.

the Lord Chancellor was the sole judge present.¹ However, many others in addition to the statutory membership attended the meetings. The ordinary membership of the court was much larger than six or seven, being about forty.² But from this fact it cannot be claimed that this was then the Privy Council and not the court, for the justices were not members of the Privy Council.

The variation in the membership of the Star Chamber are among the most interesting features of the history of the court under the early Tudors. The statute of 1487 as already quoted says "that the Chancellor and Treasurer of England for the time being and the Keeper of the King's Privy Seal, or two of them calling to him a Bishop and a temporal lord of the King's most honorable Council, and the two chief justices of the King's Bench and Common Pleas for the time being or two other justices in their absence" shall constitute the court. Thus, seemingly, the membership of the court was definitely set by statute. However, the court did not interpret this statute as defining absolutely its personnel. There were

1. Scofield, op. cit. p. 25.

2. Hudson says that the court "did usually determine causes when neither the Treasurer, the Chancellor nor the Lord Privy Seal were present, but sometimes the President of the Council alone, and sometimes assisted by other members of the council, above forty twice in 12 and 13 Henry VII. And sometimes when neither Treasurer, President, Chancellor nor Privy Seal were present, other lords of the council sat for the determining cause." Vide. Scofield, op. cit. p. 25.

many variations among which the case of the Abbot v. the Bailiffs of Shrewsbury is typical.¹ Here the court contained a larger number of members than provided for by statute. It is also supplied with four justices in addition to the chief justices, all of whom in this case as is

1. According to the statute of 1487, the court should have been made up of the men named in the first of the following columns. The second column outlines the makeup of the actual court. This table is copied from Selden Society, op. cit. V. I, p. xxxvi.

Statutory Court.		Actual Court.
Archbishop William Warham, Chancellor	or	Archbishop William Warham, Chancellor
Thomas Howard, Earl of Surrey, Treasurer	two of	
Bishop Richard Foxe, Lord Privy Seal	them	
Sir Thos. Docwra, Prior of St. John's		Sir Thos. Docwra, Prior of St. John's
Sir John Fyneux, Chief Justice of the King's Bench		Sir John Fyneux, Chief Justice of the King's Bench
Sir Robert Rede, Chief Justice of the Common Pleas		Sir Robert Rede, Chief Justice of the Common Pleas
or		
Thomas Tremale, Justice		Thomas Tremale, Justice
Robert Britnell, Justice		Robert Britnell, Justice
		Sir William Hardy, chief Baron
		John Kingsmill, J. of C. P.
		John Fyssher, J. of C. P.
Total, 6 or 7.		Total, 9.

known, acted only as advisers and not as judges. Later the court was enlarged by the addition of many of the king's councillors¹ and the attorney-general who acted as legal adviser or prosecutor.² It is true that these references are specifically to the later Tudor period, but they serve to illustrate a tendency noticeable in earlier times, particularly under Wolsey whose love of pomp and display led him to introduce as many as possible of the king's councillors into the court.³ Coke adds his testimony that "every privy councillor hath a voice and place in the Court of Star Chamber",⁴

There are on record many cases in which all the principal judges were absent, that is, the Chancellor, the Treasurer and the Lord Privy Seal were none of them in the court. Even before 1529, in which year the President of the Council was made a member of the Star Chamber, more cases were heard before the President of the Council than before the Chancellor.⁵ In the face of the diversities of practice it is not difficult to determine the interpretation which the court itself placed upon

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1. "The judges of this court are the Lord Chancellor, the Lord Treasurer, all of the Queen's Majesty's Council, the Barons of this land". (See Selden Society, op. cit. V. I, p. xxxix.) "It appeareth both by Sir Thomas Smith.....and by experience also that at this day the whole number of the Prince's most honorable Privy Council and such other Barons spiritual and temporal as may be called thither by the Prince shall have place in this court". (Quoted in Selden Society, op. cit. V. I, p. xxxix.)
 2. Cheyney, op. cit. p. 729.
 3. Selden Society, op. cit. V. I, p. xxxix.
 4. Ibid. p. xl.
 5. Ibid. p. xliii.

the statute of 1487 in regard to its composition. The statute, in the minds of the council, did not define an exclusive membership. It seemed to them to simply legalize the issue of writs of Privy Seal by the Chancellor, the Treasurer and the Lord Privy Seal of two of them. The new right which it gave them was to examine witnesses. There was not a grant of jurisdiction or power, as these same officials already enjoyed such judicial rights by virtue of being members of the council.¹ It has been generally recognized that no new court was created and that an exclusive membership was not defined.

An interesting variation in the composition of the court of Star Chamber is to be found in the case of the Mayor and Aldermen v. the Artificers of Newcastle.² At this time the King was present in person at the delivering of the decree. In addition to the two members of the council prescribed in the statute of 1487, there were present in this case nine other members of the council whose names are enumerated and also "others of the king's most honorable council". The President of the Council at first not included in the statutory composition of the court became by custom a leading member, and between the years of 1494 and 1497 was regularly the presiding judge of the court.³

1. Selden Society, op. cit. V. I, p. xlv.

2. Ibid. V. II, p. xi.

3. Ibid. p. xi. Hudson says that "about the tenth, eleventh and twelfth years of that king (Henry VII) these cases were more often heard before the President of the Council than before the Chancellor, Treasurer or Privy Seal; whereby it is most manifest, by the subsequent as well as by the precedent practice that the Court then sat not by virtue of that Statute, but sat as they antiently had done, and by as antient, if not more antient authority than any Court in Westminster Hall." (See Selden Society, op. cit. V. I, p. xliii.)

The statute of 1487 provided for the "calling to him a Bishop and a temporal lord of the King's most honorable Council", but as has been pointed out many councillors sat in the court of Star Chamber. The problem in this connection is to discover the purpose of this particular provision. At the time that the statute was enacted, it was not a desirable duty to perform as there was no payment for services rendered. It is possible that the purpose of this statement was to impose a duty which was shirked rather than sought until after the Star Chamber became the agent of a political faction, and then it was well attended.¹

In 1529 appeared additional legislation on the subject of the composition of the Star Chamber. The new act like that of Henry VII was intended to sanction a custom which already prevailed in the practice of the time. As seen above the President of the Council had become by custom a member of the court of Star Chamber. The statute of 1529 is entitled "An Acte that the presidente of the King's Counsaile shalbe associate with the Chancellor and Treasurer of Englande and the Keeper of the King's Privie Seale".² The Bill enacts "that from hensforth the Chancellor, Treasurer of England and the presedent of the Kynges most Honourable Councell attendyng upon his most honorable person for the tyme beyng, and the Keeper of the Kynges Pryve Seale or two of them, callynge unto them one Bysshop and one Temporalle Lorde of the Kynges moost honorable Councell adn the two chefe Justices of the Kynges Benche and the Comon Place for the tyme beyng, or other two of the Kynges Jus-

1. Selden Society, op. cit. V. I, p. xlvi.

2. Selden Society, op. cit. V. II, p. xii.

tices in their absence, upon any Bill or Informacyon hereafter put in (to) the Chauncellor of England, Treasurer, Presydent of the Kynges seyde moost honorable Councell or Keper of the Kynges Pryve Seale for the tyme beyng, for any misbehavyng before rehersed, from hensforth have full power and auctorite to call before them by Wrytt of Pryve Seale such mysdoers and them and other by their descreSSION by whome the truthe may be knowen to examyn and suche as they shall fynde defectyve to punysse them after their demerytes after the forme and effecte of the said former Estatute and of all other Estatutes therof made and nat repelled nor expyred, in like maner and forme as they shulde and ought to be punysshed yf they were therof convycted after the due ordre in the Kynges Laws".¹ It will be seen by an examination of this statute that the direct changes were very few. The new act is similar to the statute of 1487 in many ways. It is true that it enlarged the court by the addition of the President of the Council, but it made no other noticeable alterations in composition or procedure.

It is well here to attempt to explain the reason for the many divergencies of the actual and the statutory courts. In the first place, it must be remembered that in theory the king was the ultimate source of all justice. As a symbol of this fact a special seat for the king was always kept vacant. The Chancellor, the Treasurer, Lord Privy Seal and

1. Selden Society, op. cit. V. II, p. xii-xiii.

the others were merely agents of the royal will. Justice came through this channel from the king. There is no difference in the theory of the act whether the king was present or absent. The Star Chamber was undoubtedly the descendant of the council in dispensing the prerogative justice of the king. Therefore any qualified agent of the king could sit in the Star Chamber as representative of the king.¹

4. The Powers of the Star Chamber.

Just what the statute of 1487 did is rather puzzling, but it is certain that it did not do certain things. It did not give any new judicial duties to the members of the court. The council in the star chamber had long exercised the same powers. As we have seen, no exclusive composition was defined for there were many variations from the membership as mentioned in the statute. It did not create a new court for all the members had previously been endowed with judicial powers. If it did not have any effect upon the composition or nature of the court, what then was its importance in the field of jurisdiction? Did the statute increase the powers of the Star Chamber? Even in this respect the statute of 1487 does not seem to have been followed, and it did not materially affect the the activities of the tribunal. The Star Chamber

1. Selden Society, op cit. V. I, p. lvii.

after that date exercised many rights not stated in the statute of 1487.¹

The important offenses mentioned in the statute were not newly created. Many laws were on the statute books against livery and maintenance. During the reigns of Edward III and Richard II such laws had often been enacted.² Embraceries, that is, the "corruption of jurors by promises, entreaties, money, entertainment and the like"³ were also illegal by virtue of several statutes. The fact that these offenses were so often legislated against shows that the ordinary courts had difficulty in dealing with them and that common law procedure was not sufficient to stop them. Executive action was needed and this the Star Chamber furnished.

The Star Chamber under Henry VII was particularly active in this field of activity; but even under this monarch, the powers of the court were not limited to a consideration of the statutory offenses.⁴ Many cases of offenses not even remotely related to those mentioned in the statute of 1487 were heard before the court of Star Chamber under the first of the Tudors. The Prior of Bath brought an action against the Abbot of St. Augustine's, Canterbury, charging detinue and malversation.⁵ In the cases of Dale v. Broke, Donyngton v. Broke and Smith v. Broke,⁶ the charge is defamation. Madeley charges Fitzherbert with wrongful impound-

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1. Selden Society, op. cit. V. I, p. lxxv. "The tacit enlargement of the powers of the court undoubtedly came from the accredited belief that it inherited the undefined powers of the council to deal with new emergencies.
 2. Ibid. p. lxxv. In 1377, 1392, 1396, 1406 and 1468 laws were passed forbidding the giving of liveries.
 3. Ibid. p. lxxvi.
 4. Ibid. p. lxxvi.
 5. Ibid. p. 20.
 6. Ibid. p. 38.

ing, a common law action.¹ The issue in the case of the Lead Miners of Yorkshire v. the Merchants of York was that of illegal weights, and was in all probability remitted to the common law courts.² The action of Hewyt and Others v. the Mayor of London took place in the Star Chamber but upon the charge of violation of royal charters and not for violation of any offense mentioned in the statute of 1487.³ Other examples might be cited if necessary. They include such offenses as false imprisonment, forcible abduction, disseisin, illegal tolls, wrongful presentation and trespass; none of which were named in the statute of 1487, some of which were statutory offenses and others amenable to the common law; but the court of Star Chamber did not hesitate to assume jurisdiction. The explanation of this fact seems to be that the Star Chamber considered itself possessed of the ancient judicial powers of the council.

In regard to the statute of 1487 and its relation to the actual court of Star Chamber certain conclusions can be drawn.⁴ The court certainly did not regard itself as being of statutory origin, because it constantly disregarded the provisions of the statute in every conceivable way.⁵ It must have considered itself the descendant of the council. It did not limit its membership to the provision of the statute, nor did

1. Selden Society, op. cit. V. I, p. 54.

2. Ibid. p. lxvi.

3. Ibid. p. 71

4. Ibid. p. lxxi.

5. "It had unbounded pride and assurance of power". See Cheyney, op. cit. p. 730.

it make its activities conform to a consideration of the offenses therein enumerated. Its procedure shows that it considered itself to be the court of the king's council. The advisory aid of the justices was not a new custom but was earlier found in conciliar actions. The court of Star Chamber did not exercise exclusively the rights of executive jurisdiction. The Privy Council still had a concurrent jurisdiction. However, there were several differences in the procedure of the two courts which have previously been mentioned. In the present connection, the effect of the statute of 1487 upon the powers of the Star Chamber is the important consideration. There seems to have been no definite relation between the two because the court was never guided by the rules of the statute. The motive of Henry VII in the enactment of the statute must have been merely to secure a general statutory sanction for the council's judicial powers.¹ Legally the opposition to the exercise of such powers had never been withdrawn, though actually Parliament no longer objected. For short periods only, had the powers of the council been recognized, and Henry VII wished to place the jurisdiction of the council on a permanent statutory basis.

1. Selden Society, op. cit. V. I, p. lxxi. "The primary object of the statute 'Pro Camera Stellata' was to obtain a statutory sanction for their powers. Henry VII had before him the Lancastrian precedent of the expired act of 1453. The enumeration of offenses by the act of 1487 was not by way of limitation, but in order to give a statutory expansion to the powers conceded by Parliament in the earlier act."

5. The Activities of the Court.

In taking up the actual nature of the business handled by the Star Chamber we find six cases dealing with the affairs of the towns. In addition to furnishing us with information concerning the scope of activity of the Star Chamber these cases reveal the problems of the mediaeval town.¹ In the case of *Pynson and Others v. Squyer and Others* the disorder of town life in 1500 is manifest. The charge is riot and assault. It seems that the trouble sprang from the jealousy on the part of the native merchants and artisans of London towards foreign merchants and tradesmen. Again the town of the middle ages was very often connected with the monastery of the neighborhood and conflicting claims of authority and jurisdiction were common. An instance of this friction between a town and an ecclesiastical corporation is seen in the actions of the Abbot of Shrewsbury against the Bailiffs of Shrewsbury in 1504 and again in 1509. It was a dispute over the scope of the municipal franchises which the town claimed. In the cases of *the Mayor of Exeter v. the Mayor of London* and of *Couper v. Gervaux* the controversy is over the right of towns to levy tolls. There is an important dispute about illegal weights in the case of *the Lead Miners of York v. the Merchants of York*. Illegal actions on the part of guilds are apparent in the case of *Butlond and Others*

1. Selden Society, op. cit. V. I, p. cxxxvii.

v. Austen and Others in 1507. Here it is claimed that the guilds had by illegal by-laws throttled trade and had made other unlawful exactions.

Twenty seven of the total number of the cases are directly or incidentally concerned with riots, assaults or violence in some form.¹ This fact at once gives an insight into conditions of the time and into one important phase of the court's activity. In deed it was largely to deal with this class of cases that the Star Chamber was given its statutory sanction. However, disregard of the narrow interpretation of its functions is seen in the fact that more than half of the recorded cases do not involve riot, violence or kindred offenses. The court conceived itself to be more than an instrument to "bridle certain stout noblemen" of riotious disposition; but undoubtedly this was an essentially important task. Owing to the policy of the government in attempting to suppress violence baronial disorders largely disappeared as is seen by the decrease in this category of cases after 1510. There are among this number of violence charges single cases dealing with maintainence, conflict between the tailors' gild and the corporation of Exeter, violence in connection with illegal tolls, forcible abduction and violent interference with an election at Worcester. Four cases deal with riot and false imprisonment; eight are plain cases of riot and assault; ten are concerned with violence in connection with trespass upon land, and with forcible disseisin or

1. Five of the twenty seven cases involving violence occurred before 1500; eighteen between 1500 and 1510, and the remaining four in 1518, 1529, 1530 and 1539 respectively.

eviction from property.

In the minor cases it seems strange that only one example of accusation for maintainence is found.¹ This offense was undoubtedly the source of much of the violence which existed at this period and one of the most important with which the Star Chamber was supposed to deal. A possible explanation of the scarcity of this charge is that the cases deal not with the fundamental evil/^{but}with attempts to suppress its manifestations.

The case of the Mayor of Exeter v. Stoder and Others² deals with the conflict of gild with municipal corporation. It throws light on the nature of city government and the disorders generally prevalent in towns. The case was heard in 1477, before the council in the Star Chamber, and not before the statutory court. However, this does not in the least detract from its importance as indicative of the disorders of the times. In this instance it is positively known that the riot actually occurred and was not merely a legal charge to strengthen the contention of the plaintiff.³ That the Star Chamber should be called in to regulate the fight between city factions seems to mean that the municipality was at the time not capable of managing its own affairs.

1. This is the case of John Mulsho v. the Abbot of Croxton. Selden Society, op. cit. V. II, p. 49.

2. Ibid. V. I, p. 1.

3. Ibid. V. I, p. lxxii.

The case of Couper v. Gervaux, which will be discussed rather fully in another connection, offers an example of violence leagued with the offense of illegal tolls. Couper was unexpectedly called upon to pay a heavy rent for the land upon which his booth at the Salisbury Fair was located. Upon demurring he was violently attacked by Gervaux. The violence seems to have been great and far out of proportion to the provocation. This may be accounted for by the fact that any deficit in the revenues collected to pay the fee-farm to the crown had to be made good by the officials.¹ It was in their interest to raise as much revenue as possible without being over-particular as to the sources.

Forcible abduction is the charge of Kebell against Vernon.² Abduction or 'ravishment of women', so distinguished from ravishment of wards, was a common offense among the nobles. An attempt to check it was made in a statute of 3 Henry VII. Henry Vernon and his brother William had contrived to abduct Margaret Kebell, the widow of a commoner. For this offense they were capitally liable according to the statute just noticed. They had been tried in a local assize and naturally acquitted, being nobles. As a result Kebell was forced to appeal to the Star Chamber.³

1. Selden Society, op. cit. V. I, p. cxliii.

2. Ibid. p. 130.

3. Ibid. p. cxli-cxliii.

In local elections as well as in local courts of justice the undue influence of those of "great might" was frequently felt. In 1505 the Bishop of Worcester alleged that Thomas and others had interfered with the election of the constable.¹ Thomas was only a yeoman, but seems to have had considerable following. He wanted to be elected constable, and caused a riot because he could not secure the majority of the votes in the court. Such cases as this gave the Star Chamber the chance which it wanted to interfere in local affairs.

A typical example of cases dealing with violent and illegal imprisonment is that of *Tapton v. Colsyll*.² The plaintiff, Alice Tapton, claimed that Colsyll, the Mayor of Exeter, had caused her to be unmercifully beaten in her own house and then dragged away to prison for over six months. During this period of imprisonment Colsyll had taken possession of her land and driven away her cattle. While in prison the woman had been weighted down with leg-irons and chains. Through this case an insight into public jail administration is gained. Certainly the worst conditions existed, for example, the heavy fettering which was in itself against the law.³ Investigation by the Star Chamber seemed to be the only remedy in such situations. Illegal imprisonment was a favorite way for the powerful to com-

1. Selden Society, op. cit. V. I, p. 230.

2. Ibid. p. 51.

3. Ibid. p. cxxxvi. Tapton claimed that the irons and chains with which she was fettered weighed more than 30 lbs. Bracton and other lawyers considered legal the practice of putting fetters on prisoners who had attempted to escape. The weight limit, however, was 12 ounces and not 30 lbs.

pel weaker neighbors to comply with orders from above or to secure possession of the coveted land or goods of the captive.

Of the cases of riots, assaults and wounding several offer features of special interest. The accusation of Pynson against Squyer and Others¹ grew out of the disputes between foreign and native workmen. Squyer and his friends were anxious to drive the Flemings and Frenchmen from the community. The foreigners usually resided in the suburbs and were subject to the outbreaks of the mob. Pynson was a Norman printer and the violent attack upon him may be accredited to the jealousy with which his assailants regarded foreign laborers and the traditional opposition to foreign encroachments.²

The records of 1503 reveal a typical outbreak of disorder following the Wars of the Roses in the trouble between the Abbot of Eynesham and Harecourt.³ Harecourt and his abbetors were charged with several acts of violence, riot and assaults upon the monks. Harecourt kept retainers and protected them from punishment for their riots and assaults. In doing this he violated three of the provisions of the statute of 1487.⁴ These were maintainence, riots and interference with justice. Naturally no source of redress was open to the Abbot save the decree of the Star

1. Selden Society, op. cit. V. 1, p. 114.

2. Ibid. p. cxxxviii.

3. Ibid. p. 137.

4. Ibid. p. xcv.

Chamber. Other cases illustrate conditions of society. Charges of trespass, assault and seizure of goods were very common, but most of the cases have no points of special interest. However, a group of three cases, in which the Principal of Furnivall's Inn appears as plaintiff once and defendant twice, illustrates particularly the wanton violence of the age.¹ Charges and counter-charges fly between the different parties. Each charged the other with the original assault which caused all the trouble. In spite of statutes prohibiting the carrying of weapons such assaults were common, especially at the Inns.² Such disorders could not long escape the notice of the Star Chamber.³

The case of Parker v. the Duke of Suffolk⁴ illustrates the nature of the actions against forcible disseisin. Parker held land near the Duke. Suffolk had cut timber off the land belonging to Parker and had burned the barn containing Parker's corn. By armed force Suffolk had driven him away from his land. Culford was evicted by Watton in 1494 and had no possible hope of redress except through the Star Chamber.⁵ An example of trespass is recorded in the action of Lady Straunge against Kenaston.⁶ The lady charged Kenaston with forcible and violently coming on her premises and cutting down four score great oaks. This is a good

1. Selden Society, op. cit. V. I, pp. 237, 245, and 247.

2. Ibid. p. cix.

3. Scofield, op. cit. p. 56, note 3.

4. Selden Society, op. cit. V. I, p. 15.

5. Ibid. p. 45.

6. Ibid. p. 274.

sample of the lawlessness of the nobility at that time and as Lady Straunge said that it was not "seeming nor convenient" to bring suit in any other court she realized the weakness of her position in bringing an action against a noble. She herself controled the local court and the presumption is that it would not have been able to enforce its decree.¹ The charge in the case of the Abbot of Peterborough v. Power and Others² is conspiracy, riot, and forcible trespass. The Abbot, it appears, had attempted to keep the cattle of the villagers off the common pasture land of the community. In retaliation the herders destroyed the fences and cut and carried away the grass from the meadows. The Abbott also declares that they had broken up the ecclesiastical court so that the king's local officials could not be sworn into office. The case was appealed to the Star Chamber as a court handling violence and disorder.³

In the field of economic activity twenty five cases disclose the variety in the self appointed task of controlling the production and distribution of necessary commodities. Ten of these actions reveal the different ways in which production and distribution were hindered and the attempt on the part of the Star Chamber to remedy these conditions. Seven other cases deal with questions of tolls from several different angles, and the remaining eight are concerned with the important problems of forestalling, regratting and engrossing of food supplies. In addition to the

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1. Selden Society, op. cit. V. I, p. xc.
 2. Ibid. V. II, p. 123.
 3. Ibid. p. xci.

regular case documents are found nine other records mostly consisting of proclamations in regard to the regulation of prices of food stuffs. This phase of activity being a part of the most important work of the court of Star Chamber will receive considerable attention.

The extent to which the Star Chamber exercised a controlling influence in almost every sphere of human activity is clearly seen in its economic cases. Not only did the Star Chamber interfere in the cities and towns to regulate enterprise but rural districts also appealed to it and no case seemed too insignificant to escape its watchful eye. Upon this theory, that the Star Chamber would protect private enterprise on a small scale, Madeley must have preferred charges against Fitzherbert.¹ As Madeley was poor Fitzherbert's abuses must have interfered seriously with his efforts to make a living. According to the bill Fitzherbert drove away seven kine and a horse and wrongfully impounded them. In the process of impounding the animals were injured. In that lay the evil of the practice. In some cases it might have been legal to take animals belonging to another as a pledge for the payment of debt,² but the impounder was not licensed to injure the stock. This illustrates the attempts of the Star Chamber to prevent petty hindrances and annoyances to small producers.

1. Selden Society, op. cit. V. I, p. 54.

2. Ibid. p. cxx.

During the middle ages non-uniformity of weights and measures offered a serious check to the development of trade and domestic commerce. Not only was there a lack of standards but, even after their introduction, standard weights did not gain universal acceptance; and there were, of course, some men unscrupulous enough to take advantage of the non-uniform systems. Numerous legislative attempts were made to solve the problem.* It was under a general statutory prohibition that the lead miners of York appealed to the Star Chamber against the merchants of York ** who, disregarding the standard weights, were using weights of their own and naturally the difference in weight was to their own advantage. The Star Chamber, in assuming jurisdiction in this case, made it known that it considered it to be within its power to regulate such disputed economic questions and to enforce uniform systems.

The mediaeval mind looked with great suspicion upon the man who attempted to make a fortune by trade. Only the smallest profit was considered legitimate. The appeal on the part of Butlond and others against Austen and others reads as a popular protest against commercial gain.¹ Austen controlled the metal workers gild of London.² He compelled other members of the Founders Company to sell their products to him at his own price. He resold them at a great profit. The charge is that he tried

1. Selden Society, op. cit. V. I, p. 262.

2. The gilds were falling into disrepute among the people. Bacon later said that the gilds were "fraternities in evil", which seemed to be the conclusion that was reached long before Bacon's time.

* For example, the statute of 7 Henry VII, entitled "An act for weights and measures", outlined a plan for uniformity which was supposed to be strictly followed.

** Selden Society, op cit. V. I, p. 69.

to set the price of candlesticks, chaffing dishes and other wares for his own good and the great harm of others. The blame was laid at the door of gild organization against which popular sentiment had been aroused. The Star Chamber had evidently adopted the general attitude of the public as it undertook to settle such cases and to check the evils which arose from abuse of power on the part of guilds and gild members.

Two cases are concerned with enclosures which were beginning to present a significant economic problem.¹ It is charged that John Mulsho, of Thingden, had enclosed common lands and also individual lands. Under the Tudors the government and the church were both inclined to favor the laborer in the matter of enclosures.² Here again the Star Chamber protected the private rights of individuals in their efforts to live. The same John Mulsho is accused by Henry Selby of charging unreasonable fines upon the inheritance of copy hold lands, and again the Star Chamber took jurisdiction.³

An early contest between capital and labor is revealed in the case of the Mayor of Newcastle v. the Artificers of Newcastle.⁴ At this period the capitalists usually gained substantial victories.⁵ In this instance there was a riot and open rebellion against the officers of the

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1. The Inhabitants of Thingden v. John Mulsho, Selden Society, op. cit. V. II, p. 6; and Henry Selby v. John Mulsho, Ibid. p. 18.
 2. Ibid. p. lix. Leadam maintains that the cases on enclosures are indicative of the Tudor policy.
 3. Ibid. p. 15.
 4. Ibid. p. 75.
 5. Ibid. p. xcvi.

of the town on the part of the citizens, and the appeal was made to the Star Chamber to arbitrate the question and decide upon the customs of Newcastle.

A curious sample of interference with industry comes to light in the petition of the justices of Devonshire concerning porpoise fishing.¹ The fishermen complained that the officers of the royal navy always took one half of the catch from them. This exaction by the officers was illegal and the petition asks to have the practice discontinued by order of the Star Chamber.

The attempt to regulate the output and sale of commodities in the city of London is shown in the case of *Brydges v. Cawsye and Others*.² From the pleadings it appears that all leather and leather products were supposed to be brought to open market in Leden Hall to be there inspected by government officials before being sold. Cawsye and others were accused of selling poorly tanned and inferior leather and with placing it on sale in other than the stipulated market place. The less honest leather merchants and those who used deceitful processes in tanning gave considerable trouble in London. The appeals to the court of Star Chamber indicate the failure of mere legislative restrictions on the processes of manufacture.³

1. *Selden Society*, op. cit. V. II, p. 122.

2. *Ibid.* p. 219.

3. *Ibid.* p. cxxvi.

A large amount of the trade of the middle ages was carried on at the fairs where considerable exchange of commodities took place. The Redcliff Fair was an important event commercially. The parishioners of Redcliff in 1543 charged the Mayor with breaking up the fair by keeping visitors away and by refusing to allow merchants to place their wares on sale there.¹ This and the other cases mentioned above show the great instability in industry and commerce during the Tudor period. It is significant that one agent, the Star Chamber, was active in attempts to protect industry, domestic trade and foreign commerce.

Tolls of different descriptions form the subject of much litigation in the Star Chamber. The case of Couper v. Gervaux is again typical and has the addition interest of involving violence. A case of inter-city tolls is found in the action of Hewyt and Others and the Mayor of Exeter v. the Mayor of London in 1500.² Exeter charged London officials with demanding illegal tolls from merchants of Exeter. Exeter claimed exemption from tolls by right of being upon the ancient demesne. On the other hand, London cited an ancient right of collecting tolls from all merchants entering the city to sell their wares. This suit revealed the restrictions on trade and led to a statutory prohibition of the collection of tolls in 19 Henry VII.³ London, however, was excepted but the rate

1. Selden Society, op. cit. V. II, p. 237.

2. Ibid. V. I, p. 71.

3. Ibid. p. cxlii.

that she could charge was to be fixed by the king in council. Thus London gained permission by statute to exercise a right which was previously only occasionally recognized. Mutual commercial jealousy of monasteries and growing towns caused trouble and interfered with local trade. An example is found in the case of the Abbot v. the Bailiffs of Shrewsbury.¹ It was a dispute between a monastery and a town corporation over tolls and privileges. The monastery was resisting the increasing jurisdiction of the town.

A very interesting feature of the work of the Star Chamber is the attempt it made to regulate the supply and price of food stuffs in the interest of the consumer. It is probable that the court turned its attention to this phase of action as the result of less activity in other fields.² One purpose of the court was to establish order after the confusion of the Wars of the Roses and the following decade. In this Henry VII was very successful and soon had established a strong monarchy and checked disorder. There were thereafter fewer offenses of the nature with which the court customarily dealt and the tribunal had little to do. It then occurred to the Star Chamber to turn its attention to the regulation of trade. Disorders and irregularities due to unequal distribution of

1. Selden Society, op. cit. V. I, p. 178.

2. Ibid. V. II, p. xxi.

of food supplies became the special care of the Star Chamber. At that time most of the counties were economically dependent on their own resources.¹ Local famines and great scarcity of food often resulted. Local and central authorities often interfered in matters of trade in their efforts to check famines. The Star Chamber became constantly active in the alleviation of public necessity. Their first thought was of London and the larger centers of population. To prevent scarcity of food in the important cities and towns was a task which fell naturally to the Star Chamber when its other duties became less arduous.

Regardless of the theories by which the attempt is made to demonstrate the reasons for the interference of the Star Chamber in trade it is certain that the court was an important factor in the governmental regulation of food supplies and their prices. In spite of popular opposition and of positive prohibitory legislation forestalling, engrossing and regratting were common occurrences in mediaeval England. A definition of these terms is necessary for an understanding of the cases.² Forestalling was the act of interception and buying goods on the way to market. Engrossing was understood to be the purchase of necessary commodities on a large scale for resale in smaller lots. Regratting was the resale of the supplies in the same or neighboring market. Other similar offenses

1. Selden Society, op. cit. V. II, p. xxi.

2. Ibid. p. xxix.

were not unknown. Disobedience to proclamations concerning prices is occasionally charged and there is one case of illegal exportation and fraud on the customs. This pleading before the Star Chamber shows that the court had an influence on foreign commerce as well as on domestic trade. The earliest case of forestalling, engrossing and regratting here recorded is dated 1538. This may support the theory that it was only after the establishment of order in the Tudor period that the government had time to turn its attention to the regulation of prices. This is the case of *Bareth v. Newby*.¹ Contrary to established custom and law Newby had hoarded great quantities of grain and had refused to sell to the inhabitants of his own shire though at the same time he sold to customers from out the shire. In doing this Newby violated the proclamation forbidding any one to sell grain outside his own shire.² Newby was forced to appear before the Star Chamber but unfortunately its action in the case is unknown. The attempt at such strict regulation doubtless led to much smuggling. The smugglers were not without powerful support. The great landowners protected the engrossers for their own advantage. Engrossers kept prices up which was a desirable situation from the landowner's point of view. The only source of redress against this offense was through the Star Chamber. The local courts, though they made strenuous efforts, could not check forestalling, regratting and engrossing.³

1. *Selden Society*, op. cit. V. II, p. 168.

2. *Ibid.* p. xxiv.

3. *Ibid.* p. xxix.

Two cases involving forestalling, engrossing and regratting together with disobedience to proclamations, and in which the Inhabitants of Yaxley appear as plaintiffs and Alward and Branston as the defendants, are recorded.¹ In time of scarcity or famine the high prices especially attracted speculators of the type to which Alward and Branston seem to have belonged.² The year 1527 was a time of famine.³ Conditions were so bad that commissioners were appointed in each shire to prevent the conveyance of bread from one shire to another. They were also to examine all stores of grain and had power to force the owner to sell in case his supply exceeded the amount necessary for his own use. Such local attempts to handle the situation were not successful as judged by these two appeals to the Star Chamber.

The meat supply of London was a constant source of anxiety to the authorities. In order that the inhabitants of the city be supplied with meat it was necessary for the butchers to be supplied with cattle at reasonable rates. The case of the Butchers of London v. the Graziers is an attempt to control the price of cattle, nominally in the interest of the butchers, but actually in the interest of the people.⁴ In this instance there appears a memorandum of the decree. Graziers and cattle dealers were enjoined not to buy cattle with the intention of selling en-

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1. Selden Society, op. cit. V. II, pp. 178 and 182. Both cases are dated 1529.
 2. Ibid. p. 183 and note 7. Alward did not have the slightest sympathy for his neighbors. It is said that he threatened the plaintiffs that he would not "leave them with a grote". (fourpence)
 3. Ibid. p. xxii.
 4. Ibid. p. 205.

grosse to the butchers. Furthermore, the price of cattle was to be set by the butchers in conformance to parliamentary restrictions. All dealers refusing to sell at the official price established by the butchers were to be reported to the king. The avowed object of such a decree was to keep the public supplied with meat at reasonable rates.

In 1534 occurred two cases in which Knight of Andover was once defendant and once plaintiff. In the first suit he is charged by the bakers, brewers and others of Andover with engrossing corn.¹ Knight retaliated by accusing Gunter and others of interfering with trade.² According to the charges Knight had bought large quantities of grain and engrossed the same "to his own singular profit and advantage". Not a bushel had he sold in the local market but had transported all for sale in other districts. This would naturally arouse the common jealousy of the government and the consumer against any one trying to raise the price of food for his own advantage or gain.³ The other above mentioned case is really Knight's defense of his actions. He claimed that, in spite of the great scarcity, he sold bread and ale at low prices, and thereby antagonized Gunter, a brewer. By force Gunter had taken bread away from Knight's purchasers and had ordered them not to buy from Knight again. Gunter's defense was that the bakers possessed an ancient right to regu-

1. Selden Society, op. cit. V. II, p. 206.

2. Ibid. p. 210.

3. Ibid. p. xxiv.

late the baking business and that Knight had violated the rule against the exercising of more than one handicraft by one man at the same time.¹ The combination of baking and brewing was hence illegal. Gunter also reiterates the accusation of engrossing corn which, in the light of the governmental attitude, would seem to have been a clever move.

Two cases relative to foreign trade appear in the records.² England, especially London, was excitable on the question of exportation of food stuffs to the continent. Merchants did not have the right to ship supplies of food outside of England.³ Many attempts to enforce this regulation proved futile. Violators of the ordinance were usually tried in the Court of Exchequer. This one case was transferred to the Star Chamber probably to further terrorize offenders.⁴ Danby, the defendant in the action, was accused of shipping all manner of high priced commodities out of England contrary to proclamations and statutes. As a result prices at home soared still higher. Likewise, in the second case Danckerd is supposed to have disregarded the prohibition on the shipping of food stuffs without permission. The same statutes and proclamation were again ignored. Certainly the Star Chamber by its active prosecution of such cases was active against the high cost of living and was working in the interest of the consumer.

1. Selden Society, op. cit. V. II, p. xxx.

2. Selden Society, op. cit. V. II, p. 225, Attorney-General v. Danby, and p. 277, Smythe v. Danckerd.

3. Ibid. p. xxvi. The only point on the continent to which grain, butter, cheese and other staples could be shipped at this time was Calais.

4. Ibid. p. xxvi.

Other documents, such as petitions and proclamations, bring out additional facts in regard to the paternalistic policy of the Tudor government in regard to the regulation of the distribution and sale of food stuffs through the agency of the Star Chamber. In 1527 commissioners were appointed to investigate conditions in the shires and to prevent the transportation of grain from one shire to another. The report or certificate of the Staffordshire commissioners has been preserved.¹ In this shire they found no engrossers, forestallers and regratters. There was not a large enough supply of grain for the needs of the county but there were few beggars and vagabonds. This commission protested against preventing the flow of grain from one county to another. According to their ideas shortage in Staffordshire should be remedied by allowing more fortunately supplied counties to send their surplus of grain into Staffordshire. One of the earliest proclamations against forestalling, engrossing and regratting was issued in 1529.² It declared against all combinations to set unreasonable prices, an expression paralleled in modern times by "combination in restraint of trade". All bargains or sales so contracted were illegal and void, and any money paid was subject to

1. Selden Society, op. cit. V. II, p. 165.

2. Ibid. p. 288.

refund. Furthermore, a person having abundance was compelled to sell all above the needs of his family and his lands. There are five proclamations in regard to prices of meats. In 1533 a proclamation to butchers declared that graziers must sell engrosse to the butchers at the butchers' prices.¹ Disobedience was threatened by punishment by the king. In the same year a proclamation to graziers commanded them to sell in case of scarcity.² The object was to keep the graziers and dealers from holding the cattle for purposes of speculation. In 1534 a general proclamation ordered the butchers to charge reasonable prices under heavy penalty for disobedience.³ The next year detailed price lists were issued by proclamation.⁴ A similar proclamation came out in 1544, nine years later.⁵ The important feature of these proclamations is their attempt to prescribe minute and detailed price lists. The policy of the government was carried out not without opposition on the part of the butchers. They occasionally petitioned for removal of the restrictions.⁶ The contentions of the butchers had reasonable support. A butcher was then considered a speculator.⁷ The public was willing to accord him barely a living wage. Hence there were the general statute for reasonable prices and the specific price list which sought to keep the butcher from making a fortune from trade. The periodical suspension of these restrictions are obvious admissions of the failure

2. Selden Society, op. cit. V. II, p. 300.

3. Ibid. p. 302.

4. Ibid. p. 303.

5. Ibid. p. 304.

6. Ibid. p. 221.

7. Ibid. p. xxxviii.

1. Selden Society, op. cit. V. II, p. 297.

of the governmental policy. However, this does not impeach the motives of the government in interfering through the Star Chamber, in the hope of enforcing reasonable prices, in the interest of the people at large. That it followed a mistaken policy does not vitiate the fact that in this phase of activity the Star Chamber was on the side of the people.

6. The Attitude of the Political Classes toward
the Star Chamber.

The records of the sixty odd cases considered furnish considerable evidence of the popularity of the Star Chamber among the poorer and weaker classes of the population. On the other hand there is a corresponding fear of the court among those of higher rank and greater influence in local tribunals. At least one justification of the court of Star Chamber under the early Tudors can be found in exactly this function. It offered protection to those who had no chance of receiving justice at the hands of a common law court. In twenty, or almost one third, of the cases are found indications of the reason for the plaintiff pleading for an action in the Star Chamber, or of the desire of the defendant to have the case remitted to a common law court. In some instances both pleas are found. These complaints are noticed in greater numbers before 1500 but occasionally from 1500 to 1531 the same pleadings occur. In 1489 the Abbot of

St. Augustine's, Canterbury, when charged by the Prior of Bath with detinue and malversation, complained against action in the Star Chamber. He referred definitely to the statute of 1487, enumerated the offenses therein, and claimed that all other charges should come before the justices in the regular way.¹ The probable reason was that the Abbot could influence the ordinary court in his own favor. It is known that the contentions of the Abbot were not sustained by the court.² This is of interest because the incident occurred so soon after the enactment of the statute 'Pro Camera Stellata'. In fact the case was originally brought before Richard III in the council.³ While the case was pending the statutory organization of the court took place. The case may, therefore, be considered a connecting link between the court of prerogative and the court of statute. The effect of such organization is seen in the answer of the Abbot in which the above specific reference is made to the provisions of the act. Of more interest is the interpretation which the court made of its own powers in refusing to accede to the demands of the Abbot. Evidently they did not consider the statute to be the sole source of their power.

In 1493 Couper accused Gervaux and others with attempting to charge excessive and illegal tolls for rent of land upon which he had stationed his booth at the Salisbury Fair.⁴ Upon demanding

1. Selden Society, op. cit. V. I, p. 20.

2. Ibid. p. lxxxiii.

3. Ibid. p. lxxvii.

4. Ibid. p. 36.

their authority, Couper was violently assaulted. He complains of his inability to secure redress through the common law. This was probably due to his poverty or lack of influence. Certainly the weight of the city's influence would have gone against him. The case of Vale v. Broke in the same year affords another example.¹ It seems that Broke and his wife had spread the rumor that Vale was a thief. Vale, much exercised over the slanderous report, appealed to the king and his council saying that he was "not able to sue Broke at your common law". He either lacked the means or knew that Broke was too powerful in the community. In still another case Broke was similarly charged by Smythe with slander.² Broke not only denied the charges but claimed that the action should be brought in another court. We cannot know his exact reason, but it is obvious that he feared the Star Chamber and believed that he would fare better in another court. In 1494 Culford charged Watton with having forcibly evicted him from his own property, and claimed that he could not sue for remedy at common law, probably because of the expense involved in the process.³ The reason for the appeal to the court of Star Chamber is plain in the case of Idele v. the Abbot of St. Bennet's Holme in 1495.⁴ Idele stated that he had applied for a writ of Privy Seal to serve on the Abbot for past misdemeanours because of the might of the Abbot and lack of power to

1. Selden Society, op. cit. V. I, p. 38.

2. Ibid. p. 41.

3. Ibid. p. 46, and note 14.

4. Ibid. p. 50.

get satisfaction at common law. In a case of the year 1496 the defendant maintained that the matter was determinable at common law.¹

In 1509 occurred a case with pleadings of this nature on both sides.² It furnishes an example of conflicting and disputed jurisdiction under municipal and abbatial franchises. The defendants desired a common law trial. The plaintiff claimed that an impartial hearing could not be held in the local court. The Master of All Saints, Maidstone, in 1508 charged Kempe with violation of the laws in regard to juries and wrongful presentment.³ The Master alleged that Kempe had such great power and influence that he could not be brought to justice at the common law. This case seems to support the theory that the Star Chamber existed to render the law effective and to keep the machinery of legal action in running order.⁴ No further gain will be made by the repetition of examples. These are typical of the pleadings in the twenty cases and indicate the inclination of the lesser folk to consider the Star Chamber a popular tribunal where swift and cheap justice could be obtained against their powerful neighbors. On the other hand a corresponding and proportionate dread of the Star Chamber is seen among those who had powerful local influence in the common law courts in which they could secure compliance with their wishes.

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1. This was the case of Madeley v. Fitzherbert which involved the charge of wrongful impounding of stock. Selden Society, V. I, p. 56.
 2. The Abbot v. the Bailiffs of Shrewsbury. Ibid. p. 189.
 3. Ibid. p. 273.
 4. Ibid. p. cxxii.

The Star Chamber and its decrees seem to have been accorded almost universal respect or at least fear, but there are two cases of contempt of court against the Star Chamber. In the case of *Idele v. the Abbot of St. Bennet's Holme* Idele claims to have applied for a writ of Privy Seal which he himself had served upon the Abbot.¹ The Abbot and the monks had handled Idele rather roughly when he presented the writ. Harsher treatment was promised if he returned with another. Here there was little respect for the writs of the Star Chamber. A similar case is that of *Treherne and Another v. Harecourt*.² Treherne delivered the writ to Tytt, a servant of Harecourt. Tytt threw the subpoena into the street and struck Treherne. Aside from these two cases, however, there seems to have been no open opposition to the execution of the orders of the Star Chamber, no matter what sphere of life they touched.³

1. *Selden Society*, op. cit. V. I, p. 50.

2. *Ibid.* p. 162.

3. Certainly many fields of activity were inquired into in the work of the Star Chamber court. The nature of its business seems to be exceedingly varied and complicated, but it can really be classified under two heads; public disturbances and disorders and disobedience to royal orders. *Cheyney*, op. cit. p. 733. There was apparently little opposition to the Star Chamber in enforcing the policies of the government in these two general fields.

7. The Star Chamber in its Relation to the Social Life and to
Other Institutions of the Period. Punishments.

The relation of the Star Chamber to the social life of the period is apparent from the foregoing consideration of the records of its cases. Particular attention has been given to its activities in the suppression of baronial disorders in the pursuit of which object it was very successful. It was also interested in other social activities and its records throw light on social conditions arising from other causes.¹ It would be out of place in this thesis to discuss the social problems of the Tudor period. It is only significant here to note that the Star Chamber was a court to which the lower classes appealed for relief from very hard conditions. No case seemed too insignificant for consideration in the Star Chamber and no dispute was too trivial for its notice, thus showing the relation of the Star Chamber to society in general, even to the private life of the citizens. Cases of slander must have been common in the middle ages. Church courts had long claimed jurisdiction in slander cases.² Nevertheless, the records of the Star Chamber show that it interfered in slander charges at least three times.³ In this direction the extension of the powers of the Star Chamber came at the expense of ecclesiastical courts.

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1. Selden Society, op cit. V.I, p. 118, Sely v. Middelmjore; p. 184, Cade and Others v. Clark and Others. These are interesting cases of bondage.
 2. Ibid. p. cxxxii.
 3. Ibid. p. 38, Vale v. Broke; p. 40, Donyngton v. Broke; p. 41, Smythe v. Broke.

The case of the Attorney-General v. Pare and Others illustrates the relation of the Star Chamber to other courts and its power to punish crimes in connection with jury trial.¹ In this instance a jury is accused of accepting money bribes. Unfortunately the date of the case is uncertain having been estimated to be between 1486 and 1507. It may have been before the council in the Star Chamber in 1486 and if so would demonstrate the similarity of the offenses tried in the council and in the statutory court. On the other hand, if it was after 1487, it merely followed the provisions of the statute 'Pro Camera Stellata'. Certain rules in connection with common law trials may be mentioned here.² One jury accused of perjury was tried before another jury of at least twenty four members. A jury was considered excusable in making a mistake if the facts were difficult to ascertain. For taking bribes the fine was to be ten times the amount received. Of the amount the crown received one half and the other half was given to the injured party. The Star Chamber had the right to punish perjury in jurors. From that it was only a short step to extend its jurisdiction over perjury in general which it eventually did. In respect to its relations with other institutions the Star Chamber was a dominating and controlling influence as it was in every phase of its activity. Every institution with which the court came in contact lost something in authority to the gain of the Star Chamber.

1. Selden Society, op. cit. V. I, p. 18.

2. Ibid. cxxxii.

The punishments administered by the Star Chamber have more interest than real importance. One principle of the court was to so frame the decree that the "medicine would be according to the disease, and the punishment according to the offense.....without respect to persons, be they public or private, great or small".¹ The court could inflict any punishment except the death penalty. Its punishments fall into four classes; fines, imprisonments, corporal punishment and fines "in terrorem populi".² This last was an enormous fine which the court knew that the convicted man could not pay and did not expect to collect. It was simply an attempt to check the prevalence of crime by recording a warning in the form of a ruinous fine. These forms of punishment doubtless originated in the council. Before 1487 the council inflicted many fines as penalties for crimes.³

1. Coke, in Prothero, op. cit. p. 402.

2. Scofield, op. cit. p. 76.

3. Materials for the Reign of Henry VII, p. 91. This fine was paid in 1486.

3. Cheyney, op. cit. p. 742. Here another classification is given. Again the punishments are grouped under four heads; "imprisonment, money fines, public acknowledgement of offenses and public humiliation."

Chapter III.

The Position and Importance of the Star Chamber under the Early Tudors.

In the light of the facts drawn from a consideration of the records of the Star Chamber and here presented it is not possible to believe that the statute of 1487, around which much of the discussion in this thesis has been centered, created a new court. In composition, jurisdiction and powers the Court of Star Chamber must be considered and judged as the judicial committee of the king's council, inheriting the prerogatives of the more ancient tribunal, and vested with practically unlimited authority.¹ The Star Chamber under the first rulers of the Tudor line was, then, merely the council acting with statutory sanction in so far as certain specified offenses were concerned. The broad general authority which it exercised came by virtue of its conciliar jurisdiction. These rights, as shown by the activity of the

1. Early writers who were in a position to judge from actual experience with the court deny the statutory origin of the Star Chamber. Hudson wrote that such an idea was "a dotting which no man that looked upon the records of the court could have lighted upon". Mill said "I doe acknowledge this to be an opinion ignorantly received by many but approved of none that hath knowledge of the Court". Coke also rejected the idea. In 1629 all the court declared "that the Court of Star Chamber was not erected by the statute of Henry VII, but was a court many years before". It is true that these men were of the court and wanted to praise it, and hence their opinions may be biased but, since they must have consulted records no longer available, their dicta must be given some weight. Vide. Scofield, op. cit. p. 14 ff.

court and the testimony of contemporaries, were very elastic and inclusive.¹ There is scarcely a conceivable crime or misdemeanour which was not in one or more instances brought up for consideration in the Star Chamber. No public nor private act was shielded from the vigilance of the court which pried even into the private affairs of individuals and families. Certainly it was a vastly different tribunal from that contemplated in the statute 'Pro Camera Stellata'.

Having now discussed the nature of the court under Henry VII and Henry VIII the remaining task is to determine the amount of service which it rendered to the Tudor house and to enumerate the useful purposes served. The most obvious function of the court was the

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1. West in his "Symboleography" summarizes the jurisdiction of the Star Chamber as follows: "The Star Chamber censureth the oppressions, quarrels, contentions, injuries, routs, riots, and unlawful actions, perpetrated most commonly by insolent, forcible and powerful parties, and no mean persons against some private subject. It punishes sundry other sorts of offenses, conspired against his Majesty's person, such as are under the degree of treason, offenders also against the persons of the nobility, statutes of the realm, such as Scandalum Magnatum and the like: also duels and private challenges made between party and party, contrary to his highness' edicts and proclamations, and any libellous or seditious speaking or writing against the public state, or against private persons, perjuries, forgeries, conspiracies, maintainences, champerties, and such corrupt dealings are thus likewise heard and the offenders punished".

This is a very comprehensive list of offenses, but Hudson makes it still more complete when he says "in a word, there is no offense punishable by law, but if the court find it grow in the Commonwealth this court may lawfully punish it, except only where life is questioned". These statements are quoted in Scofield, op. cit. pp. 14-15.

restoration of order. Henry VII, having determined to become the actual master of England, struck directly at the fundamental source of the confusion of the times, baronial privileges, the abuse of which was largely responsible for the extreme lack of order. Maintainences and liveries were forbidden and the Star Chamber became the agent for the enforcement of these decrees. The success of the monarchy in this instance is shown clearly by the decrease in the number of cases involving violence. Perhaps the greatest reason for the success of the court lay in the fact that it was an administrative tribunal working in close co-operation with the executive departments.¹ In this work the administration knew what it wanted to do and drove straight at its object making use of the Star Chamber which instrument it happened to find ready made.

In the previous chapters the importance of the Star Chamber as an agent of the government in economic control has been several times pointed out. The policy of the Tudor monarchy was to protect the weak against the strong, to give the poorer classes a chance to make a living and to prevent capitalists and speculators from amassing

1. The importance of the Star Chamber to Henry VII and Henry VIII lies in the fact that "the same body which issues ordinances, controls the execution of the law and the administration of the state, acts also as a court of justice with a comprehensive and final jurisdiction---one day it can make an ordinance, and the next, punish men for not obeying it". Maitland, op. cit. p. 221.

fortunes from trade in necessary commodities. Even though the attempts may have been along lines of mistaken policy, the purpose of the government cannot be impeached. It was acting in the interests of the masses, protecting the weak from the strong. In checking forestalling, engrossing and regratting, the purpose was to lower the price of food supplies. In this respect the activity of the Star Chamber is paralleled in modern times by the work of our Interstate Commerce Commission and the state railroad and warehouse commissions and was not in any way promoting royal absolutism and tyranny.

To the credit of the Star Chamber it must also be said that it was a source of swift cheap justice. A justification of its existence was that the common law courts were hopelessly unfair and inefficient. A poor man without influence or support could not secure justice in a local court. The delays in the operations of the ordinary courts were as exasperating as now, and the expense involved was probably proportionately greater. But upon application to the king the problem was usually as good as solved. Far less expenditure was necessitated. Useless and unnecessary delays were practically unknown to the king's court. With creditable dispatch and regularity the Star Chamber accomplished its work and for these reasons there were few complaints against its decrees. Criminal law was very

negligently enforced during this period.¹ This fact was fully recognized and upon the Star Chamber devolved the duty of correcting some of the abuses in the criminal law system. As a court of criminal equity it rendered important service just as the Chancellor's Court of Equity was instrumental in preventing injustice in civil cases through some formality or technicality of the law. In this phase of its activity again the Star Chamber acted on the principle that the weak deserved protection from those of "too great might".

In a general way much might be said of the Star Chamber concerning this very feature of protection, protection which it offered to the folk of lesser rank against those of greater influence and power. Baronial arrogance and aggression was almost unbearable. We have seen many times the appeal of the commoner for aid in securing a redress of grievances from a powerful neighboring lord. The very frequent appearance of the plea that in the king's court alone could justice be secured against some member of the nobility is of sufficient force to justify the court under the early Tudors. It was the only source of justice for the poor man who was fighting a noble.

Strange misconceptions concerning the Star Chamber have arisen. It has been decried as an instrument of royal despotism and has been

1. Maitland, in Traill, Social England, p. 657.

compared to all the odious courts known to history, particularly to the Inquisition and the Revolutionary Committee of Public Safety.¹ It was an open court and yet its secrecy and mystery have been the chief themes of its critics. Formerly the abhorrence of the Star Chamber led critics to denounce it as a monstrosity born of some dark evil design of royal craftiness but now it is recognized that it was truly a natural outgrowth of the age in which it developed,² and that it actually served some useful purposes. That it should have been regarded as an unnatural development seems strange when we consider that

1. A typical example of such criticism is to be found in Dicey's treatise which has already been cited. He says, "Some tribunals have grown to a height of power and influence which endows them with a species of terrific grandeur. The Inquisition, the Revolutionary Committee of Public Safety, all those institutions by which might has for a period triumphed over right, together with the horror they cause, inspire a certain kind of interest. Every one abhors the great instrument of oppression; but every one feels a wish to know by what measures it was formed, and what were the true sources of its strength, what the uses to which its might was applied. Among the instruments at once powerful, hateful and full of interest, the 'Court of Star Chamber' occupies no mean position. If its influence was less extended than the sway of the Inquisition; if its deeds lacked the bloody atrocity of the Revolutionary Courts; it combined a system of secrecy in its acts which a Dominican might have admired, with a power of duration which might have inspired the authors of the Parisian tribunals with hopeless envy". Vide. p. 94.
2. It has gained a name for secrecy whereas its sessions were open practically to all comers. Its actions are generally supposed to have been tyrannical and irregular, yet its procedure was quite as formal as that of any other court of equity. It is frequently thought of as in some way exceptional, yet no branch of government was more clearly an outgrowth of the period in which it flourished". Cheyney, op. cit. p. 727.

it was not a newly created court and that practically all its customs, usages and methods of procedure were of ancient origin and of a development moulded by the necessities of the times.¹ But after all it is not so curious that its use and abuse were confused. In the nature of its position and authority it was extremely liable to abuse. Under the Stuarts there is no question but that the Star Chamber was employed to further the ambitions of the monarch and to quiet his political enemies, a practice which was very destructive of democratic growth. But this should not blind us to the fact that the Tudors did not make the same mistakes.² Justice and not injustice was the result of the court's actions under the Tudors.³

The change of attitude toward the Star Chamber on the part of modern investigators is largely due to a closer scrutiny of the records of the court but, in addition to the court rolls, the testimony of contemporary writers who attempted any characterization of the tribunal throws further light upon its position and function. It was universally condemned by those who knew it intimately and were well

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1. "In all the operations of the court, there was practically nothing new but its vigor and purpose". Baldwin, op. cit. p. 442.
 2. "It was admirably calculated to be a support of order against anarchy, or of despotism against individual and national liberty. During the Tudor period, it appeared in the former light, under the Stuarts, in the latter". Prothero, Encyc. Brit. (1910-1911) Vol. XXV. p. 796.
 3. "Under Henry VII, however, its functions were exercised at least mainly in the cause of justice -- they were used, not abused -- to the public satisfaction, as well as to the strengthening of the King's own hands". Innes, op. cit. p. 49.

acquainted with the inner workings of its procedure.¹ They praise it highly and place it above all other courts, with the possible exception of Parliament, "in the Christian world". The reason for this praise seems to be based on the undisputable fact that the Star Chamber, as a court of criminal equity, held "all England quiet". As a part of the Tudor conciliar system, wonderfully well organized and adapted to the needs of governmental policy, the Star Chamber was an effective instrument in the maintenance of peace and order throughout the realm. At times its methods may have been abrupt and arbitrary and its procedure summary but, on the whole, its development may be said to have been in answer to a real need of the age in that it furnished, at small cost, justice to the poorer classes and protection to the weak against the overmighty subjects of the English crown.

1. "It is the most wonderful court (our Parliament excepted) that is in the Christian world, both in respect to the judges of the court, and of their honorable proceedings according to their just jurisdiction and the ancient just orders of the court". (Coke, in Prothero, op. cit. p. 403.)

Lambard calls it "the most noble and praiseworthy of courts", and Bacon says that it was "one of the sagest and noblest institutions of this kingdom". Coke claimed that "this court doth keep all England quiet". See Chambers, English Constitutional History, pp. 107-108. These statements are quoted by Chambers but no references are given.

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