1. Introduction: Star Chamber matters*

K. J. Kesselring with Natalie Mears

The court of Star Chamber remains notorious even now: commentators sometimes invoke its name to suggest that a judicial body or legal action is not quite lawful, something secretive and illegitimate. The court provoked concern in its own time, too, though its vilification deepened after its death. With roots in the mid fourteenth century, Star Chamber became institutionalized as a judicial body somewhat distinguishable from the king's executive Privy Council by 1540. Akin to contemporaneous experiments with conciliar justice in other European jurisdictions, though, the court's ties to the royal council remained close. Star Chamber drew its authorization directly from the monarch and operated outside the procedures of the common-law courts, without juries and with judges drawn primarily from the royal council, supplemented in time by justices of the high court bench. Sitting as a court, the lords heard a wide range of amorphously defined wrongs and crafted punishments at their discretion, just short of death. They adjudicated disputes that arose from many aspects of early modern political, religious and cultural development. Trying both civil and criminal cases over its history, at the instance of both private plaintiffs and royal officials, the court heard quarrels framed as cases of riot, fraud, libel, perjury and more. Star Chamber offered some people relatively fast, flexible solutions to problems that other courts could not address, even while it provided others with evidence of the dangers of royal power when unchecked by law. Indeed, in 1641, a little over a hundred years after its emergence as a distinct judicial tribunal, Star Chamber was abolished by members of a parliament about to embark on civil war and revolution for what they deemed egregious abuses of royal power and law.

Today, Star Chamber's records offer riches to scholars interested in broad swathes of early modern history. And yet, despite the court's continued notoriety, its own history might still be more fully explored to better

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understand these records as well as the political and legal conflicts of its time. As the chapters gathered here demonstrate, we can learn much about the history of an age through both the practices of its courts and the disputes of the people who came before them. With Star Chamber, moreover, we have not just any court, but one that came of age and was later killed off on either side of one of the great formative periods in English legal history, in the middle of an era of religious, political and social transformation. We also have a court that left an unusual wealth of documentation, though in records that come with a few challenges of their own.

The court's contemporary defenders and critics debated whether Star Chamber constituted a 'court of record', and its occasional use of oral proceedings without a written bill proved one of its more contentious aspects.[1] Even so, it produced written records in abundance. True, it lacked the Latin-language parchment rolls of decisions that lawyers would come to insist upon over the early 1600s as a formal 'record', but it generated a wealth of documentation otherwise – in contrast to the common-law assize courts, with their formulaic indictments in crabbed Latin on little stubs of parchment and oral proceedings now lost to history. With cases in Star Chamber typically begun by voluble English bills of complaint, framed as petitions to the sovereign with elaborate narratives of alleged wrongs, they often then generated written rejoinders, demurrers, interrogatories and depositions. Indeed, contemporaries sometimes complained about the volume of the pleadings and proofs, with officers occasionally making futile efforts to limit the length of bills and to add efficiencies to the court's operation. In William Prynne's infamous 1634 trial for libel and sedition, when asked to review all the exhibits one judge observed that 'this would require the leisure of a vacation to be read over. I hope your Lordships do not require that'. No, he was assured, he did not need to read it all.[2] A mocking critique of the court published at its closure had a 'Christopher Cob-web', keeper of the court's records, comment on the large, lucrative (or costly) bundles of papers and parchments that had been 'copied, engrossed,

[1] On the disputes over Star Chamber's status as a 'court of record', see W. S. Holdsworth, *The History of English Law* (17 vols., London, 1956–66), v. 157–61 and S. E. Thorne, 'Courts of record and Sir Edward Coke', *University of Toronto Law Journal*, ii (1937), 24–49. See, too, the text of the Act for the Abolition of the Court of Star Chamber, 17 Car. I, c. 10 (1641), which repeatedly contrasted Star Chamber with the 'courts of record' in which most proceedings should occur. K. Peters, '"Friction in the archives": access and the politics of record-keeping in revolutionary England', in *Archives and Information in the Early Modern World*, ed. L. Corens, K. Peters and A. Walsham, *Proceedings of the British Academy*, ccxii (2018), 151–76 is useful here, too.

[2] Harvard Library, MS. Eng 1350, unfoliated.

written, rescribed, prescribed and transcribed forty times over'. Copyists who charged by the sheet produced bills the size of cloaks, he lamented.[3]

Modern scholars have their own reasons to find Star Chamber's records a mixed blessing. For one, the court's records of judgements have disappeared. At the court's dissolution in 1641, the heaps of older pleadings and proofs that were stored in the Star Chamber itself survived, but at some point thereafter the court's working files kept in the clerks' office in Gray's Inn disappeared, including most of the proceedings from the reign of King Charles and all the order and decree books. What do we do in their absence? How do we read and make use of the competing narratives crafted by plaintiffs and defendants? How can we make better use of the manuscript law reports and contemporary notes on cases to compensate at least somewhat for the missing order and decree books? Furthermore, the sheer bulk of proofs and pleadings impedes access and efforts to catalogue. The nearly 40,000 files surviving from Queen Elizabeth's long reign are particularly poorly served by finding aids. On the other hand, these bills and depositions offer both exceptional accounts of extraordinary occurrences and unparalleled insights into the everyday. Scholars have already used Star Chamber records to great effect in examinations of rebellions and riots, community disputes, gender relations, lay piety, puritanism, suicide, libel, witchcraft, censorship, popular perceptions of the past – *et cetera* – but anyone who has dipped into the archive knows that much more might yet be done with greater attention to the court's records and processes, and with more collaboration between archivists and the range of scholars who use the archives in their care.

The chapters collected in this volume emerge from a conference held at Durham University in July 2019 on the court of Star Chamber and its records. The event brought together archivists, geographers, historians and specialists in both law and literature who had an interest either in the court itself or in the subjects that can be so fruitfully explored through its unusually rich records. The interdisciplinary mix of scholars gathered at the Durham conference responded to a call for papers that asked them to consider creatively, constructively and imaginatively the Star Chamber archive. How might we use its records to better understand the court and its role in early modern political culture, or to study the range of behaviours

[3] Anon., *The Star-chamber epitomized, or, A dialogue between Inquisition, a news smeller, and Christopher Cob-web, a keeper of the records for the Star-Chamber, as they met at the office in Grayes-Inne. Wherein they discourse how the clerkes used to exact fees* (London, 1641), pp. 2, 4. One wonders if the author had known of Lord Chancellor Egerton's fining of a plaintiff's counsel who had produced a bill of 125 sheets in length, accompanied by talk of having the man wear it 'as a herald's coat' through the courts of Westminster: J. Hawarde, *Les Reportes del Cases in Camera Stellata, 1593–1609*, ed. W. P. Baildon (London, 1894), p. 263.

and disputes brought into Star Chamber? How might we make these records more 'accessible', in all senses of the word? We wanted to see how such a mix of scholars might shed new light on the court and its archive – and, vice versa, how a shared focus on one court and its records might foster meaningful interdisciplinary conversations. We hope that this volume of chapters based on papers given at or prompted by the conference will draw more people into these exchanges.

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The court of Star Chamber itself is overdue for a full-scale evaluation, for which this collection should help to break the ground and lay foundations. Revisionist historians of the mid to late twentieth century chipped away at older Whiggish accounts of the court, building upon important early work by Cora Louise Scofield and Elfreda Skelton.[4] Geoffrey Elton influentially countered portrayals of the court's tyranny by asserting that plaintiffs appreciated its flexibility and relative speed.[5] Thomas Garden Barnes highlighted its role in modernizing the law and dealing creatively with the problems of a new socio-economic age.[6] In addition to his valuable survey of the court's archives up to the reign of Elizabeth, John Guy linked Star Chamber's development to the reformist agenda of Henry VIII's first chief minister, Lord Chancellor Thomas Wolsey.[7] More recently, some scholars have depicted the court as a venue for the popular legalism central

[4] C. L. Scofield, *A Study of the Court of Star Chamber* (Chicago, 1900); E. Skelton, 'The court of Star Chamber in the reign of queen Elizabeth' (unpublished University of London MA thesis, 1930).

[5] G. R. Elton, *Star Chamber Stories* (London, 1958).

[6] T. G. Barnes's work on the court includes: 'Star Chamber mythology', *American Journal of Legal History*, v (1961), 1–11; 'Due process and slow process in the late Elizabethan-early Stuart Star Chamber', parts I and II, *American Journal of Legal History,* vi (1962), 221–49, 315–46; 'The archives and archival problems of the Elizabethan and early Stuart Star Chamber', in *Prisca Munimenta: Studies in Archival and Administrative History*, ed. F. Ranger (London, 1973), pp. 130–49; 'Star Chamber and the sophistication of the criminal law', *Criminal Law Review* (1977), 316–26; 'Star Chamber litigants and their counsel, 1596–1641', in *Legal Records and the Historian*, ed. J. H. Baker (London, 1978), pp. 7–28; 'A Cheshire seductress, precedent and a "sore blow" to Star Chamber', in *On the Laws and Customs of England*, ed. M. S. Arnold et al. (Chapel Hill, 1981), pp. 359–82. See, too, his *List and Index to the Proceedings in Star Chamber for the Reign of James I (1603–1625) in the Public Record Office, London, Class STAC 8* (3 vols., London, 1975).

[7] J. A. Guy, 'Wolsey's Star Chamber: a study in archival reconstruction', *Journal of the Society of Archivists,* v (1975), 169–80; *The Cardinal's Court: The Impact of Thomas Wolsey in Star Chamber* (Hassocks, 1977); *The Court of Star Chamber and its Records to the Reign of Elizabeth I* (London, 1985).

to state formation and the 'negotiation of authority'.[8] However well-used or modernizing the court was, though, other scholars have continued to insist upon its repressive functions, pointing to its taming of obstreperous lawyers, for example.[9] Despite these disagreements and despite its profound significance in early modern English history, as Louis Knafla has noted, Star Chamber has not yet been the focus of a large-scale effort at reconstruction and analysis.[10] Barnes did extraordinary work on opening its Jacobean records to continued use, but since his death in 2010, the promise of his early examinations of the court's own history has gone unfulfilled. Moreover, post-revisionist reanalyses of early Stuart political culture suggest that the view of the court developed by Elton and Barnes now warrants refocusing. The chapters gathered in this volume go some way towards reviving and revisiting the history of the court itself.

One piece of ground-clearing to be done at the outset is to set aside the tendency either to vilify or vindicate the court, deeming it 'bad' or 'good' by some subsequent set of standards. The latter position has produced a problematic insistence upon the court's 'popularity', made by historians invested in refuting the caricatured Whiggish denunciations of the court as a despotic body. In his 1958 *Star Chamber Stories*, Elton wrote that the court did not deserve its evil reputation because it 'commanded great popularity', at least under the Tudors. In his 1988 text on *The Stuart Constitution*, J. P. Kenyon carried this assertion forward with the claim that 'it is clear that right up to 1640 the court retained its popularity with litigants'. Others still reiterate this notion.[11] But what do we mean by describing the court as 'popular', and why insist that it was? Such characterizations of the court obstruct the view and rest on weak footings. They have helped push explanations for the court's demise to ever later dates and have made them ever more contingent. They too quickly become positive, partisan defences of the court, shaping our interpretation of the court's place in political culture and our understanding of its uses for litigants. This section revisits the nature and timing of complaints made against Star Chamber, the numbers of cases brought before it and the profile of its litigants.

[8] See, e.g., S. Hindle, *The State and Social Change in Early Modern England, c.1550–1640* (New York, 2000), pp. 66–93.

[9] R. P. Alford, 'The Star Chamber and the regulation of the legal profession, 1570–1640', *American Journal of Legal History*, li (2011), 639–726.

[10] L. A. Knafla, *Kent at Law, 1602: III. Star Chamber* (List and Index Society, Special Series 51, 2012).

[11] Elton, *Star Chamber Stories*, pp. 11–12; J. P. Kenyon, *The Stuart Constitution, 1603–1688* (Cambridge, 1988), p. 117. For more characterizations of the court as 'popular', see, e.g., M. Stuckey, *The High Court of Star Chamber* (Holmes Beach, Fla., 1988), pp. 4, 67 and B. Shapiro, *Law Reform in Early Modern England* (Cambridge, 2020), pp. 46, 97.

It ends with a brief discussion of the intellectual context and consequences of assertions of the court's 'popularity' and suggests that historical assessments of the court and its cases might now best discard them and their allied tendencies to take sides in the disputes of centuries past.

For one, the court's modern advocates tell us that complaints about Star Chamber did not begin until the Stuart era, or even that they only began in Charles's reign,[12] but objections arose earlier. Unsurprisingly, some people criticized the court for judgements in their own cases – and were punished for doing so, at least as early as 1554. The jurors sanctioned in Star Chamber for acquitting Nicholas Throckmorton in his treason trial, who then complained that truer men had never left the court, subsequently faced time in the Tower, for example.[13] In 1594, John Golburne and Thomas Swyfte dispersed a 'slanderous libel or writing against a judgement formerly passed' in the court; for this criticism, Swyfte stood to lose his ears and to spend seven years in the hole at the Fleet prison. Golburne eventually received a pardon of his £500 fine, but only after spending at least four years locked away.[14] It did not do to voice one's concerns about the court too loudly. Some such complaints spoke of more than personal grievance, too. One Carew, tried in 1603 for his opposition to the Elizabethan Prayer Book, cited Magna Carta's famous chapter twenty-nine in his own critique, arguing that he should face legal sanction not in Star Chamber but only 'by judgement of his peers or by the law of the land'.[15] While we do not have his words directly, and his criticism emerged from self-interest, it seems that as

[12] See, e.g., D. L. Vande Zande, 'Coercive power and the demise of the Star Chamber', *American Journal of Legal History,* l (2008–10), 326–49. Vande Zande opens by asserting that 'the perception of infamy engendered by the Star Chamber stems principally from its conduct in the decade immediately prior to the first of the English civil wars' and sets as his problem the explanation of how the court failed so quickly and precipitously (p. 327). He continued to write that 'the Star Chamber maintained an honoured history throughout the Tudor and early Stuart monarchies. In fact, there is little evidence of opposition to the Star Chamber until immediately prior to its abolition' (p. 330). Stuckey maintained that 'only the political trials of Charles's reign brought it into the sights of the king's enemies' (*Star Chamber*, p. 4). J. R. Tanner, *Constitutional Documents of the Reign of James I* (Cambridge, 1952), p. 140, says that the decline in the popularity of the court had 'scarcely begun' in the reign of James I. The problem is to account for how a court 'hitherto useful and even popular perished in a storm of execration in 1641'.

[13] *Star Chamber Reports: Harley MS 2143*, ed. K. J. Kesselring (London, 2018), no. 11. See also nos. 50, 51, 78, 207, 404, 839, 841, 979 and 989.

[14] *Harley MS 2143*, no. 917 and The National Archives of the UK, C 66/1508, mm. 5–6.

[15] W. Hudson, 'A Treatise on the court of Star Chamber', in *Collectanea Juridica*, ed. F. Hargrave (2 vols., London, 1792), ii. 1–240, at p. 4. For this case, see also Hawarde, *Les Reportes del Cases in Camera Stellata,* p. 164.

early as 1603, a defendant argued in Star Chamber itself that its procedures violated the liberties of the subject.

Even those writers who extolled the court offered evidence that others had found reasons to criticize the body. William Lambarde praised the court in his *Archeion*, completed in 1591, but also included in his text a 'confutation of some objections against the Star Chamber'. He noted that some people argued that the court should deal only with complaints as specified in relevant parliamentary acts that had authorized it to hear specific concerns. He noted, too, that some people objected even then to the purely oral proceedings *ore tenus*, insisting that a written bill of information ought to be necessary to start a trial. Lambarde thought the 'assaults of all those objections which some are wont to make against certain proceedings of this court' unjustified, but clearly, he did not speak for all.[16]

Another of the court's defenders, William Hudson, produced a treatise in 1621 that both responded to criticisms and expressed a few qualms of his own. Hudson opened by addressing two contentions. The first held 'that this court is but an usurpation of monarchy upon the common law of England, and in prejudice of the liberties granted to the subject by the Great Charter, especially where persons are produced, without legal prosecution to punishment, at the bar without oath or testimony'. The second alleged 'that it is no settled ordinary court of judicature, but only an assembly for consultation at the king's command'. Hudson sought to refute both accusations – 'although a high court, yet it is an ordinary court of justice in this kingdom', he insisted – but seemed more sympathetic to other concerns. On complaints about the inability to examine witnesses' credibility, for example, he acknowledged it to be 'a great imputation to our English courts, that witnesses are privately produced, and how base or simple soever they be … yet they make as good a sound, being read out of paper, as the best'. He countered claims that it was not a proper court of record, while admitting that negligence recently crept in had impaired the care and custody of its documentation. He also recognized some validity in complaints about oral proceedings *ore tenus*, which was 'much blamed, as seeming to oppose the Great Charter'. He defended the practice, but allowed that 'therein sometimes there is a dangerous excess' and an 'exuberancy of prerogative'.[17]

[16] W. Lambarde, *Archeion*, ed. C. H. McIllwain and P. L. Ward (Cambridge, Mass., 1957), pp. 93–6. The complaints appear in the manuscript version from 1591, too: British Library, Add. MS. 48055, fos. 36d–38d, 50d, 77d, 83d–87.

[17] Hudson, 'Treatise', pp. 3–4, 36, 127, 200, 224. Hudson produced his treatise primarily for the instruction of the new lord keeper, John Williams, bishop of Lincoln, who assumed office in July 1621. Multiple copies of the manuscript survive; it was first printed in 1792,

Signs of reservations about the court also appeared in some of the manuscript reports on cases it heard. In notes on cases he observed between 1593 and 1609, John Hawarde intimated a degree of concern about Star Chamber's proceeding on proclamations rather than statutes in his discussion of the 1597 suit that Attorney General Edward Coke brought against the maltsters of Kent. Hawarde noted Francis Bacon's speech, which suggested that the queen's councillors intended to proceed against engrossers and forestallers 'by the Queen's prerogative only, and by proclamation, councils, orders, and letters'. As such, he observed, their 'proclamations and orders shall be a firm and forcible law, and of the like force as the common law or an Act of Parliament'. The privy councillors intended 'to attribute to their councils and orders the vigour, force and power of a firm law, and of high[er] virtue and force, jurisdiction, and preeminence than any positive law, whether it be the common law or statute law'. Hawarde thought that the councillors sought to be the most 'commanding lords in all the world', in part because they also proceeded against builders of cottages on proclamation and not on statute, and because the councillors prosecuted some justices of the peace for negligence in failing to execute conciliar orders.[18] When did Hawarde record this passage? Contemporaneously, in 1597, or at some later point before his death in 1631? In his study of the proclamations of the Tudor queens, Frederic Youngs asserted that Hawarde was simply 'wrong' in his evaluation of the 1597 proceedings, and accused him of reading back concerns of the Stuart era.[19] It is possible, of course, though it seems improbable that Hawarde penned *post hoc* concerns any later than 1611, the year in which he succeeded to his father's estates and which W. P. Baildon, the editor of Hawarde's manuscript, thought to be the latest possible date for him to have edited his papers.[20] At the very least, Hawarde's concerns predated the disputes of Charles's reign.

Looking even further back, signs of opposition exist in the defeat of a bill to extend Star Chamber's powers in 1584.[21] Evidence of concern appeared,

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with some errors in transcription. On Hudson and his treatise, see T. G. Barnes, 'Mr. Hudson's Star Chamber', in *Tudor Rule and Revolution*, ed. D. J. Guth and J. W. McKenna (Cambridge, 1982), pp. 285–308, and his introduction to a Lawbook Exchange reprint of Hargrave's edition of Hudson's work, under the title *A Treatise of the Court of Star Chamber* (Clark, N. J., 2008).

[18] Hawarde, *Camera Stellata*, p. 79.

[19] F. A. Youngs, *The Proclamations of the Tudor Queens* (Cambridge 1976), p. 57.

[20] Hawarde, *Camera Stellata*, p. viii. Hawarde notes that he compiled the manuscript from notes taken in court, p. 357.

[21] Brit. Libr., Harley MS. 6847, fo. 133ff, reprinted in Skelton, 'Star Chamber', pp. cxxxv–cxxxviii, and *Proceedings in the Parliaments of Elizabeth I*, ed. T. E. Hartley (3 vols., Leicester, 1981–95), ii. 107.

too, in the 1551 order that English bill courts such as Star Chamber no longer hear litigation that could be heard in the common-law courts. The order seems to have prompted Star Chamber's re-direction from civil to criminal disputes, and was reportedly provoked by 'the disorders that have been used in this court … to the derogation of the common law'.[22] At the very least, this 1551 order suggests the error in claims such as Kenyon's, that the court did not arouse the 'jealousy of the common law courts' before 1640.[23] Other Elizabethan disputes over jurisdiction lay behind the efforts of people such as William Mill, the court's long-time clerk, to prove the court's antiquity – including one dispute that prompted a resolution by all the common-law judges in 1565, in Onslow's Case, that Star Chamber could not hear cases on perjury committed in the church courts and ought to be limited to the offences laid out in the supposed originating statute of 1487.[24] Evidently, substantive concerns about Star Chamber were expressed well before 1640, well before Charles's reign, and even before the Stuart era began. Modern defenders of the court have argued that these complaints were unfair; maybe so, but the complaints and concerns existed.

Modern proponents of the court's popularity do not just rely on dismissing evidence of complaints; they see the strongest support for their claim in the simple fact that people continued to use Star Chamber, and turned to it in increasing numbers over Elizabeth's reign. True, but we should put these numbers in context to understand the significance of getting caught up in proceedings in this court as opposed to others. John Guy's counts of bills filed in Star Chamber indicate averages of about 150 suits per annum between Wolsey's reforms and the end of Henry VIII's reign; 145 per annum under Edward VI; and 147 per annum under Mary I.[25] Under Queen Elizabeth, numbers did go up: Elfreda Skelton counted seventy-two bills in Elizabeth's first regnal year and some 732 in the final year of her reign. As a rough indicator of cases filed in between, the calendars of surviving files include an average of 381 dated bills per annum in Elizabeth's reign, with the surge beyond earlier averages beginning in the 1570s and numbers

[22] Guy, *Star Chamber … to the Reign of Elizabeth*, p. 57.

[23] Kenyon, *Stuart Constitution*, p. 117.

[24] Skelton, 'Star Chamber', p. 45; Brit. Libr., Hargrave MS. 216, fo. 100, re: the 1565 dispute with King's Bench over perjury; for Onslow's Case (1565), see 2 Dyer 242b (73 *English Reports* 537) and J. H. Baker, *Reports from the Lost Notebooks of Sir James Dyer* (2 vols., London, 1994; Selden Society, v. 109–110), i. xci. See, too, Brit. Libr., Add. MS. 4521, fo. 64, 'a discourse concerning the antiquity of the court occasioned by certain articles made by the attorneys against the court and clarks of the same, anno. 1590' and Lansdowne MS. 639, fo. 147b, another Elizabethan reference to debate about the age of the court.

[25] Guy, *Star Chamber … to the Reign of Elizabeth*, p. 9.

continuing to mount in the later decades.[26] Thereafter, we see a bit of a reduction: according to Thomas Barnes and Henry Phillips, under King James, the court received an average of 358 bills of complaint per annum; some 435 per annum in the early 1630s; and then a drop to about 250 or so per annum towards the end.[27]

How does the volume of bills filed compare to the level of business in other courts? Even at its peak, it was the smallest drop in the sea. Chris Brooks suggested that in 1560, the courts of King's Bench and Common Pleas had some 5278 cases in advanced stages. In 1606, the number reached 23,147. By 1640, it was 28,734.[28] Robert Palmer has more recently queried these estimates based on his own prodigious work with the court rolls, arguing that Brooks overestimated the cases in King's Bench and significantly underestimated the number of cases begun in Common Pleas. For the common-law side of the Exchequer, moreover, Palmer demonstrates that the numbers were 'well in excess of 2000' cases per year in the early 1600s. Whereas Brooks had calculated that some 54,075 cases were begun in all the central courts in 1606, Palmer suggests a rough estimate of 'something in excess of 112,000 cases'.[29] For present purposes, we might simply observe that both estimates vastly outnumber the few hundred bills brought to Star Chamber each year.

Furthermore, the averages calculated by Guy, Skelton and others refer to bills filed, not cases heard. The court typically sat only two days a week, in term time; only so much could ever be done within such constraints. The

[26] As a rough indicator of cases filed in between, a count of catalogued entries for the *unconsolidated* case files from 1560–9 shows an average of 279 entries per year, ranging from a low of 166 to a high of 368. If we use the factor suggested by L. Knafla (0.47 to 1), that gives an average of 131 cases. Given the problems with divided case files, bills with multiple copies and suspected gaps in the catalogue, we should not give this number much weight, but it is within the range of annual averages from earlier reigns. The average in the text comes from the 'Hidden Archives STAC 5 and 7' Excel file produced by Amanda Bevan et al. at The National Archives, incorporating work done by Helen Good that is now available via 'The Elizabethan Star Chamber project' website <https://waalt.uh.edu/index.php/Elizabethan_Star_Chamber_Project> [accessed 7 Nov. 2020].

[27] Skelton, 'Star Chamber', p. 165; Guy, *Star Chamber … to the Reign of Elizabeth*, p. 9; Barnes, 'Litigants', p. 17; see charts in Knafla, *Star Chamber*, p. xxii and Barnes, 'Due Process', p. 330.

[28] C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: the 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 2004), pp. 49–51, 56–7, 78.

[29] Brooks had estimated some 100–150 cases per annum on the common-law side of Exchequer, but Palmer points to a few series and categories he overlooked, including the *qui tam* litigation to enforce statutes. See Palmer, 'The level of litigation in 1607', part of his study of 'Litigiousness in early modern England and Wales' <http://aalt.law.uh.edu/Litigiousness/Litigation.html> [accessed 7 Nov. 2020].

working papers of privy councillor Sir Julius Caesar for 1608/9 show an average of four to five cases on the docket each day. At that rate, assuming the usual thirty-four sitting days a year, the court could only have heard, at most, some 150 cases, and probably fewer as some cases extended over several days.[30] Based on the writ and process books for the 1630s, Henry Philips suggested that 'the number of cases heard during the course of a single year averaged rather less than fifty'.[31] Plaintiffs dropped many suits. They compounded some out of court on their own. Committees of the court also dismissed many as being unsuited to Star Chamber.[32] Such committees also arbitrated or compounded others outside a formal hearing in the full court, a practice that Hudson worried could lead to abuses and injustices, with one person 'made judge of the whole cause, which is most prejudicial'. At the very least, he wrote, it constituted 'an insufferable indignity' that threatened the court's reputation.[33] In short, plaintiffs initiated far fewer cases in Star Chamber than in other courts and many of their complaints did not make it to a full hearing.

When looking at the bills filed, moreover, it becomes clear that Star Chamber had a more restricted litigant profile than some other courts. By 'popularity' we cannot mean 'pertaining to the common people'.[34] Barnes deemed 54% of the plaintiffs who filed bills in James's reign to have been of gentle status or higher.[35] A small, in-progress sample of Elizabethan bills shows a similar percentage, with 60% of the plaintiffs identifying as gentlemen, knights or noblemen.[36] This stands in contrast to the proportion of plaintiffs in King's Bench and Common Pleas of similar high status: Brooks noted 25% and 28% respectively in 1606.[37] True, categorizing petitioners to the court, and their complaints, is complicated by the jointly

[30] Alnwick MS. (on microfilm at the Brit. Libr.), vol. 9, passim. The 34 sitting days comes from Barnes, 'Due Process', p. 335.

[31] H. E. I. Phillips, 'The last years of the court of Star Chamber, 1630–41', *Transactions of the Royal Historical Society*, 4th ser., xxi (1930), 103–31, at p. 111.

[32] See, e.g., Brit. Libr., Add. MS. 37045. And the unsuitability of a case for the court was, of course, a common rejoinder from defendants.

[33] Hudson, 'Treatise', p. 20 (see also pp. 28–9).

[34] One might remember, too, that 'popularity' had negative connotations for some contemporaries: *Politics, Religion, and Popularity in Early Stuart Britain,* ed. T. Cogswell, R. Cust and P. Lake; C. Cuttica, 'Popularity in early modern England (ca. 1580–1642): looking again at *thing* and *concept*', *Journal of British Studies,* lviii (2019), 1–27.

[35] Barnes, 'Litigants', p. 10. See also A. Fox, *Oral and Literate Culture in England, 1500–1700* (Oxford, 2000), p. 308. Guy also observed that bills under Wolsey came predominantly from the 'upper echelons' of society; *Court*, p. 62.

[36] Based on a tally of 82 bills: nobility, 3; knights and esquires, 16; gentlemen, 30; also, clergy, 4; yeomen, 9; husbandmen, 3; merchants, 7; tradesmen, 8; plus two others.

[37] Brooks, *Pettyfoggers*, p. 282.

filed bills with multiple plaintiffs and issues.[38] Some bills named dozens of commoners as plaintiffs, or as defendants, in suits over disputed common rights. Commoners might more readily proceed against their 'betters' in Star Chamber than elsewhere, but the court's profile of plaintiffs tilted heavily towards the elite.

One might also note Tim Stretton's observation that of all the central courts, Star Chamber had 'the smallest female presence', with women named as plaintiffs or defendants in just over 10% of actions between individuals in an Elizabethan sample and in some 8.5% cent of Jacobean cases.[39] New datafiles produced from calendars of the Elizabethan records let us see that just 4% of the files with bills name a woman as either a sole or joint complainant – a proportion that had declined from the 14% of women-led complaints Deborah Youngs found for cases begun under Henry VIII.[40] In contrast, roughly 20% of plaintiffs in Chancery and Requests were women.[41] None of the central courts earned a high percentage of their business from women plaintiffs, but by no standard was Star Chamber 'popular' among women, who turned to other courts in greater numbers and proportions.

Another point should be made about plaintiffs and the counts of bills filed: the bills do not include all cases launched by the attorneys general.[42] Counts of bills filed in Star Chamber are dwarfed by litigation in other central courts and they in turn significantly outnumber the cases actually heard in open court, but they also miss some cases that *did* proceed to

[38] For a good discussion of the difficulties in categorizing plaintiffs and complaints in the English bill courts that offered discretionary conciliar justice, see L. Flannigan, 'Litigants in the English "Court of Poor Men's Causes", or court of Requests, 1515–25', *Law and History Review*, xxxviii (2020), 303–37.

[39] T. Stretton, *Women Waging Law in Elizabethan England* (Cambridge, 1998), p. 40, noting that women were named as plaintiffs or defendants in 36 of a sample of 346 Elizabethan suits, and in 657 of 7715 Jacobean suits, based on the manuscript calendar and Barnes indexes respectively.

[40] 'Hidden Archives' file for STAC 5 and 7 (694/17710); the percentage of all (unconsolidated) calendar entries with a female plaintiff was 3.7 in the 1560s and 4.3 in the 1590s, so there does not seem to have been any particular decline over the latter part of the period, suggesting that the decline set in earlier, perhaps around the time the court switched from its civil to criminal focus, *c.*1551–60; D. Youngs, '"A besy woman … and full of lawe': female litigants in early Tudor Star Chamber', *Journal of British Studies*, lviii (2019), 735–50, at p. 740.

[41] Stretton, *Women Waging Law*, p. 40. The STAC numbers may be comparable to KB and CP, though possibly lower: Brooks found that of cases in advanced stages in these courts widows were plaintiffs in 6% in 1560, 2–3% in 1606, but Stretton's samples of cases initiated in 1560, drawn from KB 27's warrants of attorneys, show that women comprised 13% of all litigants, both plaintiffs and defendants.

[42] On this point, see Baker, *Dyer*, i. lxxxviii–lxxxix.

trial: those launched *ore tenus*, or orally without written proceedings. Assertions of the court's 'popularity' also sometimes accompany claims that the attorneys general did not use the court as an instrument of royal prerogative and state policy quite so much as the court's later vilification would suggest.[43] Perhaps so. But it is easy to underestimate how much of a role the prosecutions by attorneys general played in the court's time and in the public's perceptions of the court if we simply count the bills they filed and then compare them to the total number of bills. Barnes observed that of his set of some 8228 actions in the court between 1603 and 1624, only 600 of the cases began upon an attorney general's information; furthermore, he suggested that only fifty-two of them were really *pro rege* proceedings 'in furtherance of the greater interests of Crown and Commonwealth'.[44] But any estimate of the involvement of attorneys general based on the bills surviving in the Star Chamber archive will miss the causes launched *ore tenus* and thus underestimate that officer's use of the court. When we look at one sizeable collection of trial reports, most cases between private parties have matching bills of complaint in the surviving Star Chamber files, but some 67% (49/73) of the cases launched by attorneys general do not.[45] Cases launched by an attorney general almost invariably made it to a hearing, too. Yes, private plaintiffs launched the majority of cases filed and heard, but someone attending sittings of the court would have seen cases begun by the crown's attorney taking up a greater proportion of the court's time than we might think by looking at the full set of bills filed.[46]

In short, some people offered substantive complaints about Star Chamber much earlier than modern advocates of the court suggest; its litigant profile tended to be rather more elite, and more male, than those of other courts; the numbers of cases brought before the court and the numbers actually heard were dwarfed by the numbers in other central courts; and cases launched by the attorneys general played a bigger part of the court's public performance than has previously been suggested by some scholars. Recognizing these facts might give us a better understanding of the individual cases that we study. Yes, people continued to use the court until its end. And yes, Star Chamber performed functions that some people

[43] See, e.g., Stuckey, *Star Chamber*, p. 48.

[44] Barnes, 'Litigants', p. 9.

[45] Working from reports transcribed in *Harley MS 2143*: of 73 cases that were clearly launched by the attorneys general, only 24 have yet been found in the STAC files. The others may have had bills that were subsequently lost, but most were presumably launched *ore tenus*, without a written bill.

[46] As an example, of the 89 cases listed in Sir Julius Caesar's working notes in 1608/9, 8 were AG cases. Alnwick MS., vol. 9.

at the time considered valuable. Indeed, the court's remit, like that of other English bill courts, was actively created in partnership with plaintiffs who brought a wide range of amorphously defined grievances to the lords of the council in their petitions.[47] But why insist upon the court's 'popularity'?

The insistence may well have roots in something akin to the well-known propensity of biographers to fall in love with their subjects. But it gained traction within the context of revisionist assaults on Whig history and efforts to refocus from long-term to short-term and contingent causes for wholly unrevolutionary civil wars. A number of these revisionists cited Elfreda Skelton's 1930 MA thesis for evidence of the court's popularity, but she made the claim almost secondarily, with reservations, and in passing – noting near the end of her work that the court 'seems to have been popular with the people', based on the increasing volume of bills and the praise offered by one plaintiff who hoped to secure a favourable judgement.[48] Assertions of popularity became orthodoxy only when historians started to turn away from any talk of long-term causes for the civil wars. They became a proxy or prop for positive evaluations of the court's place in a largely stable polity. Star Chamber is overdue for a post-revisionist reanalysis that looks at its uses and significance in its own time and place, and that does not simply return to older depictions of the court as unpopular.

We might also remember that the negative characterizations of the court that some early and mid twentieth-century historians argued against were never attempts at disinterested historical analysis, but rather partisan eighteenth-century accounts that sought to make polemical, political points in the context of debates over high-profile libel cases, like that of John Wilkes.[49] We can presumably do better than simply inverting the heavy-handed moralizing of these politically invested works when affecting to write as historians. Barnes had noted his own unease with the 'chief argument in justification of the court' made by some works, observing that 'popularity

[47] See, e.g., the discussion of bills alleging duelling in K. J. Kesselring, *Making Murder Public: Homicide in Early Modern England, 1480–1680* (Oxford, 2019), pp. 105–13.

[48] Skelton, 'Star Chamber', p. 204. On p. 207, Skelton notes that 'no murmur of discontent was heard in Elizabeth's reign', but elsewhere in the thesis, Skelton does note some such complaints (e.g., p. 45).

[49] See, e.g., Anon., *The Court of Star Chamber or Seat of Oppression* (London, 1768), quoted as a stand-in for the views that D. L. Vande Zande argues against, 'Coercive Power', p. 326, also cited in Barnes, 'Star Chamber mythology', 2 n. 4. For evidence of this Whiggish view Barnes also cites Anon., *An Inquiry into the History and Abolition of the Court of Star Chamber upon the Principles of Law and the Constitution, particularly as it relates to Prosecutions for Libels* (n.d., mid 18th century) and F. K. Holt, *The Law of Libel* (London, 1816).

is not a test recognized by the canons of historical jurisprudence'.[50] He suggested that we might best evaluate Star Chamber by asking whether it did 'substantial justice by the lights of justice in its day', even while apologizing 'if at times [he] sounded like counsel retained by Star Chamber against the Whig historians'. Perhaps we might avoid the temptation to try to justify or condemn the court at all. Rather than reprising the categories of debate in 1641 (or the 1760s) in the guise of scholarly analysis, we might instead focus on explaining the court's functions and meanings for those who used it or were drawn into its operations. As Ethan Shagan has observed in another context, we might best step aside from the normative moral judgements offered by the people under study: 'allowing historical categories of debate to masquerade as scholarly categories of analysis … normalizes and naturalizes one position' over others.[51]

Allowing that the court was contentious decades before its demise (and for reasons that may or may not have had anything to do with that demise), that it heard far fewer cases than other courts, and that the attorneys general did make distinctive use of the venue can allow scholars who work with its records a richer appreciation of the stakes at play in a person's decision to launch a case in this court as opposed to others. We can better situate the individual cases we want to study when we recognize that claims for Star Chamber being an 'ordinary' rather than extraordinary court, disputes about its origins and arguments over the status of its records were part of broader disagreements. More broadly, if we set aside assertions of the court's popularity and temptations to become its defenders (or attackers), we will better understand its functions and meanings in its own day. We might also appreciate more fully the conditions in which the records we rely upon were produced and used.

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The chapters that follow offer a variety of insights into Star Chamber and the disputes that came before it. The first and final chapters offer detailed guides to the surviving records of and about the court. Daniel Gosling surveys Star Chamber collections in The National Archives of the UK and elsewhere, updating previous overviews and describing ongoing efforts to improve cataloguing and access. Ian Williams not only revisits debates about why Star Chamber came under attack in the opening salvos of the Long

[50] Barnes, 'Star Chamber mythology', p. 11.

[51] E. Shagan, *The Rule of Moderation: Violence, Religion, and the Politics of Restraint in Early Modern England* (Cambridge, 2011), p. 19.

Parliament, but also provides valuable lists of extant manuscript reports and notes on cases in the court, resources that will repay further attention. As Gosling observes, these notes can fill some of the gaps left by the loss of the order and decree books; as Williams explains, some such reports circulated widely, extending the audience for Star Chamber hearings well beyond the crowds that jostled for space in the court itself.

Several chapters touch on the political uses of the court, broadly understood. Hillary Taylor examines the politics of deposing to demonstrate the significant constraints on poor people's agency in the court, for example. Louis Knafla explores a case that saw Sir Edward Coke, as attorney general, bring the central court's weight to bear on a local eruption of violent disorder to help godly ministers effect the moral reformation of their community. Sadie Jarrett's chapter reminds us of Star Chamber's role in integrating Wales into the polity governed from Westminster. Simon Healy dissects one attempt in the reign of King James to use Star Chamber as a revenue collection agency for a cash-strapped crown. Williams demonstrates the political tensions that arose from the increasing role of bishops among the court's judges in the fraught Caroline years.

Some chapters speak to Star Chamber's distinctive remit and contributions to legal developments beyond its walls. The chapters by Healy and Emily Kadens address remarkable allegations of fraud, one of the crimes of covin and deceit that became a special focus for the court, while offering insight into the particular endeavours in which the frauds were said to have occurred: the international bullion trade and marine insurance, respectively. Claire Egan's contribution examines libel cases, another area in which the court developed a particular interest and expertise, and explores the dynamics of publication, performance and 'rehearsal' of libels as they moved from local audiences into Star Chamber.

Chapters by Jarrett, Knafla, Kesselring and Deborah Youngs touch on women as plaintiffs or defendants in the court. Star Chamber was not just yet another venue for disputes involving women; it was one in which norms about marriage formation and (married) women's legal responsibility were re-negotiated and asserted. In addressing how women used this court and were treated by its judges, these chapters contribute to ongoing discussions of women's access to justice in early modern Britain. They also speak to issues of sexual violence, with chapters addressing cases of marital abduction or sexual assault that came before the court and showing again the wealth of insights into early modern life that can be gleaned from these records.

The chapters provide a variety of answers to two questions that recurred at the conference from which the volume arose. One asked how far we might 'believe' the stories presented in the court documents, and how we

might use them even while recognizing them as narratives constructed for a particular purpose. Taylor's contribution highlights an additional reason for caution in attending to the effects of relations of deference or dependency between deponents and the people for whom they testified. Here the authors show themselves attentive to issues of the sort raised by scholars such as Natalie Zemon Davis, Frances Dolan and others on the uses of petitions and depositions as evidence.[52] Youngs, Egan and others show how much can be gained by attentive reading of the language plaintiffs or their counsel used in crafting bills. They all demonstrate the usefulness of reading those narratives in the context of other, ancillary documents and with a well-informed understanding of the court for which they were produced.

Another recurring question was 'why Star Chamber'? Why take a case to *this* court, as opposed to another? The chapters show a variety of motives at play, whether it was a Welsh gentlewoman hoping for treatment more to her liking from a Westminster court than a local one, as in Jarrett's chapter; a Dorset yeoman looking for the particular defence of his good name that Star Chamber could provide, as in Egan's; or the merchants using a Star Chamber bill as a collateral suit to secure domestic jurisdiction for an offence at sea, as discussed by Kadens. Some plaintiffs turned to the court because the wrongs they wanted righted did not clearly fit common-law categories; others preferred the types of remedies potentially to be had there to those available elsewhere. Some simply sought to vex their foes or to shore up suits pending in other courts. Some wanted the publicity and heft of a prosecution in this extraordinary court to vindicate themselves. Whatever their varied motivations, their suits helped make the court what it was. The chapters that follow can thus contribute to our understanding of jurisdictional conflict, legal pluralism and the contested co-creation of 'justice' within early modern England and Wales. Collectively, too, they help us 'look *at* our archives, not just through them', attentive to the broader social relations that shaped the production of the documents we read as both sources and texts.[53]

[52] See, e.g., N. Z. Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford, 1987) and F. E. Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia, 2013). For a particularly helpful examination of the processes behind the production of depositions in Star Chamber and similar courts, see H. Falvey, 'Relating early modern depositions', in *Remembering Protest in Britain Since 1500,* ed. C. J. Griffin and B. McDonagh (Cham, 2018), pp. 89–100 and H. Taylor, 'The price of the poor's words: social relations and the economics of deposing for one's "betters" in early modern England', *Economic History Review*, cxxii (2019), 828–47.

[53] For an introduction to the literature on the 'archival turn', see K. Burns, 'Notaries, truth, and consequences', *American Historical Review,* cx (2005), 350–79, quote at p. 355, and papers in *The Social History of the Archives: Record-Keeping in Early Modern Europe*, *Past and*

Sadly, because of the pressures of our current epidemiological context, we lost a few of our anticipated chapters as the contributors found themselves unable to complete archival work or to spare the time from all the other demands that arose. Riot remains almost untouched here now, unfortunately, despite being one of the subjects for which the court and its records are perhaps best known. We also lost a chapter that promised to explore connections between cases in the Elizabethan Star Chamber and the drama of the era. We can end, though, with a brief allusion to the opening of Shakespeare's *Merry Wives of Windsor*, where one character threatens to turn a petty local dispute into 'a Star-chamber matter'. With their shared attentiveness to the nature and limits of an archive, the chapters that are gathered here allow better insight into a wide range of matters brought before the court and into the ways in which Star Chamber itself mattered in early modern history. Judging even from the conference alone, many more Star Chamber matters are yet to come to light.

Present, ccxxx (2016), supplement 11.