

Star Chamber Reports

BL HARLEY MS 2143

Edited by

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Krista Kesselring
May 2018

Introduction

The Court of Star Chamber was involved in many aspects of early modern political, religious, and cultural development until its abolition in the months that preceded England's civil wars and revolution. A prerogative court that drew its authority directly from the monarch and its judges from the Privy Council as well as the high court bench, Star Chamber operated outside the norms and procedures of the common law courts. Hearing what we might think of as both civil and criminal cases, at the instance of both private plaintiffs and royal officials, Star Chamber offered some people relatively fast, flexible solutions to problems that other courts could not address. Other people saw it as evidence of the dangers of royal power unchecked by law. Members of parliament concerned about the court's 'arbitrary' encroachments on the law, as they understood it, abolished the body in 1641. Before it disappeared, however, the court had heard many thousands of cases on subjects that ranged from perjury, to riot, to the regulation of print, and beyond.¹

Researchers interested in a wide variety of subjects make regular use of Star Chamber records now held in the National Archives in Kew.² Unlike the common law courts, Star Chamber operated in English, by written bill, and heard cases that often produced voluminous depositions. Star Chamber pleadings and proofs survive in increasing bulk over the sixteenth and early seventeenth centuries: sizeable numbers of bills, answers, replications, rejoinders, interrogatories, and depositions are extant from the reigns of Queen Elizabeth and King James, in particular, as the court tended to become busier over time. While much has been lost, much remains.³ Scholars have used the surviving Star Chamber records of pleadings and proofs to great effect in examinations of such topics as early modern rebellions, community disputes, gender relations, lay piety, suicide, libel, witchcraft, censorship, popular perceptions of the past, and more. The depositions

¹ For the history of the court, see Cora Louise Scofield, *A Study of the Court of Star Chamber* (Chicago, 1990); Elfreda Skelton, 'The Court of Star Chamber in the Reign of Queen Elizabeth' (University of London MA thesis, 1930); G. R. Elton, *Star Chamber Stories* (London, 1958); John Guy, *The Cardinal's Court: The Impact of Thomas Wolsey in Star Chamber* (Hassocks, 1977); and H. E. I. Phillips, 'The Last Years of the Court of Star Chamber, 1630–41', *Transactions of the Royal Historical Society*, 4th series, 21 (1930): 103–31. See, too, the series of essays and articles by Thomas Garden Barnes, including 'Star Chamber Mythology', *American Journal of Legal History* 5 (1961): 1–11; 'Due Process and Slow Process in the Late Elizabethan–Early Stuart Star Chamber', *American Journal of Legal History* 6 (1962): 315–46; 'Star Chamber Litigants and their Counsel, 1596–1641', in John Hamilton Baker (ed), *Legal Records and the Historian* (London, 1978): 7–28; 'A Cheshire Seductress, Precedent and a "Sore Blow" to Star Chamber', in M. S. Arnold *et al.* (eds), *On the Laws and Customs of England* (Chapel Hill, 1981): 359–82. Of particular value, for both the court and especially for its records, are Barnes, 'The Archives and Archival Problems of the Elizabethan and Early Stuart Star Chamber', *Journal of the Society of Archivists* 2 (1963): 345–60 and John Guy, *The Court of Star Chamber and its Records to the Reign of Elizabeth I* (London, 1985). The introductions to the volumes mentioned in footnotes 2 and 9, below, are also very usefully consulted.

² Transcriptions or summaries of some of the court's proceedings have also appeared in print. See: I. S. Leadam (ed.) *Select Cases before the King's Council in the Star Chamber commonly called the Court of Star Chamber, A.D. 1477–1509 and 1509–1544* (2 vols, Selden Society, 16, 25, 1902–10) and Louis A. Knafla, *Kent at Law, 1602: III. Star Chamber* (List and Index Society, Special Series 51, 2013), which also has a valuable introduction. Local historians and county record societies have also worked to make some of the proceedings more readily accessible; see, for example, Ifan Edwards, *A Catalogue of Star Chamber Proceedings Relating to Wales* (Cardiff, 1929); W. Brown *et al.* (eds), *Yorkshire Star Chamber Proceedings* (4 vols, Yorkshire Archaeological Society Record Series, 41, 45, 70, 1909–27); and R. W. Hoyle (ed), *A Handlist of Star Chamber Pleadings before 1558 for Northern England*, compiled by R. W. Hoyle and H. R. T. Summerson (List and Index Society, 299, 2003).

³ John Guy estimates that as many as a half of the early Star Chamber's pleadings and proofs are now gone, and notes that the depositions had less chance of surviving neglect than did the bills, answers, and other pleadings, as the former tended to be written on paper, whereas the latter were put to parchment: *Records*, 23–4.

have proven especially appealing, in giving a degree of access (however mediated) to the words and testimonies of people not often heard in pre-modern archives.

What we lack, however, are records of judgements. What did the judges decide? Which narrative of events prevailed? Who was punished and how? Separately from its records of proceedings, the court maintained a set of volumes to record the interim orders and final decrees in cases. At the time of the court's dissolution in 1641, it seems that the older stacks of pleadings and proofs were kept in presses within the Star Chamber itself, but that the working files of the court – that is, the files of proceedings from King Charles's reign and all the order and decree books – were held in the court clerks' office in Gray's Inn; the former survived the court's abolition, but the latter went missing some time thereafter.⁴ A parliamentary inquiry into public records in the early 1700s maintained that they had last been seen in a house in St Bartholomew's Close, but offered nothing further. One might well hold out hope that they will yet reappear, as 27 volumes of registers of writs, covering the years from 1580 to 1633, did come to light in 1935, when a descendant of Thomas Saunders, Clerk of the Writs in Star Chamber, gave them to the National Archives.⁵ But unless such a discovery is made, we lack the formal records of the court's orders and decrees. Generally, then, we know little about how Star Chamber cases concluded.

Evidence of the results of some cases can be found, however, in informal reports produced by observers in the court and in summaries made by contemporaries from the court's (now missing) order and decree books. Picking through the financial records for fines collected on the court's orders can also provide some insight into outcomes.⁶ A few sets of Star Chamber reports or notes from the order and decree books have previously appeared in print. In the early seventeenth century, the lawyer and member of parliament, Sir Francis Moore (1558–1621) included brief notes on some Star Chamber cases in his collection of reports on proceedings in several courts, a set first printed in 1663.⁷ An unknown author appended summaries of eleven Jacobean cases to the 1656 publication of reports attributed to Chief Justice Sir John Popham (1531–1607).⁸ These and a few other strays that appeared in the nascent enthusiasm for common law reporting are now included in the *English Reports* series.⁹ Later in the seventeenth century, John Rushworth (c.1612–1690) added to a volume of his *Historical Collections of Private Passages of State* copies of 155 entries in the order and decree

⁴ A few survivals from Charles's reign can be found in the two bundles of documents in STAC 9.

⁵ They are now in PRO 30/38: Gifts and Deposits: Star Chamber Papers. For the summary of the records' likely fate, see Barnes, 'Archives' and Guy, *Records*, 19. For contrast and comparison, though, see R. G. Usher's arguments that the records of the Ecclesiastical Court of High Commission (which MPs abolished by the same statute and upon the same impulses that shut Star Chamber) were intentionally destroyed during the revolutionary years: *The Rise and Fall of the High Commission* (Oxford, 1913), e.g. p. 367.

⁶ These are primarily recorded in the Exchequer memoranda rolls in E 159. Again, Barnes did the early pathfinding, and produced an unpublished index that lists people fined from 1596 to 1641 that can be consulted in the National Archives search room. More recently, Robert Palmer has been putting photographs of the E 159 files on the *Anglo-American Legal Tradition* website, and posting summaries to a related page: www.uh.edu/waalt/index.php/Star_Chamber_Fines (Accessed 30 January 2018). Note, too, that a few drafts of orders and decrees are to be found scattered in the STAC proceedings.

⁷ Francis Moore, *Cases Collect and Report Per Sir Francis Moore* (London, 1663) and William Hughes, *An Exact Abridgement in English of the Cases Reported by Sr. Francis More, Kt, Serjeant at Law, with the Resolution of the Points in Law Therein by the Judges* (London, 1665). Manuscript copies of Moore's collection seem to have circulated widely and contain some variants; see, e.g. British Library Harley MS 1330, Lansdowne MS 1059, and Add MS 25191.

⁸ John Popham, *Reports and Cases Collected by the Learned Sir John Popham ... To Which are Added Some Remarkable Cases Reported by Other Learned Pens Since His Death* (London, 1656).

⁹ *English Reports* (178 vols, Edinburgh, 1900–32), vol. 72 for Moore and vol. 79 for Popham. On the development of the phenomenon of law reporting in the late sixteenth and early seventeenth centuries, see essays in Chantal Stebbings (ed.), *Law Reporting in Britain* (London, 1997), which built upon L. W. Abbot, *Law Reporting in England, 1485–1585* (London, 1973). Reporting on Star Chamber cases, rather than on common law court cases, has not yet received much attention, however.

books for cases heard between 1625 and 1637.¹⁰ Moving ahead to the modern era, in 1870, the antiquarian John Southerden Burn published an eclectic assortment of notes on Star Chamber cases taken from a variety of manuscript reports and extracts from the order books.¹¹ In 1886, Samuel Rawson Gardiner prepared an edition of the fulsome descriptions prepared by anonymous reporters for 31 cases tried in 1631 and 1632, taken from manuscripts in the British and Bodleian libraries, Harley MS 4130 and Rawlinson MS A.128 respectively.¹² In what is undoubtedly the most valuable of the batch, in 1894, William Paley Baildon produced an edition of the reports written by the lawyer John Hawarde on some 244 cases heard between 1593 and 1609, working from a manuscript that has since migrated to the Harry Ransom Humanities Center Library in Texas.¹³

Other case reports and extracts from the order and decree books remain in manuscript. The late Thomas Garden Barnes, who did so much to improve understanding of Star Chamber and its records, identified several of these survivals and urged that transcriptions of them be published. He singled out one set of notes as being of particular value, the British Library's Harley MS 2143.¹⁴ A collection of rough summaries taken from the order and decree books, it touches on just over 1000 cases from the reign of Henry VIII forward but mostly from the reigns of Elizabeth and James; as such, the text can tell us more about more Star Chamber cases than any of the previously published sets of notes and reports. The volume's first seventy-one folios, covered front and back, provide information that can help unlock the utility of records that survive in STAC: the entries draw the researcher's attention to cases in STAC which may be concealed by the limitations of the finding aids (particularly for Elizabeth's reign) and they shed light on the outcome of a good many cases for which pleadings and proofs can be found. The entries in Harley MS 2143 also offer information on suits for which no records seem to survive. More generally, they provide details on the development of the court's procedures and jurisdictional ambit over the Elizabethan and early Jacobean years.

Who produced this volume of short summaries and extracts, and for what purpose, remains unknown. Other, briefer notes from the order and decree books can be found in the Ellesmere Collection at the Huntington Library in California. These were produced by William Mills, a long-serving clerk of the court: Lord Ellesmere, the reform-minded Lord Keeper and Chancellor, had Mills prepare for him several volumes of notes on precedents and proceedings when he took on responsibility for the court, volumes which drew on the order and decree books and that could profitably be the next focus of an attempt at transcription and editing.¹⁵ Perhaps the collection of notes in Harley MS 2143 was produced in similar circumstances. One might be tempted to think it was prepared by or for William Hudson, a lawyer who practised in the court, when he was producing his *Treatise of the Court of Star Chamber*, which first circulated in 1621.¹⁶ Although the

¹⁰ John Rushworth, *Historical Collections of Private Passages of State*, III: 1639–40 (8 vols, London, 1721). Valuably, some of the cases for which Rushworth copied the entries from the order and decree registers were also the subject of reports written by an unknown court-room observer, reports which exist in multiple manuscript copies (e.g. Durham University Library Add MS 329 and MSP 65). Ian Williams plans to produce a print edition of this set of reports in the near future.

¹¹ John Southerden Burn, *The Star Chamber: Notices of the Court and its Proceedings* (London, 1870).

¹² Samuel R. Gardiner, *Reports of Cases in the Courts of Star Chamber and High Commission* (Camden Society, n.s. 39, 1886).

¹³ John Hawarde, *Les Reportes del Cases in Camera Stellata, 1593–1609*, ed. W.P. Baildon (London, 1894). See also The Lawbook Exchange reprint, which includes a new introduction and notes by Thomas Barnes (Clark, New Jersey, 2008). My thanks to the Ransom Center's curator, Aaron Pratt, for confirming that the manuscript is now there, with the locator code Pforzheimer MS 36 (container 1.40).

¹⁴ Barnes, 'Archives', 137. In addition to the set of notes on Star Chamber orders and decrees, Harley MS 2143 also includes a list of court fees and a third document with notes on a other few cases in other courts.

¹⁵ Huntington Library, EL 2654, 2655, 2768, and Egerton's own notes in EL 2652.

¹⁶ Hudson produced his treatise primarily for the instruction of the new Lord Keeper, John Williams, bishop of London, who assumed office in July 1621. Multiple copies of the manuscript survive; it was first printed in 1792 in *Collectanea Juridica*, ed. Francis Hargrave (2 vols, London, 1792), II, 1–240. On Hudson and his treatise, see Barnes, 'William Hudson's Star Chamber', in DeLloyd J. Guth and J.W. McKenna (eds), *Tudor Rule and Revolution* (Cambridge, 1982), 285–308, and his introduction to a Lawbook Exchange reprint of

bulk of the entries are from the orders and decrees of the reigns of Elizabeth and James, one stray case from the second year of King Charles's reign indicates that the volume was produced no earlier than 1626, however. The number of cases that serve as precedents for imposing and successfully collecting fines, costs, and damages suggests that the compiler was preoccupied by debates about these subjects, but, unfortunately, this does not help to narrow the dates of compilation.

The compiler was particularly interested in identifying precedents for the range of offences determinable in the court, its procedures and its punishments. He flagged cases that claimed new areas of interest for the Star Chamber, e.g. in determining that perjury in ecclesiastical courts and the concealment of felony could be tried there.¹⁷ (The former case he deemed 'an excellent precedent hereof'.) We see in his notes the court's insistence upon its ability to impose not just fines payable to the Crown but costs and damages, too, on either plaintiffs or defendants. In a fair few cases people who launched suits found themselves heavily fined or mulcted for having done so without sufficient cause. He comments on practices that had changed since the record was first made, in a trio of entries, saying that something was 'not law now', for example; to another case, in which judges decided that the decay of tillage was not determinable in Star Chamber, he appended a note that such matters were punished there in his own day as a matter of course.¹⁸ Other entries identify precedents for new procedures and rules. In an early Elizabethan case, for example, the court decreed that a husband would have to pay any costs and fines incurred by his wife.¹⁹ Another, from James's reign, established that wives would not be examined in Star Chamber as witnesses against their husbands, and vice versa, 'for that they are but one person'.²⁰

We see in this volume a few cases of high political importance, in which Queen Elizabeth or her councillors used Star Chamber as a venue to admonish noblemen suspected of disloyalty in and around the Northern Rising of 1569, the Ridolfi plot, and the publication of the papal bull that excommunicated the Queen. Secretary Davison's useful act of disobedience in sharing the warrant for the execution of Mary, Queen of Scots, was prosecuted in Star Chamber.²¹ Several large-scale riots by London apprentices were tried there.²² Much of the business noted in this set of extracts was rather more mundane, of course, but of interest to the person who produced it as precedent, and to us, in other ways. The entries do indeed touch on the accusations of violence and riotous property disputes that one would expect from existing studies of Star Chamber, but lean even more heavily toward offences rooted in deceit and deception. The compiler of this set of notes, if not the court itself, had a particularly strong interest in perjury, fraud, counterfeiting, concealment, and other such dishonest deeds. Offences against the due exercise of justice constitute a second, related focus of interest, with contempts by officers and of officers both appearing regularly: individuals who abused their positions and people who criticized justices' decisions (especially Star Chamber justices' decisions) came before the court. Men accused of maintenance and embracery of juries, and jurors who decided cases against the evidence, also appeared in these Star Chamber cases, whether brought there by private plaintiffs or by the Crown's officers. These entries document cases that alleged injustice and malfeasance in all sorts of jurisdictions, from leet, mayoralty, and church courts through to the assizes and central royal courts. Obviously we cannot safely determine the relative preoccupations of Star Chamber based on what this volume's compiler chose to include in his notes, but they do offer one bit of warning: if we rely on the court's own surviving pleadings to evaluate its operations, we may underestimate the amount of business brought before the court by the Attorney General rather than by private suitors. When trying to match these entries to extant STAC files, it became clear that cases launched by the Crown's attorney are disproportionately absent from the archive.

Hargrave's edition of Hudson's work, under the title *A Treatise of the Court of Star Chamber* (Clark, New Jersey, 2008).

¹⁷ Nos 761, 582.

¹⁸ Nos 86, 330, 813 and 691.

¹⁹ No. 1001.

²⁰ No. 745.

²¹ Nos 409, 428, 429, 693.

²² E.g. nos 493, 874.

The punishments recorded here include a few of the notoriously creative ones that we associate with the court under Charles I. In the 1590s, one gentleman cudgelled his grandfather in a manner thought to have contributed to the 84-year-old's death over a year later. The offence could not be treated as homicide at common law, given the gap between injury and death; the judges thought it an egregious offence and used their freedom to craft sentences best suited to their tastes, the offence, and the offender, with an order that he be 'severely whipped, being stripped stark naked before the picture of his dead grandfather, which must be as like him as may be'.²³ This was, to be sure, unusual – and it was not ultimately done.²⁴ The Privy Councillors and judges who sat in Star Chamber ordered some people to the pillory or stocks, along with the brandings, nose-slittings, and other such physical mutilations and markings that, in time, made the court opprobrious. Directives that people apologize or submit publicly are also common in these entries. Some people were ordered to give up their offices and never to practice again. Others had to take out bonds for their future good behavior. The sentences recorded in Harley MS 2143 confirm, once again, that imprisonment was used for punitive ends in the early modern era, not just to hold people awaiting trial or to compel them to pay fines or debts. Many gaols in and around London appear in these entries, but the Star Chamber judges relied most heavily on the Fleet: 'fine and Fleet' is a frequent refrain in these notes. And indeed, fines, costs, and damages, perhaps accompanied by a spell in goal, serve as the most common responses to offences recorded here.

The volume can, then, tell us a good deal about Star Chamber and its operations, but the rationale for publishing a transcription of it lies primarily in the ways it can be used to unlock the contents of the STAC files in the National Archives. In many instances, entries can be matched to proceedings. Barnes produced indexes for the Jacobean files in STAC 8, allowing them to be searched by the names of plaintiffs and defendants, locale, and subject.²⁵ The small number of Elizabethan files in STAC 7 have been similarly catalogued.²⁶ The vast majority of Elizabethan files, those in STAC 5, were less well served by nineteenth-century efforts to reorganize them and have not yet been indexed in the manner of their Jacobean counterparts, but a name index that long sat in a solitary manuscript copy in the National Archives search room has recently been converted to an online, searchable format and incorporated into the main archive catalogue by Amanda Bevan and her colleagues. Helen Good has been producing indexes of STAC 5 organized by county, year, and name, and making them available online, via the *Anglo-American Legal Tradition* site maintained by Robert Palmer and the University of Houston.²⁷ With these indexes (and allowing for the vagaries of early modern spellings of surnames, as well as the compiler's own mistakes in note-taking²⁸), a reader can work backward from the entries included here, matching a decision as recorded in Harley MS 2143 to the pleadings and proofs in STAC.

An effort to pair proceedings with decrees to learn the outcome of cases of interest to me in another project first prompted the transcription of Harley MS 2143, and explains something of the current shape of the text. An exemplary student research assistant, Shannon Payne, did much of the preliminary transcribing. For my own uses, I wanted a regularized, modernized copy, one that would allow keyword searching in its electronic form. It seemed that others might also find the text of use or interest, and hence the decision to edit the transcription for inclusion in the List and Index Society's Special Series. The modernized spelling

²³ No. 905.

²⁴ See *Calendar of the Manuscripts of the Most Hon. The Marquis of Salisbury*, ed., R. A. Roberts (London, 1894), vol. 5, p. 521 and *Calendar of State Papers, Domestic, 1595–1597*, ed., M. A. E. Green (London, 1867), p. 439.

²⁵ *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, compiled and edited by Thomas G. Barnes *et al.* (3 vols, Chicago, 1975).

²⁶ The National Archives catalogue indicates that STAC 7 contains 31 files; STAC 5 has 982 bundles. STAC 6 used to contain strays from the Elizabethan files but has now been retired and its contents moved into STAC 5.

²⁷ www.uh.edu/waalt/index.php/Elizabethan_Star_Chamber_Project (Accessed 30 January 2018).

²⁸ As one example of the differences in spelling, the case recorded here as *Lovyys v Upcote* [no. 969] is the case noted in the STAC index as 'Loveys v Upcott', STAC 5/L18/15. For likely errors in transcription by the volume's compiler, see, e.g. no. 593, which clearly identifies one defendant as 'Sir George North' but is referring to a case that involved a man the index and pleadings just as clearly identify as 'Sir George Norton', e.g. STAC 5/S14/26.

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remains; even if the printed version of the file loses the facility for keyword searching, an attempt to go back to a diplomatic transcription seems unnecessarily time-consuming for the purposes the volume is likely to serve, and would make the text more difficult to read than it needs to be. Abbreviations have been expanded, silently in most cases unless there is some ambiguity. Punctuation in the original is largely absent, sometimes to confusing or disconcerting effect.²⁹ Some punctuation has been added to this transcription, but with a light touch to avoid introducing misreadings; some of these rough notes simply do not lend themselves to straightforward, unambiguous punctuation. Square brackets set off any added material. Uncertain transcriptions and words that could not be deciphered are indicated by question marks. The text in the manuscript itself appears in three columns: in the left-hand margin, a brief descriptive heading accompanies most entries, which are written in the central column, and a reference to the source text is given in the right-hand column. In this transcription, the left-hand marginal heading is given in bold type; the main entry follows, beginning with an entry number supplied by the editor; and the right-hand column's source reference follows that, justified to the right-hand margin. Indexes of persons, places, and subjects follow the transcription. Place names have been given in their commonly accepted modern spelling. The utility of the index of personal names is hampered by the scarcity of forenames in the manuscript; for most entries, surnames alone are given. (Another research assistant, Brennan Dempsey, kindly prepared the first draft of the name index.) Again, though, when the surnames of both plaintiff and defendant are retrieved from the entries, this can suffice for finding any matching pleadings that survive in the STAC series. Certainly, I have found that Harley MS 2143 provided a useful entry point into a fascinating archive, as well as answers to questions about a few cases I had first encountered via the pleadings; I hope that the transcription presented here, whatever its infelicities and failings, will increase the utility of Star Chamber's own records for researchers engaged in the study of a wide range of questions about early modern political, legal, social, and cultural developments.

²⁹ One marginal subheading, for example, reports: "The Earl of Hertford punished for begetting the Lady Gray with child in court."