

## CHAPTER 4

### THE STAR CHAMBER, AND THE COURT OF HIGH COMMISSION

The activities of these prerogative courts had been one of the main grievances during the eleven years of Charles' personal rule that further increased the tensions between parliament, church and crown.

The court of Star Chamber, erected by statute in the reign of Henry III was a conciliar court on whose bench sat members of the King's council as well as judges and Lords spiritual. The procedure of Star Chamber was mixed. Unlike the proofs required in Common Law, however, presumption of guilt was against the accused until his innocence was proven. Star Chamber was the temporal counterpart to the High Commission court which practised a union of canon (church) and civil law and was not a court of record.

When Parliament met in November 1640 it was flooded with petitions seeking redress from the long sentences and severe punishments meted out by these courts. Well known from our history books, people like Prynne (a lawyer of the Inns of Court), Bastwick (an Independent minister), and Burton (a physician) had suffered brutal mutilation from the sentences handed them in Star Chamber. Others, less well known, had endured long imprisonments in unheated, damp cells, some in off-shore islands like Guernsey, beyond the reach of relatives. One of Parliament's first undertakings was the appointment on 3<sup>rd</sup> December 1640 of a large committee, including Hampden, "to take into consideration the petitions (of the above) and the jurisdiction (of these courts) with power to send for witnesses, papers, records"<sup>2</sup>.

On 7<sup>th</sup> November 1640 the petition of Sarah Burton for the release of her husband, now in prison in Guernsey, was read in the House, as was a similar petition of Mrs Bastwick whose husband was also in prison in the Scilly Isles. It was ordered that "Mr Henry Burton and Mr John Bastwick shall be sent for forthwith by warrant of this House to prosecute their complaint concerning their judgements in the Star Chamber"<sup>7</sup>. Hampden said he "hoped this sending for them would not turn away his Majesty's favour from them (i.e. from Parliament) and that now there was no more intended but to desire to have only the persons in a way to make their complaints"<sup>8</sup>, and later he "desired the House might receive satisfaction from the Council in the carriage of the business of their commitment. But moved that they might nevertheless be sent for to make account of their wrongs if they have any"<sup>9</sup>.

On 9<sup>th</sup> November the petitions of William Prynne and John Lilburne, also prisoners, were read. All these petitions, as well as many others were submitted to the committee appointed on the first day of Parliament to consider the jurisdiction of Star Chamber and High Commission<sup>10</sup>

On November 28<sup>th</sup> Prynne and Burton, who were released to submit their petitions to Parliament, entered London in public triumph. At least a hundred coaches, a thousand horsemen, and a countless crowd on foot followed them in procession. On December 4<sup>th</sup> Bastwick returned amidst the applause of a no less numerous throng.<sup>11</sup>

On 30<sup>th</sup> March 1641 the Bill for reforming the Star Chamber and regulating the activities of the Privy Council was first read<sup>3</sup>. It had its second reading on 3 April and passed the Lower House on 8<sup>th</sup> June.

Parliament was concerned with the power exercised by the bishops in the High Commission Court. At a time when Laudian interests in uniformity were pushing an increasing number of dissenters to flee to the colonies, Parliament sought to end the authority of that Court and of the bishops themselves. The Bill to abolish the Court of High Commission was first read on 25<sup>th</sup> March<sup>4</sup>, had its second reading on 3<sup>rd</sup> April and third reading and passage on 8<sup>th</sup> June.

On 9<sup>th</sup> June Hampden was appointed to carry up these two bills to the Lords<sup>5</sup> with another Bill "to prevent the dangers that may happen by popish recusants" (i.e. to disarm them). These bills were slightly amended by the Lords, passed by them on 2<sup>nd</sup> July<sup>6</sup>, engrossed and sent to the King the next day, who gave his assent on 5<sup>th</sup> July<sup>11</sup>.