

CHAPTER 3

THE TRIAL OF STRAFFORD

At the very beginning of the Parliament, if not before, it had been decided by those peers opposed to the King and their friends in the Commons to take action against Strafford and in fact to accuse him of High Treason.

On 11th November 1640 a committee, including Hampden, was appointed to draw up charges against Strafford who, two days earlier, had arrived back from the Northern Army. Time was short, Pym rushed up to the House of Lords with a hastily-prepared document accusing Strafford of High Treason and stating that detailed accusations would soon follow. No sooner had he left than Strafford arrived to be greeted with cries of “Withdraw”¹. He was promptly sequestered from the House and committed to Black Rod and later sent to the Tower². On the 25th Pym presented a long list of charges against him at a joint conference with the Lords³.

The trial began on Monday 22nd March 1641 in Westminster Hall. The trial took place in the morning and the Houses sat in the afternoon. On the same day in the Commons Hampden moved that “if the Earl offered to speak in his defence before the Commons had brought their evidence he should be interrupted”⁴. By 10th April the trial was not going well, it was hard to prove treason against the King for obeying the King’s orders! Strafford was able to refute most of the charges with ease. On this day new evidence became available. The Commons ordered the doors to be locked, no-one “may go out or come in”⁵, then Glynne announced that a document had been found in the Treasurer’s (Sir Henry Vane sen) papers in which it was exactly stated that Strafford had said to the king “you are absolved from all rules of Government; you have an army (in Ireland) which can be used to reduce this Kingdom”⁶.

On the same day a Bill of Attainder was given its first reading in the Commons.⁷

The difference between Impeachment for Treason and a Bill of Attainder

An impeachment trial is a criminal proceeding before a court, in this case the House of Lords in the High Court of Parliament whereby it has to be proved the person is guilty of treason, and if so proved the consequence is death. A Bill of Attainder is a Parliamentary Bill pronouncing a person guilty of an alleged crime without trial or conviction according to the recognised rules of procedure. It has to pass both Houses and receive the Royal Assent (which could of course be withheld). The passage of the Bill and Royal Assent would result in death.

The reason for this Bill was that it was becoming increasingly clear that the Lords would not be satisfied with the evidence and would acquit Strafford. In fact the possibility of Attainder was mooted as long ago as the previous November when a committee was appointed to search the records about Attainders⁸. On Saturday 10th April 1641 there was a furious debate as to whether the Bill should be debated at all, in the end it was given a first reading, and it now being late on Saturday evening, further discussion was put off till Monday morning, when the committee managing the trial would give a report.

On Monday 12th April it was debated whether to continue with the Attainder and abandon the Treason trial or vice versa, and the House was deeply divided. Pym, and probably Hampden, opposed the Bill, Maynard thought they could do both. It was decided to request a conference with the Lords and Hampden was sent to them to ask for such as they wished “to communicate a business of great importance but are not yet fully ready for a conference, and therefore they do entreat their Lordships would be pleased to sit a little while, and they hope they shall come up very suddenly unto them”⁹. Hotham then moved that the Attainder Bill be read a second time. This was deferred till the committee had considered any amendments.

On the 15th the House in committee had resolved that Strafford had “endeavoured to subvert the ancient and fundamental laws of England and to introduce a tyrannical and arbitrary government against law”, and this was ratified by the whole house the next day¹⁰. At the same time Hampden moved that they “might speedily resolve to go to Westminster Hall to argue points of law with Strafford’s council”; this was supported by Pym. Hampden said “Our council hath

been heard; ergo, we must hear his. [It is] no more prejudice to go to hear council to matter of law, than 'twas to hear council to matter of fact"¹¹.

On 21st April Mr Peard reported from the grand committee the additions and amendments to the bill which was twice read and passed by 204 votes to 59. Hampden abstained; "Mr Hampden goes forth and stays without till the vote was decided by division of the House. Some expounded it was casual; others that he would seem to wash his hands in that circumstance though he applauded the success"¹². This seems to imply that he preferred the Impeachment to the Attainder. The 59 were known as 'Straffordians'.

The next fortnight was probably the most tense and dramatic of the whole Parliament; several factors played one against another as the issue swayed back and forth. The danger was that if the Trial failed and the Attainder did not pass, the King might dissolve Parliament and Strafford would be free to wreak vengeance on his persecutors; Hampden and his colleagues were in danger of their lives. It will be best to record each day's events in turn.

On Saturday 24 April the Bill was introduced to Lords¹³. On Monday 26th it was given the first reading; On Tuesday 27th came the second reading; on Wednesday the 28th the Lords were informed by the Commons that Strafford was making plans to escape aided by the Lieutenant of the Tower, Col Lunsford.

Thursday 29th was the last day of the Impeachment Trial; St John summed up the case for the prosecution in a long and technical but mild speech until at the very end when he launched a vicious attack on Strafford saying that "for the safety of the Realm, Strafford be executed."¹⁴ Apparently the Hall erupted in applause but no vote was taken. On Friday 30 Lord Bedford, the leader of the peers against the King, fell ill and shortly died.

Saturday May 1st. The Commons were summoned to the House of Lords to hear the King. Was he going to dissolve the Parliament? No. What he did say was that in all conscience he would never consent to the execution of Strafford, and that he had no intention of disbanding the Irish army before the other armies were disbanded. This speech was badly received, some regarded it as a 'calamity', and when the Commons returned to their chamber Pym moved for an adjournment lest there should be furious trouble. The tension and anger was great.¹⁵ On the same day a plot was hatched whereby a group of about 50 demobilised soldiers led by Col Suckling would the next day take over the Tower - probably with the King's connivance - and liberate Strafford.

Sunday May 2nd. The day was set aside for the marriage of the Prince of Orange to the King's daughter Mary. The lengthy celebrations were intended to camouflage the assault on the Tower but this was postponed to

Monday May 3rd. The Tower Plot became known to Parliament. The Commons formed THE PROTESTATION to defend the true reformed Protestant Religion, the King's person, the power and privileges of Parliament and the rights and liberties of the subject"¹⁶. This was immediately made by all the members present. Suckling was called to the Bar of the House and Hampden moved that James Wadsworth should be called as one involved in the plot.

Tuesday May 4th. The Bill of Attainder was debated in the Lords. On this day Strafford wrote to the King saying he absolved the King of any promise to save his life.

Thursday May 6th. the Lords ordered all ports to be stopped, to prevent Strafford escaping.

Friday May 7th. the Bill of Attainder was read for the third time in the Lords and passed by 51-9. Also on this day the Commons twice read a Bill to prevent the dissolution of Parliament without its own consent.

Monday May 10th. After three days of agony the King give his formal assent to the Act of Attainder¹⁷.

Wednesday May 12th. Strafford was executed on Tower Hill.

The crisis was passed and for the time being, Hampden and his colleagues could sleep easy.