

The Act for the Abolition of the Court of Star Chamber.

[July 5, 1641. Statutes of the Realm, v. 110. 17 Car. I. cap. 10. See *Hist. of Engl.* ix. 404.]

An Act for the Regulating the Privy Council and for taking away the Court commonly called the Star Chamber.

I. Whereas by the Great Charter many times confirmed in Parliament, it is enacted that no freeman shall be taken or imprisoned, or disseized of his freehold or liberties or free customs, or be outlawed or exiled or otherwise destroyed, and that the King will not pass upon him or condemn him but by lawful judgment of his Peers or by the law of the land; and by another statute made in the fifth year of the reign of King Edward the Third^[1], it is enacted that no man shall be attached by any accusation nor forejudged of life or limb, nor his lands, tenements, goods nor chattels seized into the King's hands against the form of the Great Charter and the law of the land^[2]: and by another statute made in the five-and-twentieth year of the reign of the same King Edward the Third,^[3] it is accorded, assented and established that none shall be taken by petition or suggestion made to the King or to his Council, unless it be by indictment or presentment of good and lawful people of the same neighbourhood where such deeds be done, in due manner or by process made by writ original at the common law, and that none be put out of his franchise or freehold unless he be duly brought in to answer and forejudged of the same by the course of the law, and if anything be done against the same, it shall be redressed and holden for none: and by another statute made in the eight-and-twentieth year of the reign of the same King Edward the Third,^[4] it is amongst other things enacted that no man of what estate or condition soever he be shall be put out of his lands or tenements, nor taken nor imprisoned nor disinherited without being brought in to answer by due process of law: and by another statute made in the two-and-fortieth year of the reign of the said King Edward the Third,^[5] it is enacted that no man be put to answer without presentment before Justices or matter of record, or by due process and writ original according to the old law of the land, and if anything be done to the contrary, it shall be void in law and holden for error: and by another statute made in the six-and-thirtieth year of the same King Edward the Third,^[6] it is amongst other things enacted, that all pleas which shall be pleaded in any Courts before any of the King's Justices, or in his other places or before any of his other ministers, or in the Courts and places of any other Lords within the realm, shall be entered and enrolled in Latin: and whereas by the statute made in the third year of King Henry the Seventh^[7], power is given to the Chancellor, the Lord Treasurer of England for the time being, and the Keeper of the King's Privy Seal, or two of them calling unto them a Bishop and a Temporal Lord of the King's most honourable Council, and the two Chief Justices of the King's Bench and Common Pleas for the time being, or other two Justices in their absence, to proceed as in that Act is expressed for the punishment of some particular offences therein mentioned: and by the statute made in the one-and-twentieth year of King Henry the Eighth,^[8] the President of the Council is associated to join with the Lord Chancellor and other Judges in the said statute of the third of Henry the Seventh mentioned: but the said

Judges have not kept themselves to the points limited by the said statute, but have undertaken to punish where no law doth warrant, and to make decrees for things having no such authority, and to inflict heavier punishments than by any law is warranted; and forasmuch as all matters examinable or determinable before the said Judges, or in the Court commonly called the Star Chamber, may have their proper remedy and redress, and their due punishment and correction by the common law of the land, and in the ordinary course of justice elsewhere, and forasmuch as the reasons and motives inducing the erection and continuance of that Court do now cease, and the proceedings, censures and decrees of that Court have by experience been found to be an intolerable burden to the subjects, and the means to introduce an arbitrary power and government: and forasmuch as the Council Table hath of late times assumed unto itself a power to intermeddle in civil causes and matters only of private interest between party and party, and have adventured to determine of the estates and liberties of the subject contrary to the law of the land and the rights and privileges of the subject, by which great and manifold mischiefs and inconveniences have arisen and happened, and much uncertainty by means of such proceedings hath been conceived concerning men's rights and estates: for settling whereof and preventing the like in time to come, be it ordained and enacted by the authority of this present Parliament, that the said Court commonly called the Star Chamber, and all jurisdiction, power and authority belonging unto or exercised in the same Court, or by any of the Judges, Officers or Ministers thereof be, from the first day of August in the year of our Lord God one thousand six hundred forty and one, clearly and absolutely dissolved, taken away, and determined; and that from the said first day of August neither the Lord Chancellor or Keeper of the Great Seal of England, the Lord Treasurer of England, the Keeper of the King's Privy Seal, or President of the Council, nor any Bishop, Temporal Lord, Privy Councillor, or Judge, or Justice whatsoever, shall have any power or authority to hear, examine or determine any matter or thing whatsoever in the said Court commonly called the Star Chamber, or to make, pronounce or deliver any judgment, sentence, order or decree, or to do any judicial or ministerial act in the said Court: and that all and every Act and Acts of Parliament, and all and every article, clause, and sentence in them and every of them, by which any jurisdiction, power or authority is given, limited or appointed unto the said Court, commonly called the Star Chamber, or unto all or any the Judges, Officers or Ministers thereof, or for any proceedings to be had or made in the said Court, or for any matter or thing to be drawn into question, examined or determined, there shall, for so much as concerneth the said Court of Star Chamber, and the power and authority thereby given unto it be, from the said first day of August, repealed and absolutely revoked and made void.

II. And be it likewise enacted, that the like jurisdiction now used and exercised in the Court before the President and Council in the Marches of Wales; and also in the Court before the President and Council established in the northern parts; and also in the Court commonly called the Court of the Duchy of Lancaster, held before the Chancellor and Council of the Court; and also in the Court of Exchequer of the County Palatine of Chester, held before the Chamberlain and Council of that Court; the like jurisdiction being exercised there, shall, from the said first day of August one thousand six hundred forty

and one, be also repealed and absolutely revoked and made void, any law, prescription, custom or usage; or the said statute made in the third year of King Henry the Seventh; or the statute made the one-and-twentieth of Henry the Eighth; or any Act or Acts of Parliament heretofore had or made to the contrary thereof in any wise notwithstanding; and that from henceforth no court, council, or place of judicature shall be erected, ordained, constituted, or appointed within this realm of England or dominion of Wales, which shall have, use or exercise the same or the like jurisdiction, as is or hath been used, practised or exercised in the said Court of Star Chamber.

III. Be it likewise declared and enacted by authority of this present Parliament, that neither His Majesty nor his Privy Council have or ought to have any jurisdiction, power or authority by English bill, petition, articles, libel, or any other arbitrary way whatsoever, to examine or draw into question, determine or dispose of the lands, tenements, hereditaments, goods or chattels of any the subjects of this kingdom, but that the same ought to be tried and determined in the ordinary Courts of Justice and by the ordinary course of the law.

IV. And be it further provided and enacted, that if any Lord Chancellor or Keeper of the Great Seal of England, Lord Treasurer, Keeper of the King's Privy Seal, President of the Council, Bishop, Temporal Lord, Privy Councillor, Judge, or Justice whatsoever, shall offend or do anything contrary to the purport, true intent and meaning of this law; then he or they shall for such offence forfeit the sum of £500 of lawful money of England unto any party grieved, his executors or administrators, who shall really prosecute for the same, and first obtain judgment thereupon to be recorded in any Court of Record at Westminster by action of debt, bill, plaint or information, wherein no essoine,^[9] protection, wager of law, aid, prayer, privilege, injunction or order of restraint shall be in any wise prayed, granted or allowed, nor any more than one imparlance; and if any person against whom any such judgment or recovery shall be had as aforesaid, shall after such judgment or recovery offend again in the same, then he or they for such offence shall forfeit the sum of £1000 of lawful money of England unto any party grieved, his executors or administrators, who shall really prosecute for the same, and first obtain judgment thereupon to be recorded in any Court of Record at Westminster by action of debt, bill, plaint or information, in which no essoine, protection, wager of law, aid, prayer, privilege, injunction or order of restraint shall he in any wise prayed, granted or allowed, nor any more than one imparlance. And if any person against whom any such judgment or recovery shall be had as aforesaid, shall after such judgment or recovery offend again in the same kind, and shall be thereof duly convicted by indictment, information or any other lawful way or means, that such person so convicted shall be from thenceforth disabled and become by virtue of this Act incapable *ipso facto* to hear his and their said office and offices respectively, and shall be likewise disabled to make any gift, grant, conveyance or other disposition of any his lands, tenements, hereditaments, goods or chattels, or to take any benefit of any gift, conveyance or legacy to his own use.

V. And every person so offending shall likewise forfeit and lose unto the party grieved, by anything done contrary to the true intent and meaning of this law, his treble damages which he shall sustain and be put unto by means or occasion of any such act or thing done, the same to be recovered in any of His Majesty's Courts of Record at Westminster by action of debt, bill, plaint or information, wherein no essoine, protection, wager of law, aid, prayer, privilege, injunction or order of restraint, shall be in any wise prayed, granted or allowed, nor any more than one imparlance.

VI. And be it also provided and enacted, that if any person shall hereafter be committed, restrained of his liberty or suffer imprisonment [by the order or decree of any such Court of Star Chamber or other Court aforesaid, now or at any time hereafter having or pretending to have the same or like jurisdiction, power or authority to commit or imprison as aforesaid, or by the command or warrant of the King's Majesty, his heirs or successors, in their own person or by the command or warrant of the Council Board or of any of the Lords or others of His Majesty's Privy Council],^[10] that in every such case every person so committed, restrained of his liberty, or suffering imprisonment, upon demand or motion made by his counsel or other employed by him for that purpose unto the Judges of the Court of King's Bench or Common Pleas in open Court, shall, without delay upon any pretence whatsoever, for the ordinary fees usually paid for the same, have forthwith granted unto him a Writ of Habeas Corpus to be directed generally unto all and every sheriff's gaoler, minister, officer or other person in whose custody the party committed or restrained shall be, and the sheriff's gaoler, minister, officer or other person in whose custody the party so committed or restrained shall be, shall at the return of writ and according to the command thereof, upon due and convenient notice thereof given unto him [at the charge of the party who requireth or procureth such writ, and upon security by his own bond given to pay the charge of carrying back the prisoner if he shall be remanded by the Court to which he shall be brought, as in like cases hath been used, such charges of bringing up and carrying back the prisoner to be always ordered by the Court if any difference shall arise thereabout^[11]], bring or cause to be brought the body of the said party so committed or restrained unto and before the Judges or Justices of the said Court from whence the same writ shall issue in open Court, and shall then likewise certify the true cause of such his detenor or imprisonment, and thereupon the Court, within three court days after such return made and delivered in open Court, shall proceed to examine and determine whether the cause of such commitment appearing upon the said return be just and legal or not, and shall thereupon do what to justice shall appertain, either by delivering, bailing or remanding the prisoner. And if anything shall be otherwise wilfully done or omitted to be done by any Judge, Justice, officer or other person aforementioned, contrary to the direction and true meaning hereof, that then such person so offending shall forfeit to the party grieved his treble damages, to be recovered by such means and in such manner as is formerly in this Act limited and appointed for the like penalty to be sued for and recovered.

VII. Provided always and be it enacted, that this Act and the several clauses therein contained shall be taken and expounded to extend only to the Court of

Star Chamber, and to the said Courts holden before the President and Council in the Marches of Wales, and before the President and Council in the northern parts, and also to the Court commonly called the Court of the Duchy of Lancaster, holden before the Chancellor and Council of that Court, and also in the Court of Exchequer of the County Palatine of Chester, held before the Chamberlain and Council of that Court, and to all Courts of like jurisdiction to be hereafter erected, ordained, constituted or appointed as aforesaid, and to the warrants and directions of the Council Board, and to the commitments, restraints, and imprisonments of any person or persons made, commanded or awarded by the King's Majesty, his heirs or successors, in their own person or by the Lords and others of the Privy Council and every one of them.

VIII. And lastly, provided and be it enacted, that no person or persons shall be sued, impleaded, molested or troubled for any offence against this present Act, unless the party supposed to have so offended shall be sued or impleaded for the same within two years at the most after such time wherein the said offence shall be committed.

[¹] 5 E. III. c. 9.

[²] Magna Carta, 9 H. III. c. 29.

[³] 25 E. III. at. 5. c. 4.

[⁴] 28 E. III. c. 3.

[⁵] 42 E. III. c. 3.

[⁶] 36 E. III. c. 15.

[⁷] 3 II. VII. c. 1. §? 1.

[⁸] 21 H. VIII. c. 20.

[⁹] Allegation of absence from lawful reasons.

[¹⁰] Annexed to the original Act in a separate schedule.

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