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WHAT'S IN A NAME? STAR CHAMBER AS COURT AND COURTROOM

Ian Williams[1*]

The court of Star Chamber was not a feature of Nial Osborough's scholarship, but it relates closely to one of his projects. In his 1996 study Osborough traced the emergence of the first litigation topography of Dublin.[2] In the 1630s, a period earlier than that covered in Osborough's book, Thomas Wentworth, Earl of Strafford, sought to regulate building in Ireland to 'beautify' Dublin. Just such regulation operated in London, and as part of the Lord Deputy's campaign to create a London on the Liffey he asked for information about royal proclamations and Star Chamber practice in this field.[3] This paper is not concerned with the Star Chamber's intervention into building control,[4] but focuses on early-modern debates about the name of the Star Chamber. These debates showcase the breadth of ideas and material which some early-modern lawyers used to understand their legal system, a diversity which would surely have appealed to Nial Osborough.

From the reign of Elizabeth I until its abolition in 1641 onwards, the Star Chamber was a criminal court (albeit one in which most cases were initiated by private parties) with

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[1*] Associate Professor, Faculty of Laws UCL. My thanks to Cheryl Thomas for her suggestions about literature concerning courtroom architecture and decoration. Research into Star Chamber materials was supported by a British Academy/Leverhulme Trust Small Research Grant (SG151808).

[2] W.N. Osborough, *Law and the emergence of modern Dublin: a litigation topography for a capital city* (Dublin, 1996).

[3] William Knowler (ed.), *The Earl of Strafforde's letters and dispatches,* 2 vols (London, 1739), 1, p. 306.

[4] On the work of the Star Chamber in this field, see Thomas G. Barnes, 'The prerogative and environmental control of London building in the early seventeenth century: the lost opportunity', *California Law Review*, 58:6 (1970), 1332-1363.

a wide-ranging jurisdiction.[5] In addition to imposing criminal penalties, it became possible for damages to be awarded to successful parties.[6] Star Chamber was the forum in which many high profile cases were heard and there was keen public interest in its work.[7] The name 'Star Chamber' has now taken on a life of its own, with the rhetoric of a 'Star Chamber' being employed to criticise tribunals as opaque, arbitrary and abusive.[8] So far as I am aware, the Star Chamber is the only court so notorious that its name could serve as the title for both a novel[9] and a film (referring, naturally, to the villains).[10] That wider public understanding of the Star Chamber is in many respects incorrect, and informed principally by a small number of high profile cases which became politically controversial.[11]

The court's name was sometimes a feature of rhetoric, even humour, by its judges. When the Earl of Northumberland was prosecuted for his alleged involvement in the Gunpowder Plot, some of the evidence indicating his ill-intentions towards the king

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[5] The categorisation of types of cases heard in the Jacobean Star Chamber produced by Thomas Barnes is indicative of the breadth of the jurisdiction: Thomas G. Barnes (ed.), *List and index to the proceedings in Star Chamber for the reign of James I, 1603-1625, in the Public Record Office, London, STAC 8*, 3 vols (Chicago, 1975).

[6] Damages were occasionally awarded before 1588 and regularly after that: Thomas G. Barnes, 'A Cheshire seductress, precedent, and a "sore blow" to the Star Chamber', pp 359-382 in Morris S. Arnold, Thomas A. Green, Sally A. Scully and Stephen D. White (eds), *On the laws and customs of England: essays in honor of Samuel E. Thorne* (Chapel Hill, 1981), p. 362.

[7] See generally Ian Williams, 'Contemporary knowledge of the Star Chamber and the abolition of the court', in K.J. Kesselring and Natalie Mears (eds), *Star Chamber matters: an early modern court and its records* (London, 2021), pp 195-215.

[8] *Oxford English Dictionary*, 3rd ed. (Oxford, 2016), s.v. 'Star Chamber, n.' includes several references, although there are many more. The Star Chamber is the only court whose name also came to be used as a verb (for subjecting someone to arbitrary justice): *Oxford English Dictionary*, 3rd ed. (Oxford, 2016), s.v. 'star-chamber, v.'.

[9] William Harrison Ainsworth, *The Star-Chamber: an historical romance*, 2 vols (London, 1854). The novel is focused on the case of *Earl of Exeter v Lake* (1619) discussed in Ian Williams, 'James VI and I, *rex et iudex*: one king as judge in two kingdoms', pp 86-199 in William Eves, John Hudson, Ingrid Ivarsen and Sarah B. White (eds), *Common law, civil law, and colonial law: essays in comparative legal history from the twelfth to the twentieth centuries* (Cambridge, 2021), pp 96-7.

[10] 'The Star Chamber' (1983, Twentieth Century Fox).

[11] See generally, Thomas G. Barnes, 'Star Chamber mythology', *American Journal of Legal History*, 5:1 (1961), 1-11.

included having one or more astrological 'figures' of the king produced, predicating the fortune of his reign from the stars at his birth. Some of the judges noted the irony of the earl's reliance on prognostications from the stars, observing 'that the starrs could not informe him that hee should now be tried in the Starr Chamber'.[12]

In the late-sixteenth and early-seventeenth centuries the reason for the court's name was disputed, a dispute which could still attract attention in Blackstone's eighteenth-century *Commentaries*, despite the court's abolition in 1641[13] and even an unusual diversion in the historical novel about the court.[14] In the late-nineteenth century William Paley Baildon castigated these explanations of the court's name as 'some fanciful, some ridiculous'.[15] Even in the mid-1580s, William Lambarde (in fact one of the major influences in these discussions) could write that 'the matter is not of such importance, that it requireth any long discourse or eager disputation'.[16] While no long discourses were produced, the issue was sufficiently important to be mentioned by the king,[17] in parliament,[18] in the Star Chamber itself,[19] and in learned discussions about the court. Early-modern English lawyers assumed that the physical courtroom

[12] Mark Nicholls, 'The "Wizard Earl" in Star Chamber: the trial of the Earl of Northumberland, June 1606', *Historical Journal*, 30:1 (1987), 173-189, at 181-182.

[13] William Blackstone, *Commentaries on the Laws of England: Book IV, Of Public Wrongs*, ed. Ruth Paley (Oxford, 2016), p. 174. I suspect that Blackstone's own interest in architecture may have encouraged his consideration of the issue. On this interest, see Carol Matthews, 'A "model of the Old House": architecture in Blackstone's life and *Commentaries*' in Wilfrid Prest (ed.), *Blackstone and his Commentaries* (Oxford, 2014), pp 15-34.

[14] Ainsworth, *The Star-Chamber*, vol. 2, pp 200-202.

[15] William Paley Baildon, 'Introduction' in John Hawarde, *Les Reportes del Cases in Camera Stellata 1593-1609*, ed. Paley Baildon (London, 1894), xlvi.

[16] Francis Tate, 'Camera Stellata: or, an explanation of the most famous Court of Star-Chamber: together with an account of the offences there punishable; the fees payable, and the orders for proceedings therein' in Thomas Hearne (ed.), *A collection of curious discourses written by eminent antiquaries,* 2 vols (London, 1771), ii, pp 277-307 at 278. Elizabethan manuscripts of this text attribute it to William Lambarde (British Library (BL), Add MS 4521, f 35) and date it to 1586 BL Add MS 24926, f. 1).

[17] See below, text at nn. 69-70.

[18] See below, text at nn. 47-50 and 82.

[19] See below, n. 50.

and the name of the court were linked, and that both were driven by the nature of the court itself. Whether their discussions deserve to be castigated as 'ridiculous' remains to be seen.

The modern consensus is that the name was first used for the physical room in the palace of Westminster and then extended to the court which came to sit in it.[20] The physical star chamber was constructed in the late 1340s and was identified with the stars decorating its ceiling soon after its completion.[21] These stars, set on a blue background, are visible in images of the chamber from the reign of Henry VII.[22] A 'great newe Starre' was carved and gilded in 1570-1 and gilded again in the late 1580s.[23]

The court of Star Chamber typically sat in this starred chamber from the late fifteenth-century to 1641. However, the starred chamber was also sometimes used for the sitting of other courts,[24] while the court of Star Chamber could sit outside the room for which it was named. This might be because of the relocation of government business during

[20] John Baker, *Introduction to English legal history*, 5th ed. (Oxford, 2019), p. 127.

[21] R. Allen Brown, H.M. Colvin and A.J. Taylor, *The History of the King's Works, Volume I: The Middle Ages* (London, 1963), p. 545. Ceilings decorated with stars were common in antiquity and then in Christian religious buildings. See, e.g., Ellen Swift and Anne Alwis, 'The role of late antique art in early Christian worship: a reconsideration of the iconography of the "starry sky" in the "Mausoleum" of Galla Placidi', *Journal of the School of British Studies at Rome,* 78 (2010), 193-217, including the pre-Michelangelo, late-fifteenth-century, ceiling of the Sistine Chapel: Yvonne Paris, *Michelangelo, 1475-1564*, trans. Sophie Leighton (Bath, 2009), 86. By the seventeenth century, the inclusion of a starred ceiling in the Little Castle at Bolsover Castle had a very different context, although it was still associated with religious ideas: Timothy Raylor, '"Pleasure reconciled to virtue": William Cavendish, Ben Jonson, and the decorative scheme of Bolsover Castle', *Renaissance Quarterly,* 52:2 (1999), 402-439, at 418-21.

[22] E.g. the very similar illuminated initials in The National Archives (TNA) PRO, E 33/1 and E 33/2.

[23] H.M. Colvin, John Summerson, Martin Biddle, J.R. Hale and Marcus Merriman, *The history of the king's works: volume IV: 1485-1660 (Part II)* (London, 1982), p. 296. The room was demolished in the nineteenth-century and the ceiling relocated to Leasowe Castle in north-west England (http://leasowecastle.com/dine/ (accessed 18 August 2022).

[24] For example, the Chancery sat in the starred chamber in 1511: John Baker, *The Oxford history of the laws of England, vol. VI, 1483-1558* (Oxford, 2003), p. 196.

time of plague (as happened in 1594),[25] or because it was anticipated that the audience for a particular trial would be too large to be accommodated within the confines of a single room.[26] While the court and chamber therefore could be separated, contemporaries came to see them as inextricably intertwined. This led, for example, to Richard Crompton's 1594 collection of cases from the court of Star Chamber which included any case which was described as occurring in the physical starred chamber.[27]

I. NAME AND NATURE IN EARLY-MODERN THOUGHT

Consideration of the source of the name for the court of Star Chamber began in the reign of Elizabeth I, within texts which sought to set out and explain the nature of the English constitution or court system. These discussions about the name of the court were applications of contemporary ideas and methods. In his 1621 treatise on the Star Chamber, William Hudson explained that

> I am a Platonist in opinion, that *nomina natura siunt potius quam vaga impositione*; for assuredly Adam, before his Fall, was abundantly skilful in the nature of all things; so that when God brought him all things to name, he gave them names befitting their natures.[28]

[25] *Lake v Gardiner* (1594) in Hawarde, *Les Reportes del Cases*, pp 2-3, at 3.

[26] See Williams, 'James VI and I', p. 97.

[27] Richard Crompton, *L'authoritie et iurisdiction des courts de la Maiestie de la Roygne* (London, 1594), e.g. f.39v, which refers to the *The Carrier's Case* (1473) YB Pasch. 13 Edw. IV, fo. 9, pl.5. *The Carrier's Case* was probably a petition to the King's Council rather than litigation (see Ian Williams, 'The Carrier's Case (1473)' in Philip Handler, Henry Mares and Ian Williams (eds.), *Landmark Cases in Criminal Law* (Oxford, 2017), pp 9-28 at 11-12). Crompton similarly included any cases which were presented as occurring before the King's Council (which often sat in the Star Chamber), eg f.29v.

[28] William Hudson, 'A Treatise of the Court of Star Chamber' in Francis Hargrave (ed.), *Collectanea Juridica*, 2 vols (London, 1792), ii, pp 1-239, at 8.

In making this reference to Plato, Hudson showed that he was taking a position in a long-running European linguistic debate, about whether language and the names of things were formed from usage (a position associated with Aristotle) or linked to the nature of thing named (Hudson's position, at the time associated with Plato from his *Cratylus*).[29] Those favouring the platonist position, like Hudson, tended to refer to Adam's naming of the animals in Genesis 2:19.[30]

While the more theoretical linguistic discussions were about how names were given or created, it was also seen as permissible and possible to reason back from the name to the nature of the thing which had been named. As the English schoolmaster Richard Mulcaster explained in 1582, 'the word being knowen, which implyeth the propertie the thing is half known, whose propertie is emplyed'.[31] Writing about the source of the name for the Star Chamber was therefore to participate in a much longer tradition of European scholarship, one which cut across traditional disciplinary boundaries. The platonic idea of names relating to the nature of the thing provided scholars with another method by which they could understand their subject and there was nothing about legal institutions which excluded them from such analyses.

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[29] For an entry to this debate, see Jonathan Hope, 'Shakespeare and language' in Margreta de Grazia and Stanley Wells (eds), *The New Cambridge companion to Shakespeare* (Cambridge, 2010), pp 77-90, at 88. The classic discussion of the debate in early-modern England is Vivian Salmon, 'Views on meaning in 16th-Century England' in Vivian Salmon, *Language and society in early modern England: selected essays 1982-1994* (Amsterdam, 1996), pp 55-75. Plato's *Cratylus* is a dialogue in which Cratylus takes the position which was typically attributed to Plato himself in early-modern England, despite Socrates challenging that view in the dialogue itself.

[30] For example, in theology both Luther and Calvin commented on Genesis 2:19 and explained that the names Adam gave to particular creatures reflected their natures: Martin Luther, 'Lecture on Genesis', in Jaroslav Pelikan (ed.), *Luther's Works, vol.1: Lectures on Genesis chapters 1-5* (St Louis, 1958), p.119; Jean Calvin, 'Commentarius in Genesin' in William Baum, Edward Cunitz and Edward Reuss (eds), *Ioannis Calvini opera quae supersunt omnia*, vol. xxiii (Brunswick, 1882), cols 13-622, at col. 48.

[31] Richard Mulcaster, *The first part of the elementarie which entreateth chefelie of the right writing of our English tung* (London, 1582), pp 167-169 (there is no p. 168 in the book).

This 'platonic' approach was a key part of the methodology of William Lambarde in his discussion of the Star Chamber and of other courts, written and rewritten between 1586 and 1591.[32] As Hannah Crawforth explained, 'Lambarde endeavours to show ... that not only do many of the institutions enshrined in current-day England owe their origins to the laws of the Saxon kings, but that their true names can still be accessed by careful linguistic excavation – and, once recovered, can show what the ideal form of the thing they represent should be like'.[33] In his *Archeion*, Lambarde explained that the names of the Admiralty and Constable's courts, as well as the Chancery, were derived etymologically from the names of the office holders who were the judges there. Those names themselves explained something about the nature of the office holder and from that the nature of the court.[34] In the case of the Chancery, the Chancellor's name explained the nature of the equitable function of the court, in preventing ('cancelling') the use of common law rules when they should not apply to the facts of a particular case.[35] Lambarde then applied the same approach to the Star Chamber. Probably inspired by Lambarde, Hudson concluded his consideration of the court's name by saying that 'I suppose the name to be given according to the nature of the judges thereof, which I hope agreeth with the name of the chancery and other courts of this kingdom'.[36] For both Hudson and Lambarde, their considerations of the name of the Star Chamber were simply specific applications of a more generally applicable methodology.

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[32] The earliest manuscript is dated 1586 (see above, n.16). A presentation copy of the final text was given to Sir Robert Cecil in 1591 (William Lambarde, *Archeion, or, a discourse upon the high courts of justice in England*, eds Charles H. McIlwain and Paul L. Ward (Cambridge MA, 1957), p. vii).

[33] Hannah Crawforth, *Etymology and the invention of English in early modern literature* (Cambridge, 2013), p. 163. This approach had the disadvantage, recognised by Lambarde, that the names of various institutions had been changed to French-derived names following the Norman Conquest: Lambarde, *Archeion*, p. 12. This change could obscure the true nature of the institution. See, e.g., Lambarde *Archeion*, pp 125-6, where Lambarde rejects understandings of Parliament derived from its French name and instead identifies the Saxon name of Parliament to understand its true nature.

[34] William Lambarde, *Archeion*, pp 29-31.

[35] Lambarde, *Archeion*, pp 31-2.

[36] Hudson, 'Treatise', p. 9.

Linking these issues of name and nature to the decoration of the court as a visual representation of its name (and therefore nature) should also not be surprising. The idea that visual representations and the decoration of courts could make potent statements about law and justice could also be found in early-modern Europe and reached England.[37] In 1622, the Lord Keeper (bishop John Williams) could say in the Star Chamber that 'in France the statue of a Judge is made without eyes. Hee must bee no respecter of persons and without hands. Hee must bee no taker of bribes', the latter of which was a key allegation of wrongdoing in the case.[38] Williams used the form of judicial statues in France as a means of identifying a universal norm about the nature of judges and judging. That norm was then applied in the case.

The texts discussing the name of the Star Chamber brought these two approaches together. Their authors sought to understand the physical embodiment of the court and its name to understand the juridical nature of the court.

II. ELIZABETHAN EXPLANATIONS FOR THE NAME OF THE COURT

(1) Sir Thomas Smith

[37] Judith Resnick and Dennis Curtis, *Representing justice: invention, controversy and rights in city-states and democratic courtrooms* (New Haven, 2011), pp 22-30, 38-61, 62-82.

[38] *Dr Benet's Case* (1622), Folger Shakespeare Library, Legal and Political Miscellany 1620-31, MS V.a.622, ff 45-78, f 76. The ultimate source for the imagery in Williams' remark is probably Plutarch's *Morals*, 'one of the most popular classical works in Tudor England': Fred Shurink, 'Print, Patronage, and Occasion: Translations of Plutarch's Moralia in Tudor England', *Yearbook of English Studies,* 38 (2008), pp 86-101 at 88. Plutarch explained that in Thebes 'there were set up statues of judges without hands, and the statue of the chief justice had its eyes closed, to indicate that justice is not influenced by gifts or by intercession': Plutarch, *Moralia, vol.IV*, trans. Frank Cole Babbitt (Cambridge MA, 1936), pp 26-27. Williams and others in early-modern England may also have seen an image of this in Alciatus' *Emblems*, a popular sixteenth-century French work which included an image of judges without hands (see Resnick and Curtis, *Representing Justice*, p. 43) and which may have been the source for Williams linking this practice with France.

The earliest discussion of the name of the court in print is found in Thomas Smith's *De Republica Anglorum*, printed in 1583, but written in the first half of the 1560s.[39] According to Smith, the court of Star Chamber was so called 'either because it is full of windowes, or because at the first all the roofe thereof was decked with images of starres gilted'.[40] Smith's explanation was adopted by various writers who relied upon his printed account: the non-lawyer John Stow;[41] the civil lawyer John Cowell;[42] and the common lawyer Edward Coke.[43] An anonymous manuscript text also takes the same position as Smith, that the court was named for the 'certeyne Starres' with which it was decorated, but the last dated item in the note is from 1572, so this view may have been formed independently of Smith.[44]

Even these writers who thought that the name followed simply from the decoration of the court shared the assumption that examining the name of the court was relevant to understanding it. They thought that they should consider the reason for the court's name because there was the possibility that in doing so they would learn something about the institution they were explaining to their readers. The method did not help them because they thought the physical nature of the courtroom, rather than the juridical nature of the court, was the cause of its name. However, they clearly thought that the investigation of the name was worth undertaking as a potentially valuable route to understanding.

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[39] Ian W. Archer, 'Smith, Sir Thomas' (1513-1577), *Oxford Dictionary of National Biography.*

[40] Thomas Smith, *De Republica Anglorum. The maner of governement or policie of the realme of England* (London, 1583), p. 94.

[41] John Stow, *A survay of London contayning the originall, antiquity, increase, moderne estate, and description of that cittie, written in the yeare 1598* (London, 1598), p. 391, used identical language to Smith.

[42] John Cowell, *The Interpreter: or booke containing the signification of words* (Cambridge, 1607), s.v. 'Starre Chamber (*Camera Stellata*)'.

[43] Edward Coke, *The fourth part of the institutes of the laws of England: concerning the jurisdiction of courts* (London, 1644), p. 65.

[44] BL, Add MS 48025, ff 88-88v.

Those who relied on Smith for their discussion of the court did not agree with his conclusions entirely. Stow ignored Smith's suggestion about windows and Coke expressly rejected it.[45] An anonymous discussion of the Star Chamber included in the 1618 printing of William West's *Symboleography* is mostly derivative of Smith, but qualifies Smith's position about the name of the court by explaining that the decoration of the court had an 'emblematic' meaning too.[46]

On this understanding of the court, the decoration of the court had meaning, and that meaning was derived from the name of the court. It was the court's name which caused the decoration of the chamber in which it regularly sat. The issue therefore became understanding the source of the court's name. This was the task to which other writers turned themselves, with considerable ingenuity.

(2) Camera Stellata and *Crimen Stellionatus*

Other than its decoration, the most frequently raised explanation for the name of the Star Chamber in the reign of Elizabeth I was given its fullest exposition by the antiquary and recorder of London, William Fleetwood. Fleetwood first made his claim in a parliamentary debate in 1585,[47] before expanding upon it in 1587:

> There was by the Auntient Common lawes of the Relme a certen Cryme or offence termed by the name of Crimen Stellionis or stellionatus. soe called of the Serpent Stellio, the nature of which serpent as Fleta. & Bracton doe affirme,

[45] Coke, *The Fourth part*, p. 66.

[46] William West, *The second part of symboleography, Newly corrected and amended ... with an addition of some necessarie Exemplars to be used in his maiesties Court of Exchequer, Wards and Liveries and Starre-Chamber, never printed before* (London, 1618), p. 337 (cf. Smith, *Republic Anglorum*¸ 95-6).

[47] T.E. Hartley (ed.), *Proceedings in the parliaments of Elizabeth I, volume II: 1584-1589* (London, 1995), p. 107.

> is suche that if he byte a man by the hande the hande with all spede must be cut of at the next Joynt, least it destroy the whole body. And for this cause if any rare or mischevous offence be committed that offence was called Crimen Stellionis. &c For the fourme of the said Serpent was in colour blewe, all to be speckled with spots. shyninge in the night bright like unto Starrs. But throughe corrupcion of tyme men thought that the place where suche offences were herde and adiudged was called the Starre chamber by reason of a Starre there fixed where indede it should have bene the figure of the Serpent Stellio. [48]

The core of the idea, which was also put forward by William Lambarde and William Hudson, was that the name of the Star Chamber was derived from the criminal offences which it tried and punished: *crimen stellionatus*.[49] As Fleetwood explained, the Latin language of *stellio* came to be corrupted to *stella*, which became the name of the court. Fleetwood's initial parliamentary claim must have been memorable; it is likely that this was the speech of 'a learned Antiquarye' which was recalled in the Star Chamber itself sixteen years later.[50]

However, the various writers on the Star Chamber disagreed about what these crimes were. For Fleetwood, *crimen stellionis* were named for the serpent. Just as the only effective response to the serpent's bite was prompt and drastic action to prevent greater harm, so the legal system required a court which could act in such a way too. For Fleetwood, the name of the court therefore reflected a jurisdiction which was concerned with preventing the spread of dangerous conduct through the commonwealth. Although Fleetwood claimed to have identified this point in the

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[48] Folger Shakespeare Library, Fleetwood History of Star Chamber 1586/7, MS V.b.303, f. 26.

[49] Lambarde, *Archeion*, p. 84. Unless otherwise noted, all material about the Star Chamber quoted from *Archeion* is also present in Lambarde's earlier work, 'Tate', 'Camera Stellata', so the idea dates from 1586: Hudson, 'Treatise', p. 8.

[50] *AG v Daniell* (1601) in Hawarde, *Les Reportes del Cases*, pp 119-123, at 123.

thirteenth-century works *Bracton* and *Fleta*, it is not present in *Bracton* and the only relevant reference in *Fleta* is a description of spotted animals which is not concerned with crimes or with the Star Chamber.[51] Instead, Fleetwood's ideas are likely to be ultimately derived from classical Roman sources, where a spotted lizard or snake (*stellio*) was associated with wrongdoing.[52]

William Lambarde's understanding of the name and role of the court was similar to Fleetwood's, in that Lambarde also thought it derived from 'the Latine word Stellio, which betokeneth that starry and subtile Beast'.[53] However, for Lambarde the significance of the serpent was different. Lambarde observed that it was from the serpent's 'name the fault of craftie Cozenage is borrowed by the Civillians, which they call Crimen stellionatum, because the Sinne is punished in this Court'.[54] The original Latin was therefore linked to the English crime of cozenage. It is difficult to define this and related offences in early-modern English law, but they were all crimes of fraud and dishonesty, and an important part of the jurisdiction of the Star Chamber.[55]

Lambarde probably drew the link between the *crimen stellionatum* and the animal *stellio* through the civilian literature which he mentioned. In early-modern civilian literature the *crimen stellionatum* was frequently linked to the animal *stellio*.[56] There is

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[51] H.G. Richardson and G.O. Sayles, *Fleta, vol.II: Prologue, Book I, Book II* (London, 1955), p. 114.

[52] E.g. Pliny, *Natural History*, 30.27, trans. W.H.S. Jones (Cambridge MA, 1963) pp 334-5; Ovid, *Metamorphoses*, 5.441-461, Frank Justus Miller (trans.), rev. G.P. Goold (Cambridge MA, 1916), pp 268-271. The reference to needing to cut off the hand to prevent the spread of poison is probably taken from Lucan's *Civil War*, although the relevant passage does not use the language of *stellio*: Lucan, *The Civil War*, 9.828-833, trans. J.D. Duff (Cambridge MA, 1928), pp 567-568.

[53] Lambarde, *Archeion*, p. 84.

[54] Lambarde, *Archeion*, p. 84.

[55] On these difficulties, and particular factual circumstances which were addressed, see Henry Mares, 'Fraud and dishonesty in King's Bench and Star Chamber', *American Journal of Legal History*, 59:2 (2019), 210-231.

[56] E.g. Jacques Cujas, *Paratitla in Libros Quinquaginta a Digestorum seu Pandecta* (Cologne, 1570), pp 326-327.

no specific evidence of which civilian book Lambarde read, nor the source from which Fleetwood drew the assocation between the animal *stellio* and the *crimen stellionatum*, but an introductory work or dictionary is the most probable.[57] Lambarde made use of European dictionaries in his work[58] and the association between the animal and the crime appeared in both Latin dictionaries[59] and specifically legal dictionaries, [60] any of which could have been available to both Lambarde and Fleetwood.

Hudson's Jacobean engagement with the idea of *crimen stellionatum* explaining the name of the court was the least detailed, presumably because Hudson did not accept the explanation. Hudson had read Lambarde and could have repeated Lambarde's explanation for the name of the court. He chose not to do so. Instead, Hudson explained that '[s]ome think it is so called for *Crimen Stellionatus*, because it handleth such things and cases as are strange and unusual'.[61] This departure from Lambarde is not explained, but may reflect the work of the English civilian Richard Cosin, who explained that 'crimina extraordinaria'

> have no peculiar and proper name in lawe, or else no certaine punishment determinately appointed (by lawe) for those who offend in them; and most of them are therefore for the varietie of them (upon the great varietie of spots which be in a certaine beast named *Stellio*) termed in that lawe *Crimina Stellionatus*: and may be englished by the general terme of misdemeanors: and

[57] As has been shown by Ibbetson, early-modern common lawyers tended to use introductory works and dictionaries, e.g. David Ibbetson, 'A house built on sand: equity in early modern English law' in E. Koops and W.J. Zwalve (eds), *Law & equity: approaches in Roman Law and Common Law* (2014, Leiden), pp 55-78, at 66-67.

[58] Lambarde, *Archeion*, p. 31 has a marginal reference to Charles Estienne, *Dictionarium latino-graecum* (Paris, 1554). This edition of Lambarde's work was apparently based on his autograph copy, so the attribution may well be Lambarde's.

[59] E.g. the frequently reprinted Ambrosius Calepinus, *Latinae linguae dictionarium* (Basel, Hieronymus Curionus, 1544), s.v. 'Stellionatus crimen'.

[60] E.g. Simon Schardius, *Lexicon Iuridicum* (Basel, 1582), s.v. 'Stellionatum'.

[61] Hudson, 'Treatise', p. 8.

> such be many of these crimes which usually are enquired of and examined in the *Starre-chamber*[62]

For Hudson, echoing Cosin, the Star Chamber therefore handled the infinite variety of offences which were not already defined in law, offences which would therefore be 'strange and unusual'.

(3) Steering the Commonwealth

William Lambarde, drawing on his expertise as a Saxon scholar, made another suggestion for the name of the court, 'by derivation from the old English word *Steoran*, which signifieth to steare, or rule, as doth the Pilot in a ship; because the King and Councell doe sit here, as it were at the Sterne, and doe governe the Shippe of the Commonwealth'.[63] As with the ideas about a serpent, Lambarde's claim must have required linguistic corruption over time for *steoran* to become 'star'. The idea that the Star Chamber in a sense governed the country was not an unusual one. The Star Chamber frequently referred to its proceedings and punishments being exemplary,[64] and as the king himself put it, 'all kingdomes, and states, are governed Cheifely by example', examples which the Star Chamber made of those convicted in it.[65]

While no other writers adopted this analysis (perhaps because they lacked the expertise to engage with the Saxon language),[66] there are hints that the idea was valued by others. In 1587 Lord Chancellor Christopher Hatton referred to the Star Chamber as 'The onely Star of Justice', perhaps alluding to the role of stars in

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[62] Richard Cosin, *An apologie for sundrie proceedings by iurisdiction ecclesiasticall* (London, 1593), part 2 (separately paginated), p. 2.

[63] Lambarde, *Archeion*, pp 83-4.

[64] Williams, 'Contemporary Knowledge of the Star Chamber', p. 200.

[65] BL, Harley MS 1576, f.76.

[66] Both Coke and Hudson repeat the point, but this is simply repetition of Lambarde which neither accepted: Coke, *Fourth Part*, p. 66; Hudson, 'Treatise', p. 8.

navigation.[67] This was certainly the case in Hudson's writing on the Star Chamber. Although Hudson did not support Lambarde's point involving the Saxon language, he did adopt the idea of steering the commonwealth, explaining that the role of the Star Chamber was 'to enlighten the world with the radiant beams of those bright shining stars, as the cynosure to steer and direct a sure course of the happy government of this state in peace and glory'.[68] Hudson did not present this as the reason for the naming of the court, but his writing here does seem to fall into the same underlying assumption, that the court's name correlated to its function.

James I and the Judges of the Court

From 1616, the reasons given for the name of the court changed dramatically. Rather than focusing on issues of language related to the role of the court, explanations for the court's name were directed to the nature of the judges there.

The change originated in a 1616 speech by James I himself, when he sat in the Star Chamber for the first time.[69] James explained that the court 'hath a name from heaven, a Starre placed in it; and a Starre is a glorious creature, and seated in a glorious place, next unto the Angels. The Starre-Chamber is also glorious in substance, for in the composition, it is of foure sorts of persons', then setting out the types of people who sat as judges in the court. It was these judges who made the court 'glorious', leading to it being like a star.[70] The court's nature was determined by its judges.

[67] BL, Hargrave MS 216, f. 174v.

[68] Hudson, 'Treatise', p. 2.

[69] On this event, see Williams, 'James VI and I', pp 94-95.

[70] James VI and I, 'Speech in Star Chamber of 20 June 1616' in Johann P. Somerville, *King James VI and I: political writings* (Cambridge, 1994), pp 204-228 at p. 216.

James's speech was printed in his *Works* that year and his linking of the name of the court to its judges was followed in other Jacobean discussions.[71] The king's clear statement as to the source of the Star Chamber's name overturned the earlier understandings and scholarship, introducing a new idea. The two Jacobean discussions of the Star Chamber's name are very similar and develop James's remarks in the same way. This similarity may be due to the later discussion (William Hudson's) being influenced by the earlier anonymous account in the 1618 edition of West's *Symboleography*.[72]

Like James's speech, both of these texts identified the stars in the Star Chamber as being the judges in the court. As the author of the material on Star Chamber in *Symboleography* explained, the stars decorating the court room 'emblematically they resemble the bodie of the Judges of that Court'.[73] Unlike the king's approach, the judges were stars not because of their own status, but 'because the stars have no light but what is cast upon them from the sun by reflection', that sun being the king

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[71] James VI and I, *The workes of the most high and mightie prince, Iames by the grace of God, King of Great Britaine, France and Ireland* (London, 1616), pp 549-69. It seems likely that James's speech also informed the speech of John Bastwick in his own defence during the reign of Charles I. According to a manuscript account, Bastwick referred to the judges in the court as being like angels, god, or 'soe many glorious Starres that should shine in the darke & searche into every cranney of this most noble cause': Folger Shakespeare Library, Misc Works of Puritan Authors, MS V.a.248, f.33. Bastwick did not make this point to discourse upon the court's name, but rather as part of his opening statement that in the high profile prosecution the judges should investigate the matter as thoroughly as possible, rather than condemning him too readily. The point about investigating more carefully is made in the printed account of Bastwick's speech but the reference to stars is not: *R v Dr John Bastwick, Mr Henry Burton and William Prynn* (1637) 3 State Trials 711-770, 721.

[72] There is the possibility that Hudson was also the author of the anonymous material on Star Chamber in West's *Symboleography* and then reused that material in his treatise on the Star Chamber. Hudson was an established Star Chamber practitioner by 1618, having worked in the court as a clerk from 1594, and is thus a plausible author for any Star Chamber text. On Hudson, see Thomas G. Barnes, 'Mr Hudson's Star Chamber' in DeLloyd J. Guth and John W. McKenna (eds), *Tudor rule and revolution: essays for G.R. Elton from his American friends* (Cambridge, 1982), pp 285-304 at 288-290. However, the text in West makes significantly more use of Thomas Smith's work than Hudson's text, suggesting a different attitude towards Smith's work between the authors of the two texts.

[73] West, *Symboleography*, p. 337.

himself.[74] These accounts of the name of the Star Chamber therefore stressed the source of authority for the court as being ultimately the king.

This was not a new development; understanding the Star Chamber as applying a peculiarly royal power and aspect of sovereignty was a core part of discussion of the court from Lambarde's writing in 1586 onwards.[75] What was new was to link this understanding to the decoration of the court in a way that Lambarde had not done. This progression perhaps reflects the strong association which had emerged between equity courts such as the Chancery and the Star Chamber and the royal prerogative in the years after Lambarde wrote,[76] or it may simply derive from the influence of James's 1616 speech. He asserted there that judges 'borrow their power...from Kings'.[77]

Rescuing the 'Ridiculous'?

Having seen the different explanations for the court's name, were they as 'ridiculous' as Baildon claimed? Should these be regarded as 'sheer affectation...an indulgence', like literary allusions in judgments, or as having more value, as Osborough believed was the case for judicial references to literature?[78]

For Hudson, whose contribution was in a book presented to the new Lord Keeper, this may have been particularly important. The treatise is usually seen as Hudson

[74] Hudson, 'Treatise', p. 8. Similarly West, *Symboleography*, p. 337: the judges 'deriving their light and authoritie from his Maiestie, as the Starres from the Sunne'.

[75] See, e.g., Lambarde's explanation of the Star Chamber as being the successor to the king's personal judgment and Hudson's references to the Star Chamber providing 'sovereign' judgment: Lambarde, *Archeion*, p. 149; Hudson, 'Treatise', p. 18.

[76] Ian Williams, 'Developing a prerogative theory for the authority of the Chancery: the French connection' in Mark Godfrey (ed.), *Law and authority in British legal history, 1200-1900* (Cambridge, 2016), pp 33-59.

[77] James VI and I, 'Speech in Star Chamber', p. 206.

[78] W.N. Osborough, *Literature, judges and the law* (Dublin, 2008) pp 140, 9.

demonstrating his learning about Star Chamber practice by offering an educational text to the incoming president, a judge who had never sat in the court before.[79] However, it may also have been an opportunity for Hudson to stress his qualifications to the incoming Lord Keeper. Hudson explained that in the Star Chamber the Lord Chancellor (or Lord Keeper) 'calleth or directeth the counsellors which shall speak at the bar' and chose 'men of sincerity and experience', but that 'latter times have rather introduced favourites or kinsmen as subjects for the judge's favour'.[80] Hudson was not seeking to become a new favourite, but he may have been trying to secure his position early in Williams's tenure as best he could.[81] A show of wider learning, and its relevance to the court, could have been a way to do that.

Such an explanation would not make sense for other writers on the Star Chamber. Most obviously, an anonymous author could have gained no benefit in this way from his contribution to *Symboleography*. More generally, given the repeated engagement with this issue over several decades, it does appear that contemporaries thought the issue was important.

The question of the name and nature of the Star Chamber could be directly relevant to contemporary debates affecting legal practice. William Fleetwood's first foray into the field was in Parliament, where he rehearsed his view about the serpent *stellio* as the source of the name of the Star Chamber, explaining 'as that serpent byting the

[79] Barnes, 'Mr Hudson's Star Chamber', p. 296.

[80] Hudson, 'Treatise', p. 26. As Hudson praised Thomas Egerton, Lord Ellesmere, in this regard, this is clearly a criticism of Francis Bacon's tenure as Lord Chancellor: Hudson, 'Treatise', p. 27. As Barnes notes, four Bacons practiced in Star Chamber during Francis Bacon's tenure as Lord Chancellor: Barnes, 'Mr Hudson's Star Chamber', p. 299.

[81] This is a more cynical, and self-interested, explanation for parts of Hudson's work than that put forward by Barnes, who instead presents Hudson as writing to try and restore the Star Chamber to better practices on the appointment of a new lord keeper: Barnes, 'Mr Hudson's Star Chamber', pp 296-8.

finger it must be cutt of, so ther must be spedy redresse in causes'.[82] For Fleetwood, elaborating on the name of the court was a seemingly widely understood method for explaining the nature of the court. The Star Chamber was presented as a court that provided legal redress faster than the usual course of the criminal law courts. These remarks occurred in a debate about a bill concerning fraudulent conveyances. Fleetwood supported the bill giving jurisdiction to the Star Chamber, because such frauds needed to be addressed quickly and the name of the Star Chamber showed that it was the court which could do just that. Tellingly, Fleetwood seems to have assumed that his parliamentary audience would understand his analysis and accept it as valid. There is no suggestion that he thought he would need to explain what he was doing to a confused audience.

Most of the authors who discussed the name of the Star Chamber sought to understand the physical embodiment of the court and its name to understand the juridical nature of the court in less pressing circumstances than a parliamentary debate. In all these elaborate explanations of the name of the court, the assumption was that the decoration of the physical space was a consequence of the name of the court. Because the court's name was derived from the nature of the court itself, the courtroom became a physical manifestation of the juridical. Modern scholars at the interface between law and architecture understand this position, recognising that a courtroom is 'an institution that *embodies* legal and political power' [emphasis added].[83]

It is therefore no accident that discussions about the name of the Star Chamber occurred in texts which were trying to understand and explain the nature of the court,

[82] Hartley, *Proceedings in the Parliaments*, p. 107.

[83] Amy Milka, 'Temples of justice: the courtroom space in eighteenth-century England', *Law & History*, 7:2 (2020), 67-97, 70.

its jurisdiction and place in English institutions of government and justice. The earliest of these texts formed part of what has been described as the 'Elizabethan writing of England'.[84] Examination of the name and its physical consequences was just another method by which the juridical body itself could be understood. While there was disagreement about the nature of the court as revealed by its name, none of the proposed explanations were incorrect. The Star Chamber did hear cases concerning *crimen stellionatus*, the judges in the Star Chamber did think they governed the country (at least to some extent) through its decisions, and those judges were understood to derive their authority from the King. The method was therefore not conclusive, but as Richard Mulcaster had observed in 1582, knowing the name of a thing meant only that the nature of that thing would be 'half known'.[85]

That modern historians have lost sight of the reason for these early-modern discussions and dismiss them as 'ridiculous' reflects both the dominance of an understanding of language which was contested at the time of the debates and a failure to put these legal texts into a wider intellectual context. English legal history has moved on from the assumption of the closed 'common law mind' of John Pocock, but there is still a tendency to focus on whether common lawyers knew and engaged with 'legal' sources from outside the common law tradition.[86] It shows us how far seemingly technical legal writing and, more importantly, thinking, could use and be

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[84] Richard Helgerson, *Forms of nationhood: the Elizabethan writing of England* (Chicago, 1992).

[85] See above, text at n.31.

[86] The literature is extensive. The now traditional presentation of early-modern common lawyers as closed minded was J.G.A Pocock, *The ancient constitution and the feudal law* (2nd edn, Cambridge, 1987), robustly attacked by work such as C.W. Brooks, 'The place of Magna Carta and the ancient constitution in sixteenth-century English legal thought' in E. Sandoz (ed.), *The roots of liberty: Magna Carta, ancient constitution, and the Anglo-American tradition of rule of law* (Columbia, 1993), pp 57-88. It should be acknowledged that much early-modern scholarship which would now be regarded as occurring outside of law was at the time conducted within legal literature, such as the development of historical method by legal humanists, e.g. Donald R. Kelley, 'The rise of legal history in the Renaissance', *History and Theory*, 9:2 (1970), 174-194, and theological discussions in the second scholastic: Manlio Bellomo, *The common legal past of Europe, 1000-1800*, trans. Lydia G. Cochrane (Washington DC, 1995), pp 224-232.

engaged with methods and ideas drawn from beyond the law. Consideration of the nature of an early-modern legal institution required investigating its name, using a method associated with ancient Greek philosophy and exemplified in the Bible, drawing on classical Roman sources and recent interest in England's Saxon past, all related to the visual embodiment of the institution in its decoration. That breadth and diversity may have appealed to Nial Osborough and his famously diverse approaches to understanding law.