

## CHAPTER VII

### LOCAL BUSINESS, JUDICIAL FUNCTIONS, AND ROUTINE

THE privy council was in constant contact with local officials and local affairs. In dealing with the direction of local matters the councillors handled a vast and complex variety of business. They were constantly receiving petitions, and they were as constantly sending communications and directions to local officials. With so many things were they concerned in local regulation that any classification is certain to be insufficient. In times of unusual disturbance or disorder the council took particular cognizance of what was going on in the different districts. It issued many general or particular orders, accordingly, on such occasions and for such purposes as it deemed well.

At the time of the Gunpowder Plot the bailiffs and the citizens of Worcester sent information to the council about what was happening in their neighborhood.<sup>1</sup> The lords of the council directed the warden of the Cinque Ports to allow no person or ship to depart until further instruction.<sup>2</sup> From various places came in reports about the pursuit of the conspirators and examinations that were being made.<sup>3</sup> By warrant of the council castles and towns were seized.<sup>4</sup> Dudley Carleton wrote to the earl of Salisbury, secretary of state, hoping that Salisbury and "the rest of my honorable LL:" would not suspect him of any part

<sup>1</sup> S. P. D., James I, xvi, 8 November 1605.

<sup>2</sup> H. M. C., 13th report, appendix, iv, 132.

<sup>3</sup> S. P. D., James I, xvi, 9 November 1605.

<sup>4</sup> *Ibid.*, 13 November 1605.

in the plot, and so release him from detention.<sup>5</sup> Numerous petitions and communications relating to the plot and to suspected conspirators were sent to the council.<sup>6</sup>

Many miscellaneous orders and directions were issued for the public service. In 1611 instructions were sent to the commissioners of the middle shires for the better government of those districts.<sup>7</sup> From time to time the king's directions to be observed in the keeping of Lent were sent about by the council.<sup>8</sup> In 1621 "Their Llps. did this day giue order that the Orders published the last year for the due keepinge and observacon of Lent bee nowe forthw<sup>th</sup> new printed and published against this next ensueing Lent."<sup>9</sup> In 1628 the attorney general was to draw up a proclamation that no meat should be eaten during Lent or on prohibited days except by licensed persons.<sup>10</sup> Another such proclamation was ordered in 1632.<sup>11</sup>

The council often concerned itself with matters of public health. In 1629 and 1630 there were numerous orders for preventing spread of the plague.<sup>12</sup> In 1632 a proclamation was ordered in council, that since divers persons from various shires were repairing to his majesty's court to be healed of the disease called king's evil, and since there was danger that this assembling might help to disseminate the plague, such recourse was forbidden until the next Christmas.<sup>13</sup> In 1636 there was again a great deal of council business about it.<sup>14</sup> At this time the king, in a council of sixteen, considering how dangerous would be concourse of people liable to infection, ordered the lord chamberlain to stop all plays and spectacles until further order.<sup>15</sup> At times summary justice was dis-

<sup>5</sup> S. P. D., James I., xvii, 2 December 1605.

<sup>6</sup> *Ibid.*, xvi, xvii.

<sup>7</sup> *Ibid.*, lxv. 18.

<sup>8</sup> *H. M. C.*, 11th report, appendix, iv. 18.

<sup>9</sup> P. C. R., xxx, 29 January 1620-1.

<sup>10</sup> *Ibid.*, xxxvi, 20 January 1627-8.

<sup>11</sup> *Ibid.*, xli, 27 January 1631-2.

<sup>12</sup> P. C. R., xxxix.

<sup>13</sup> *Ibid.*, xlii, 6 June 1632.

<sup>14</sup> *Ibid.*, xlvi.

<sup>15</sup> *Ibid.*, 10 May 1636.

pensed. By order of the council to the lord mayor of London: <sup>16</sup>

Whereas wee vnderstand . . . that the house of one Thomas a Butcher in the Parrish of St<sup>t</sup> Buttolphs w<sup>th</sup>out Algate is infected w<sup>th</sup> the Sickness, and that the said Thomas, haueing a boy of about :16: yeares of age sick in his house of the Plague, and full of the Tokens, did giue vnto him a groate and direcc̄cons to goe to the house of John weekes in white Chappell to gett him a Lodging, who refusing to entertaine him, the said Boy was harboured at a poore widdowes house the next doore to the said weekes, where he dyed the same night. Wee haue therefore thought good to the end that others may take example by this ill Carriage and dealing of the said John Thomas hereby to pray and require yo<sup>w</sup> to cause him . . . his wife and Children to bee forthw<sup>th</sup> put vnto the Pesthouse.

From the council came various orders about felling timber, especially for the royal navy.<sup>17</sup> It dealt with numerous matters relating to postmasters and the posts.<sup>18</sup> There were many orders and directions about riots, apprehending and punishment of rioters.<sup>19</sup> In 1631 and 1632 there was a great number of orders from the council about collection of money to assist in repairing St. Paul's.<sup>20</sup> Frequently orders were issued about witches.<sup>21</sup> There were many regulations and there was much other business about taverns.<sup>22</sup> In 1633 and 1634 there was considerable business relating to the fens.<sup>23</sup> From time to time town charters were considered, amended, or granted, as, for example, "The heades of a Charter for Colchester, prpounded at the Counsell Boarde."<sup>24</sup>

<sup>16</sup> *Ibid.*, xxxix, 11 April 1630.

<sup>17</sup> For example, *ibid.*, xl.

<sup>18</sup> *Ibid.*, xli.

<sup>19</sup> *Ibid.*, xliii.

<sup>20</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*, xlii.

<sup>20</sup> *Ibid.*

<sup>23</sup> *Ibid.*, xliv, 21 November 1634.

There was constant communication between the privy council and the local officials—sheriffs, lord lieutenants, justices of the peace, and authorities in the towns. In 1604 the lords of the council asked the “Commissioners for Sewers” of Rye to report about the filling of the harbor.<sup>25</sup> In 1605 the council directed the justices of the peace for Hertfordshire to repair the highways, according to the statutes.<sup>26</sup> About the same time they bade these same justices restrain the carriers of Norwich and Cambridge from using heavy wagons because they cut the roads and made them unfit for travel by the king.<sup>27</sup> In 1606 the inhabitants of King Street, Westminster, petitioned the council to move itinerant vendors of roots from that street to the market house in the Round Wool Staple.<sup>28</sup> Next year the council sent a communication to the mayor and the justices of the peace of Norwich: let them levy a tax on the inhabitants for decent maintenance of the established ministry there.<sup>29</sup> About the same time it ordered the justices of Kent and of Surrey to execute the laws for suppression of rogues: the highways about London were infested with rogues, vagabonds, and soldiers lately come from the Low Countries.<sup>30</sup> In 1609 an order of council went to a certain one bidding him fell two hundred tons of timber in Bedfordshire for repairing a bridge.<sup>31</sup> The justices of Essex and of Hertfordshire were ordered to collect the arrears of the rate levied weekly for charitable uses. For the better preservation of game they were to take bonds of poulterers and others not to offer any for sale.<sup>32</sup> In 1610 the council directed the lord chief justice and the chief justice of common pleas to examine four

<sup>25</sup> *H. M. C.*, 13th report, appendix, iv. 131.

<sup>26</sup> *S. P. D.*, James I, xiv, 25 May 1605.

<sup>27</sup> *Ibid.*, 24 June 1605.

<sup>28</sup> *Ibid.*, xvi, 15 February 1606-7.

<sup>29</sup> *S. P. D.*, James I, xxvii, May (?) 1607.

<sup>31</sup> *Ibid.*, xliii, 16 February 1608-9.

<sup>30</sup> *Ibid.*, xxiv, 1606(?).

<sup>32</sup> *Ibid.*, xlvi. 23.



apprentices sent up prisoners for alleged sedition in Norwich.<sup>33</sup> In 1614 the lord mayor of London informed the privy council that brewers were making stronger beer and ale than was allowed by law, hence consuming larger quantities of corn and malt, and so were raising the price of corn and of meal in the markets. The council ordered that this be not done, allowing, however, stronger drink to be brewed for ships about to set forth on long voyages abroad.<sup>34</sup>

In 1622 the mayor and others of Chichester sent in the names of those who did and those who did not contribute to the king's service—a benevolence, perhaps. They said that some of the merchants were poor, and not able to give more.<sup>35</sup> That year the mayor and the burgesses of Reading asked the council to suppress some of the ale-houses, that there might be a larger quantity of corn, to relieve the poor in time of scarcity.<sup>36</sup> The mayor and the recorder of Wycombe told the council they had reduced the number of ale-houses from twenty-one to nine; a certain keeper of a disorderly ale-house suppressed had opened it again, pleading license from a justice of the peace; they wanted leave to punish him according to the law.<sup>37</sup> In 1623 the privy council ordered the mayor of Reading and others to attend, because of contemptuous conduct towards Lord Wallingford: in a dispute the town officials had proceeded against his under-steward. The charter of the town was inspected; the mayor and the burgesses, recalcitrant, were committed to the Marshalsea; and the under-steward was by order of the council restored to the place from which they had put him.<sup>38</sup>

<sup>33</sup> *Ibid.*, liv, 20 May 1610.

<sup>34</sup> P. C. R., xxvii, 27 March 1614.

<sup>35</sup> S. P. D., James I, cxxx, 9 May 1622.

<sup>36</sup> *H. M. C.*, 11th report, appendix, vii. 222.

<sup>37</sup> S. P. D., James I, cxxxix, 12 March 1622-3.

<sup>38</sup> P. C. R., xxxi, 18 March 1622-3, 1, 15 April, 27, 30 May 1623.

At a council of seven in 1623:

This daye diuerse of the Justices of the peace of westminster & Middlesex were sent for before their Lps for the enquierie and order to bee taken, for the repressing of frequent insolencies and abuses informed to bee offred vnto Strangers, and many tymes to the offence of the Amb<sup>rs</sup> of forraine princes and Stats both in the streets of London and westminster and the liberties and at their houses notwithstanding diuerse sondrie admonitions and Co<sup>m</sup>ands heretofore giuen both by his ma<sup>tie</sup> and by their Lps in that behalf.

The council ordered them to take further measures at once.<sup>39</sup> About that time the mayor and the aldermen of Newcastle declared that notwithstanding their care and notwithstanding several orders previously sent from the council, the river was being injured by emptying ballast into it; they prayed an order of council that no ship depart without the master declaring under oath where he had emptied his ballast. Such an order was at once issued, violation to be in contempt of the council.<sup>40</sup> In 1628 the council commanded the justices of Surrey to give information about the names, quality, and condition of all recusants living in Surrey near London.<sup>41</sup>

There were frequent orders and regulations about London and its environs.<sup>42</sup> Orders of council were often sent giving permission to build, concerning disputes about new buildings, and, at one time, about demolishing edifices near St. Paul's in connection with repairing the cathedral.<sup>43</sup> A great many commands issued about the cleansing and repairing of streets, highways, and bridges.<sup>44</sup> In 1633 the council noticed the nuisance to the royal family from the smoke of brew-houses and kilns in Westmin-

<sup>39</sup> P. C. R., xxxii, 8 September 1623.

<sup>40</sup> *Ibid.*, 21 November 1623.

<sup>41</sup> S. P. D., Charles I, cxxii, 19 December 1628.

<sup>42</sup> For example, P. C. R., xl, li, lii.

<sup>43</sup> *Ibid.*, xli.

<sup>44</sup> *Ibid.*, xlii.

ster. There was great annoyance at Whitehall and at St. James's. Ordered, that for a time no sea-coal be used thereabouts.<sup>45</sup>

The council was often occupied with efforts to foster industry and heighten prosperity and trade. In 1608 the council bade the mayor and the recorder of London examine a petition about a project for fixing colors dyed with logwood.<sup>46</sup> In 1616 there were "Resolutions in Councell, after a Longe and graue deliberation for setling and advancing the greate worke of Dying and Dressing in England, and removing the Impediments and difficulties that doe now interrupt the same."<sup>47</sup> Six years later the councillors were employing their utmost endeavors to learn why the cloth industry had decayed; letters were being sent to all the clothing counties that two or three persons well-instructed be sent up to deliver their opinions; merchants had declared the cause to be increase of impositions recently laid upon cloth.<sup>48</sup> In 1626 the council was occupied with granting a patent for preparing leather.<sup>49</sup> Next year a duty of six pence per chaldron of all coals transported from Newcastle was ordered paid to support vessels defending the eastern coasts.<sup>50</sup> In 1632 a certificate was sent by the mayor of Southampton to the lords and others of the privy council about persons thought most fitting to engage in the retail sale of tobacco. Such information had been required by letters from the council.<sup>51</sup> From time to time there were orders about regulation of the fisheries, restraining Frenchmen from fishing off the English coast, about the trade in fish, about export

<sup>45</sup> *Ibid.*, xliii, 15, 30 September 1633.

<sup>46</sup> S. P. D., James I, xxxvii, 21 October 1608.

<sup>47</sup> P. C. R., xxviii, 26 September 1616.

<sup>48</sup> Thomas Locke to Sir Dudley Carleton: S. P. D., James I, cxxix, 13 April 1622.

<sup>49</sup> P. C. R., xxxiv, 27 July 1626.

<sup>50</sup> *Ibid.*, xxxvi, 1 June 1627.

<sup>51</sup> *MSS. of Southampton, H. M. C.*, 11th report, appendix, iii. 28.

of fish.<sup>52</sup> There were numerous orders concerning supply, sale, transport, and distribution of corn.<sup>53</sup> There was frequent consideration in the council of business relating to soap, tin, timber, tobacco, coal, and the coal trade, and numerous regulations and orders about brewing.<sup>54</sup>

According to modern conceptions, the second principal category of work done by the council was its part in legislation. This can be studied, however, best in connection with the relations between council and king and council and parliament, to be dealt with below. The other great category would be in respect of judicial functions. So extensive and constant were the council's judicial activities that often the register was known as the book of council causes. As the High Court of Parliament was so called because originally, when most of the activities of government were judicial, it had seemed to be predominantly a council and a court, so had the king's council originally assisted him especially with advice and with exercise of functions mainly judicial. As the monarch embodied the highest judicial authority in the kingdom—he could always be a special court and a high court save where jurisdiction had been devolved to other particular courts—so had the council in assisting him shared this judicial authority, and often been more a court than anything else. From the older point of view, perhaps, all the work of the council concerned causes, the deciding what was to be done, what of right should be done, how it should be done, and giving orders to enforce the decisions. A great part of all ordinary judicial work had long been dealt with according to well crystallized legal systems in regular courts to which had been delegated judicial authority of the king or in the local courts that were subordinate to him and to his judges; but there had continued to be much that fell not easily within the jurisdiction of

<sup>52</sup> For example, P. C. R., xl.

<sup>53</sup> For example, *ibid.*, xl, li, lii.

<sup>54</sup> *Ibid.*, xlix, li, lii.

any of the courts of law, and much that could be settled more justly and more expeditiously by the king and his assistants in council. It might be said that judicial work that had not been delegated to some particular court, remained in the king and his council; and by prerogative other judicial work could be drawn to the same jurisdiction. Charles I declared this explicitly in 1631, when he granted a commission in which he named all the members of the council severally to be a standing committee to hear and determine controversies touching the jurisdiction of any of his majesty's courts of law: "It being manifest that our said Justice . . . is originally and in Sovereignty onlye and intyrelly in our selves."<sup>55</sup> This, he said, was for good government and avoiding delay. The work would be executed, when necessary, by all the councillors or any six of them.

In 1605 the king instructed the privy council that no person was to crave remedy of the council in matters of justice, since that would make it judge of actions between one party and another, for whom it could not distinguish and discern particulars so well as the judges in courts of law. Yet, if the councillors had some special information, or if the king referred to them a particular case, they were to make reference in favor of such party to the court where the case was pending.<sup>56</sup> In 1606 the earl of Salisbury wrote about a dispute that had arisen between the Spanish ambassador and the Dutch ambassador over a ship taken in the narrow seas: "his Ma<sup>ty</sup> well knowes, that those grounds can never be cleared, (where assertions are contrary) without proof and oath made before a Judg, (with all wch, wee as Counsellors of state, haue no manner of participation)."<sup>57</sup> Yet numerous causes that concerned differences, contentions, or disputes were heard

<sup>55</sup> S. P. D., Charles I, cxc, 6 May 1631; Rymer, *Fœdera*, xix. 280.

<sup>56</sup> S. P. D., James I, xii, 9 January 1604-5.

<sup>57</sup> *Ibid.*, xviii, 15 January 1605-6.

and settled by the council, often by commissioners of the council—or, as they would have been called later on, a committee—appointed for that purpose.

Constantly there came to the council great numbers of petitions asking for assistance or justice. It would seem that many sincerely desired to get their causes heard before the council. In 1608 James appointed certain sub-commissioners, as they were styled, to hear private suits presented to him, for the better ease of the body of the councillors, “(who in regard of their place and neernes to o<sup>r</sup> pson are often tymes so occupied in the affaires of greatest moment of o<sup>r</sup> estate) as they cannot attend the care of private suites.”<sup>58</sup>

In 1612 the council having heard a cause between the university and the city of Oxford, decided that a certain walk was the property of the university, but that the city might enter it in search after felons or in hue and cry.<sup>59</sup> In 1614 in a cause “restinge before your Lps by peti<sup>o</sup>n” between two parties concerning dispossession from a piece of property in Cornwall, the council referred the matter to Sir Francis Bacon, attorney general, and his report being approved, an order was accordingly issued.<sup>60</sup> Shortly after, petitions having been offered to the council by both parties, a difference came before the board concerning the Dutch congregation of Colchester and certain persons of that place, about the trade of bays and stay making there. The council thought the matter should have deliberate hearing, and ordered the attorney general to examine both parties, then report to the council his opinion what course should be taken.<sup>61</sup> “Upon Sondag the second of June,” runs a note in the record for that year, “the Lordes haue appointed to heare the Cause con-

<sup>58</sup> S. P. D., James I, xxxvii, 16 November 1608.

<sup>59</sup> *Ibid.*, lxx, 23 July 1612.

<sup>60</sup> P. C. R., xxvii, 20 March 1613-14.

<sup>61</sup> *Ibid.*, xxviii, 20 February 1615-16.

cernyng the Woolgrowers and Staplers, at Nyne a clock in the forenoone. At w<sup>ch</sup> time those whome it concernes are to attend.”<sup>62</sup> A little later the lords heard a “Controuersie” between the mayor, the burgesses, and the society of merchants of Hull on the one part and divers other merchants free of the company of the Merchant Adventurers of England on the other concerning free trade and exportation of lead to Germany and the Low Countries. A committee of the council was appointed for further consideration.<sup>63</sup> Somewhat later four lords heard the “Cause” between the miners of Derbyshire and the fee farmer of the third part of the lead ore appertaining to the dean and chapter of Lichfield.<sup>64</sup> In 1627 the lord treasurer, the lord president, the earl of Dorset, and the chancellor of the exchequer were appointed “Referees, in the cause” between the earl of Ormond and the earl of Desmond, who were summoned to come to the council chamber at Whitehall, with their learned counsel if they desired.<sup>65</sup>

In 1627 in a council of fourteen: <sup>66</sup>

Whereas vpon an humble Petiōn presented to his Ma<sup>tie</sup> by S<sup>r</sup> John Sauage k<sup>t</sup> concerning the possession of a Manner called Bradley situate in County of Southtōn now in question betweene the pet<sup>r</sup> and Thomas Tayl<sup>r</sup> gent: It pleased his Ma<sup>tie</sup> to referre the consideration of the said Petiōn to the Lo: Keeper, the Lo: President, and the Lo: Steward. ffor asmuch as the lls Referees, will be ready to heare the cause w<sup>th</sup>in these fewe dayes, soe it be prepared, and made ready by the Councill learned, on both sides, and fitted for their heareing. The said lls: Referees haue therefore thought fitt and ordered that S<sup>r</sup> Hennage ffinch k<sup>t</sup> Recorder of the Cittie of London, being of Councill for the said S<sup>r</sup>

<sup>62</sup> *Ibid.*, 20 May 1616.

<sup>63</sup> *Ibid.*, xxx, 24 June 1619.

<sup>64</sup> *Ibid.*, xxxv, 1 February 1626-7.

<sup>65</sup> *Ibid.*, 26 November 1619.

<sup>66</sup> *Ibid.*, xxxvi, 12 June 1627.

John Sauage; and m<sup>r</sup> william Noye for the said Taylo<sup>r</sup> shall accordingly prepare the cause and make it redie for their lls: heareing at the tyme their lls. shall assigne for that purpose. whereof both the said M<sup>r</sup> Recorder and M<sup>r</sup> Noy are required to take notice, and S<sup>r</sup> John Sauage, and the said Taylo<sup>r</sup> to attend them, w<sup>th</sup> such writings, Euidences and wittnesses, as they shall thinck necessary for the expediting of the Suite.

In respect of this Sir John Savage petitioned that suits and proceedings in all other courts against him might be stayed, excepting those directed by their lordships to be had in chancery. The "LLo: Committees" thereupon ordered that all suits whether in Star Chamber or any other court should be for the present forborne.<sup>67</sup>

In 1628 the council heard a cause between the earl of Cork and two others, listening to the arguments at length of both parties with their counsel.<sup>68</sup> In 1630, on petition, was considered the case of a ship attached by a certain one of Amsterdam; whereupon "A Reporte drawne by consent, w<sup>ch</sup> order to be entred in the Register of Counsell Causes, and so remayne as an Act of Counsell."<sup>69</sup> At another time a committee of two of the council heard the difference between a man and his wife, and having found no sufficient cause for anything testified why they should live estranged from each other, admonished and exhorted them to forget all things past, and thenceforth live together as husband and wife should live. "Wherevpon they ioyned handes, and the said Edwarde Wollasrot did there promise to their L<sup>ps</sup> to receive, love, treat, and maintaine his said wife, according to his meanes, so that on his parte there should be no just cause of complaint."<sup>70</sup> In 1634 Lady Banister complained of ill usage from her husband. The king referred her petition to the council,

<sup>67</sup> P. C. R., xxxvi, 4 July 1627.

<sup>68</sup> *Ibid.*, xxxix, 31 March 1630.

<sup>69</sup> *Ibid.*, xxxviii, 31 July 1628.

<sup>70</sup> *Ibid.*, xl, 17 November 1630.



and she asked to be heard at the board, several women to attend her as witnesses. The council resolved to hear the "cause"<sup>71</sup> Many controversies or causes were heard and determined, usually by committees of the council.

Sometimes the council intervened to keep matters from being taken to other courts. In 1608 a communication signed by five of the board enjoined Sir Gilbert Wakering to refer a difference between himself and another to arbitration, and not have his opponent arrested.<sup>72</sup> In 1623 a council directed the chief baron and others of the exchequer to free from an unjust suit one who had acted by command of the council in the king's service.<sup>73</sup>

The privy council acted as a court in many matters pertaining to the interests of the king or in things that concerned the government or the common weal. In 1605 Sir Francis Hastings was examined before the council and questioned by the lord chancellor and the secretary of state respecting a petition he had drawn up for gentlemen of Northamptonshire; the petition was held to be factious and seditious; he was ordered to his country house, and to cease meddling in public affairs.<sup>74</sup> In 1611 the council was occupied with charges against the earl of Northumberland.<sup>75</sup> In 1628 a gentleman was called before the council and privately examined. "For reasons best knowne vnto their LLopps" he was commanded upon his allegiance to remove his dwelling and his family ten miles from London before the end of the month, and to go no place within ten miles of the king's court or of the city of London until further order.<sup>76</sup> In many instances those against whom the council wished proceedings begun were referred to Star Chamber. In 1631, after a riot in the

<sup>71</sup> *Ibid.*, xliv, 10 June 1634.

<sup>72</sup> S. P. D., James I, xxxv, 20 July 1608.

<sup>73</sup> *Ibid.*, cxlv, 26 May 1623.

<sup>74</sup> *Ibid.*, xii, February (?) 1604-5.

<sup>75</sup> Despatch of Antonio Foscarini, 28 July 1611 (N.S.): Venetian Transcripts, ix. 51.

<sup>76</sup> P. C. R., xxxvi, 12 January 1627-8.

Forest of Braden, the court of Star Chamber ordered numerous persons to be arrested and brought before it, and its order was strengthened by a warrant issued by the privy council.<sup>77</sup> About the same time the king with eighteen others in council examined a certain one sent for by warrant from the board and brought up by a messenger of the council. He was asked to answer complaints made against him in respect of the proper making of cloth according to the statute. The defendant having heard the charges replied. Then the king and the council decided that the attorney general should examine him, the attorney to proceed against him and certain others under like charges in the Star Chamber as he should find cause.<sup>78</sup>

In 1628 from a council of the king and nineteen an order signed by eleven went to Lord Dunsmore: the king and the council had heard of a quarrel between him and Lord Butler; let him appear before the next council in Whitehall, bringing a certain other one with him; meanwhile abstain from any meeting with Lord Butler, and behave to that nobleman in all respects as became his own rank.<sup>79</sup> A similar letter was sent to Lord Butler. In 1631 the council issued to John Castle, Esquire, an open warrant with a clause of assistance requiring all the king's officers and loving subjects to assist in searching for his daughter, Catherine, stolen from him, and a warrant for the arrest of two men.<sup>80</sup>

Finally the privy council acted as the regular court of appeal from the courts of the island possessions about England, and this in the end was to survive as its important judicial function, for in later years England would build up a vast colonial empire, and the privy council would remain the high court of appeal from outlying

<sup>77</sup> P. C. R., xli, 29 November, 12 December 1631.

<sup>78</sup> *Ibid.*, 21 December 1631.

<sup>79</sup> *Ibid.*, xxxviii, 28 September 1628.

<sup>80</sup> *Ibid.*, xli, 5 November 1631.

dominions. In the first half of the seventeenth century, however, this jurisdiction was substantially confined to the hearing of appeals from the Isle of Man and from the Channel Islands. In 1617, for example, an inhabitant of Jersey appealed to the privy council from a sentence given against him by three of the jurats of that island.<sup>81</sup>

In the course of the judicial work many were summoned to appear before the council; some were committed to custody; some were punished. In 1623 a certain one petitioned the lord president: he had been summoned to appear before the council; he had been attending daily for six weeks, but had never been called on to appear before the board; he prayed to be allowed to return home on urgent business.<sup>82</sup> In 1629 and in 1630 there were numerous summons.<sup>83</sup> In 1630, when the government had been remodelling parliamentary boroughs wherever it could, Oliver Cromwell made some opposition in Huntington. On complaint about this he was summoned to appear before the council: <sup>84</sup> .

This day Oliver Crumwell Esq<sup>r</sup>, and Willyam Kitborne, gent having bene formerly sent for by warrant from the Boarde tendered their apparences accordingly w<sup>ch</sup> for their indempnities is entred in the Register of Counsell causes. But they are to remaine in the custody of the Messenger untill they shalbe dismissed by their L<sup>ps</sup>.

Sometimes opposition arose. In 1634 there was protest at Stamford about the council arresting persons by messenger, without legal process. A certain one said: "That the King by the Statt: of Magna Charta, ought not to send for any man by a Messenger, but by a pcesse, & that the King had prmised the contrary."<sup>85</sup>

<sup>81</sup> *Ibid.*, xxix, 1 August 1617.

<sup>82</sup> S. P. D., James I, cxlvi, 13 June 1623.

<sup>83</sup> P. C. R., xxxix.

<sup>84</sup> *Ibid.*, xl, 26 November 1630.

<sup>85</sup> *Ibid.*, xliii, 7 February 1633-4.

Many were committed to custody by the privy council. About 1604 a man was sent to the Gatehouse by the lord president for speaking scandalous words about the king's right to the crown.<sup>86</sup> In 1620 the council issued warrants to the lieutenant of the Tower and to the warden of the Fleet to receive certain ones.<sup>87</sup> Two years later John Pym, confined to his London house by order of the king, having humbly sued to be made free from that restraint, the king, in respect that his health was impaired, permitted him to go also to any of his country houses, until further order.<sup>88</sup> About that time Lord Say was committed to the Fleet from the council table "for hindering the contribution or benevolence in his quarters."<sup>89</sup> Sometimes there was conflict of jurisdiction. In 1627 Sir William St. John had been sent to the Fleet by order of the king and his council. Apparently he had been allowed to go out. At all events he was arrested at the suit of a certain one and imprisoned. He then petitioned the council, which ordered the lord keeper to grant "a Habeas Corpus" for bringing him before the board to answer certain matters charged against him on the king's behalf.<sup>90</sup>

In 1628 Charles I wrote to parliament: "Wee or our Priuy Councill haue power to comitt any man without the cause shewed." In the future, however, he would not confine anyone for not lending money or for any reason not concerning public good and safety.<sup>91</sup> He assured parliament that he would maintain the right that no subject should be imprisoned without assignment of the reason, except that he must reserve to himself and his privy council the power to do so in cases of emergency, the nature of which could not always be revealed from reasons of

<sup>86</sup> S. P. D., James I, xi, 1604(?).

<sup>87</sup> P. C. R., xxx, 27 June 1620.

<sup>88</sup> *Ibid.*, xxxi, 20 April 1622.

<sup>89</sup> Chamberlain to Carleton: S. P. D., James I, cxxxii, 8 June 1622.

<sup>90</sup> P. C. R., xxxv, 24 March 1626-7.

<sup>91</sup> S. P. D., Charles I, ciii, 12 May 1628.

state.<sup>92</sup> The Petition of Right was being agitated, and only a few days later Charles accepted it as a statute. One of the principal complaints embodied in the petition concerned this very matter. "Against the tenor of the said statutes, (37 Edward III. c. 18; 38 Edward III. c. 9; 42 Edward III. c. 3; 17 Richard II. c. 6) and other good laws of your realm, to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your Justices, by your Majesty's writs of Habeas Corpus, there to undergo and receive as the Court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with anything to which they might make answer according to the law." The parliament therefore petitioned "that no freeman, in any such manner as is before-mentioned, be imprisoned or detained."<sup>93</sup>

In 1629, in 1630, and later on, however, the council continued to commit men to custody. Often now, however, they were put into private custody, principally of the messengers of the council.<sup>94</sup> In 1631 the mayor of Harwich was committed by warrant of the council to the keeper of the Marshalsea, for contempt in refusing to come, after he had been sent for by warrant to appear before the council.<sup>95</sup> In 1633 there was issued from the council "A Warrant to Comitt William Prynne safe Prisoner to the Tower; w<sup>th</sup>out giueing free accesse to him vntill further order."<sup>96</sup>

<sup>92</sup> Salvetti to the grand duke of Tuscany, London, 24 May 1628 (N.S.): *H. M. C.*, 11th report, appendix, i. 150.

<sup>93</sup> Charles I. c. 1: *Statutes of the Realm*, v. 23.

<sup>94</sup> P. C. R., xxxix, xlvi.

<sup>95</sup> *Ibid.*, xl, 31 January 1630-1.

<sup>96</sup> *Ibid.*, xlii, 1 February 1632-3.

Sometimes, though not very often, the council ordered punishments given. At Westminster in 1616, Sir John Grimes, the favorite of Sir George Villiers, was interred with solemn rites. With mock solemnity certain "rude knaves" buried a dog. "Diuers of them haue ben whipt by order from the counsaile."<sup>97</sup> In 1620 certain merchants of the East India Company petitioned the council that the master of one of their vessels, captured by the Dutch, might be punished, since they believed he was in secret communication with the Dutch and had betrayed them.<sup>98</sup> In 1638 Charles, with advice of the council, ordered that Archibald, the king's fool, for certain scandalous words of a high nature spoken against the archbishop of Canterbury, should have his coat pulled over his head, and be discharged from the king's service, the lord chamberlain to see that the order was carried out, after which proceedings in the court of Star Chamber.<sup>99</sup>

It is abundantly evident that in the course of all its business the council received and considered unnumbered petitions. It issued proclamations, orders, and warrants. It exchanged communications with local authorities, and with associated or subordinated councils.

A considerable part of the council register has to do with record of petitions received by the council, or referred to the council by the king. These petitions were from all classes of people and concerned every variety of affairs. In 1605 the masters and rulers of the Company of Thames Watermen asked that ships from London might carry in their crews one waterman for each hundred tons burden, because the watermen were too numerous since the recent peace.<sup>100</sup> The earl of Northumberland petitioned the council for a little more liberty in his con-

<sup>97</sup> Chamberlain to Carleton: S. P. D., James I, lxxxvi, 20 April 1616.

<sup>98</sup> *Ibid.*, cxvi, [10 July] 1620.

<sup>99</sup> P. C. R., xlix, 11 March 1637-8.

<sup>100</sup> S. P. D., James I, xv, July 1605.

finement.<sup>101</sup> Lady Arabella Stuart prayed the council to intercede in her behalf to remove the displeasure of the king.<sup>102</sup> In 1620 the justices of the peace of Wiltshire wrote that the weavers and the spinners were complaining of great distress, many thousands being out of employment, that they had appealed to the clothiers, who replied they could not sell their cloth. At the same time the weavers petitioned the council for relief.<sup>103</sup> Two years later in a council of the prince and eleven, was received the petition of Lady Parker that the board would compel her husband to pay her the allowance of £200 a year which it had commanded, since she was destitute. Ordered that he pay half within a short time, and regular half-yearly installments in the future, he to give assurance that he would do so.<sup>104</sup> Some of the petitions were addressed to the most honorable lords of his majesty's most honorable privy council, some to the lord president, many had been made to the king and had by him been referred for consideration to the council. In 1631 it was ordered that when anyone presented a petition to the board in the name of another, it should be signed either by the person who presented it or by him for whom it was given.<sup>105</sup>

Warrants were issued by the council to give validity to various acts. Some were for bringing certain ones before the council. In 1629 an open warrant was directed to the messenger of the king's chamber to bring before their lordships the mayor of Harwich, the town clerk, a certain brewer, and one other.<sup>106</sup> In 1631 the council ordered that henceforth the clerk should not present for signature any letters or warrants with blanks where the names were to be inserted, but that these be filled in before the lords set

<sup>101</sup> *Ibid.*, xxii, 9 July 1606.

<sup>102</sup> *Ibid.*, lvi, July 1610.

<sup>103</sup> S. P. D., James I, cxv, 11 May 1620.

<sup>104</sup> P. C. R., xxxi, 3 April 1622.

<sup>105</sup> *Ibid.*, xli, 9 December 1631.

<sup>106</sup> *Ibid.*, xxxix, 15 June 1629.

their hands to the papers.<sup>107</sup> In 1636 it was said that of late years divers acts and warrants had been presented to the council and signature procured to them as acts of the council, without any notice being given to the clerks to whom knowledge and care of such things belonged. Therefore in future no warrants or orders should be presented to the council for signature until first signed by a clerk of the council.<sup>108</sup>

In the time of James I most proclamations were issued by the king, as his orders, though a smaller number were given forth by advice of the council.<sup>109</sup> Under Charles I some of the proclamations were issued by the king without intervention of the council, though the council sometimes took the necessary measures to enforce them. In 1631 it was ordered that no proclamation specified to be done with advice of the board should pass and be brought to the great seal until it had been read at the board and approved there; and the attorney general was given notice that the king's printer should not print any such proclamation until notified by the clerk of the council attending that their lordships had seen and approved it.<sup>110</sup> "Whereas," says a notice in the register in 1632, "a Proclamacon for the due obseruacon of Lent and other fasting dayes, drawn by M<sup>r</sup> Atturney genall, and signed by his Ma<sup>tie</sup> was this day presented to the Board, Their Lo<sup>pp</sup>s gaue order that the same should be sent to his Ma<sup>ties</sup> Printer forthwith to be printed according to the Vsual custome."<sup>111</sup>

The council had constant relations with the Star Chamber, which was, indeed, its other self, in respect of which,

<sup>107</sup> P. C. R., xl, 20 May 1631.

<sup>108</sup> *Ibid.*, xlv, 17 January 1635-6.

<sup>109</sup> For example, a proclamation headed: "Orders Conceived by the Lords of His Maiesties Priuie Councill, and by his Highnesse speciall direction, commanded to bee put in execution": S. P. D., James I, clxxxvii. 36 (1615).

<sup>110</sup> P. C. R., xli, 22 July 1631.

<sup>111</sup> *Ibid.*, 27 January 1631-2.



however, a formal distinction was preserved. It carried on intercourse also with other councils and commissions like itself, but subordinate to it. From time to time communications were sent to the president and the council of Wales.<sup>112</sup> Others went to the president of the council of the north.<sup>113</sup> There were also not infrequent instructions or communications to the commissioners of the borders, about preserving order and punishing or trying certain ones.<sup>114</sup> In 1605 the commissioners of the borders reported to the privy council the arrest of certain malefactors.<sup>115</sup> Next year the commissioners answered complaints about their severity alleged by inhabitants of Riddesdale and Tynesdale.<sup>116</sup> About this time came instructions from the council to execute the law against the Grahams, and notice that certain prisoners in London were to be sent to the commissioners for trial. They were instructed to assist the earl of Cumberland with respect to his lands.<sup>117</sup>

<sup>112</sup> For example, *ibid.*, xxx, 30 November 1618.

<sup>113</sup> For example, *ibid.*, xxix, 31 March 1618.

<sup>114</sup> S. P. D., James I, xii, 7 February 1604-5; xxvi, 20 January 1606-7.

<sup>115</sup> *Ibid.*, xvi, 14 November 1605.

<sup>116</sup> *Ibid.*, xx, 27 April 1606.

<sup>117</sup> *Ibid.*, 29 April 1606.

