The wicked Doctor and the offended Earl

The possession action that caused the sacking of a Chief Justice and established the primacy of equity[1]

"*Where there is any conflict or variance between the rules of common law and the rules of equity, the rules of equity shall prevail.*" So says section 49 of the Supreme Court Act 1981, re-enacting more concisely sections 36-44 of the Judicature Act 1925 and the corresponding provisions of the Judicature Act 1873. This relationship of equity to law is embedded in our modern conceptual patterns. As Lord Denning said in the context of proprietary estoppel

> "*Equity comes in, true to form, to mitigate the rigours of strict law.*"[2]

But it was not ever thus, nor need it have been. Ironically, it was one of the greatest champions of the individual against the power of the state who sought to confine equity to its own backyard. Had he succeeded, the growth of the equitable jurisdiction in the 17th Century would have been stunted and English and American jurisprudence would have taken a different course. This is the story of that attempt and its failure.

My investigation of these matters arose out of a talk I gave in July 2004 to the Chancery Bar Association about the case of Shylock v. Antonio, the trial

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[1] This paper covers the same ground as and draws heavily upon an article by Mark Fortier in Renaissance Quarterly 51 (1998) 1255 called "Equity and Ideas – Coke, Ellesmere and James I", in which the author makes a strong case for the proposition that this is one event in history in which theory and ideas played a decisive part.

[2] Crabb v. Arun DC [1975] 3 WLR 847 at 853.

in Shakespeare's *Merchant of Venice*. I pointed out that the case was tried in a court of common law according to exclusively common law doctrines (notably the doctrine of common law election) and that there is no hint that the Duke/Doge of Venice was able to exercise any equitable jurisdiction. This was because in the mid-1590s, although there was a recognised equitable jurisdiction to relieve against fraud, mistake or duress, there was not yet an established jurisdiction to grant relief in cases of late payment or of a breach that was later rectified.

I tentatively suggested at the end of my paper that a possible reading of *the Merchant* was that it has a satirical purpose, one target being the common law, and that this hypothesis might receive support if it could be shown that there was a current debate about the inadequacies of the common law. I asked the assembled company, the cream of the Chancery Bar, if they could help. The answer came from another quarter. "Oh" said my wife,

> "*that's obvious: read Bacon. Sir Francis Bacon: you know – greatest philosopher of his age, scientist, Queen's Counsel, Attorney General, Privy Councillor, enemy of Chief Justice Coke, the next Lord Chancellor after Lord Ellesmere, the chap who is supposed to have written Shakespeare in his spare time – everybody knows that*".

Little did I know how to the point my guess and her suggestion both were. There was indeed at the end of the 16th and the beginning of the 17th Century a serious debate and a political struggle going on over the relationship between the common law, the jurisdiction of the Chancellor and the King's prerogative powers, which culminated in King James' Star Chamber speech and decree in 1616. Sir Francis Bacon was indeed in the thick of it.

I must now say something about the main protagonists. Thomas Egerton, later Lord Ellesmere LC, was born on 23rd January 1540, the illegitimate son of Sir Richard Egerton of Ridley in Cheshire and a servant girl. At the age of 16 he entered Brasenose College, Oxford and on 31st October 1560, he was admitted to Lincoln's Inn. At this point his career stalled – he seems to have been implicated in some Catholic shenanigans for which several members of Lincoln's Inn were sent to prison – and he was not called to the Bar until 1572. He had, however, not wasted his time; he had studied the law very deeply and his career took off. Within 7 years he was a Bencher of his Inn and in 1581 he was made Solicitor General. He was also returned as MP for Cheshire in 1584 and 1586. Inevitably he spent much of his time as Solicitor General prosecuting Recusants and Jesuits including Thomas Percy, the Babington plotters and Philip Howard. In 1592 he became Attorney General. He was knighted and made Master of the Rolls in 1594 and Lord Keeper in 1596 and he was employed by the Queen on several diplomatic missions in the next 4 years.

Then he made his worst and perhaps only mistake. His previous wife having died, in January 1600 he married Alice Spencer, the widow of the Earl of Derby, who is said to have been "haughty, profligate, greedy and ill tempered". Towards the end of his life he said:

> *"I thank God I have never desired long life; nor ever had less cause to desire it than since this, my last marriage, for before I was never acquainted with such tempests and storms."*

When James VI of Scotland became James I of England in 1603, Egerton was appointed Lord Chancellor and created Baron Ellesmere and gave up, rather to his chagrin, because it attracted lots of nice fees and perquisites, the

office of Master of the Rolls. Ellesmere was no soft touch. He had been a fierce prosecutor and he made a fierce Judge. He once declared that he would "abolish and extirpate all solicitors" who were "caterpillars of the common weal". He did, however, make considerable progress in improving the procedures and clarifying the principles to be applied in the Court of Chancery. In 1616, after the events I am about to describe, Ellesmere was created Viscount Brackley. On the 3rd March 1617 he surrendered the Great Seal and 12 days later died.

Our next protagonist is Edward Coke. He was 12 years younger than Egerton, being born on 1st February 1552, the son of Sir Robert Coke, barrister and landowner. He went up to Trinity College Cambridge in 1567 (at the age of 13) but left without a degree and enrolled at Clifford's Inn in January 1571. He joined the Inner Temple in 1572 and was called to the Bar in April 1578. He was an immediate success. He won his first case[3] by showing that the argument for the other side was based on a mistranslation of the text of a Latin statute and he made his name by his famous victory in Shelley's case[4] (1581). He then published a report of the case which included, according to the other side, "*Things which had never been said in court.*"[5]

Indeed it was a criticism later made of Coke's Reports that they sometimes said things which Coke thought ought to have been decided, rather than what had been decided. It is also a fact that, curiously, Coke's reports contained

[3] Lord Cromwell's case 4 Co Rep 12b.
[4] 1 Co Rep 88b
[5] 1 Anderson, 71.

no account of any case he lost, although a number are reported by others, notably by Sir George Croke, a junior member of Coke's own Chambers[6].

Coke became Solicitor General in 1592 and Attorney General after Egerton in 1594 and took over the job of persecuting Catholics. He became Treasurer of the Inner Temple in 1596 and led for the prosecution of the Earl of Essex in 1601 and Sir Walter Raleigh in 1603. In 1598 he made the same mistake as Egerton. On the death of his first wife, he made a dynastic marriage to Lady Hatton, daughter of Thomas Cecil. The connection with the Cecil family was probably invaluable but the marriage was not happy.

On the succession of the new King, he was knighted (along with about 800 others). He is said to have dreamed up a splendid scam: he advised all "men of estate" that it would be advisable for them to sue out a pardon from the new monarch and then charged them £5 a head for processing the documents; he is said to have made £100,000 in this way but he was, in any event, by now enormously wealthy as a result of his hugely successful practice at the Bar. In 1606 he became Chief Justice of the Common Pleas and in 1613 Chief Justice of the Queen's Bench.

Now let me introduce our third protagonist, King James himself. He was born in 1566 and so was the youngest of the three by some way. He was the son of Mary Queen of Scotts and Henry Stewart, Lord Darnley, who had murdered Mary's secretary, David Riccio, in front of her eyes while she was pregnant and who was in turn murdered by Mary's lover, the Earl of Bothwell. Mary was then force to abdicate; James was crowned King of Scotland at the age of one and brought up in some isolation in Stirling Castle

[6] Boyer, pages 52-3.

under a sadistic puritan tutor called George Buchanan. Several attempts were made to kidnap him, at least one of which succeeded. One may say that he came of a dysfunctional family. had a disturbed upbringing

Notwithstanding this, James turned out rather well. First, he was a considerable scholar and intellectual. He is probably the best educated and most intellectual man ever to have occupied the English throne. He was a true renaissance prince. The story is told of a visit by an English ambassador in 1574. James' tutors invited him to select any chapter of the Bible upon which, reported the envoy, James:

> "*was able extempore to read a chapter of the Bible out of Latin into French and out of French into English so well that few men could have added anything to his translation.*"

James was 8.

In his teens, James became interested in poetry and gathered a number of poets at his Court. He wrote a work on it, "*Rules to be observed and eschewed in Scottish Poesie*" (1584), and many poems of his own, including a number of sonnets and an epic on the battle of Lepanto. In the 1590s he also wrote two works of political philosophy, which are of direct relevance to my present theme, namely "*The Trew Law of Free Monarchies*" and the "*Basilikon Doron*".

The latter was advice to his eldest son, Prince Henry, then aged 4, on how to be a king. The original circulation was restricted but when James became King of England he revised and republished it and it sold thousands of

copies, becoming what one author has called "a Renaissance best seller"[7]. The first part consists of high flown theory of kingship but the third contains lots of practical tips: in one he advises his son not to go to war unless he must, but, if he insists on leading his troops in battle, to choose a light suit of armour because that is much more convenient for "*the away-running*".

James' philosophy of Kingship can perhaps be summarised as follows:

- A King is given absolute power by God over his people and has to answer only to God;
- A King has a duty to reign justly and to protect his people like a father;
- A King will therefore respect the established law and custom, since this will make for stability and peace;
- Although the King will rule according to Law and will obey the Law himself, there are cases where he may interpret or mitigate the Law, lest *summon ius* become *summa injuria*, where the law is "doubtsome or rigorous".
- A King ruling in a settled Kingdom is bound to observe the Law since otherwise instability would arise and he would degenerate into a tyrant.

Those then were James' published views when he succeeded to the throne of England. The common lawyers and Coke were not of that view at all. They took the view that the common law, based as it was on statute, case law and custom and having settled regular procedures, was superior to the will of the King or the decree of his prerogative court, the Chancery. Moreover, Law so conceived was independent of the Executive. The common law courts

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[7] Stewart at p.149.

asserted this principle by issuing writs of prohibition, certiorari and habeas corpus, which we know as the prerogative writs, but which were in fact employed to contain and limit the Royal Prerogative and restrict the jurisdiction of other courts within what the common law Judges regarded as their proper limits. In the first three years of the reign of James I the common law Judges issued 314 prohibitions.

The issue that arose between Coke and Ellesmere was whether the Court of Chancery had any jurisdiction to intervene *after* judgment at common law. If so, that would make common law subordinate to equity, its final decision reviewable otherwise than by writ of error (appeal) and the Lord Chancellor's powers superior to those of the common law bench.

The Chancery men argued that was right in principle because the Lord Chancellor was the agent of the King and equity embodied God's, not merely man's, law. To that the common lawyers replied that the common law was the product of reason and morality founded in the customs and therefore the character of the English and thus clearly equally divinely inspired. It was also predictable and certain and, because complex, could only be declared by persons learned in the law, not amateurs like the King, however gifted.

The point had actually be settled at the end of Queen Elizabeth's reign in the case of *Finch v. Throckmorton,* the staggering injustice of which shows that Shakespeare was not being particularly far-fetched. Queen Mary had demised the site of a dissolved priory to Thomas Throckmorton for 70 years, subject to a proviso that upon non-payment of rent within 40 days of the due date, the lease should cease and be void. In the ninth year of Queen Elizabeth's reign an instalment of rent was not paid in time but it was

eventually paid and a receipt given. 11 years later Queen Elizabeth granted the reversion to Sir Thomas Henneage who, another 10 years later, found out about the late payment 21 years before. He granted a lease to Sir Moyle Finch, who sued Throckmorton for possession. The Barons of the Exchequer managed to find that the lease had terminated automatically as a result of the late payment of rent 21 years earlier and gave judgment for the Plaintiff. This judgment was upheld on appeal.

Throckmorton exhibited a bill in Chancery and the new Lord Chancellor, Egerton, ordered Finch to answer it. According to Coke[8], the case was regarded as "of great consequence" and was referred by the Queen herself to all the Judges of England. Throckmorton's Counsel argued that, if a man had judgment entered against him at common law, nevertheless he could, "confessing the judgment", sue to be relieved upon a collateral matter in equity:

> "*But upon great deliberation it was resolved by all the Judges of England that the plea of Sir Moyle Finch was good, and that the Lord Chancellor ought not to examine the matter in equity after the judgment at the common law: for though the Lord Chancellor (as hath been said) would not examine the judgment, yet he would by his decree take away the effect of the judgment ... If such a course should be permitted, it should be not only full of inconvenience, but directly against the laws and statutes of the Realm, against which no precedent or prescription can prevail ... Which resolution of the Judges was signified by Popham Chief Justice, to the Lord Chancellor, and thereupon no further proceeding was against Sir Moyle Finch, but his plea stood.*"

One can see that if this view had continued to prevail, the development of equity would have been severely restricted to those matters not within the

[8] 4 Institutes, p.86.

purview of the common law, such as trusts. Nevertheless, under James I, Ellesmere began reviewing cases after judgment at law. In 1613 the Judges wrote to the King to protest about this. He assembled the Judges for a Royal ticking off by his law officers. The Judges' response was to begin to resist Chancery Decrees, in particular by issuing writs of habeas corpus when someone was imprisoned for disobedience to a Chancery Decree which was at variance with a previous common law judgment. One example of this was *Glanville's case* (1614). Glanville obtained a King's Bench judgment on a bond (shades again of the Merchant of Venice). The debtor counter-sued in equity, alleging fraud.[9] Lord Ellesmere jailed Glanville when he refused to obey an injunction. Coke CJ ordered his release on a writ of habeas corpus.

The next year a similar situation arose. In the reign of Queen Elizabeth Magdalene College Cambridge had been the owners of a Rectory and 7 acres "of Covent Garden" without Aldgate. They were in debt to a Genoese moneylender called Spinola. They wished to sell the land but could not do so because statute[10] rendered void sales and long leases by the Masters and Fellows of Oxford and Cambridge Colleges but did not expressly forbid sales to the Monarch. To help them out the Queen agreed to take a conveyance of the fee and then transfer it to Spinola, which she did. Spinola sold the land to the Earl of Oxford, who built 130 houses on it and granted leases. By 1615 the term of one of these had become vested in Warren.

By then Magdalene had a new Master, one Dr. Barnaby Gouge. He caused the College to purport to grant a lease to one, John Smith who had managed to take possession. Warren sued Smith in ejectment but his lease expired

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[9] He had given a bond for £600 for the purchase of some jewels which turned out to be worth ~~£60~~. £120, see the report in Co. Inc. 32nd.

[10] 13 Eliz 1 Chapter 10.

* To grant a release in return for the return of one of the jewels (worth £20, which he had told the purchaser were worth £240) and £100 for the rest.

before the hearing, making the point moot. Nevertheless Coke CJ, for it was he, proceeded to judgment.

The case turned on whether Warren's title was good. Smith said that the sale to the Queen was void and therefore the Earl got no title and title remained with the College. Coke held that the conveyance was indeed a device to avoid the statute and that the statute applied to the Crown, notwithstanding that the Crown was not expressly mentioned. He ruled that to hold otherwise would allow the Sovereign to be a conduit for illegal transfers which would be to make her "the instrument of Fraud and Covin", which could not be, because she could, by definition, do no wrong; a purposive argument if ever there was one. That decision, of course, impugned the title of the Earl of Oxford, albeit that he was not a party.

The Earl of Oxford therefore preferred a bill in Chancery claiming, interestingly, not vindication of his title – which would have been a direct challenge to the common law judgment – but monetary compensation. The Master of Magdalene was ordered to answer the bill. He failed to do so. Lord Ellesmere sent him to the Fleet. He then proceeded to hear the case. His judgment, like Coke's, is fully reported. One can compare the grinding, pedantic legal scholarship of Coke with the more discursive style of the Lord Chancellor. He starts with a quote from Deuteronomy:

> *"By the law of God, he that builds a house ought to dwell in it; and he that plants a vineyard ought to gather the grapes thereof; and it was a curse upon the wicked that they should build houses and not dwell in them and plant vineyards and not gather the grapes thereof."*

In this case it would be against the conscience of Dr. Gouge to have the houses, gardens and orchards which he neither built nor planted; he had given no consideration for the windfall benefits he would receive and must therefore make "a proportionable satisfaction". It is not easy to see what equitable doctrine is being employed but the result appears to be an early example of a restitutionary remedy.

Ellesmere then went on to explain the function of equity in a classic passage:

> "*The cause why there is a Chancery is, for that men's actions are so diverse and infinite, that it is impossible to make any general Law which may aptly meet with every particular act and not fail in some circumstances. The office of the Chancellor is to correct men's consciences for fraud, breach of trust, wrongs and oppressions, of what nature so ever they be, and to soften and modify the extremity of the law, which is called summum jus. And for the judgments etc., Law and Equity are distinct, both in their courts, their judges, and the rules of justice; and yet they both aim at one and the same end, which is to do right, as justice and mercy differ in their effects and operations, yet both join in the manifestation of God's glory.*"

He then had to grapple with the difficulty that it was provided by statute[11]:

> "*that after a judgment given in the court of our Sovereign Lord the King, the parties and their heirs shall be in peace, until the judgment be undone by attaint or error.*"

Ellesmere held that this statute did not apply to the Court of Chancery, rather neatly citing Dr. Bonham's case, reported in Coke's Reports, where Coke had suggested that the common law courts had power to judge an Act of

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[11] 4 Henry IV, Cap 23.

Parliament void if it was "*against common right or reason or repugnant or impossible to be performed*". Rather provocatively, he continued:

> "*The Chancellor sits in Chancery according to an absolute and uncontrollable power, and is to judge according to that which is alleged and proved; but the Judges of the common law are to judge according to a strict and ordinary (or limited) power.*"

He ruled that the statute of Henry IV was not intended to restrain the power of the Chancery in matters of equity but to restrain the Chancellor and the Judges of the common law only in matters merely determinable by Law in Legal Proceedings and not in Equitable so that:

> "*They should be constant and certain in their own Judgments, and not play Fast and Loose.*"

Dr. Gouge, meanwhile, languished in the Fleet. He was brought back before Coke on a writ of habeas corpus and counsel moved to have him released on the basis that he had a judgment at common law for the same matter complained of against him in Chancery. Coke CJ and Dodderige J. observed that it would tend to the downfall of the common law if judgments given by them should be suffered to be called into question in courts of Equity. But, because the parties to the two actions were not the same, they were not satisfied that the subject matter of the two disputes was the same. But Coke warned:

> "*If one doth disseise me of land, and builds a house upon this land, I shall have a judgment for this, and he is not to go into the Chancery to be relieved for this; no more shall he do so in this case, for in such cases the rule of law is this, caveat emptor.*"[12]

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[12] 3 Bulstrode 116.

The report concludes that there was no further debate at that time of the matter, neither was the same ever moved again. One is left unsure whether Dr. Gouge ever escaped from the Fleet.

As if the dispute was not already burning brightly enough, at this point Glanville decided to bring an action against the Chancery Officials under the Statutes of Praemunire. These had actually been passed in the reign of Edward III to prevent his subjects appealing to the Pope, for which very severe penalties were prescribed. A Grand Jury was empanelled at a hearing presided over by none other than Coke CJ. He was furious when the jury unanimously decided there was no case to answer and sent them out again with the fiercest of directions, as a result of which only two changed their minds and the case was thrown out.[13]

This was the final straw for Lord Ellesmere, who complained to the King about the behaviour of his Chief Justice. The King sought the advice of Counsel, namely Francis Bacon, Henry Yelverton, Henry Montague, Randal Crew and John Walter. Coke was to refer to them disparagingly as "Chancery men" but in fact they were the law officers. Francis Bacon was the Attorney General, a protégé of Ellesmere and a long time enemy of Coke. Moreover he was a consummate courtier who was well aware of the opinions of the King. Yelverton was the Solicitor General. Montague and Crew were the King's Serjeants and Walter was Attorney to the Prince of Wales. Yelverten and Crew had appeared for the Defendant (Smith/the College) and Montague, for the Plaintiff (Warren/Oxford) in the case before Coke. Lord

[13] The verdict returned by a grand jury in such a case was "Ignoramus". As it happened that was the name of the protagonist, a pedantic common lawyer, in a satirical play put on that year before the King by Coke's old Cambridge College. James enjoyed it so much, he went to see it twice. Coke was not amused.

Ellesmere prepared a question for them to answer and sent them a brief.[14] Coke was not consulted. The question is clearly based upon the facts of Glanville's case and the Magdalene College case:

> *"A hath a judgment and execution in the King's Bench or Common Pleas against B in an action of debt of £1,000 and in an ejectione firmae of the Manor of D. B complains in the Chancery to be relieved against these judgments according to equity and conscience, allowing the judgment to be lawful and good by the rigour and strict rules of the Law, and the matter in Equity to be such, as the Judges of the Common Law being no Judges of Equity, but bound by their Oaths to do the Law, cannot give any Remedy or Relief for the same, either by Error or Attaint, or by any other Means.*
>
> *Question*
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> *Whether the Chancery may relieve B in this or such like Cases, or else leave him utterly remediless and undone? And if the Chancery be restrained herein by any Statute of Praemunire, then by what Statute, and by what Words in any Statute is the Chancery so restrained, and Conscience and Equity excluded, banished and damned?"*

The question may be said to be somewhat loaded.

The referees gave their advice to the King in two long and sophisticated opinions. I will not attempt to summarise them here. They are particularly notable for adopting as one technique for construing for the statute of Henry IV that of looking at the proceedings in Parliament whereby it was enacted. They detected that, although the original bill had imposed a prohibition on the Court of Chancery, it had been amended to omit that reference before it

[14] Printed in Knafla, 319.

was enacted. They thus anticipated by 377 years the decision in *Pepper v. Hart*[15].

The panel advised the King that neither the statute of Edward III nor that of Henry IV applied to proceedings in Chancery and so certified. On 20th June 1616, James I, sitting in the Star Chamber in his judicial capacity, delivered an address highly critical of the recent behaviour of the common law bench[16] and decreed:

> "*For as much as Mercy and Justice be the true Supporters of our Royal Throne, and that it properly belongeth unto us in our Princely Office to take Care and provide that our Subjects have equal and indifferent Justice ministered unto them: And that where their Case deserveth to be relieved in Course of Equity by Suit in our Court of Chancery, they should not be abandoned and exposed to perish under the Rigour and Extremity of our Laws, We in our Princely Judgment having well weighed and with mature Deliberation considered of the several Reports of our learned Counsel, ... do will and command that our Chancellor, or Keeper of the Great Seal for the Time being, shall not hereafter desist to give unto our Subjects, upon their several complaints now or hereafter to be made, such Relief in Equity (notwithstanding any Proceedings at the Common Law against them) as shall stand with the Merit and Justice of their Cause.*"

and he ordered the record of the proceedings to be enrolled in Chancery "*for the better extinguishing of the like differences and questions that may arise in future times.*"

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[15] To be fair, Counsel in *Pepper v. Hart* did point out that this was an established method of construing statutes in the rule of Elizabeth I by reference to Heydon's case (1584) 3 Co.Rep 7A: see *Pepper v. Hart* (1993) AC 593 at page 599 arguendo.

[16] For the Star Chamber address, see Mellwain: "Political Works of James I", p. 326-345.

I do not know what became of Dr. Gouge but Ellesmere did not forget to forgive Mr. Glanville. There is a report of proceedings in the Star Chamber at the suit of the King's Attorney, in which Glanville declined to answer interrogatories, upon which

> "*it was ordered that they should be put in irons and so more and more clogged until they answered.*"

The Reporter, Sir Henry Hobart, Lord Chief Justice of the Common Pleas, appears to have regarded answers extracted in this manner as more reliable than those given by Counsel.

Sir Edward Coke was in disgrace. The King described his attempt to support the indictment against the Chancery as "*foolish, inept and presumptuous*". In the meantime Coke had further angered the King in the case of Commendams by refusing to stay proceedings in which the Royal Prerogative was in question without first consulting the King. At the end of June 1616 Coke was summoned to the Council, suspended from going on the Summer Circuit and required to spend the summer reviewing and revising a number of errors in his reports which Lord Ellesmere had identified in a critical paper.[17] Coke failed to make any significant corrections and as a result in November 1616 he was dismissed, never again to hold judicial office. It was said of Coke that he was overthrown by four p's: "*Pride, Prohibitions, Praemunire and Prerogative*".

At this point Coke was 64 but he had a distinguished career ahead of him as a Parliamentarian. He had been Speaker of the House of Commons in 1593 when he was 41 and he was returned to Parliament several times in the 1620s

[17] Printed in Knafla, 297.

and was the main proponent of the Petition of Right in 1628. He died in 1634, still hated by his wife who said of him:

> "*We shall never see his like again, praises be to God.*"

James I has been much maligned. He was directly responsible for the translation of the Bible into English and for the patronage which gave us Shakespeare's later plays and his political philosophy, well known to his courtiers and advisers, was instrumental in establishing the basis for the advances in Equity jurisprudence which followed; it was not long before the Merchant of Venice no longer made sense; the equity of redemption became established and Chancery began to relieve against late payment of a sum due upon a bond.

As for Ellesmere, the Earl of Oxford's case was his swan song and his legacy. As for Coke, it is plain in retrospect that in his battle with Chancery, he had chosen the wrong turf upon which to resist the Royal Prerogative. The Chancery was no real threat to the common law and the Chancellor was neither an amateur nor the King's puppet but a highly dedicated and knowledgeable lawyer. But could the same be said of his successor, the mercurial, brilliant, persuasive and self-serving Sir Francis Bacon?

Bibliography

The Reports

Finch v. Throckmorton (Exchequer Chamber) (1598) Cro Eliz 221

Ditto (The Judges' Council) Coke 4th Inst. page 86

Glanvile's case; (1614) 2 Bull 302; 2 Cro. 343

The Magdalene College case (1615) 11 Co.Rep 66A

The Earl of Oxford's case (1615) 1 Chan Rep 1

Dr. Gouge's case (1615) 3 Bull 115; 1 Rol 278

Glanvile & Allen's case (1626) Hobart 115

The advice of the King's Counsel and the King's Decree 1 Chan. Rep 21-48; Carey 115

Other works

Sir Edward Coke 1552 to 1952, Samuel E. Thorne, Inaugural Lecture of the Seldon Society (1952)

The Lion and the Throne: The Life and Times of Sir Edward Coke; CD Bowen (1957)

Law and Politics in Jacobean England: The Tracts of Lord Chancellor Ellesmere; Louis A. Knafla (1977)

Equity and Ideas: Coke, Ellesmere and James I, Mark Fortier, Renaissance Quarterly 51 (1998) 1255

James VI and I, Roger Lockyer (1998)

The Cradle King, A Life of James VI and 1, Alan Stewart (2003)

The Rule of Law 1603 to 1660; James S. Hart Jnr. (2003)

Sir Edward Coke and the Elizabethan Age: Allen D. Boyer (2003)