

THE COUNCIL OF THE NORTH

By

F. W. BROOKS



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"THE king, intending also the suppression of the greater Monasteries, which he effected in the 31st of his Reign, for the preventing of future Dangers and keeping those Northern Counties in Quiet, raised a President and Council at *York*, and gave them his several Powers and Authorities, under one great Seal of *Oyer* and *Terminer* etc. . . . which Court was continued till the Troubles of the King and Nation, in the time of Charles I."

It is in these words quoted from Coke that Drake, the eighteenth century historian of York, describes the foundation of the Council of the North in the year 1537, after the suppression of the Pilgrimage of Grace. But Drake was mistaken; the Council in the North was an older expedient to meet the even older problem of the North. In this, as in so many other directions, what were at one time thought to be Tudor innovations are now recognised as developments of existing institutions. Like the Star Chamber, its mightier counterpart, the Council of the North was a modification of a Yorkist or even a Lancastrian institution. Yet there is something of a half-truth in Drake's remarks. The year 1537 did witness the issue of a new commission for the better government of the North, and the Council of the North was indeed one of those bodies which can colourably be regarded as provincial offshoots of the Tudor Council.

At first sight it would seem that the Tudors, relying, as they did, on conciliar government, found it advisable to establish local replicas of the Council in the outlying parts of the kingdom. But, so far as the North was concerned, both the problem and the remedy were older than the Tudors.

That problem was acutely summed up by a man who knew what he was talking about—Robert Aske, the leader of the Pilgrimage of Grace. Presenting the ultimatum of the rebels to the leading men of the North at Pontefract Castle in 1536 he said, "The profits of the abbeys suppressed, tenths and first fruits, went out of those (i.e. the North) parts. By occasion whereof, within short space of years, there should be no money or treasure in those parts, neither the tenant to have to pay his rents to the lord, nor the lord to have money to do the King service withal, for so much as in those parts was neither the presence of his grace, execution of his laws, nor yet but little recourse of merchandise, so that of necessity the said county should either 'pratysh'¹ with the

¹ i.e. make terms.

Scots, or of very poverty be forced to make commotions or rebellions."

This emphasises the chief troubles of the North, its remoteness, its poverty, its lawlessness and, above all, the fear and hatred of the Scots. It was this last point that really distinguished the five northern counties. Wales, the West, even East Anglia might be lawless; they were remote and some of them were poor, but none of them had to face the problems of a frontier province.

Here was the dilemma that confronted Lancastrians, Yorkists and Tudors in turn. They had to defend the country against the ever vigilant foe to the north. They could only do so by raising a standing army, or by entrusting the defence of the frontier to the men of the frontier. But, if the frontier defence were left to the frontiersmen, what guarantee was there that they would not turn their arms against the government? No statesman at the end of the fifteenth century could have been sanguine. Percies, Scropes, Nevilles—all had at different times turned against their rulers. But the dilemma persisted. Henry VII, able statesman that he was, tried to escape it. Although he owed his victory at Bosworth as much to the Earl of Northumberland as to any man, he refused to renew his commission as Lord Warden of the Marches and put him in the Tower. Within a few months, however, he realised that, to govern the North, he must have a Percy. So Northumberland was taken from the Tower and restored to his offices of Lord Warden of the East and Middle Marches. Ironically enough he met his death in a riot at Topcliffe when he was tax-collecting for Henry in 1489.

In the fourteenth century this problem of the North and the Scots had been met by the removal of the Court and the great offices of state to York. All three Edwards made York their capital for periods extending to several years. But the pre-occupation of Edward III with France broke the tradition, and a new system, that of the appointment of a Warden of the Marches, was evolved. But to put the whole control of the North in the hands of one man was to take a very considerable risk, and the March was therefore, after 1381, divided into the East, Middle and West Marches. But the authority of the Warden was always curtailed by the existence of numerous liberties in the northern counties. Quite apart from such great franchises as the Bishopric of Durham and the Archbishop of York's Liberty of Hexham, there were scores of smaller ones. At the end of the fourteenth century, the Percies owned almost a hundred baronies and manors. In these, the Warden and his officers had no jurisdiction except through the lord. If a fugitive escaped into a liberty, all that the Warden could do was to demand that the lord should give him

up, and if the lord refused or procrastinated there was nothing the Warden could do about it. Small wonder that, having failed to suppress the liberties, the Lancastrian and Yorkist rulers thought that the best solution was to take the greatest of the Northern lords, the Percies and the Nevilles, into partnership. The relations of Henry IV and Henry V with the Percies are illuminating. Henry IV, who himself, as Duke of Lancaster, was a great northern magnate, with extensive estates in Yorkshire as well as Lancashire, obtained his throne with the help of the Percies. In 1403 they quarrelled with him, and the successive defeats of Hotspur at Shrewsbury and of Northumberland at Bramham Moor might be thought to have broken their power once and for all. Yet what do we find? In 1416 Henry Percy is exchanged out of Scotland, restored to his estates and made Warden of the East and Middle Marches, and this, in spite of, or perhaps because of, the Scrope conspiracy of 1415! The fact is that the Percies were indispensable for the government of the North.

Some authorities have seen in the Wardens of the Marches and their council the germ of the later Council of the North, but it is fairly obvious that Dr. Rachel Reid was right in denying this. There are certain very important differences. The authority of the Warden was limited to the four northern counties and did not include Yorkshire. It also differed in character from that of the later Council. The authority of the Warden is largely military. He can call out the local forces, enforce truces with the Scots, punish breaches of the truce, hand Scots malefactors to his opposite number, the Scotch Warden, and execute summary justice on English reivers taken or handed over by the Scots. Although, however, it may be true that the authority of the Wardens was limited in this way, we must never lose sight of the fact that the authority of a Neville or Percy did not merely stem from his commission. He was a great magnate in his own right, and both families were pushing south from the late fourteenth century onwards, and obtaining vast estates and castles in Yorkshire. We instinctively connect the Percies with Alnwick and the Nevilles with Raby, but a fifteenth century Percy was more likely to be found at Leconfield or Wressle in the East Riding, or Topcliffe in the Vale of York than at Alnwick, whilst the Nevilles watched their rivals from Middleham or Sheriff Hutton, both in the Vale of York. With estates went patronage. Henry, fourth Earl of Northumberland, could meet Henry VII attended by 32 knights, all his fee'd men, and mostly Yorkshire landowners. If, as Wardens, Percies and Nevilles had no authority in Yorkshire, they had plenty as the greatest magnates in the shire.

But, so far as Yorkshire was concerned, the powers of a Percy

or a Neville rested on another foundation. The Wardens from the early fifteenth century were given a second commission, a rather special commission of the Peace. Henry IV began this practice in 1405, when such commissions were granted to John of Lancaster and Ralph Neville, Earl of Westmorland, and Warden of the West March. Both are specifically called Justice of the Peace *es parties del North*. Dr. Rachel Reid has summarised the position in a phrase which cannot be bettered: "The Wardenship of the Marches might be a necessary adjunct to the government of the North, the sign and seal of the authority of the governor; but the basis of that authority was the commission of the peace, whilst the source of the governor's power to enforce it was the vast estates with which the king had enfeoffed him." The commissions thus granted to Lancaster and Neville differed in extent rather than nature from the ordinary commissions which made justices of the peace of many a small landowner. Whereas the latter served merely for his own county, Lancaster and Neville served for the four northern counties and the three Ridings of Yorkshire. Not only that, but the majority of their fellow justices were their followers and fee'd men.

It is at this point that we must turn back to look at Aske's second point, "no execution of His Grace's laws". It is well known that the mark of the period 1377 to 1485 was the "failure of good governance". Was the North any worse than other parts of England? Here it is necessary to draw certain distinctions. Most historians have been content to treat the "parts beyond Trent" as a unity. Although for some administrative purposes they were, we must be prepared to differentiate between Yorkshire and the Northern counties. The Vale of York and the East Riding were socially far more closely akin to the Midlands, of which they are a geographical extension, than they were to the wild dales of Northumberland, or even the valleys of the West Riding. Unlike the men of Redesdale or Hexham, the Yorkshiremen did not stand in daily, or rather nightly, peril of Scots raids. If a Scots force crossed the Tees it was an invasion, not a mere raid. There was no need for the villagers of the thickly clustered villages of the Vale and the East Riding to sleep with arms ready to hand. The rector of Tanfield might build him a towered rectory, but it was more with an eye to local feuds than Scots raids. The Scropes at Bolton in Wensleydale, the Nevilles at Sheriff Hutton, the Percies at Wressle, the Roos at Helmsley, were all building in the late fourteenth century with an eye to comfort rather than defence.

This is not to say that the proximity of the Scots had no effect on Yorkshire. It was the base for really serious operations to the northward. Towns such as York and Beverley were called upon

to provide mounted archers or hobelers far more often than southern towns. The subsidies paid by Yorkshire were supposed to be earmarked for the defence of the northern frontier, and there must have been many Yorkshire landowners who made the same sort of agreement with their tenants as did Edward Mauveverer in 1482 with the tenants of his obscure manor of Daletown in Hawnby. Each tenant was to have suitable armour, bow, arrows, sword, shield and horse with doublet and helmet, to serve the king when the lord should call upon them, and failure to obey the summons entailed the forfeiture of the holding. But the tenants of Hawnby did not often ride against the Scots. Obviously local squires who could command such bodies of tenants might be formidable, especially when they felt a deeper loyalty to a local magnate than they did to a distant king. "Thousands for a Percy!" was no empty war-cry. The North remained feudal longer than the South. It had to, because it was a frontier province. But we must be prepared to draw a distinction between the front line, the real Border-country of the East, the West and the Middle March, and the base which was Yorkshire.

The picture of fifteenth century Norfolk given in the Paston Letters is much the same as that of contemporary Yorkshire in the Plumpton Correspondence. It would be difficult to say which county was the more lawless. Lacking a firm government, the judicial system had virtually broken down. Judges could only act on presentments by juries, and juries refused to present. Private prosecutors were trepanned or intimidated. Even if a man were indicted, there was a distinct probability, if he were a man of "haveage and well friended", that the jury would refuse to convict, in the teeth of the evidence. In the four northern counties assizes were never held more than once a year. Liberties and sanctuaries made the work of the sheriff and his officers extremely difficult. Even as late as the end of Elizabeth's reign the pursuivants of the Council of the North itself were stoned out of the former liberty of Whitby Strand and threatened with death if they laid a hand on one of the Cholmleys' tenants.

Faced with this situation men turned to other tribunals than the King's judges for settlement of their disputes. For criminal cases the Justices of the Peace could act. It is true that the justices were themselves often law breakers, and on occasion the sessions of the peace ended abruptly with brawling on the bench itself, but they had certain advantages over the judges. They had their Quarter Sessions four times a year, they could act without a formal presentment, they could bind actual or potential evil-doers to the peace, and, above all, where they were local magnates of standing, they had sufficient local power to enforce their decisions.

The Commission of the Peace, on the other hand, was limited to breaches of the peace and breaches of statutes, for example, the Statute of Labourers. It conferred no authority to decide civil actions between party and party. From time to time commissions of oyer and terminer were issued to selected Justices of the Peace, but these were only temporary. So men had recourse more and more frequently to the local and feudal courts to settle their civil actions. Cases were heard by the courts of liberties and honours, and even of baronies and manors. The north becomes a complex patchwork of jurisdictions ranging from great and professional courts like the Chancery Courts of the Bishopric of Durham down to small manorial or baronial courts. As more and more of these smaller courts passed into the hands of the great magnates, their procedure became more professionalised and their decisions were readily enforced. The stewards who held manor courts for the Percies or the Cliffords were highly trained lawyers, sometimes even serjeants-at-law. Behind the steward stood the Lord's council ready to enforce the steward's ruling, or to hear and settle disputes between tenants of different manors, or men who were too powerful to be dealt with in the manor courts.

Sir William Plumpton was an important man in the north, Seneschal and Master Forester of the Honour of Knaresborough and Constable of the Castle of Knaresborough. And yet we find him a suitor to the council of the Earl of Northumberland in his suit against Sir William Gascoigne: and when he has a quarrel with Robert Birnand, Northumberland writes telling him not to move in the matter until he has heard the case.

There was, of course, one major restriction on this use of local feudal courts, the old rule that no man might lose his freehold without the king's writ. But even this limitation was more apparent than real, since most of the land in the north was held by customary tenure, copyhold or lease. Nor was there anything to prevent a dispute involving freehold being referred to the council of a magnate for arbitration if both parties agreed. Hence, by the fifteenth century, the councils of the great northern magnates had become important factors in government. They advised their lord on the management of his household and estates. They advised him in his inevitable lawsuits and disputes. Not infrequently some of the members are retained "of the council" of York, Hull or other boroughs, and act as agents for their lord in his dealings with the borough. Often it is these men who sit in Parliament for the borough at the costs of their lord. They may do the former good service, but their real interests are pledged to the latter. And, above all, like the King's Council, they are concerned with settling disputes between those who owe allegiance to their lord. It is in

the councils of the great magnates, culminating in the council of the Duke of Gloucester, later Richard III, that we can see the germ of the Council of the North.

If the Lancastrians and Yorkists commissioned the Nevilles, Percies, Cliffords, Dacres and other great magnates to govern the country, they, in their turn, depended on the lawyers and lesser landowners who served on their councils. We can see them moving the King to put their councillors on the Commission of the Peace, getting them placed as recorders of the local boroughs or as minor public officials, under-sheriffs or foresters, seneschals or bailiffs of small royal estates, or constables of castles and clerks of markets and the like. Nor was this all; the magnates had patronage of their own. They had estates which needed stewards, castles which needed constables. Offices such as the Wardenship of the Marches gave the right to appoint deputies and constables of castles. There is no lack of pushing and ambitious recruits for these places. The North was bitterly poor, and the service of the greater magnates offered the best chance of a good living to many of the smaller landowners. There were few towns in this part of the country, a bare half dozen that counted; York, Hull, Durham, Newcastle and Carlisle were the only sizeable ones, and of these only York ranked, by contemporary standards, as a reasonably large town. Hence, as Aske said, there was little trade and few merchants. It was this, more, perhaps, than any other factor, which made the Tudors treat the North as a special area. In the south they could play off the merchant and the smaller landowner against the great magnate. In the North there were few merchants, and the lesser landowner by tradition and habit identified his interests with those of the great local families. Indeed, the same is true of the merchants. We have the witness of the York House Books and the Hull Bench Books for the servile deference paid by those towns to the Earls of Northumberland. Not until the Pilgrimage of Grace disrupted the social structure of the North was it possible for the Tudors even to begin to find the right instruments for the control of the North.

This, however, is to anticipate. The Wars of the Roses found the situation in the North as we have described it; a land in which the King's writ counted for little unless it was backed by the powerful local magnate, where men turned more readily to the lord's council than the king's courts. It was a land, too, where the blood feud still flourished. Fortunately, it is no part of our subject to trace the ramifications of these feuds, but the historian cannot afford to ignore them. And in this respect Yorkshire was no whit behind the other northern counties. To the northerner, at any rate, the Wars of the Roses had a meaning. It was a flare-up

of the old feud of Percy and Neville, with other local families of the first and second rank, Cliffords and Dacres, Constables and Eures throwing in their lot, on one side or the other, in accordance with ancient loyalties or with a shrewd calculation of family interests. The result was that the House of York fell into the rôle of *tertium gaudens*. Towton broke the power of the Percies, although the attainder was reversed in 1472. Barnet broke the Nevilles, and the bulk of the lands of the Kingmaker were divided between Clarence, who had married one of his daughters, and Gloucester, who was in due season to marry another, the widow of the ill-fated Edward, Prince of Wales.

On the death of Clarence, Gloucester acquired more of the Neville estates, notably Castle Barnard, though the bulk of Clarence's lands reverted to the Crown. Thanks to the Neville inheritance and the virtual monopoly of Crown appointments in the North which Edward IV conferred upon him, Gloucester, from 1472 onwards, was the most powerful man in the North. Though willing to restore the Percies as a counterpoise to the Nevilles, Edward IV had no intention of allowing them to have that predominance which the Nevilles had enjoyed during the first ten years of his reign. Thus though the Earl of Northumberland was pre-eminent in the East Riding and Northumberland, Gloucester, from his castles of Middleham and Sheriff Hutton, ruled Cumberland, Westmorland and the rest of Yorkshire. His offices ranged from Warden and Justice of the Forests north of Trent, and High Steward of the Duchy of Lancaster, down to such minor offices as the constablership of Scarborough Castle. In 1482 on the eve of a Scots war he became sole King's Lieutenant in the North. Gloucester and his council were the real rulers of the North, except for those parts where the authority of Northumberland and his council was more direct. The two magnates had come to an agreement in 1473 not to recruit each other's councillors or fee'd men.

Thus, when he came to the throne in 1483, Richard III had ten or a dozen years' experience of the government of the North behind him. He knew the country and its problems as no previous monarch had done. His council at Middleham or Sheriff Hutton had become a veritable Court of Requests for the North. The commission of oyer and terminer on which most of its members sat enabled them, in the king's name, to do justice between party and party. In particular there is reason to assume that they enforced the rule that a customary tenant who performed his services had an action against his lord. It is certain that they intervened to settle disputes in York and Hull.

The accession of Richard might have made little difference, for

he seems to have left his council at Sheriff Hutton to serve for the infant Prince of Wales. But the prince died shortly after his father's accession, and the whole question was reopened. Richard determined on a reorganisation of the government of the North. There were two factors to be considered. Northumberland had helped Richard to gain the throne and deserved his reward. Richard had an instrument to hand for the government of the area in his old council, but in the fifteenth century such a body needed a figure-head. Northumberland possibly hoped to step into the position Gloucester had occupied. But Richard had other ideas. He had realised that the old idea of including Yorkshire in the Marches, and dividing the March, broadly speaking, into an eastern and western zone, had little to commend it. He therefore decided to separate Yorkshire from the March and to reward Northumberland by restoring the family estates in Cumberland and by making him Warden-General of the Marches, constable of all the royal castles in Northumberland and sheriff of that county for life. This, together with numerous minor offices, made Northumberland all-powerful on the Border, for the West March, which was retained by Lord Dacre, was a comparatively small area round Carlisle. Yorkshire was placed under the government of the Earl of Lincoln and a council. Lincoln, though heir to the throne, had no estates in the North, although he was presumably made constable of Sandal Castle where the council sat. It was now obvious that the council would be the king's council and its head the king's lieutenant. The revenues of certain of the royal lands in the north were assigned for its upkeep. Northumberland, it is true, was not entirely excluded; he was a member of the council and his possession of the Honour of Leconfield and the castles of Wressle and Leconfield gave him considerable authority in the East Riding. Hull seems to have regarded him with great deference, though York treated him, on one occasion, at least, with some discourtesy. He may have resented his treatment, in fact he probably did, for the Percies seem to have been more attracted to Yorkshire than Northumberland at this period, and his inglorious share in the Bosworth campaign can only be explained by pique.

Not only did Richard reorganise the government of the North, but the instructions to Lincoln and his council laid down the main lines on which the future Council of the North was destined to develop. The council was to meet, wholly if possible, at York once every quarter (and oftener if required) to "order and examine" all bills of complaint. The quorum was fixed to include Lincoln and two councillors. The council was to have power to deal with "riots, forcible entries, distress takings and other misbehaviours against our laws and peace". It was not to try any matter of land

without the assent of the parties, a sop to the common lawyers of very little value, for its jurisdiction in matters of distress gave it the right to hear actions of replevin which inevitably involved title to land. Offenders were to be lodged in one of the royal castles, "for we wille that our castles be our gaoles". All mandates issuing from the council were to be headed with the words "By the King" and endorsed at the foot "And by his Council". This diplomatic formula lasted till the very end of the Council. There are letters amongst the Hull and York archives as late as 1640 thus endorsed.

Letters involved having a secretary, and the instructions say that one is to be appointed, and that a special seal is to be made for the use of the council. We have no examples of this early seal. The later seal of the Council bore the arms of England, surmounted by a crown and flanked on either side by a hand holding a sword upright.

The instructions made it clear that, in effect, Lincoln's council had criminal jurisdiction, derived from a commission of the peace, and civil, derived from a commission which the instructions say is to be issued and which, presumably, was one of oyer and terminer. Here again, we can see the council of 1484 as the real forerunner of the later Council of the North, whose jurisdiction, right to the very end of its existence, was based on these two commissions. The question may well be asked how the commission of the peace, thus issued, differed from the commissions issued elsewhere. The answer is that it was the same commission, with additions. The obvious intention was that ordinary administrative and routine work was to be left to the burgesses and landowners who sat as Justices of the Peace for the three Ridings and the towns, but that more serious matters were to be handled by the magnates and skilled lawyers who composed the council at Sandal.

With Lincoln's commission the real story of the Council of the North begins. Its history falls into three fairly well defined phases: a period of experiment from 1484 to 1537, the great age of the Council from Henry VIII's commission in 1537 to the end of Lord Burghley's presidency in 1603, and the decline of the Council from 1603 till its virtual suppression by the Long Parliament in 1641.

During the period between the accession of Henry VII and 1537, the history of the Council was by no means continuous. Henry VII looked upon the North with some suspicion. He had to give Northumberland authority there, but was probably by no means sorry when he was killed in a riot. It is probable, but by no means certain, that Henry's mother, the Countess of Richmond, and her council fell into the position occupied by Lincoln under

Richard III, and it may well be, as the Plumpton Correspondence seems to indicate, that, towards the end of Henry's reign, the notorious Empson had some special authority in the North. If this be so, it may well account for the fact that, for the first ten years of his reign, Henry VIII seems to have made no effort to establish any sort of special council for the northern counties, other than the wardenships of the East, West and Middle Marches.

The unpopularity of Empson may have been the reason; another possible explanation is the fact that Wolsey was both Archbishop of York and Bishop of Durham. We are, as yet, somewhat in the dark as to Wolsey's activities in these capacities. His biographers have concentrated on Wolsey as statesman and diplomat, and it has generally been assumed that, because he never visited his northern sees till the end of his career, he was totally uninterested in them. It may be so, but it seems difficult to see why Wolsey, who was notoriously greedy and extravagant, should have been completely uninterested in the Archbishopric and the Bishopric, which between them must have accounted for a goodly proportion of his income, or how, even granting the efficiency of his officials, two such complex structures could have been run without some direction from their lord.

Whatever the reason, the fact is that in the early years of his reign, Henry neither governed the North himself nor found anyone to do it for him. Thus, when the younger Surrey became Lieutenant-General for the Scots war in 1522, he found things in a sorry plight. Dacre, the Warden of the Marches, was frankly incompetent as an administrator. Murder, loot and rapine were unchecked in the border counties, and the feuds of the Yorkshire gentry, as the Star Chamber records abundantly prove, frequently set whole districts by the ears. The commons were seething with discontent. Enclosure riots were frequent, for the landowners of the north were beginning to feel the pinch of inflation. Customary tenants found that the gressom demanded on a change of tenant, instead of being the traditional amount of twice the rent, was pushed up to six or even ten times. If, unable to meet this demand, the tenant agreed to become a leaseholder, he merely put off the evil day, for the fine for the renewal of a lease was apt to be crippling. The weavers of the West Riding had their own grievances against the clothiers. There is some evidence that the government tried to meet the situation by the standard Tudor method of action by the Council. Quite a number of Star Chamber cases concern the grievances of poor and obscure persons. But petitions to the Star Chamber were sometimes made in order to prevent a poor defendant from making use of one of the local courts, and put him to the expense and inconvenience of a journey to London, though it is

only fair to say that the Star Chamber frequently appointed local commissions to hear the case and report. It was this state of affairs which decided Henry and Wolsey to revert to the old idea of a special council for the North.

Henry's illegitimate son, the Duke of Richmond, was to be made Lieutenant, and was to have a Council on the model of Gloucester's. This gave Wolsey an excellent opportunity to place many of his followers, and he seems to have packed the Council very thoroughly. None of its members was above the rank of knight, and ten of its seventeen members were lawyers, five of them canonists, like Higden the Dean of York. Of the five common lawyers, two at least were accustomed to Chancery practice. It is obvious, both from its composition and from such stray references as we have to its working, that it was intended as a Court of Requests for the North. As before, its formal basis was a special commission of the peace and one of oyer and terminer which allowed it to hear cases of treason.¹

For a time its authority extended to include the Marches, except the Bishopric of Durham; but, as usual, this did not work, in spite of various sessions held at Newcastle and Carlisle. It needed men of different calibre from Wolsey's lawyers to rule the March, and in 1527 Northumberland was made Warden of the East and Middle Marches, and, a little later, Dacre of the West March, but certain members of Richmond's Council were seconded from Sheriff Hutton to help them. But, in effect, once again Yorkshire was separated from the northern counties. The Council was active, of that there is no doubt. It began by making the local gentry enter into recognisances, whether accused of any offence or not; it seems to have dealt sternly with breaches of the peace and of various statutes. The landowners accused it of slackness in punishing breaches of the statutes against usury and fraudulent clothmaking, but the fact that it seems to have been equally unpopular with the landowners and with the West Riding clothiers indicates that it was active in various directions. Its equity jurisdiction seems to have been popular, for the rebels in 1536 asked that men should not be cited to Westminster, but only to York. This underlines one weakness of Richmond's Council, that litigants with a bad case were inclined to go behind its back to the Star Chamber. For example, Sir Arthur Darcy and Robert Challoner bought some standing timber in Balne, but when their men went to fell it they were driven away by a riotous crowd procured by Anne Neville. Darcy appealed to Richmond's Council which decided in

¹ The commission of the peace is printed in Reid, Appendix IV. This is the commission of 1530, but it seems certain that it repeats the earlier commission.

his favour, but Anne refused to accept judgment so that Darcy had to apply for a subpoena to compel appearance before the Privy Council.¹

On the fall of Wolsey the gentry, under the leadership of Lord Darcy, made a determined effort to get rid of the Council. A long list of grievances was drawn up, especial stress being naturally laid on the close connection of the Council with Wolsey, and on the fact that the majority of the councillors were "spiritual men, not meet to govern us nor other temporal men in any shire within this your realm." Henry, however, refused to rise. He did make certain changes. Richmond's Council became exclusively his household council, a function it had formerly exercised along with its wider duties, and a new commission was issued in 1530 making Tunstall, Bishop of Durham, head of the new Council. He seems to have been popularly known at once as "President of the Council in the North Parts". Several members of Richmond's Council continued to serve on both that and the new Council, but such new members as Sir Robert Constable of Flamborough had no connection with Richmond. Tunstall, though he came of a good Yorkshire family, proved unable to keep order. This infuriated Henry, who held that his commission should endow the meanest man with authority. For the moment he was driven back to the old expedient and in 1532 the Earl of Northumberland was made Lieutenant.

But Henry (or Cromwell) had decided that the real obstacle to good governance was the private liberties of the North. Therefore, from 1533 onwards, he launched an attack on these liberties. There is no need to go into details here. An enquiry in 1535 showed that the liberties, though still numerous, were not likely to give much trouble. Many were already in the King's hands; many of the others were ecclesiastical. Many of these were suppressed along with the monasteries and two acts, one for the resumption of liberties and another virtually abolishing the great sanctuaries, completed the work. The franchises of the Archbishop and the Bishop of Durham were spared for the moment, but fell before long, the former in 1544 on the appointment of Holgate, the latter, though only temporarily, in the reign of Edward VI, to be restored by Mary. The only great lay franchises were those of the Percies and the Dacres. The Dacres, of no great account themselves, had the barony of Greystoke by marriage, and Henry's frontal attack on this failed, when, surprisingly enough, the Lords failed to bring in a verdict of guilty when Henry accused Lord Dacre of treason in 1534. This method

¹ Yorkshire Star Chamber Proceedings, Vol. I (*Yorkshire Archaeological Society Record Series, Vol. XLI*), p. 90.

could hardly be employed, even by Henry, against the inoffensive Earl of Northumberland, so a more indirect method was tried. Henry bought up the numerous debts which the unfortunate Earl had inherited from his predecessor, Henry the Magnificent, and had increased himself, and put the screw on him. After much intrigue he agreed to disinherit his brother, who was his heir, and to surrender his lands to Henry in return for an annuity of £1,000 per annum. The year which saw the suppression of the monasteries also saw the Percy lands fall into the King's hands. A similar method was applied to a less important, but still powerful magnate, Sir Francis Bigod of Settrington and Mulgrave.

Such were the conditions in 1536 when the varied and complicated grievances of the North flared up in the Pilgrimage of Grace. It would be too much to say that it was caused by Henry's attack on the liberties, but this was undoubtedly one of the main causes. The part played by the Council in the Pilgrimage was peculiar. It can perhaps best be summarised by saying that after putting up a token resistance, the Council went over to the rebels, and put their demands to Henry. What is more interesting from the present point of view is the use made by Henry of the Council. In December, 1536, Norfolk replaced Northumberland as Lieutenant and a new Council was formed which contained many of the former members. These were the chosen instruments of Henry's vengeance, and such men as Sir William Eure, Sir Ralph Ellerker and Robert Bowes are commissioned to take the indictments of the rebels, including their relatives and fellow councillors, Sir Robert Constable, Darcy, Aske and Sir Thomas Percy. Never was the maxim *divide et impera* more cynically or successfully employed. The failure of the rebellion had driven a wedge between gentry and commons, and its suppression split the gentry into irreconcilable factions. Henceforward men like Bowes and Ralph Ellerker could only look to the king for help and support. To their fellows they must have appeared as double dyed traitors. Henry now had the men to make the Council of the North a potent force, whilst the attainder of several of the greatest abbots for complicity in the Pilgrimage and the speedy surrender of the others increased both Henry's actual power and his capacity to reward good service.

The Council established in 1537 was destined to be no mere temporary expedient, but to become a permanent feature of the Tudor and early Stuart system of government. Within the year, we find Norfolk writing to Henry to say that the North was reduced to order and there was no further need of a Lieutenant, it could quite well be ruled by a President and Council, and from the appointment of Tunstall as Lord President in 1537 there is an

unbroken sequence of Lords President except from 1596 to 1599 when Archbishop Hutton filled the office, but was not commissioned.

In a more detailed study of the Council it would be necessary to trace the alterations in the instructions given to the various Lords President. But as these were not of outstanding importance, it may suffice to sketch in broad outline the structure and functions of the Council as established by Henry and modified by himself and his successors. In the first place we must note one important difference between the Council and most of its predecessors. It was purely judicial and governmental and had, unlike such councils as Gloucester's or Richmond's, no responsibility for the financial administration of estates, royal or baronial. Up to 1600 many of the Councillors, except the lawyers, held royal offices, such as stewardships of manors, or wardenships of liberties, but the Council as a body had no responsibility for the administration of Crown lands.

The extent of its jurisdiction was all England north of the Humber, except the Palatinate of Lancaster. It was to hold its quarterly sessions in York, Newcastle, Durham and Hull, but, as usual it soon became apparent that the Borders could not be controlled except, as Norfolk told Henry, by "men of good estimation and nobility." Therefore after 1541, when Norfolk went north as Lieutenant-general, the old system was renewed. In time of war the commander of the army and, in time of peace, the Wardens controlled the Borders, communicating directly with the Privy Council on all Border questions, though orders relating to civil administration were sent through the Lord President for transmission to the justices of the peace. But although it lost direct control of the Borders, the Council continued to entertain civil actions and hold discretionary sessions from time to time in Carlisle and Newcastle.

The Council consisted of a President and a varying number of Councillors. Usually there were three or four lords, half a dozen knights and about the same number of lawyers, some of them common lawyers and some civilians or canonists. The number of Councillors fluctuates but tends to increase. Under Elizabeth, for example, the Archbishop of York, the Bishop of Durham and the Deans of both Cathedrals were invariably included. Under Henry and Edward VI the laymen almost without exception were royal officials, escheators, stewards and so forth, but later it became the custom to include one or more of the leading landowners of each of the Ridings. The Councillors were, of course, compelled to take an oath, not dissimilar from that of a Privy Councillor. The ideals which Henry set before the Council were "the quietness and good governance of the people" and "speedy and

indifferent administration of justice between party and party." To this we may add the enforcement of Henry's changes in religion and other reforms. The commissions were the old two, the Peace, and Oyer and Terminer, amplified by the instructions now given to each Lord President.

The Council was to hold four general sessions a year, each lasting a month. These sessions dealt with civil business first, and criminal after the civil cases had been heard. Whilst it could, and did, use the common law procedure of indictment and verdict, it could also use, as it more frequently did, the Star Chamber method of bill, witness and examination. In fact the common law process was restricted to treason, murder and felony. The other method, allowing as it did the examination of the defendant and the compulsion of witnesses to give evidence, was obviously more satisfactory. It had the further advantage that it could be applied to cases between party and party. At its speediest, an action before the Council began by the submission of a bill by the plaintiff to which the defendant had to reply. Then the parties, having taken the ex-officio oath, were examined on interrogatories, the evidence of witnesses was taken either on affidavit before one of the Examiners of the Court, or by depositions before commissioners. A day was then set for hearing when counsel on both sides were heard and the decree of the Council was given. Of course, the proceedings might be protracted, but generally speaking it seems to have worked expeditiously. Any attempt to bring vexatious complaints was checked by the award of heavy damages against the plaintiff. Process was cheap, as the fees were fixed and the attorneys were officers of the Court which could, and presumably did, tax their costs. Much, of course, depended on the Lord President. Under a solid, conscientious worker like Huntingdon (1572-95) the Council worked efficiently and smoothly, but under a venal or lazy ruler like Archbishop Young (1561-68) or Sheffield (1603-19) things went badly and the Council became unpopular.

Before considering the officers of the Council it should be noted that, amongst the Councillors, a distinction is drawn, especially from 1568 onwards, between ordinary Councillors and those who are "bound to continual attendance." These were the common lawyers who had board and lodging in the President's house, each with three or four servants according to rank, and a fee of £50 for an esquire or £66 13s. 4d. for a knight, raised in 1579 to a uniform £100. There were always at least four of these Councillors who formed the quorum. One, at least, with the President had to be present at every session. The President and some of these Councillors were after 1550 sworn as Masters in Chancery, so that they could

take recognisances. As time went on the other Councillors tended to leave the legal business to the professionals, and usually only attended at the beginning of the general sessions to hear the reading of the commission. In Elizabeth's reign a rota of the legal members was established, one of whom was continually in residence at York, to deal with urgent business.

Next to the President came the Vice-President who acted in the former's absence. He provided what might be called the permanent element. Sir Thomas Gargrave, who held the office under five Presidents and served the Council thirty-four years (1545-79) was perhaps the most powerful man in the North. He was the last lawyer to hold the office, a fact of some importance, since it meant that henceforth there was always a non-lawyer on the Council, and though the President lost his veto when the Council sat as a law court, he had a vote which was decisive if the legal members were equally divided. The fact that neither President nor Vice-President was a lawyer saved the Council from becoming too professionalised.

The next member was the Secretary with a fee of 50 marks. But the perquisites were numerous, as the Secretary was Keeper of the Signet and had fees for sealing. From 1556 onwards the Council had an Attorney, an extremely important official inasmuch as his duty was to "prosecute . . . for Her Majesty as well by way of Information as Indictment, all offences of Treason, Murder, Felony, etc." This meant that the Council was in no way tied to the procedure by jury of presentment. The Attorney could prosecute on mere information, which, considering the imperfections of Tudor juries, must have put a strong weapon in the hands of the Council. The Attorney, unlike the Secretary, was not sworn of the Council. He was a mere officer of the Court, concerned with its legal business only. All fines and amercements passed through his hands.

Below him came two Examiners of Witnesses, appointed by the President and Council, and the Registrar, appointed by the Secretary, who kept a register of attachments, lists of recognisances and cases pending. Other officials of the Secretary's office were two Clerks of the Seal, drawing £100 per annum, a Clerk of the Tickets who copied answers to bills and evidence taken on commission. There were also fourteen Clerks who also acted as Attorneys. They were paid the fees for King's letters and bills, about £600 per annum, and 2s., later raised to 2s. 6d., per sitting when acting as Attorneys. As the Sheriff was the subordinate of the Council and had to make attachments and serve processes on its orders, he found it essential to have a deputy in attendance, and appointed a Clerk of Attachments, usually the President's private secretary.

The Council did not rely exclusively on the Sheriff for executions but had a Pursuivant, and later a Serjeant at Arms, with ten Collectors of Fines and two Tipstaves. In most serious matters it seems to have preferred to trust its own staff to make arrests, particularly of recusants, leaving only the more formal business to the Sheriff and his staff. The total membership of the Council, then, was about 30, but if we add servants, grooms, personal secretaries and the inevitable hangers-on of a great Elizabethan establishment, we can probably reckon that there were not far short of 100 people in and about the Council.

To move a body of this size, with its registers, rolls and other paraphernalia was no easy matter. Hence the Council tended to fix itself more and more at York. At first, as we have seen, it had to hold sessions at York, Newcastle, Hull and Durham. By 1556 Hull drops out, and Carlisle replaces Durham, to drop out or share a session with Newcastle from 1561; and by 1582 the President was left complete discretion as to where sessions were held, which, in practice, meant that they were always held at York. The suggestion in 1597 that a session at Newcastle might be necessary seems to have caused considerable consternation to the local authorities.

The housing of the court became a problem when Holgate, then Bishop of Llandaff, became President in 1538. Unlike his predecessors, he had no castle or residence near York, and we find the Council asking for a grant of the Blackfriars on Toft Green. A better solution was found by giving it the Abbot's lodging and site of the recently suppressed Abbey of St. Mary. Not only was this more commodious, but it lay just outside the walls of the city and had always been exempt from the jurisdiction of the civic authorities. Abbot Sever had recently (about 1502) rebuilt part of it, but it soon became too small for the needs of the Council, and most of the Presidents, from Shrewsbury to Strafford, added to it. The building with its magnificent doorways, fireplaces and ceilings still testifies to the might and authority of the Council of the North.¹ It also acquired the King's Manor (formerly the Austin Friars) at Newcastle, which as the Newcastle sessions were reduced and abandoned gradually degenerated into a mere store-house.

The Council was no mere dependency of the Privy Council. North of the Humber it exercised the administrative and judicial functions of the Council and, after 1559, it became, to all intents and purposes, the Court of High Commission for the Northern Province.

As a court the Council dealt with both criminal and civil matters.

¹ The building now houses the Yorkshire School for the Blind. It has been described by Davis, "History of the King's Manor" (York, 1887).

Its criminal work ties up closely with its administrative duties, but its civil work was of the utmost importance. Coke said in 1607 that it dealt with 2,000 cases a year. This was probably an exaggeration, for Coke was making out a case against the Council. But it is a fact that any collection of private muniments in the North which covers the period 1540-1640 is almost certain to yield several cases heard before the Council. Theoretically, it could not touch freehold, but it frequently did, either by consent of the parties or by replevin. The archives of York and Hull indicate that it entertained cases in which citizens or burgesses were concerned. Hull Trinity House, in drafting the conditions of appointment of its secretary in 1591, thought it sufficiently important to lay down that the secretary must ride to York when necessary at his own cost, and the records show that these journeys to York were often about cases before the Council.

The bulk of the civil cases were actions relating to ejection, tenant right, leasehold and debt. At the one end of the scale, we see it dealing with important problems like the title to the great Dacre estates; at the other, with small debts of a few pounds. Its decision that the normal fine for renewal of a lease should not be more than twice the rent served as a precedent for the later custom enforced by the Courts of Westminster.

Ellesmere, as Lord Chancellor, made it a rule to refer cases in equity to the Council when both parties were resident in the North. If either party claimed to be too poor to sue his case at Westminster, the Council had jurisdiction. This led to some trouble as it was impossible to say whether a man was, in fact, too poor to respond. A more sensible rule was the one that came to be applied in cases of non-payment of rent for leasehold, where the Council had jurisdiction if the amount in dispute was less than £40. Of the convenience and popularity of the civil jurisdiction of the Council there can be no doubt. The frequent petitions under the Commonwealth and in the early years of Charles II for some sort of Court of Requests at York, and the almost invariable clause in eighteenth century Yorkshire conveyances, restricting the liability of parties to a fine not to travel beyond York, are proofs of the fact that the Court met a genuine need.

It is extremely difficult to differentiate between the criminal and administrative duties of the Council. Formally, of course, the criminal business was the suppression of offences like murder, robbery and arson, which were felonies at common law, whilst the administrative business was the enforcement of statutes, for example, those against seminary priests. But the effect and the machinery were much the same in both cases, and the authority derived from one or other of its commissions.

Under pressure from the government the Council tended to emphasise now one, now another, of its administrative duties, but it was fairly consistent in one, the general supervision of the justices of the peace. We are so accustomed to think of the justices as the "maids of all work of the Tudor government", that we are apt to forget what very unsatisfactory servants they were. The stupid justice is a common figure in eighteenth and nineteenth century literature, and no one imagines that the mere insertion of a squire's name in the commission of the peace made him any wiser or more judicial. But, on the whole, the eighteenth or early nineteenth century justice was a willing agent of government policy, administering, in the county, the laws which he and his fellows had made at Westminster. But the Tudor justice was not only, very often, stupid: he was frequently venal, quarrelsome and disloyal. Statutes which suited his own interests he would enforce, and cheerfully ignore those which did not. It would have been fatuous to expect a rigorous enforcement of the recusancy laws in the North Riding, or the laws regulating the cloth trade in the West Riding. Even those justices whose personal interests were not involved would not make themselves unpopular by excess of zeal. This was not a peculiarity of the northern justices; it was common to the whole country, but, whereas the justices of the Home Counties and the Midlands could be kept up to the mark by the combined efforts of the Privy Council and the Lords Lieutenant, those of the North were too far away. Also, it would seem that, in the South, there was no lack of suitable candidates for the commission, while the field was more restricted in the North.

Here we have the explanation of the value and the unpopularity of the Council in its administrative capacity. It had the power and the will to enforce the policy of the government, or, at need, to see that the justices enforced it, whether they wanted to or not. The result was that the Council, in its administrative aspect, enjoyed an unpopularity which it never had as a court of civil jurisdiction, and it was the county gentry, assembled in the Long Parliament, who finally destroyed it.

On the administrative side, the history of the Council falls into four phases which coincide with the reigns of Henry VIII, Edward VI and Mary, Elizabeth, and the early Stuarts. Under Henry the first object of the Council was to reduce the North to order, after the Pilgrimage of Grace. We find it busy punishing riots and breaches of the peace, taking sureties of suspected persons, and active in enforcing Henry's religious settlement. Above all it seems to have been active in making enquiry as to intakes and enclosures, landlords taking excessive gressoms and exorbitant

rents, and in giving remedy to the sufferers. The result was that the county was so far pacified that Henry was able to pay a long-deferred visit to York in 1541, and the agrarian troubles of 1547 found no echo in the North. By a judicious combination of firmness and conciliation, the Council had gone far to settle the problem of the North by the time of Henry's death.

Under his son, however, the Council became the sport of factions. Somerset, who had packed the Council with his supporters, and who wanted to use it to push his economic and religious policy, naturally gave it full support, and even extended its authority, ordering the Mayor and Aldermen of York to obey its instructions notwithstanding their charters. But with the fall of Somerset in 1549, Warwick changed all this. He pushed Holgate out and put Shrewsbury in as President, and altered the personnel of the Council, though only slightly. But the fact was that he could not trust a predominantly Catholic body to enforce his religious policy. He feared it might unite with Somerset against him. Therefore he set about increasing his own power in the North. He took over the Wardenship of the Marches, made himself High Steward of the Bishopric of Durham, and reduced the Council of the North to the level, as Dr. Rachel Reid puts it, of "a glorified court of Quarter Sessions". Some of the powers the Council then lost it never regained. The Borders passed from its control, its members were never again commissioners of sewers, or for collecting subsidies, also it was never again included as a whole in the ordinary commission of the peace for the northern shires. Shrewsbury, a perfect time-server, who held on to his office till the reign of Elizabeth, was not the man to resist these encroachments. He was frequently absent from the north for long periods, and, when he was there, usually resided at his castle at Sheffield, quite the most inconvenient centre in the whole county. The result was, that even when he was in residence, the Councillors bound to continual attendance found it difficult to get their diet and attend to their business, and in his absence the Vice-President had neither the funds nor the accommodation to support them. From this slough the Council was pulled by the activity of its new Vice-President, Sir Thomas Gargrave, who was appointed in 1555. His plans were furthered by a disquieting report on the state of the Borders. The justices of the peace, too, were in need of a strong hand and the Privy Council bluntly told them that if they failed to amend their ways they would be called to York to answer for their faults. Thus Elizabeth found the Council a much stronger body than it had been three years earlier.

It needed to be, for the claims of Mary Queen of Scots revived the problem of the North. But Elizabeth's religious settlement

gave the old problem a new turn. Hitherto, the one constant factor in northern politics had been hatred of the Scots. Henceforward, hostility to Elizabeth's church settlement implied, in strict logic, a readiness to accept the Scots candidate to the throne. Whether Elizabeth weighed this in determining her policy or not, we have no means of knowing. Nor have we, as yet, really solved the problem of the extent and nature of recusancy in the North. There were plenty of opponents of the new order, but many were pure traditionalists whose opposition would never be active, especially if it implied support of the Scot. In the West Riding there were, as Professor Dickens has shown, a number of advanced Protestants. There was also the possibility of an alternative to Mary in the house of Lennox, until Mary's marriage to Darnley united the claim of both branches of the Stuarts. Under these circumstances Elizabeth at first moved warily. Shrewsbury, in spite of his opposition to the Act of Uniformity, was continued in office till his death in 1560, and the main function of the Council seems to have been to enforce the economic policy of the government. The death of Shrewsbury and the Treaty of Leith opened the way for a more vigorous policy. The revised instructions of 1561 contemplated a drive to enforce the religious policy, and the establishment of a permanent court at York. Rutland began to restore and extend the King's Manor. The rule that one or more of the legal Councillors should always be in residence also strengthened the Council, and the Queen's Attorney received extensive powers to prosecute.

Rutland, however, died in 1563, and was followed in 1564 by Archbishop Young, probably the worst of all the Presidents. Vain, stupid, idle and greedy, one wonders why Elizabeth tolerated him, even for a year. So far from enforcing the religious policy, he let things slide, and even appointed as Councillors men like Sir John Constable, who was very untrustworthy in religion. Perhaps for the moment a pliable President suited Elizabeth, for it was during Young's Presidency that the government intervened in certain important matters like the Dacre lands, and the enforcement of a rule to compel tenants to enclose lands near the Border with quickset hedges, in both of which matters the decision of the Council was set aside. Young made no attempt to hold the sessions outside York, or to enforce the laws about tillage and armour. He kept no proper books of decrees, allowed members of the Council to appear before it professionally on behalf of parties, and let cases drag on indefinitely. So, at any rate, says a memorial of 1568. One is inclined to suspect exaggeration, for the Council handled the rebellion of the Northern Earls, in 1569, on the whole very successfully.

But it was probably as well that Young died within a month or two of the flight of Mary into England. The achievement of the Council in 1569 is the more remarkable when we remember its abject failure in 1536, and that Sussex, the new President, had been sent north to carry out quite a different policy from that finally adopted. The Council was kept busy from 1569 to 1570 stamping out the embers of the revolt, trying and fining the gentry and dealing severely with the lesser offenders. Many became vagrants and masterless men, and the Council had to deal severely with them. The hard work fell on Gargrave, the Vice-President, for Cecil was only too glad to let Sussex retire, once he had finished with the rebellion, in 1570. In fact he induced his retirement by a series of pinpricks.

With the appointment of Huntingdon as President in 1572, we reach the great age of the Council. Its powers had been built up, as we have seen, by successive commissions and instructions, culminating in 1561, but, hitherto, for political and probably personal reasons, they had never been used to the full. The new President was the Queen's cousin, an ardent supporter of the religious settlement, and entirely without territorial importance in the north. His estates were mostly in the Midlands and his authority in the North derived solely from his commission. He was a Puritan and under his rule the North was godly, if not always quietly, governed. Generally speaking, he had the backing of the Privy Council, and Cecil worked well with him. As a civil court the Council continued to function smoothly, and, on the whole, beneficently. Huntingdon, though "raw at first", as his colleague Archbishop Hutton said later, "became by study and diligence a good President". He was regular in his attendance to business and put an end to the slackness of Young's regime. We see him giving judgments against landlords who were still trying to take unconscionable gressoms, and not only in Yorkshire. The prebendaries of Durham and Sir Henry Curwen in Cumberland fell under his judgment. He decided the complaints brought by the workmen against the German mining adventurers in the Lake District. On the administrative side, the Council was most active. Its activities fell into three main categories—defence, the supervision of local authorities, and the enforcement of the various enactments about recusants, vagrants, the cloth and corn trades, the poor and so forth.

Although it has been stated that Huntingdon's duties in the preparations for defence arose from his commission as Lord Lieutenant and not from his office as Lord President, it seems that his contemporaries failed to make this distinction. At any rate, we find him and the Council busy in taking musters, training

the able men, providing drafts for overseas, and seeing that the coast is watched and the beacons in readiness. He hears complaints of the activities of the Dunkirkers and asks the Lord Admiral to grant letters of marque to a Newcastle barque against them. A Scarborough man who had dealings with pirates was arrested by the Council, which also sought to induce the Humber ports to help a local man, who had built a large privateer, to find the money to equip it.

More important were its dealings with an early ship-money case. The controversy had begun as far back as 1547, but became acute in the year of the Armada. Hull had always contended that the outports, which were joined to it for certain customs purposes, should help it to support the burden of providing ships for the royal service. In particular it claimed that York should help. The point had never been properly settled when, in 1588, Hull was ordered to equip two ships and pinnaces and victual them for two months. Huntingdon was ordered to urge the outports, and the towns using Hull as their port, to contribute. On their refusal, he bound over the local mayors to appear before the Privy Council. The ports gave in, but York had to be coerced and judgment was given by the Privy Council that it should pay £600 towards the £1015 which the ships had cost. This time it seems that the West Riding towns escaped, but when the question arose again over the Cadiz expedition, they were forced to contribute. Though the ultimate decision here rested with the Privy Council, it acted consistently through the Council of the North.

The ship-money case leads naturally to a discussion of the control exercised by the Council over the local authorities. So far as the towns were concerned the Council intervened in disputes between towns, as, for example, in a dispute between York and Hull over the lead trade. We also find it intervening in internal disputes in towns, as at Newcastle and York, where, on the instructions of the Privy Council, it even arrested the Mayor in 1579. At York, too, it passed on instructions to the Mayor on a variety of matters, calling upon him to fix prices of board and lodging for suitors to the Council, to enforce the laws against regrating and forestalling, to take a census of beggars, and to enforce vagrancy laws. Huntingdon kept an eye on elections, and there is a letter from him to Hull in 1586 asking for the nomination of one member and instructing the Mayor to take care that the other should be "knowne to be religious and well affected to her Majestie". It similarly kept a strict eye on the county justices, trying to see that they did their numerous duties, and ready either to take order with them or to act itself in their default. For example, a bridge

near Sedbergh was destroyed in 1585. This was strictly a matter for the local justices to attend to, but the Council appointed commissioners to get the bridge repaired. When the local justices refused to enforce the act of 1593 against stretching cloth, the Council stepped in and enforced it.

It was the same in other directions, and the Council had to bear a lot of opprobrium for enforcing unpopular acts. When it was dealing with the spreading of false rumours, vagrancy and breaches of the peace, it had popular feeling behind it on the whole, but the enforcement of the religious legislation tended to make it unpopular. In Huntingdon, a precise Puritan, the government had a President who was willing to run the risk. He began hopefully, with the idea that recusancy could be stamped out, but after the seminary priests began to come over he confessed in 1576 that "the declination in matters of religion is very great". The Blockhouse at Hull, York Castle and other gaols were soon full, many prisoners dying of the infection of the prison. From 1582 to 1592 there were generally one or more executions a year. Perhaps the most famous victim was Margaret Clitheroe, but she actually died under the *peine forte et dure* for refusing to plead. Huntingdon was strict, but not merciless. He refused to exercise the full rigour of the law against harbourers of priests, and seems to have done what he could to mitigate the lot of the numerous gentlewomen imprisoned.

The punishments inflicted by the Council were fines, the pillory, wearing of papers and imprisonment. They were not, by contemporary standards, unduly severe. In fact, on occasion, the Privy Council asked for more severity, as in the case of an impostor claiming to be a sailor despoiled by the Spaniards. The Privy Council told them to nail his ear to the pillory and after, if they saw cause, to lop it off. It may be as well to say that the Council had no power to use torture, and there is no proof that it did so; though there are hints that the Privy Council would not have objected if, on occasion, it had.

Another function of the Council was that of trying to combat the litigiousness of the times. One example will suffice. Two Hull merchants, John Barker and Thomas Mountague, had been taken prisoner by the Dunkirkers, and, though at liberty, dared not return to Hull to face their creditors. The Council called the creditors before it, and sought to compel them to treat the unfortunates leniently.

With the death of Huntingdon, the decline of the Council begins. There were several reasons for this. There was a bitter struggle for the control of the Council between Essex and Cecil, which Cecil ultimately won, but only at the price of packing the

Council and giving way to the local gentry. It is true that under Hutton as *locum tenens*, and Burghley as President, the persecution of the recusants was increased. It had not much effect. Whitby and the surrounding country was a safe refuge for seminaries, and when, after elaborate preparations, the Council staged a raid on a notorious "nest of Papists" at Grosmont, a few miles up the Esk from Whitby, they found that the birds had flown.

The Council, however, was under fire from various quarters. Thanks to Burghley's lavish creation of new Councillors, it was becoming too large for an administrative body, and the government was increasingly corresponding direct with the sheriffs and justices. It still, however, used the Council when speed and secrecy were necessary. Ferne, the Secretary, wrote to the Mayor of Hull on November 7th, 1605, to inform him of the Gunpowder Plot and instruct him to keep watch for Sir Henry Percy.

As early as 1595 the North Riding justices rebelled against a writ of *supersedeas* issued in a case pending before them. "They would either be justices or no justices." The West Riding justices followed suit. Then Serjeant Yelverton treated the President with gross discourtesy at the Assizes in 1600. A little later Lord Willoughby denied its right to effect an arrest at Berwick. On the whole the government supported the Council. Yelverton was ordered to apologise, the justices were punished, and a way found of making its *supersedeas* legal. But it was the writing on the wall. If litigants who took their cases to the Council could be imprisoned or compelled to enter bond by the local justices, its value was going to be diminished. When Sheffield became President in 1603, a significant change was made. The legal members were to have precedence over all others below the rank of barons' sons. This emphasised the fact that the legal functions of the Council henceforward took precedence over the administrative.

Even these did not escape attack. Already they had been definitely subordinated to Chancery and it had been decided that the Council could not stay proceedings in the Courts of Westminster. But, having gained its victory, Chancery used it with moderation, and it is doubtful if the subordination meant the loss of much business.

Very soon the common law courts moved to the attack under the doughty leadership of Coke. Prohibitions and writs of *habeas corpus* began to be issued against the Council, and these were signs that it might follow the Court of Requests into oblivion. Coke, who had admitted its jurisdiction when it suited his purpose,

quoted much false history and dubious law against it. The only substantial objection was met in 1609, when the instructions, as well as the commission, were enrolled, so that the exact powers of the court were known to all men. The fall of Coke ended the attack for the time, and, despite his decision that the Council was illegal, it functioned for thirty years after his fall. The opposition of the towns became more vocal. In 1607 York raised the problem of the rights of precedence of its Mayor and the President, but got little by it beyond a tart suggestion from the Privy Council that it should learn to rule its citizens. The attitude of the towns was illogical but understandable. They were ready to use the Council in their disputes or deny its jurisdiction as suited their convenience for the moment. It is therefore impossible to say that they hated or favoured the Council. York opposed it on occasion, but petitioned for its restoration in 1642.

But, although we cannot, owing to the loss of its records, say much with certainty about this phase of its history, a few main trends do appear. In spite of prohibitions, it continued to handle a lot of civil business. There was considerable building at York, and new wings were added to the King's Manor by Sheffield and Strafford, which bears out the suggestion that the Council still had plenty of business. But Sheffield and Scrope were not the sort of Presidents to inspire respect. Sheffield, who was not above using his official position to help his private speculations in the alum monopoly, was quite ready to sell any office in the Council, and Scrope was nearly as bad. In fact, the Council suffered from the universal corruption of the times.

Wentworth, who had served as Councillor, took office as President in 1628 prepared to enforce his policy of "Thorough". He laid down, in his first speech as President, the two principles which he proposed to adopt; not to exceed by a hair's breadth the limits of the commission and instructions, and to refer all prohibitions "to His Majesty, the sovereign judge of us all". Despite numerous attacks he held to this policy and the government backed him. The opposition, led now by Lord Fauconberg, tried their best to flout Wentworth and deny the authority of the Council, but Fauconberg was ultimately sent to London to make his submission.

As the instrument for enforcing compositions for knighthood in the North, the Council came in for more unpopularity, and it was over this matter that Sir David Foulis fell out with Wentworth and was heavily fined. So was Sir John Bouchier, who broke down a royal enclosure in the Forest of Galtres recently made by Charles I. Attempts against the equity jurisdiction of the Council were similarly resisted, and in 1633 a new

set of instructions was drafted. Though these were later quoted in the articles of impeachment against Wentworth, they really contained nothing new and the managers of the impeachment did not find them a very good weapon.

When the Long Parliament met, however, there were plenty of opponents of the Council. The common lawyers hated it for professional reasons and Hyde was chairman of a committee of the House which reported strongly against it. The new Yorkshire families, the Saviles, Hothams, Fairfaxes, Vanes, who had replaced the Percies, Eures, Constables and Ellerkers as the leading men of the county, were all hostile to Wentworth and the Council. After the execution of Wentworth the attack was launched. Though the Commons resolved against the Council, the Lords hesitated. They finally condemned its Star Chamber jurisdiction and, with reservations, its equity jurisdiction. But they coupled with this the recognition of the need for a Court at York. All this took time, and though the Grand Remonstrance spoke of it as "a forge of misery, oppression and violence", Charles could tell the assembled gentry at York in 1642 with truth that "he knew no legal dissolution of it. It is rather shaken in pieces than dissolved".

That might well stand for the epitaph of the Council of the North. The York tradesmen who saw in its abolition the loss of profitable customers, the small man who had found it a cheap and speedy tribunal for the collection of debts and the settlement of disputes—these might regret its passing; but the Fairfaxes, the Cholmleys and the Saviles who had been fined for ship-money, encroachments on forests or other similar offences could, and did, regard it as an instrument of oppression.

Hence the numerous efforts to restore it failed. The North and its difficulties were of little interest to the South Country gentry and lawyers of Cromwell's Parliaments. After the Restoration grand juries all over the county, in York and Hull, as well as in the three Ridings, petitioned for its restoration, and, for a moment, it looked as though they might succeed. But the Yorkshire Plot of 1662 which made it obvious that any court at York would have to wield administrative authority, and the implacable hostility of its old enemy Hyde, now Lord Chancellor Clarendon, prevented its revival.

It may be that the decision was right. The conciliar system had been weighed in the balance and found wanting. The problems of the North in the age which was dawning in 1660 were not those which Aske had outlined a century before. Those problems had been settled, largely by the work of the Council of the North. And yet there was substance in the petitions for the restoration of

the Council. The impact of the industrial changes of the eighteenth century on the North might have been very different had there been at York a court to carry on into the age of the Industrial Revolution the traditions of the civil and equitable jurisdiction of the Council of the North.

BIBLIOGRAPHICAL NOTES

The fundamental, indeed the only, book so far written upon the Council is R. R. Reid, *The King's Council in the North* (London, 1921). J. R. Tanner, *Tudor Constitutional Documents* (Cambridge, 1922) prints several documents, including Coke's arguments against the Council and the Instructions of 1545, with a brief commentary. Sir A. W. Prothero, *Select Statutes and other constitutional documents* (Oxford, 1906) prints the Commission of 1603, with commentary. The local aspects of the subject are treated somewhat sketchily in Drake, *Eboracum* (York, 1738). R. and E. Dodds, *The Pilgrimage of Grace* (Oxford, 1915) deals exhaustively with the part played by the Council in the Rebellion of 1536. Miss C. V. Wedgwood in *Strafford* (London, 1935) discusses the intrigues for the control of the Council which preceded Wentworth's appointment as President. The Wentworth Woodhouse MSS. now in the Sheffield Public Library will throw more light on Wentworth's activities as President.

Apart from a few minor discoveries there is little to add to Dr. Rachel Reid's discussion of the MS. evidence. The important discovery by Dr. J. S. Purvis of the records of the High Commission for the Northern Province (some of them printed in *Tudor Parish Documents*, Cambridge, 1948) does not really add to our knowledge of the working of the Council.

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