

5-1-2019

Thomas Cromwell's Influence on the Laws of England: A Basic Review of the English System and Reforms in the Early 16th Century and the Rise of the Act of Attainder

Heather R. Darsie

Follow this and additional works at: <https://huskiecommons.lib.niu.edu/niulr>



Part of the [Law Commons](#)

Suggested Citation

Heather R. Darsie, Comment, Thomas Cromwell's Influence on the Laws of England: A Basic Review of the English System and Reforms in the Early 16th Century and the Rise of the Act of Attainder, 39 N. Ill. U. L. Rev. 273 (2019).

This Article is brought to you for free and open access by the College of Law at Huskie Commons. It has been accepted for inclusion in Northern Illinois University Law Review by an authorized editor of Huskie Commons. For more information, please contact jschumacher@niu.edu.

Thomas Cromwell’s Influence on the Laws of England: A Basic Review of the English Legal System and Reforms in the Early 16th Century and the Rise of the Act of Attainder

HEATHER R. DARSIE*

“And the laws temporal for trial and propriety of lands and goods, and for the conservation of the people of this realm in unity and peace without ravin or spoil, was and yet is administered, and executed by sundry judges and administers of the other part of the said body politic called the temporalty, and both their authorities and jurisdictions do conjoin together in the due administration of justice the one to help the other.”¹

INTRODUCTION	273
CROMWELLIAN LEGAL REFORMS.....	275
THE RISE OF THE ACT OF ATTAINDER.....	278
SUPPRESSION OF RELIGIOUS HOUSES.....	281
THE PROSECUTION OF MARGARET POLE	282
PROCLAMATION OF THE CROWN ACT	284
CROMWELL’S REFORMS ARE TURNED AGAINST HIM	284
CONCLUSION.....	285
SOURCES	286
PRIMARY:.....	286
SECONDARY:.....	286

INTRODUCTION²

By the early 16th century, many different courts of laws operated in England. Five of those were the superior Court of King’s Bench, the busy Court of Common Pleas, the Exchequer of Pleas, the Court of Chancery,

* Thank you to Melanie V. Taylor and Kristin Grossman for providing valuable feedback on this article in its different forms.

1. The Act of Restraint of Appeals, 24 Hen. 8 c. 12.
2. The purpose of this article is to provide a basic overview of the legal system in England and reforms instituted during the 1530s with the assistance of Cromwell. Serving as more of a primer, the author would encourage the curious mind to pursue further research by consulting the various sources listed throughout the article with additional sources listed at the end.

and the Court of Star Chamber.³ The Court of King's Bench held jurisdiction over criminal cases, pleas to the Crown, and reviews of judicial error.⁴ Although there was no specific court of appeals, the Court of King's Bench functioned similarly to one in that it reviewed technical errors in judgments.⁵ The Court of Common Pleas held jurisdiction over matters between parties. It was the oldest, and most expensive, court at the beginning of the 16th century.⁶ Over time, the Court of King's Bench took on more and more cases which used to be heard in the Court of Common Pleas.⁷ The Exchequer of Pleas held jurisdiction over issues relating to revenue.⁸ The final court, the Court of Chancery, mainly focused on matters related to ecclesiastical or maritime law, but occasionally took on common law criminal cases if there were exceptionally unique issues at bar.⁹ The Court of Star Chamber heard cases of both criminal and civil nature wherein the defendants or respondents were members of high-ranking noble families.¹⁰ The Court of Star Chamber functioned as an appeals court by the reign of Henry VIII.¹¹

In addition to these lay courts, spiritual courts determined issues matrimonial amongst others. These spiritual courts were beholden to the Pope in Rome.¹² This included the archiepiscopal court, which caused a great deal of frustration in England by the late 1520s to early 1530s.¹³

Henry VIII of England succeeded to the throne in April 1509.¹⁴ A lawyer named Thomas Cromwell came to Henry's attention in the late 1520s, while Cromwell was working for Henry's Lord Chancellor, Cardinal

3. G.R. ELTON, *THE TUDOR CONSTITUTION 148-52*, 163 (2nd ed. 1960).

4. *Id.* at 149.

5. *Id.*

6. *Id.* at 149.

7. *Id.*

8. ELTON, *supra* note 3.

9. *Id.* at 152.

10. *Id.* at 171-72.

11. *Id.* at 173-74. *See also*, Gunn, Steven J. *Early Tudor Government, 1485-1558*. New York: Palgrave MacMillan (1995).

12. *See* Mortimer Levine, *Henry VIII's Use of His Spiritual and Temporal Jurisdictions in His Great Causes of Matrimony, Legitimacy, and Succession*, 10 *HIST. J.* 3, 3-10 (1967).

13. *See* Mortimer Levine, *Henry VIII's Use of His Spiritual and Temporal Jurisdictions in His Great Causes of Matrimony, Legitimacy, and Succession*, 10 *HIST. J.* 3, 3-10 (1967).

14. Henry VII died on April 21, 1509, leaving his second son to become Henry VIII of England. The Venetian Ambassador to London, Andrea Badoer, wrote to the Venetian Signory stating that Henry VII died and that, "The new King is magnificent, liberal and a great enemy of the French. He will be the Signory's friend." *See* "Henry VIII: April 1509," in *Letters and Papers, Foreign and Domestic, Henry VIII, Volume 1, 1509-1514*, ed. J S Brewer (London: His Majesty's Stationery Office, 1920), 1-8. *British History Online*, accessed March 5, 2019, <http://www.british-history.ac.uk/letters-papers-hen8/vol1/pp1-8>.

Thomas Wolsey.¹⁵ Wolsey lost his prominence in 1529 and shortly thereafter died of illness in late 1530.¹⁶ This paved the way for Thomas Cromwell. Cromwell experienced a rapid rise in station due to the work he did for and trust he had from Henry VIII.¹⁷ Cromwell became Henry VIII's "fixer," solving serious problems for Henry.

CROMWELLIAN LEGAL REFORMS

By the early 1530s, Henry VIII was fed up with the archiepiscopal court that was beholden to the Pope, amongst other things.¹⁸ Added to this were the abuses made by the local spiritual authorities over their particular spiritual jurisdiction.¹⁹ Taking action against this, Parliament presented an argument in 1532 called, "The Supplication of the Commons Against the Ordinaries."²⁰ Four drafts of this speech exist, two in the hand of Cromwell's chief clerk and two in another, all with corrections made by Cromwell.²¹ The speech laments the acts of "prelates and spiritual[] ord[i]naries...and the clerg[y]."²² Specifically, Cromwell points out to Henry VIII the legal frustration caused by the clergy, who:

[H]a[v]e in their con[v]ocations heretofore made and caused to be made and also dail[y] do make d[iv]erse and many[] Facyons of law[s], const[i]tutions and ord[inances] without your knowledge or most roya[l] assen[t] and without the assent and consent of any your lay Sub[ject]s [u]nto

15. Bindoff, S. T. (1982). "Cromwell, Thomas (by 1485–1540), of London." In Bindoff, S. T. *Members. The History of Parliament: the House of Commons 1509–1558*. <http://www.historyofparliamentonline.org>. Accessed February 28, 2019.

16. In a letter from 1530 to the Holy Roman Emperor Charles V, the Imperial Ambassador Eustace Chapuys wrote, "The cardinal [sic] of York [Thomas Wolsey] died on St. Andrew's Day [30 November]..." "Henry VIII: December 1530, 1-14," in *Letters and Papers, Foreign and Domestic, Henry VIII, Volume 4, 1524-1530*, ed. J S Brewer (London: Her Majesty's Stationery Office, 1875), 3052-3058. *British History Online*, accessed March 5, 2019, <http://www.british-history.ac.uk/letters-papers-hen8/vol4/pp3052-3058>.

17. Merriman, Roger Bigelow. *Life and Letters of Thomas Cromwell*. Vol. I. Oxford: Clarendon Press (1902).

18. Mortimer Levine, *Henry VIII's Use of His Spiritual and Temporal Jurisdictions in His Great Causes of Matrimony, Legitimacy, and Succession*, 10 *HIST. J.* 3, 3-5(1967).

19. Shannon McSheffrey, *Sanctuary and the Legal Topography of Pre-Reformation London*, 27 *LAW & HIST. REV.* 483 (2009) at 485-488.

20. Charlotte McFaddin, *A Supplication for the Beggars: The Arguments of Simon Fish and the Cultural Relevance of his Writing in Sixteenth Century England*, S. *ADVENTIST U.*, Dec. 2015, at 11, https://knowledge.e.southern.edu/eng_studentresearch/2 [<https://perma.cc/3Z6R-PK3K>].

21. 1 ROGER BIGELOW MERRIMAN, *The Supplication of the Commons Against the Ordinaries*, in *LIFE AND LETTERS OF THOMAS CROMWELL* 105 (1902).

22. *Id.*

which laws your said lay Sub[jects] ha[v]e not on[ly] heretofore and dail[y] be bound[en], constra[ined] to ob[ey] as well in their bodies[,] good[s][,] and possessions[,] But also be[e]n compelled dail[y] to incu[r] into the censures of the same and be[e]n cont[inuall]y put to importable charges and expenses [against] all equit[y][,] right[,] and good conscience.²³

After expressing the subversory behaviors of the clergy in England, Cromwell moved toward passing the Act of Restraint in Appeals.²⁴ The Act of Restraint, passed in April 1533, is considered by many to be the foundational document for the English Reformation.²⁵ From a legal perspective, the Act of Restraint removed the Pope's legal authority.²⁶ Henry VIII was now the legal authority over spiritual matters in England, his royal prerogative established.²⁷ Anyone appealing to papal authority through the Court of Rome was in danger of severe punishment.²⁸ Parliament referred to an old statute from 1392, the Statute of Praemunire,²⁹ as part of the basis for the Act of Restraint.

During this time, Cromwell gained access to the Court of the Exchequer of Pleas and the Court of Chancery through appointments he received in 1532 through 1533.³⁰ Afterward, Cromwell set about instituting various legal reforms.³¹ One example of this was the first Act of Supremacy,³² passed by Parliament on November 3, 1534. It made the monarch, in this case, Henry VIII, the Supreme Head of the Church. It gave Henry VIII royal supremacy over civil cases, with the Act of Supremacy stating that the king henceforth had, "all honours, dignities, preeminences, jurisdictions, privileges, authorities, immunities, profits, and commodities, to the said dignity."³³ This is just one example of Cromwell's wide-sweeping legal reforms that rippled through the kingdom.

Cromwell sought to reform and consolidate the secular legal system and move away from canon law. Cromwell succeeded in establishing new

23. *Id.* at 105.

24. The Act of Restraint of Appeals, 24 Hen. 8 c. 12.

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. The Statute of Praemunire, 16 Ric. 2 c. 5.

30. Bindoff, *supra*, note 15.

31. *Id.*

32. The Act of Supremacy, 26 Hen. 8 c. 1.

33. *Id.*

courts, such as the Court of Augmentations.³⁴ Cromwell's work facilitated the swift changes made during the English Reformation in the 1530s, too.

In 1533, Cromwell achieved his first major victory in reforming the Henrician legal system. The Statute in Restraint of Appeals,³⁵ a bill drafted by Cromwell, was passed by Parliament. The purpose of the Statute in Restraint was twofold: first, it prohibited appeals to the pope over matters in England regardless of whether the matter concerned canon law or religious matters, and second, it gave the king legal authority over all matters within the jurisdiction of England, Wales, Ireland, and the portion of France ruled by Henry VIII.³⁶ The Statute in Restraint girded the English Reformation, allowing for Henry VIII to make whatever changes he wished to religion within his jurisdiction.³⁷

Cromwell established the King's power through Parliamentary statute.³⁸ This was Cromwell's attempt at unifying the laws of England and giving Henry VIII more power and control.³⁹ The only laws under this new doctrine not subject to the King's statutes in Parliament were the laws of God and Nature.⁴⁰ This power of the King-in-Parliament arose out of the need for Henry VIII to make laws for governing the church during the Reformation.⁴¹ Cromwell was able to extend the concept of King-in-Parliament generally, although Henry VIII required the agreement of Parliament before he could act.⁴² Henry VIII could not just pass statutes on his own to affect his own ends.⁴³

He reduced the size of Henry's Privy Council.⁴⁴ By 1536, there were nineteen members.⁴⁵ That made it easier, in theory, to pass whatever bills into law that the king wished. Following the Act of Supremacy in 1534, Cromwell also started the assault on religious institutions known as the

34. W.C. RICHARDSON, *HISTORY OF THE COURT OF AUGMENTATIONS, 1536-1554* (1961).

35. The Act of Restraint of Appeals, 24 Hen. 8 c. 12.

36. *Id.*

37. *Id.*

38. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 *His. J.* 1 (1986).

39. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 *His. J.* 1 (1986). See also THOMAS LAPSLEY, *THE COUNTY PALATINE OF DURHAM: A STUDY IN CONSTITUTIONAL HISTORY* 255 (1900) at 197.

40. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 *His. J.* 1 (1986).

41. *Id.*

42. *Id.*

43. *Id.*

44. Dunham, William Huse, *Henry VIII's Whole Council and Its Parts*, 7 *HUNTINGTON LIBR. Q.* 7, 33-37 (1943).

45. *Id.*

Suppression of Religious Houses Act⁴⁶ or colloquially as the Dissolution of the Monasteries in 1535. To bolster the Act of Supremacy, the See of Rome Act of 1536 was passed by Parliament to further separate England from Rome and from papal jurisdiction.⁴⁷

Prior to 1536, monasteries and other religious houses, of which there was a multitude in England generally and London specifically, dotted the English landscape.⁴⁸ The monasteries were the largest property holders and usually wealthy.⁴⁹ In addition to spiritual guidance and often being places of healing and providing accommodation for pilgrims, they also provided legal sanctuary to felons and other criminals wishing to escape the due process of law.⁵⁰ All the accused had to do was reach and stay inside the grounds of the religious house.⁵¹ This created a patchwork jurisdictional issues for the Crown, who could not apprehend someone that was safely within the bounds of sanctuary.⁵² The boundaries were not always clearly marked, making it even more difficult for either the king's men or the criminal to understand whether the criminal was inside or outside of the Crown's jurisdiction.⁵³

Put in excruciatingly basic terms, resistance against the Dissolution of the Monasteries sprang up in late 1536. This was to prove a disaster for the elderly Margaret Pole.

THE RISE OF THE ACT OF ATTAINDER

One purpose of attainder, which means "tainted," was to gain lands for the Royal Treasury from a traitor which the king otherwise would not be able to claim.⁵⁴ An Act of Attainder was passed against the Duke of Buckingham in 1523 so Henry VIII could seize all of the disgraced duke's properties.⁵⁵ Other uses included acting against fleeing fugitives. It was a move by Parliament, rather than a court of law, to punish a person.⁵⁶ In the case of

46. The Suppression of Religious Houses Act, 27 Hen. 8 c. 28.

47. The See of Rome Act of 1536, 28 Hen. 8 c. 10.

48. See generally Bernard, G. W., *The Dissolution of the Monasteries*, 96 [J]HIST. ASS'N 390-409 (2011).

49. *Id.*

50. Shannon McSheffrey, *Sanctuary and the Legal Topography of Pre-Reformation London*, 27 LAW & HIST. REV. 483 (2009).

51. *Id.*

52. *Id.*

53. *Id.*

54. Stanford E. Lehmborg, *Parliamentary Attainder in the Reign of Henry VIII*, 18 HIST. J., 675, 675-702 (1975) (printed in Great Britain).

55. 15 Hen. 8 c. 20

56. See Lehmborg, *supra* note 55, at 675-702.

fleeing fugitives, an Act of Attainder deprived the person of assets that may be used to raise money for actions against the king.⁵⁷

In 1531, a cook named Richard Roose was executed as per the 1530 Act of Poisoning.⁵⁸ This Act made murdering someone by poison the crime of high treason.⁵⁹ Roose was not a member of the nobility, but a cook for Bishop John Fisher.⁶⁰ Roose poisoned the food prepared for Bishop Fisher and his guests.⁶¹ The bishop did not eat the food and was thus spared, but some of his guests that evening were not so fortunate.⁶² Roose admitted to the poisoning.⁶³ Henry ordered that Roose be punished via Attainder through an ex post facto law, making poisoning an act of high treason.⁶⁴ An Act of Attainder was posted against Richard Roose in 1531.⁶⁵ Roose was executed by being boiled alive.⁶⁶

The definition of high treason was more than simply criminal disloyalty.⁶⁷ Prior to this Act of Attainder against Roose, this type of criminal activity was treated as an act of petty treason, being the act of a servant attempting to kill his master.⁶⁸ Because of the 1530 Act of Poisoning defining poisoning as an act of high treason (i.e., being an act of treason against the state), this opened the floodgates for many others to die through similar Acts of Attainder as that against Roose. By Cromwell paving the way for Henry to elevate poisoning and a further two activities to be defined as high treason, Henry was able to circumvent the courts.

It should be noted that using an Act of Attainder to circumvent the legal system was not unheard of, it just was not common. What distinguishes Roose, and other subsequent victims, was that an attainted person usually

57. *Id.*

58. Act of Poisoning, 22 Hen. 8 c. 9.

59. *Id.*

60. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 HIST. J. 2-3 (1986) (printed in Great Britain).

61. *Id.*

62. *Id.*

63. *Id.*

64. 22 Hen. 8 c.9

65. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 HIST. J. 2 (1986) (printed in Great Britain).

66. *Id.*; See also, *Letters to and from Henry VIII* (1880) (on file with British History Online).

67. The definition of treason was first passed in 1352 under 25 Edward III, stat. 5, c. 2, as a reaction to the times. The 1352 act was subsequently modified by Edward IV, Henry VIII, Edward VI, and Mary I, again as reactions to the dangers present during their respective reigns. See Thornley, I. D., *The Treason Legislation of Henry VIII (1531-1534): Alexander Prize Essay, 1916*, 11 TRANSACTIONS OF THE ROYAL HIST. SOC'Y 87-123 (1917).

68. See generally William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 HIST. J. 1-15 (1986) (printed in Great Britain).

had to be in open rebellion against the king, and either a fugitive or dead.⁶⁹ Roose was neither of these things.

Cromwell was appointed Henry's Chief Minister in 1534.⁷⁰ That same year, the first victim of this new Act of Attainder was Elizabeth Barton, the Nun of Kent.⁷¹ The Act was used by Parliament to condemn Barton to death.⁷² It was a handy tool in Reformation England: no trial or other recognized judicial proceeding was required before someone could be ordered executed. Importantly, like Roose, Barton was not a member of the peerage.⁷³

Barton's Act of Attainder is important for another reason. She had not actually committed high treason, or conspired to commit it.⁷⁴ As such, the courts could charge her with little more than sedition.⁷⁵ Barton was a dangerous person who, as the Maid of Kent, openly prophesied the death of Henry VIII if he left Katharine of Aragon for Anne Boleyn.⁷⁶ She and her supporters who died with her were also Catholic.⁷⁷ Simply put, the dangerous Catholic nun could not be allowed to live while Anne Boleyn was Queen and the Reformation was still fresh. Cromwell and others working for him tortured Barton into confessing, allowing an Act of Attainder to be passed against her.⁷⁸

The Acts of Attainder against both Roose and Barton set dangerous legal precedents, and provided guidance for securing further attainders without due legal process in the future. Cromwell continued to expand Henry VIII's and Parliament's power during the rest of the late 1530s. This ultimately aided in the destruction of Margaret Pole and the downfall of Cromwell himself.

69. *Id.*

70. S.T. Bindoff, *Cromwell, Thomas* (by 1485–1540), of London, *HIST OF PARLIAMENT* (1982).

71. 25 Hen. 8 c. 12.

72. The Act of Restraint of Appeals, 24 Hen. 8 c. 12.

73. Roose was but a cook and Barton simply nun. See Van Patten, Jonathan K., *Magic, Prophecy, and the Law of Treason in Reformation England*, 1 *AM. J. LEGAL HIST.* 1, 9-11 (1983) (for further information about Barton).

74. *Id.*

75. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 *HIST. J.* 6-7 (1986) (printed in Great Britain).

76. *Id.*

77. *Elizabeth Barton*, *CATHOLIC ENCYCLOPEDIA* (2d ed. 1907).

78. The Editors of *Encyclopedia Britannica*, *Elizabeth Barton*, *ENCYC. BRITANNICA* (Apr. 14, 2018) <https://www.britannica.com/biography/Reginald-Pole> [<https://perma.cc/7HBB-NYDQ>].

SUPPRESSION OF RELIGIOUS HOUSES

Cromwell noted his desire to do away with the tradition of sanctuary in 1536.⁷⁹ In preparing his notes for Parliament, Cromwell wrote, “specially to speak of the utter destruction of the sanctuaries.”⁸⁰ Cromwell was spurred on by communications received in 1534 about how some of the wealthy sanctuaries in the North were also dens for murderers and felons.⁸¹

Furthermore, by doing away with monasteries, the Act of Attainder became more vicious. Prior to the removal of sanctuaries, a person accused of a crime could flee to a religious establishment and claim sanctuary.⁸² The person may or may not have had to declare their presence and suspected crimes.⁸³ So long as the person did not leave the religious establishment, that person was free from apprehension.⁸⁴ This is why Elizabeth Woodville, former Queen Consort of Edward IV and Henry VIII's grandmother, sought sanctuary for herself and her daughters after Edward died. Elizabeth and her daughters did not leave sanctuary until after Richard III abided by his oath not to harm Elizabeth's daughters.⁸⁵

Another option for a felon was to abjure the realm in lieu of being prosecuted and facing a death sentence.⁸⁶ Abjuring the realm was taken very seriously. The traitor who was given the choice to abjure was escorted to a port and closely watched until the traitor boarded a ship for foreign lands.⁸⁷ Under an Act of Attainder, making it law that the accused was a traitor rather than someone being found by a court of law to be or pleading guilty of being a traitor, it was simply the law that the subject of an Act of

79. See Kaufman, Peter Iver, *Henry VII and Sanctuary*, 53 *CHURCH HIST.* 465-76 (1984); see also Bernard, G. W., *The Dissolution of the Monasteries*, 96 [*J*]HIST. ASS'N 390-409 (2011).

80. THOMAS LAPSLEY, *THE COUNTY PALATINE OF DURHAM: A STUDY IN CONSTITUTIONAL HISTORY* 255 (1900).

81. See Kaufman, Peter Iver, *Henry VII and Sanctuary*, 53 *CHURCH HIST.* 465-76 (1984).

82. See KARL SHOEMAKER, *SANCTUARY AND CRIME IN THE MIDDLE AGES, 400-1500* (Drucilla Cornell et al. eds., 2011); and Shannon McScheffrey, *Sanctuary and the Legal Topography of Pre-Reformation London*, 27 *L. & HIST. REV.* 483, 483-514 (2009).

83. *Id.*

84. See Shannon McScheffrey, *Sanctuary and the Legal Topography of Pre-Reformation London*, 27 *L. & HIST. REV.* 483, 483-514 (2009).

85. *Elizabeth Woodville*, WESTMINSTER ABBEY, <https://www.westminster-abbey.org/abbey-commemorations/commemorations/elizabeth-woodville> (last visited March 27, 2019).

86. KARL SHOEMAKER, *SANCTUARY AND CRIME IN THE MIDDLE AGES, 400-1500* (Drucilla Cornell et al. eds., 2011).

87. *Id.*

Attainder was a traitor.⁸⁸ This did not give the person the option to abjure the realm, another nasty feature of the revisions to the Act of Attainder.

THE PROSECUTION OF MARGARET POLE

Margaret Pole was the mother of Cardinal Reginald Pole, amongst others of her children.⁸⁹ Cardinal Pole had fled to the Continent, but regularly agitated Henry VIII by following the Pope's directive to ally Catholic monarchs against Henry following Henry's break with the Catholic Church.⁹⁰ Henry turned to Cromwell to fix the problem of the Pole family. Even more threatening to Henry, Margaret Pole was a Plantagenet, meaning that her offspring could in theory lay claim to the English throne.⁹¹ On November 14, 1538, Margaret Pole, Countess of Salisbury, was arrested for treason.⁹² Her son Geoffrey was involved in the 1536 uprising known as the Pilgrimage of Grace.⁹³ Geoffrey may have been involved in other rebellious behavior stemming from the Pilgrimage of Grace, too.⁹⁴ By February 1537, the Pilgrimage of Grace was briefly revived.⁹⁵ Letters allegedly exchanged between Margaret's sons Geoffrey and Reginald about the Pilgrimage of Grace were discovered, leading to Geoffrey's arrest on August 29, 1538. Geoffrey was thereafter held in the Tower of London.⁹⁶

Geoffrey provided evidence against Margaret and another brother, Henry.⁹⁷ He pleaded guilty to the charge of treason at his December 1538 trial, and was pardoned on January 4, 1539.⁹⁸ Margaret's son Henry was arrested on November 4, 1538 and Margaret was arrested shortly after, on November 14, 1538.⁹⁹ This was the culmination of what was known as the Exeter Conspiracy. Henry was beheaded on January 4, 1539, following an Act of Attainder that listed no fewer than 53 persons; Henry's is the first name listed.¹⁰⁰ Margaret was arrested as part of the fallout from the Exeter

88. See the discussion on the definition of attainder, *supra*.

89. HAZEL PIERCE, MARGARET POLE, COUNTESS OF SALISBURY: 1473-1541: LOYALTY, LINEAGE AND LEADERSHIP 25 (2003); *Blanche Mary Kelly*, CATHOLIC ENCYCLOPEDIA (1910).

90. LODOVICO BECCADELLI ET AL., THE LIFE OF CARDINAL REGINALD POLE 43-45, 52-70 (1766).

91. PIERCE, *supra* note 89.

92. Letters to and from Henry VIII (1880) (on file with British History Online).

93. PIERCE, *supra* note 89.

94. *Id.*

95. SHOEMAKER, *supra* note 82.

96. PIERCE, *supra* note 89.

97. See Madeline Hope Dodds and Ruth Dodds. *The Pilgrimage of Grace, 1536-1537, and the Exeter Conspiracy, 1538*. Cambridge: University Press (1915).

98. *Id.*

99. *Id.*

100. 31 Hen. VIII c. 15.

Conspiracy. If declared a traitor, Margaret would face a death sentence as punishment.¹⁰¹ She also likely knew the instrument which would be used against her: an Act of Attainder. Her father was executed in 1478 following the passing of an Act of Attainder against him in 1477.¹⁰²

After her arrest, Margaret was interrogated but gave up nothing.¹⁰³ Evidence exhibiting her traitorous behavior was not produced.¹⁰⁴ It was likely that Margaret was seized because of Henry VIII's hatred for her son Cardinal Pole and the activities of her other sons, Henry and Geoffrey. Margaret also was a peeress in her own right, and was one of the richest individuals in England after an act was passed granting Margaret possession of her ancestral lands.¹⁰⁵ It took six months for solid evidence against Margaret to be shown.¹⁰⁶

Margaret's belongings were raided for evidence of her traitorous activity.¹⁰⁷ Eventually, Thomas Cromwell produced embroidered clothing showing the Five Wounds of Christ and possibly another item showing the Plantagenet and Tudor coats of arms joined together.¹⁰⁸ The first item was taken as proof that Margaret herself was involved with the Northern Rebellion, part of the Pilgrimage of Grace because the five wounds of Christ were depicted on the banner of the rebels.¹⁰⁹

The second item, if it existed, showed an intent by Margaret for her son Cardinal Pole and Henry's daughter Mary, a Catholic, to wed and then seize the English throne.¹¹⁰ The existence of the second item might be historical fiction, bearing in mind the self-exiled Reginald was a Cardinal and therefore had taken a vow of celibacy. The only evidence for this was there had allegedly been some discussion of the match between Margaret and Katharine of Aragon, Mary's mother, many, many years earlier.¹¹¹ The Act of Attainder against Margaret Pole took less than a week to pass through Parliament.¹¹²

101. See discussion on acts of attainder, *supra*.

102. The Editors of Encyclopedia Britannica, *George Plantagenet, Duke of Clarence*, ENCYC. BRITANNICA (Feb. 14, 2019) <https://www.britannica.com/biography/George-Plantagenet-duke-of-Clarence> [<https://perma.cc/Z25C-25AK>].

103. Camm, Bede, *Lives of the English Martyrs: Declared Blessed by Pope Leo XIII in 1886 and 1895*. Roehampton: John Griffin (1904) at 527-28.

104. *Id.*

105. 5 Hen. 8 c. 8.

106. HAZEL PIERCE, MARGARET POLE, COUNTESS OF SALISBURY: 1473-1541: LOYALTY, LINEAGE AND LEADERSHIP 25 (2003).

107. Camm, *supra* note 103.

108. Camm, *supra* note 105, at 528-29.

109. PIERCE, *supra* note 89, at 175.

110. *Id.*

111. *Id.* at 153.

112. Camm, *supra* note 103.

PROCLAMATION OF THE CROWN ACT

After Cromwell displayed the item or items to Parliament in 1539, an Act was passed that impacted Margaret Pole, Countess of Salisbury, in May 1539.¹¹³ Margaret's lands and titles were stripped from her, with control of these lands reverting to the Crown. Henry now had possession of Margaret's wealth thanks to Cromwell's actions. Margaret was hurriedly moved from Cowdray House to the Tower of London.¹¹⁴

The Proclamation of the Crown Act of 1539 was far-reaching and dangerous. There was no relief at law if a person wanted to challenge a ruling or legal action stemming from a proclamation made by Henry VIII and his council.¹¹⁵ It also gave Cromwell free rein to draft whatever he liked. All Cromwell needed was for Henry to sign off. The Act states in pertinent part:

The King for the time being, with the advice of his council, or the more part of them, may set forth proclamations under such penalties and pains as to him and them shall seem necessary, which shall be observed as though they were made by act of parliament; but this shall not be prejudicial to any person's inheritance, offices, liberties, goods, chattels or life; and whosoever shall willingly offend any article contained in the said proclamations, shall pay such forfeitures, or be so long imprisoned, as shall be expressed in the said proclamations; and if any offending will depart the realm, to the intent he will not answer his said offence, he shall be adjudged a traitor.¹¹⁶

CROMWELL'S REFORMS ARE TURNED AGAINST HIM

Throughout 1539, Cromwell dedicated himself to the Cleves match and the Reformation.¹¹⁷ He saw the passing of the Statute of the Six Articles,¹¹⁸ called, *An Act for Abolishing of Diversity of Opinions of Certain Articles Concerning Christian Religion*, another step toward reforming and refining the now Anglican Church. The Act agitated Anna of Cleves' pow-

113. The Act referred to here is the Proclamation by the Crown Act of 1539, 31 Hen. 8 c. 8.

114. PIERCE, *supra* note 89.

115. 31 Hen. 8 c. 8.

116. The Proclamation by the Crown Act of 1539, 31 Hen. 8 c. 8.

117. Darsie, Heather R. *Anna, Duchess of Cleves: The King's 'Beloved Sister.'* Stroud: Amberley Publishing (2019).

118. An Act for Abolishing Diversity of Opinions of Certain Articles Concerning Christian Religion, 31 Hen. 8 c. 14.

erful relatives, who pulled away their support from the Anglo-Cleves alliance that Cromwell brokered.¹¹⁹ When the Cleves match fell apart immediately after Henry was married to Anna of Cleves, it was necessary for the king to find a scapegoat and Cromwell was the ideal candidate.¹²⁰

Thomas Cromwell was arrested on 10 June 1540 under suspicion of treason.¹²¹ He was declared by Parliament to be, “the most detestable traitor that has been seen during the King's reign.”¹²² Cromwell was taken into custody and sent to the Tower, where he awaited his fate.¹²³ Immediately before his arrest, a bill was addressed and read three times in Parliament between 3 June and 7 June. The purpose of the bill, which became 32 Hen. VIII, c. 12, “Concerning Sanctuaries,” was to limit the availability of sanctuary to felons. It set the day limit at forty, and prohibited certain crimes from being applicable to sanctuary.¹²⁴ Murderers, traitors, and other heinous felons were unable to seek sanctuary.¹²⁵ Keep in mind, too, that to claim sanctuary, a person had to physically reach a religious establishment.¹²⁶ The monasteries in England were dismantled by mid-1540 following the Suppression of Religious Houses Act of 1539.¹²⁷ This, too, was Cromwell's work.

The Act of Attainder against Cromwell was passed on 29 June 1540, signed by Henry VIII as King-in-Parliament.¹²⁸ Cromwell's own legal consolidation worked perfectly against him: there was no charge filed, no judge, no jury of his peers, no trial, no opportunity to refute the evidence, and no sentencing hearing. Habeus corpus was thrown out the window. Without further ado, Cromwell's bad deeds were memorialized in his Act of Attainder, and he was outlawed and executed on 28 July 1540.

CONCLUSION

Thomas Cromwell left his mark on the English legal system with the introduction of various courts and legal reforms. In the 1530s, Cromwell took full advantage of his position at Henry VIII's court and used his legal mind to achieve Henry's goals. In the end, Cromwell's cleverness as a lawyer and zealous loyalty to Henry VIII impacted the history of England during the Reformation from both a legal and religious perspective. Unfortu-

119. Darsie, *supra* note 117.

120. *Id.*

121. *Id.*

122. 32 Hen. VIII c. 62.

123. Darsie, *supra* note 117.

124. 32 Hen. 8 c. 12.

125. 32 Hen. VIII, c. 12.

126. See discussion, *supra* Cromwell's Reforms Are Turned Against Him.

127. Suppression of Religious Houses Act, 31 Hen. 8 c. 13.

128. 32 Hen. 8 c. 62

nately, the very same cleverness resulted in Cromwell being deprived of basic rights which led to his speedy downfall.

SOURCES

PRIMARY:

1. Pardon Act, 5 Hen. 8 c. 8.
2. Act of Poisoning, 22 Hen. 8 c. 9.
3. The Act of Restraint of Appeals, 24 Hen 8 c. 12.
4. Submission of the Clergy Act, 25 Hen. 8 c. 12.
5. The Act of Supremacy, 26 Hen. 8 c. 1.
6. Suppression of Religious Houses Act of 1535, 27 Hen. 8 c. 28.
7. The See of Rome Act of 1536, 28 Hen. 8 c. 10.
8. The Proclamation by the Crown Act of 1539, 31 Hen. 8 c. 8.
9. Suppression of Religious Houses Act, 31 Hen. 8 c. 13.
10. An Act for Abolishing Diversity of Opinions of Certain Articles Concerning Christian Religion, 31 Hen. 8 c. 14.
11. 31 Hen. 8 c. 15.
12. An Act concerning Sanctuaries, Privileges of Churches and Church-yards. 32 Hen. 8 c. 12
13. Attainder of Lord Cromwell. 32 Hen. 8 c. 62
14. James Gairdner, ed., *Henry VIII: September 1537, 21-30*, in 12 LETTERS AND PAPERS, FOREIGN AND DOMESTIC, HENRY VIII, no. 2, June-Dec. 1537, at 263-283.

SECONDARY:

1. LIVES OF THE ENGLISH MARTYRS (Dom Bede Camm, ed., London: Burns and Oates, Ltd., 1904).
2. W.C. RICHARDSON, HISTORY OF THE COURT OF AUGMENTATIONS, 1536-1554 (1961).
3. William R. Stacy, *Richard Roose and the use of Parliamentary Attainder in the Reign of Henry VIII*, 29 HIS. J. 1 (1986) (printed in Great Britain).
4. Shannon McScheffrey, *Sanctuary and the Legal Topography of Pre-Reformation London*, 27 L. & HIST. REV. 483, 483-514 (2009).
5. HAZEL PIERCE, MARGARET POLE, COUNTESS OF SALISBURY: 1473-1541: LOYALTY, LINEAGE AND LEADERSHIP 25 (2003).
6. Norman Maclaren Trenholme, *The Right of Sanctuary in England: A Study in Institutional History*, 1 UNIV. OF MO. STUD., no. 5, 1903.
7. KARL SHOEMAKER, SANCTUARY AND CRIME IN THE MIDDLE AGES, 400-1500 (Drucilla Cornell et al. eds., 2011).

8. The Editors of Encyclopedia Britannica, *George Plantagenet, Duke of Clarence*, ENCYC. BRITANNICA (Feb. 14, 2019) <https://www.britannica.com/biography/George-Plantagenet-duke-of-Clarence> [https://perma.cc/Z25C-25AK].

9. The Editors of Encyclopedia Britannica, *Reginald Pole*, ENCYC. BRITANNICA (Nov. 13, 2018) <https://www.britannica.com/biography/Reginald-Pole> [https://perma.cc/7HBB-NYDQ].

10. GAILLARD THOMAS LAPSLEY, *THE COUNTY PALATINE OF DURHAM: A STUDY IN CONSTITUTIONAL HISTORY* (Longmans, Green, and Co., 1900).

11. The Editors of Encyclopedia Britannica, *Thomas Cromwell*, ENCYC. BRITANNICA (Jan. 3, 2019) <https://www.britannica.com/biography/Thomas-Cromwell-earl-of-Essex- Baron-Cromwell-of-Okeham> [https://perma.cc/LJP9-YN2S] (last visited Feb. 25, 2019).

12. Ben Johnson, *Dissolution of the Monasteries*, HIST. UK, <https://www.historic-uk.com/HistoryUK/HistoryofEngland/Dissolution-of-the-Monasteries/> [https://perma.cc/QKJ3-FZRN].

13. SHANNON MCSCHEFFREY, *SEEKING SANCTUARY: CRIME, MERCY, AND POLITICS IN ENGLISH COURTS, 1400-1550* (Oxford Univ. Press, 2017).

14. STEVEN J. GUNN, *EARLY TUDOR GOVERNMENT, 1485-1558* (Palgrave MacMillan, 1995).

15. Darsie, Heather R. *Anna, Duchess of Cleves: The King's 'Beloved Sister.'* Stroud: Amberley Publishing (2019).