
SUMMARY: This account of a debate in the House of Commons on 20 November 1601 indicates the extent of popular antipathy to the Queen's practice of issuing monopolies. It includes an account of Raleigh's defence against the privilege he held from the Queen with respect to tin, in which he states his patent to have been 'word for word' the same as that which had been anciently bestowed on the Dukes of Cornwall. In his letters and memoranda on the tin trade Oxford had not requested the grant of a monopoly on the purchase of tin, but rather a licence to transport tin. The account below is taken from Tawney, R.H. and Eileen Edna Power, *Tudor Economic Documents* 3 vols (New York: Longmans, 1924), pp.269-77.

The Debate on Monopolies in the House of Commons, 1601.

H. Townshend, *Historical Collections, or An Exact Account of the Proceedings of the Four Last Parliaments of Q. Elizabeth* (1680), pp.23-51 passim.

[Friday, Nov. 20, 1601] . . . At last Lawrence Hyde said, To end this controversy, because the time is very short, I would move the house to have a very short bill read intituled An Act of Explanation of the Common Law in Certain Cases of Letters Patents. And all the house cried, Aye, aye, aye.

So after it was read, the question was to be propounded for the committing of it, and some cried, Commit it, some, Engross it.

At length Mr Spicer, burgess for Warwick, stood up and said, Mr Speaker, this assembly ma be said to be *libera gens*, and therefore I hope here is both *libera mens* and *libera lingua*. Therefore freely and faithfully that which I know I will speak to this honourable house.

This bill may touch the prerogative royal, which as I learned the last parliament is so transcendent that the eye of the subject may not aspire thereunto. Far be it therefore from me that the state and prerogative royal of the prince should be tied by me or the act of any other subject.

First, let us consider the word monopoly, what it is: *monos* is *unus*, and *polis, civitas*, so then the meaning of the word is a restraint of anything public in a city or commonwealth to a private use. And the user called a monopolitan, *quasi, cujus privatum lucrum est urbis et orbis commune malum*. And we may well term this man the whirlpool of the prince's profits.

Every man hath three especial friends: his goods, his kinsfolk, and his good name; these men may have the two first, but not the last. If I were acquainted with any of them I would wish them to lose some goods to gain a good name. They are *infidiosa, quia dulcia*; they are *dolosa, quia dubia*. I speak not, Mr Speaker, either repining at her

Majesty's prerogative or misliking the reasons of her grants, but out of grief of heart to see the town wherein I serve pestered and continually vexed with the substitutes or vicegerents of these monopolitans, who are ever ill-disposed and ill-affected members.

I beseech you, give me leave to prove this unto you by this argument: whosoever transgresseth the royal commission of her Majesty, being granted upon good and profitable suggestions, and also abuseth the authority and warrant of her Majesty's Privy Council, being granted unto him for the more favourable execution of his patent, this man is an evil-disposed and dangerous subject. But that this is true, and hath been done by one person, a substitute of a patentee, I will prove unto you. The major needs not be proved, the minor I will thus prove: myself am *occulatus testis* of this minor, *Et talis testis plus valet existens unus, quam auriti decem*.

The substitutes of the patentees for aqua-vitae and vinegar came not long since to the town where I serve, and presently stayed sale of both these commodities; unless the sellers would compound with them, they must presently to the Council-table. Myself, though ignorant, yet not so unskilful, by reason of my profession, viewed their patent to see whether the proceedings were according to their authority, and found they exceeded it in three points. For where the patent gives six months liberty to the subject that hath any aqua-vitae to sell the same, this person comes down within two months and takes bond of them to his own use, where he ought to bring them before a justice of peace and they there be bound in recognizance and after to be returned into the Exchequer. And so by usurpation retaineth power in his own hands both to kill and save. Thus her Majesty's commission being transgressed, both in zeal as a subject and sworn servant to her Majesty, I hold myself bound in duty to certify the house thereof. And also this substitute stands indicted as an obstinate recusant; yea, when her Majesty's name hath been spoken of, and herself prayed for, he hath refused to stir hat or lip.

My humble motion therefore is that we may use some caution or circumspective care to prevent this ensuing mischief.

Mr Francis Bacon said, The gentleman that last spake tossed so for and against the bill that for my own part, not well hearing him, I did not well understand him. I confess the bill, as it is, is but in few words, but yet ponderous and weighty.

For the prerogative royal of the prince, for my own part I ever allowed of it, and it is such as I hope I shall never see discussed. The Queen, as she is our sovereign, hath both an enlarging and restraining liberty of her prerogative, that is, she hath power by her patents to set at liberty things restrained by statute law or otherwise, and by her prerogative she may restrain things that are at liberty.

For the first, she may grant *non obstantes*, contrary to the penal laws, which truly in my own conscience are as hateful to the subject as monopolies.

For the second, if any man out of his own wit, industry, or endeavour find out anything beneficial for the commonwealth, or bring any new invention which every subject of this

realm may use, yet in regard of his pains, travail, and charge therein her Majesty is pleased (perhaps) to grant him a privilege to use the same only by himself or his deputies for a certain time; this is one kind of monopoly. Sometimes there is a glut of things when they be in excessive quantities, as of corn, and perhaps her Majesty gives licence to one man of transportation; this is another kind of monopoly. Sometimes there is a scarcity or small quality, and the like is granted also.

These and divers of this nature have been in trial both in the Common Pleas upon actions of trespass, where if the judges do find the privilege good for the commonwealth they will allow it, otherwise disallow it. And also I know that her Majesty herself hath given command to her Attorney-General to bring divers of them (since the last parliament) to trial in the Exchequer. Since which, fifteen or sixteen, to my knowledge, have been repealed, some upon her Majesty's own express command upon complaint made unto her by petition, and some by *quo warranto* in the Exchequer.

But Mr Speaker (said he, pointing to the bill), this is no stranger in this place, but a stranger in this vestment. The use hath been ever by petition to humble ourselves to her Majesty, and by petition to desire to have our grievances redressed, especially when the remedy toucheth her so nigh in prerogative. All cannot be done at once; neither was it possible since the last parliament to repeal all. If her Majesty makes a patent or a monopoly to any of her servants, that we must go and cry out against, but if she grants it to a number of burgesses or corporation, that must stand; that, forsooth, is no monopoly.

I say, and I say again, that we ought not to deal or meddle with or judge of her Majesty's prerogative. I wish every man therefore to be careful in this point, and humbly pray this house to testify with me that I have discharged my duty in respect of my place in speaking on her Majesty's behalf, and do protest I have delivered my conscience in saying what I have said.

Doctor Bennett said, He that will go about to debate her Majesty's prerogative royal must walk warily. In respect of a grievance out of that city for which I serve, I think myself bound to speak that now which I had not intended to speak before, I mean a monopoly of salt. It is an old proverb *Sal sapit omnia*; fire and water are not more necessary. But for other monopolies of cards (at which word Sir Walter Raleigh blushed), dice, starch, etc., they are (because monopolies), I must confess, very hateful, though not so hurtful. I know there is a great difference in them, and I think if the abuse in this monopoly of salt were particularized, this would walk in the fore-rank.

Now seeing we are come to the mean of redress, let us see it be so mannerly and handsomely handled that after a commitment it may have good passage.

Mr. Lawrence Hyde said, I confess, Mr Speaker, that I owe duty to God, and loyalty to my prince. And for the bill itself, I made it, and I think I understand it, and far be it from this heart of mine to think, this tongue to speak, or this hand to write anything in prejudice or derogation of her Majesty's prerogative royal and the state. But because ye shall know this course is no new invention, but long since digested in the days of our

forefathers above three hundred years ago, will offer to your considerations one precedent in the 50 Ed. 3 at which time one John Peache was arraigned at this bar for that he had obtained of the King a monopoly for sweet wines; the patent, after great advice and dispute, adjudged void, and before his face in open parliament cancelled because he had exacted three shillings and four pence upon every tun of wine; himself adjudged to prison until he had made restitution of all that he ever had received, and not to be delivered till after a fine of five hundred pounds paid to the King.

This is a precedent worthy observation, but I dare not presume to say worthy the following. And Mr Speaker, as I think it no derogation to the omnipotency of God to say he can do ill, so I think it no derogation to the person or majesty of the Queen to say so, yet because two eyes may see more than one, I humbly pray that there may be a commitment had of this bill lest something may be therein which may prove the bane and overthrow thereof at the time of the passing.

Mr. Sergeant Harris said, Mr Speaker, for aught I see the house meaneth to have this bill in the nature of a petition; it must then begin with more humility. And truly, sir, the bill is good of itself, but the penning thereof is somewhat out of course.

Mr Montague said, The matter is good and honest, and I like this manner of proceeding by bill well enough in this matter. The grievances are great, and I would only note but thus much unto you, that the last parliament we proceeded by way of petition, which had no successful effect.

Mr. Francis More said, Mr Speaker, I know the Queen's prerogative is a thing curious to be dealt withal, yet all grievances are not comparcable [sic]. I cannot utter with my tongue or conceive with my heart the great grievances that the town and country for which I serve suffer by some of these monopolies; it bringeth the general profit into a private hand, and the end of all is beggary and bondage to the subject. We have a law for the true and faithful currying of leather; there is a patent that sets all at liberty, notwithstanding the statute. And to what purpose is it to do anything by act of parliament when the Queen will undo the same by her prerogative?

Out of the spirit of humility, Mr Speaker, I do speak it; there is no act of hers that hath been or is more derogatory to her own majesty, or more odious to the subject, or more dangerous to the commonwealth, than the granting of these monopolies.

Mr. Martin said, I speak for a town that grieves and pines, and for a country that groaneth under the burden of monstrous and unconscionable substitutes to the monopolitans of starch, tin, fish, cloth, oil, vinegar, salt, and I know not what; nay, what not?

The principal commodities both of my town and country are engrossed into the hands of these blood-suckers of the commonwealth.

If a body, Mr Speaker, being let blood, be left still languishing without any remedy, how can the good estate of that body long remain? Such is the estate of my town and country.

The traffic is taken away by wars; the inward and private commodities dare not be used without licence of those monopolitans. If these blood-suckers be still let alone to suck up the best and principallest commodities which the earth there hath given us, what shall become of us from whom the fruits of our own soil and the commodities of our own labour, which with the sweat of our brows (even up to the knees in mire and dirt) we have laboured for, shall be taken from us by warrant of supreme authority which the poor subject dares not gainsay?

Sir George More said, I make no question but that this bill offereth good matter, and I do wish that the matter may in some other sort be prosecuted, and the bill rejected. Many grievances have been laid open touching the monopoly of salt, but if you had added thereunto petre, than you had hit the grief aright with which my country is perplexed. There be three persons: her Majesty, the patentee, and the subject; her Majesty the head, the patentee the hand, and the subject the foot. Now here is our case: the head gives power to the hand, the hand oppreseth the foot, the foot riseth against the head.

We know the power of her Majesty cannot be restrained by any act; why therefore should we thus talk? Admit we should make the statute with a *non obstante*, yet the Queen may grant a patent with a *non obstante* to cross this *non obstante*.

I think therefore that it agreeth more with the wisdom and gravity of this house to proceed with all humbleness, rather by petition than bill.

Mr Wingfield said, I would but put the house in mind of the proceedings we had in this matter the last parliament, in the end whereof our speaker moved her Majesty by way of petition that the grief touching these monopolies might be respected and the grievances coming of them might be redressed. Her Majesty answered by the Lord Keeper that she would take care of these monopolies, and our griefs should be redressed; if not, she would give us free liberty to proceed in making a law the next parliament.

The wound, Mr Speaker, is still bleeding, and we grieve under the sore, and are without remedy. It was my hap the last parliament to encounter with the word prerogative, but as then, so now, I do it with all humility, and wish all happiness both unto it and her Majesty. I am indifferent touching our proceedings whether by bill or petition, because that therein our grievance may follow whereby her Majesty may specially understand them.

Sir Walter Raleigh said, I am urged to speak in two respects, the one because I find myself touched in particular, the other in that I take some imputation and slander to be offered unto her Majesty, I mean by the gentleman that first mentioned tin (which was Mr Martin), for that being one of the principal commodities of this kingdom, and being in Cornwall, it hath ever (so long as there were any) belonged to the Dukes of Cornwall, and they had special patents of privilege. It hath pleased her Majesty freely to bestow on me that privilege and that patent, being word for word the very same as the Duke's is. And because by reason of my office of Lord Warden of the Stannaries I can sufficiently inform this house of the state thereof, I will make bold to deliver it unto you.

When the tin is taken out of the mine, and molten and refined, then is every piece containing a hundred weight sealed with the Duke's seal. And by reason of this privilege (which I now have), he ever had the refusal in buying thereof, for the words of the patent are *Nisi nos emere voluimus*. Now I will tell you that before the granting of my patent, whether tin were but at seventeen shillings and so upward to fifty shillings a hundred, yet the poor workman never had but two shillings a week, finding himself. But since my patent, whosoever will work, be tin at what price soever, they have four shillings a week truly paid; there is no poor that will work there but may and have that wages. Notwithstanding, if all others may be repealed, I will give my consent as freely to the cancelling of this as any member of this house.

Sir Francis Hastings said, It is a special honour to this assembly to give freedom of speech to all, and howsoever some have been heretofore troubled, yet I joy to see so great reformation that we may speak quietly and be heard peaceably; every man hath not a like sense or judgement, neither is every man's memory alike. I wish that if any gentleman that speaks of this or any other subject as curious shall let fall any word amiss or displeasing, that it may be attributed rather to earnestness than want of duty.

This speech proceeded in respect of Sir Walter Raleigh's sharp speech, as also of the great silence after it.

Mr Snigg wished a commitment to devise a course.

Sir Robert Wroth wished a commitment in which a course might be devised how her Majesty might know our special griefs.

Mr Downall said, As I would be no let, or over vehement in anything, so I am not sottish or senseless of the common grievances of the commonwealth.

If we proceed by way of petition, we can have no more gracious answer than we had the last parliament to our petitions. Since the parliament, we have had no reformation. And the reason why I think no reformation hath been had is because I never heard the cries against monopolies greater and more vehement.

Mr Johnson said, Mr Speaker, I will be very short; I say only thus much, I would we were all so happy that her Majesty's gracious self had heard but the fifth part of that that every one of us hath heard this day. I think verily in my soul and conscience we should not be more desirous in having these monopolies called in than she would be earnest therein herself.

So it was put to the question when the commitment should be. And agreed, tomorrow in the afternoon, in this house.