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THE

HOUSE OF LORDS DURING THE CIVIL WAR

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THE

HOUSE OF LORDS DURING THE CIVIL WAR

BY

CHARLES HARDING FIRTH, M.A.

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LONGMANS, GREEN, AND CO.

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PREFACE

Much of this book was written many years before the present controversy about the powers and the usefulness of the House of Lords arose. Parts of Chapters V. and VIII. appeared in *Macmillan's Magazine* during 1894–5, and a few pages of Chapter VIII. are an abridgment of certain passages in 'The Last Years of the Protectorate.' It seemed to me desirable, at the risk of some repetition, to put together a consecutive account of the political action of the peerage during the first half of the seventeenth century, and of the vicissitudes through which the House of Lords passed in those troubled times. Between 1603 and 1640 the peerage took an important, and at moments a decisive, part in the defence of the constitution against the Crown. Between 1640 and 1649 every kind of expedient was tried or discussed in order to make the policy of the Upper House conform to that of the Lower—coercion and purgation of the Upper House, restriction of the power of the Crown to create new peers, amalgamation of the two Houses, limitation or abolition of the veto of the Lords, and finally the abolition of the House itself. The next ten years proved the drawbacks of single chamber government and the difficulty of creating a new Second

Chamber. I have endeavoured to let the actors in these events, and those who witnessed them, speak for themselves, and to set forth their opinions and arguments for the instruction of their descendants.

C. H. FIRTH.

OXFORD,
September 29, 1910.

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THE HOUSE OF LORDS DURING THE CIVIL WAR

CHAPTER I

THE PEERAGE UNDER JAMES I AND CHARLES I

WHEN Queen Elizabeth died the peerage was a small but a powerful body. The House of Lords contained fifty-nine lay peers, and of those only eight had been raised to the peerage during the forty-four years of the Queen's reign.[1] But James was as lavish in his creation of peerages as Elizabeth had been sparing. In the first year of his reign he created eleven new barons and raised three barons to the rank of earl. During the twenty-two years he reigned he made about sixty peers, and at his death the House of Lords contained about a hundred lay peers.[2] To some extent this increase was demanded both by justice and expediency. Elizabeth's reluctance to reward deserving servants with the rank they coveted was not entirely due to deliberate policy: some part of her reluctance rose from incapacity to make up her mind and unwillingness to discriminate. In 1597, for instance, Essex pressed the Queen to make Sir Robert Sidney a baron. 'Her

[1] See the list of Elizabeth's peers given by Sir E. Brydges in *Reflections on the late Augmentations of the English Peerage*, 1798, pp. 50–104.

[2] A convenient list is given in the Appendix to the *47th Report of the Deputy Keeper of the Public Records*, 1886, pp. 96–110.

CHAP. I 1603-25

majesty's answer,' reported Sidney's agent, 'was that she was resolved of your worthiness and fidelity towards her, of your ableness to serve her, but, said she, what shall I do with all these that pretend to titles? I could be willing to call him and one or two more; but to call many I will not, and I am importuned by many of their friends to do it.'[1]

The first titles bestowed by James might be fairly regarded as an attempt to discharge the debts of Queen Elizabeth, since they were conferred on men conspicuous for their services to her. The list was headed by Sir Robert Cecil, created in succession Baron Cecil of Essendon (1603), Viscount Cranborne (1604), and Earl of Salisbury (1605). Sir Robert Sidney became a baron and subsequently Earl of Leicester (1618); Sir William Knollys, Sir Edward Wotton, Sir John Petre, Sir William Russell, and other old servants of the Queen were also raised to the peerage. There were restorations as well as new creations. Robert Devereux, the son of the Earl of Essex beheaded in 1601, was restored to his father's title and estates. Henry Wriothesley, Shakespeare's patron, regained the Earldom of Southampton forfeited for his share in Essex's conspiracy. Sir Henry Grey, grandson of the Duke of Suffolk beheaded in 1554 for attempting to raise Lady Jane Grey to the throne, was created Lord Grey of Groby. The title of Baron Saye and Sele was confirmed by patents to Sir Richard Fiennes, whose immediate predecessors had lost it by the discontinuance of summons to Parliament.

Of the new creations made by James several fell to the lot of the lawyers. Sir Thomas Egerton became Lord Ellesmere (1603) and Viscount Brackley (1616), and his son, Earl of Bridgewater (1617), in fulfilment of the King's promise of an earldom to the father. Sir Francis

[1] Collins, *Sidney Papers*, ii. 87.

Bacon was made Lord Verulam in 1618 and Viscount St. Albans in 1621; Sir Henry Montague Viscount Kimbolton and Baron Mandeville in 1620; Chief Justice Sir James Ley became a baron in 1624. The list of barons included some soldiers, as Sir Henry Danvers (1603), Sir George Carew (1605), and Sir Edward Conway (1624); one skilful diplomatist in the person of Sir John Digby, who became a baron in 1618 and Earl of Bristol in 1622. There were many courtiers too; Sir Robert Cary, who had borne the news of Elizabeth's death to James, became in 1622 Baron Cary of Leppington; Henry Rich, Baron Kensington in 1623 and Earl of Holland in 1624; Philip Herbert, Earl of Montgomery in 1605. There were even two poets, Fulke Greville, who became Lord Brooke in 1621, and Thomas Sackville, made Lord Buckhurst by Elizabeth, and Earl of Dorset by James in 1605.

A critical examination of the peers created by James shows that nearly all of them were men of old family and large estates, who would have been held qualified for peerages in Elizabeth's time. On the other hand Elizabeth had always required, not merely birth and wealth, but long and distinguished services to the state, as the indispensable condition for hereditary honours. James often omitted to exact this last condition, though it was in reality the most essential of the three. This omission caused less criticism than we might have expected. Contemporary opinion apparently held birth the most necessary qualification; at least it was most inclined to express dissatisfaction when that was lacking. Hence the ascendency of the Howards in the early part of James's reign caused neither surprise nor discontent. At the end of the reign of Elizabeth that family was rather under an eclipse, since Thomas, Duke of Norfolk, had been beheaded on Tower Hill in 1572 for plotting

CHAP. I 1603-25

in favour of the Queen of Scots, and Philip, Earl of Arundel, had died a prisoner in the Tower in 1595 under suspicion of intrigues with Spain. However, there were still three Howards in the House of Lords: Howard of Bindon, Howard de Walden, and Howard of Effingham, the latter recently created by Elizabeth Earl of Nottingham. James began his reign by making Lord Howard de Walden Earl of Suffolk (July 21, 1603); next he created Henry Howard, younger brother of the late Duke of Norfolk, Earl of Northampton (March 1604); and restored Thomas Howard to his father's earldom of Arundel (1604). At the same time, Theophilus Howard, Suffolk's eldest son, and William Howard, Nottingham's eldest son, were both summoned to the House of Lords during the lives of their fathers; lastly, Thomas Howard, Suffolk's second son, was created Baron Howard of Charlton and Viscount Andover in January 1622.

It was by an alliance with the Howards that Robert Carr, Earl of Somerset, strengthened the position which the personal favour of James had given him, and it was by the overthrow of the Howards that George Villiers, the King's next favourite, established his ascendency. That ascendency was more unpopular than Somerset's had been, because Buckingham was not content to be an earl, but demanded and obtained a dukedom. His unpopularity was further increased because, unlike Somerset, he ennobled his kindred and connections. The eleventh article of Buckingham's impeachment ran: 'That the said Duke hath, within these ten years last past, procured divers titles of honour to his mother, brothers, kindred, and allies, as the title of Countess of Buckingham to his mother, while she was Sir Thomas Compton's wife; the title of Earl of Anglesea to his younger brother Christopher

Villiers; the titles of Baron of Newnham Paddocks, Viscount Feilding, and Earl of Denbigh to his sister's husband, Sir William Feilding; the titles of Baron of Stoke and Viscount Purbeck to Sir John Villiers, elder brother unto the said Duke; and divers more of the like kind to his kindred and allies; whereby the noble barons of England, so well deserving in themselves, and in their ancestors, have been much prejudiced, and the crown disabled to reward extraordinary virtues in future times with honour; while the small estates of those for whom such unnecessary advancement hath been procured, are apparently likely to be more and more burthensome to the King, notwithstanding such annuities, pensions, and grants of land annexed to the crown, of great value, which the said Duke hath procured for those his kindred, to support their dignities.' [1] CHAP. I 1603-25

In his answer Buckingham denied procuring great gifts from the Crown for his kinsmen, and said that Denbigh, in particular, had not a foot of land which came to him from the King's grant. 'If it were true,' he added, 'that the Duke hath procured honours for those who were so near and dear unto him, the law of nature and the King's royal favour he hopeth will plead for his excuse; and he rather believeth he were worthy to be condemned, in the opinion of all generous minds, if being in such favour with his master, he had minded only his own advancement, and neglected those who were nearest unto him.' But this was off the point, for the charge was the creation of peers who possessed neither sufficient merit to deserve, nor sufficient means to maintain their rank.

This question of the possession of means to support a peerage was very important in the eyes of sixteenth and seventeenth century politicians. Sir Thomas Smith

[1] Rushworth's *Historical Collections*, i. 339, 388.

CHAP. I

1583 in his 'De Republica Anglorum,' when describing the position of peers in England, compared it to that of Senators of Rome, in that they were required to possess a certain property qualification. 'In England no man is created baron, except he may dispend of yearly revenue, one thousand pounds, or one thousand marks at the least. Viscounts, earls, marquises, and dukes more, according to the proportion of the degree and honour; but though by chance he or his son have less, he keepeth his degree: but if they decay by excess, or be not able to maintaine the honour (as *senatores Romani* were *amoti senatus*), so sometimes they are not admitted to the upper house in the parliament, although they keep the name of Lord still.' [1]

1478 In Edward IV's reign George Neville lost the title of Duke of Bedford 'for as much as it is openly known that the same George hath not, nor by inheritance may have, any livelihood to support the said name, estates, and dignity.' [2]

The feeling which this theory of the property qualification embodied was very strong in the seventeenth century, both amongst the people and the peers themselves. The case of the Earl of Oxford illustrates this.

1625 On the death of Henry, the eighteenth earl,[3] the succession was disputed and the earldom seemed to be threatened with extinction. It was in delivering the decision of the judges in this dispute that Chief Justice

[1] Sir Thomas Smith, *De Republica Anglorum*, ed. Alston, 1906, p. 32. There is a very similar statement in Harrison's *Description of England*, prefixed to the 1577 edition of Holinshed's *Chronicles*, but instead of giving definite figures Harrison says 'except he may dispend of yearly revenues so much as may fully maintain and bear out his countenance and port.' Vol. i. p. 112, ed. Furnivall.

[2] Stubbs's *Constitutional History*, iii. 216, 526; Pike's *Constitutional History of the House of Lords*, p. 83.

[3] On the history of the dispute see Mr. J. H. Round's *Peerage and Pedigree*, i. 97.

Crewe made his famous lament for the historic houses and titles which had perished. 'I have laboured,' said Crewe, 'to make a covenant with myself, that affection may not press upon judgment; for I suppose there is no man that hath any apprehension of gentry or nobleness, but his affection stands to the continuance of so noble a name and house, and would take hold of a twig or twine-thread to uphold it, and yet time hath his revolution; there must be a period and an end to all temporal things, *finis rerum*, an end of names and dignities, and whatsoever is terrene; and why not of De Vere? For where is Bohun? Where's Mowbray? Where's Mortimer? etc., nay, which is more, and most of all, where is Plantagenet? They are intombed in the urns and sepulchres of mortality. And yet let the name and dignity of De Vere stand as long as it pleaseth God. This case stands upon many parts. Subtle disputants may perturb the best judgments; there have been many thick and dark fogs and mists raised in the face of this cause; but *magna est veritas et prevalebit*; Truth will let in the Sun, to scatter and disperse them.' [1]

CHAP. I 1525-9

Crewe expressed a feeling that was universal. The title of Earl of Oxford was adjudged to Robert Vere, the second cousin of the late earl. He was a poor officer serving in Flanders, without any adequate means to support his honours, so in 1629 the House of Lords petitioned the King in his behalf. The peers represented 'the great grief and sense we have of the commiserable estate of the Earl of Oxon, who sitting amongst us as a peer, and being of so noble a blood and ancient an honour in this kingdom, still continued in the name of Vere, as we think few subjects in any

[1] Collins, *Baronies in Fee*, fol. 1734, p. 176; Egerton Brydges, *Memoirs of the Peers of England during the Reign of James I*, 1802, p. xxxix.

CHAP. I 1629

country do go beyond him, is left wholly denuded of any estate to support this honour, which his ancestors and predecessors have so nobly sustained . . . which as it hath fallen out wholly by his misfortune and no fault of his own, so we hold ourselves bound to give this testimony of him to your Majesty, that ever since he hath been earl we have observed him to be both in mind and carriage full of honour and worth; and as we discern much ability in him to serve your majesty in general, so we are credibly informed, by those that are very well able to judge, that he hath both for his discretion and courage, won himself the reputation of an excellent commander in the wars where he hath served.'

They therefore prayed the King, not only to employ Oxford in his service, 'before others of meaner birth and merit,' but also 'to give some beginning to the establishment of him and his family in some grounded estate in this kingdom.'[1]

They ended their appeal by laying down a general principle of far-reaching application. 'We hold it for a constant maxim that (virtue and merit being the only means to attain hereditary honours at first) it doth nearly concern your majesty and the whole state, to keep such families as have attained it, in an honourable means of upholding the same; and to put it out of the power of an unworthy successor to destroy the foundation; those persons who have both the honour of their ancestors, and good estates, being doubly engaged to give a good and faithful account to your majesty and the state of their employment.'

If birth was insufficient unless it was borne up by property, so wealth was insufficient unless it was

[1] *Lords' Journals*, February 19, 1628–9, iv. 34, 39.

coupled with birth.[1] Purists went so far as to say that the wealth must not be derived from trade, but from lands. The case of Cranfield is an example. He was a London merchant who became in 1613 surveyor general of the customs, and showed such capacity and industry that the wardrobe, the court of wards, the navy, and the treasury passed successively under his management. In all these departments he effected great reforms and great savings by the application of business principles to their administration. His rise was assisted by his marriage to Lady Buckingham's cousin, and in 1621 he was made a baron, in 1622 Earl of Middlesex. There was no doubt of the reality of his services or his personal gifts, but the elevation of a merchant to the peerage was a novelty and a shock to conventional people.

Sir Anthony Weldon, in his 'Court and Character of King James,' described Cranfield as 'a fellow of so mean a condition that none but a poor-spirited nobility would have endured his perching upon that high tree of honour, to the dishonour of the nobility.'[2]

To this Bishop Goodman answered that there was no dishonour in admitting citizens to the nobility, for Queen Elizabeth herself was descended from citizens, and several citizens had of late been made noblemen. He quoted the example of Venice and Genoa, in which many nobles were merchants. 'It can be no dishonour that citizens should be admitted to the nobility. It hath not only been frequent and usual, but take that glorious sun Queen Elizabeth, as the knight is pleased to call her: she was descended of citizens, if I do not utterly forget. . . . Thus there were many other citizens who received the

[1] Mr. Round's paper on 'The Rise of the Berties' (*Peerage and Pedigree*, vol. i. p. 25) illustrates this. One result of the necessity of possessing this qualification was the manufacture of fictitious pedigrees.

[2] See *Secret History of the Court of James I*, 1811, i. 395, 427, 452, 473.

CHAP. I 1603–1910

title of nobility very lately; as Camden, Bayning, Craven, and others. I knew them all, and I knew their descent to be inferior to Sir Lionel Cranfield's. That a merchant should have the title of nobility, truly of all other professions they deserve it best; for it is generous, and it is ever accompanied with the greatest prudence, and of all others doth the most enrich the nation. The noblemen in Italy, whose practice hath been heretofore an example to the Christian world, have been merchants. The state of Venice and Genoa doth most consist of merchants. Great Spinola, the wise commander of the Low Countries, for many years was a merchant, and descended from merchants.' [1]

Goodman might have added that the nobility were dishonoured, not when kings ennobled merchants, but when they made a merchandise of honours. Both James and Charles sold honours. Historians have severely condemned the Stuarts for selling peerages, and their most thorough-going champions have found the practice difficult to defend. But there are circumstances which should be taken into account in passing judgment on the buyers or the sellers. The traffic did not end with the Stuarts: it survived the Revolution which overthrew them, and took a new form under the constitutional régime which followed. In the eighteenth century a rich and ambitious man, instead of buying a seat in the Upper House, bought one in the Lower House. Service to the party replaced service to the State, and the ownership of a sufficient number of boroughs was rewarded by a peerage or by promotion to a higher title. Now that boroughs can no longer be bought and sold, there are, it is said, symptoms of a return to the simpler and directer methods of the seventeenth

[1] Goodman, *Court of King James*, i. 297–8.

century, with the difference that the purchase money does not go to the King.[1] CHAP. I 1615-6

James began to sell peerages about 1615, when his breach with Parliament had reduced him to great shifts for want of money. The ordinary procedure was to grant to some peer, or official, or courtier, the right to nominate a candidate, and the recipient of the grant then disposed of his nomination to some gentleman who desired a title. A newsletter written on June 15, 1615, supplies a case. 'Here is much speech of new barons to be made for money, which were the less to be misliked if it came to the king's coffers. But the Lord Sheffield, I know not for what services, hath the grant of one, and hath already agreed with Sir Robert Dormer for £10,000; so that it hath passed the seals, and he is to be created some time this week, unless some little controversy prolong it, for that the King will make none but such as will first pass through the order of baronets; and the question is, which must bear that charge, the buyer or the seller.'[2] The information was correct. Dormer became Baron Dormer of Wyng on June 30, 1615. In the same way Sir John Roper became on July 9, 1616, Lord Roper of Teynham, and Sir John Holles, on the same day Lord Haughton, each on payment of £10,000.[3] Steps in the peerage could be obtained in the same fashion. For £10,000

[1] 'Of late years,' says Mr. J. E. C. Bodley, 'both parties in the state have licensed the sale of peerages and other honours. At first a semblance was kept up of the distinction being conferred as a reward for past party services, upon faithful partisans, who sometimes had by chance contributed to the party funds. A simpler plan exists now. In the case of the obscurest recipients of honours the cheque for the party funds is the *res maxime necessaria*, and few questions are asked.'—*Morning Post*, April 20, 1910. This seems overstated, but there is more truth in it than is pleasant. See Mr. Round's remarks, *Peerage and Family History*, p. 33.

[2] *Court and Times of James I*, i. 365.

[3] Gardiner, *History of England*, ii. 393; iii. 33; cf. Round, *Peerage and Family History*, p. 28.

CHAP. I 1618–24

apiece Lord Cavendish became Earl of Devonshire (August 7, 1618), and Lord Rich Earl of Warwick (August 6, 1618).[1]

Robert Carr, Earl of Somerset, the King's earlier favourite, asserted that he had refused to take part in this traffic: 'I would not set titles to sale for my private ends,' he affirmed in his vindication.[2] Buckingham was much less scrupulous, as his correspondence with his master shows. In one letter he informs James that Sir Francis Leake is willing to give £8000 to be made a baron. 'I will, if you command not to the contrary, have his patent ready for you to sign when I come down; he is of good religion, well born, and hath a good estate.' Leake accordingly was made Baron Deincourt on October 26, 1624.[3] A few weeks later Buckingham writes: 'Wat Steward hath been with me this morning to tell me your Majesty was well inclined to make Sir Francis Fane an Earl for him. I answered that I could hardly believe it, but if he would be contented that Sir Francis Steward might share with him, I would be a suitor to your Majesty for them in that for the present, and hereafter, as occasion would serve, for something else; but with this condition, that he would persuade my Lord Haughton to give five or six thousand to be another, which money I told him I desired to make use of myself.'[4]

Haughton became Earl of Clare on November 2, 1624, Fane Earl of Westmoreland on December 29, 1624.

These negotiations were private, though they might be well known to people about the court, but one case occurred which was the subject of debate in Parliament.

[1] Gardiner, *History of England*, iii. 215; cf. Round, *Peerage and Family History*, p. 28.

[2] *Egerton Papers*, p. 455.

[3] Dalrymple, *Memorials and Letters relating to the History of Britain in the Reign of James the First*, ed. 1766, p. 164.

[4] Goodman, *Court of King James*, ii. 361.

In 1626, when the Commons impeached the Duke of Buckingham, the ninth article of the charge ran as follows:— CHAP. I 1626

'Whereas the titles of honour of this kingdom of England were wont to be conferred, as great rewards, upon such virtuous and industrious persons as had merited them by their faithful service; the said Duke, by his importunate and subtile procurements, hath not only perverted that ancient and honourable way, but also unduly, for his own particular gain, he hath enforced some that were rich (tho' unwilling) to purchase honour: As, the Lord Robartes, Baron of Truro, who, by practice of the said Duke and his agents, was drawn up to London, in or about October, in the two and twentieth year of the reign of the late King James of famous memory, and there so threatened and dealt withal, that by reason thereof he yielded to give, and accordingly did pay, the sum of £10,000 to the said Duke, and to his use: for which said sum, the said Duke, in the month of January, in the two and twentieth year of the said late King, procured the title of Baron Robartes of Truro, to the said Lord Robartes.

'In which practice, as the said Lord Robartes was much wronged in the particular, so the example thereof tendeth to the prejudice of the gentry, and dishonour of the nobility of this kingdom.'[1]

Pym pressed home the charge. The practice, he said, was, in the opinion of the House of Commons, 'a prodigious scandal to the nation.' It took away from the Crown 'the most fair and frugal reward of deserving servants'; it was the way to make men 'more studious for lucre and gain than of sufficiency of virtue, when they know they shall be preferred to titles of honour according to the heaviness of their purse, and not for

[1] Rushworth, *Historical Collections*, i. 334.

CHAP. I 1626

the weightiness of their merit.' The dignity of a peerage above all others ought not to be bought and sold. 'As it is perpetual, not ending with their persons, but descending upon their posterity, so there ought to be, in the first root of this honour, some such active merit in the service of the commonwealth as might transmit a vigorous example to his successors, whereby they may be raised to an imitation of the like virtues.'[1]

Buckingham denied the compulsion, but did not deny the sale. He offered to prove that the Lord Robartes 'was before willing to have given a much greater sum, but could not then obtain it; and he did obtain it now by solicitation of his own agents.'[2] The dissolution of Parliament put a stop to the proceedings, and prevented the Lords from deciding on the truth of these allegations.

It may have seemed a defence for this traffic, that the money raised thereby was often used for the public service or to repay expenditure incurred for it. The cost of Lord Hay's embassy to France in 1616 was defrayed out of the money paid for a peerage, and he could not set out till a purchaser was found. Sir Ralph Winwood was paid from the same source for his services as ambassador in Holland and Secretary of State. Sir George Calvert, on laying down his office as Secretary, was given an Irish barony, either to sell or to keep for himself. He preferred to keep it, and became Lord Baltimore.[3] Nevertheless, in spite of all excuses, the sale of peerages was generally condemned, and even denounced by some of those who bought them. Gervase Holles gives a curious account of the views of his kinsman, the Earl of Clare, on the subject:—

[1] Rushworth, i. 336, 342.
[2] Ib. i. 387.
[3] *Court and Times of James I*, i. 420, 424, 426; ii. 498.

'After the entrance of King James, the sale of honours was become a trade at court; and, whilst the Duke lived, scarce any man acquired any honour but such as were either his kindred, or had the fortune (or misfortune) to marry with his kindred, or mistresses, or paid a round sum of money for it. Nor indeed did that way of merchandize cease all the reign of our last martyred king, which was one cause, and not the least, of his misfortunes. I have heard the Earl of Clare often inveigh bitterly against it; and he would usually call it temporal simony. I remember that once I took the liberty (hearing him so earnest on that subject) to ask him how he could purchase himself, seeing he condemned the King for selling? He answered, that he observed merit to be no medium to an honorary reward; that he saw divers persons, who, he thought, deserved as little as he, either in their persons or estate, by that means leap over his head; and, therefore, seeing the market open, and finding his purse not unfurnished for it, he was persuaded to ware his money as other men had done. About eight years after his creation of Baron, for £5000 sterling, he was advanced to the Earldom of Clare.' [1] CHAP. I 1624

A neighbour of Clare's in Nottinghamshire, Sir George Chaworth, has left a narrative of his own efforts to obtain a peerage. In 1621 King James sent him on an embassy to Flanders, to condole with the archduchess on the death of her husband, the Archduke Albert. It was an expensive mission, and Chaworth hoped to obtain an English peerage as his reward. Baron or Viscount Basset of Weldon was the title he desired, as he had some connection with the Basset family. On his return, when he applied for the fulfilment

[1] Gervase Holles, 'Memoirs of the Holles Family' in Collins's *Noble Families*, pp. 86, 89. 'To ware,' *i.e.* to expend.

CHAP. I 1625–8

of the promise, his friends were told that he was a worthy person, but that there were already too many noblemen in England, and that the rank of viscount was too great for his fortunes. In 1625 Buckingham offered him a Scottish title instead. 'I am sent to you from the Duke of Buckingham,' said the intermediary employed, 'to know if you will be a Scottish Viscount, and give him £2500 for procuring it, or not.' 'I making a wonder at it,' writes Chaworth, 'he said, "Come, stand not in your own light; you may have it reasonable enough."' Chaworth remonstrated, and urged that he had been promised an English title. The Duke's message in answer was that he did not deny the truth of Chaworth's statement, 'yet I must take the times as they were, and if I would not give him £2500 for the title offered, with expectation of getting the other hereafter, by God, I should never have any title while he lived.' Chaworth was very reluctant to abandon his hopes, but in the end he had to content himself with an Irish peerage. In 1628, on payment of £1500, he became Baron Chaworth of Trim and Viscount Chaworth of Armagh.[1]

Irish or Scottish peerages were comparatively cheap. Sir Richard Wingfield became Viscount Powerscourt in 1619 on paying £2500, but in 1624 an Irish viscounty was only valued at £1500.[2] In 1628 the Earl of Cork for the sum of £3000 obtained a viscounty for one son, a barony for another, and promotion to an earldom for his son-in-law.[3] Scottish titles seem to have been rather dearer than Irish ones. Sir Thomas Fairfax paid £1500 in 1628 to become Baron Fairfax of Cameron.[4]

The sale of Irish or Scottish peerages was not objected

[1] Kempe, *Losely MSS.* 1836, pp. 468, 477, 484, 485.
[2] *Court and Times of James I*, ii. 137, 455.
[3] *Lismore Papers*, Series I. ii. 239.
[4] *Fairfax Correspondence*, i. 14–18.

to in England when the persons ennobled were natives of Ireland or Scotland, or residents in those countries, but it became a grievance when the recipients were English gentlemen. One of these creations caused a protest. On November 1, 1620, Sir Henry Cary, comptroller of the King's household, was created Viscount Falkland in the peerage of Scotland. The English peers seized this opportunity, and resolved 'that though they could not debar the King from making such swarms of nobles with outlandish titles, yet they would let him know what prejudice it was to them.' Accordingly thirty-three of them, that is, about a third of the existing peerage, signed the following petition:

'That whereas your Majesty, at the importunity of some natural subjects of this realm of England, hath been pleased to confer upon them honours, titles, and dignities, peculiar to other your Majesty's dominions, by which all the nobility of this realm, either in themselves, their children, or both, find they are prejudiced, Our humble desire is that with your gracious allowance, we may challenge and preserve our birth-rights, and that we may take no more notice of these titulars to our prejudice, than the law of this land doth, but that we may be excused, if in honest courtesy, we give them not the respect or place, as to noblemen strangers, seeing that these being our countrymen, born and inheritanced under our laws, their families and abode among us, have yet procured their translation into foreign names, only to our injury.

'But in this address to your sacred Majesty, it is far from us to meddle with, much less to limit, or interpret the power of your sovereignty, knowing that your Majesty (being the root whence all honour receives sap, under what title soever) may collate what you

CHAP. I 1621

please, upon whom, when, and how you please; Wherefore in all humbleness we present this to your gracious view, confident of your Majesty's equal favour herein.' [1]

The thirty-three resolved to present this petition in a body, in order to escape the danger which the wrath of his Majesty might cause to any single peer or deputation charged with its presentation. James heard of their intention, and endeavoured either to avoid receiving the petition or to suppress it altogether. A newsletter relates the result:

'The King would not give them admittance to his presence, but commanded them they should deliver their petition to the privy council to be considered of, which they refused to do; alleging that they accounted themselves at this time not to be inferior, or in any way subordinate to his privy council, but above them; and it was without example, and not agreeable to the laws of the kingdom, for the privy council to have the examination or cognizance of matters of Parliament, which is the highest court in the kingdom, and not inferior to any other. At which answer his majesty was highly displeased, and redoubled his commandment, but they would not obey. Whereupon he sent the prince unto them, and commanded them to deliver it unto him.

'They then desired some time of consultation; which done, they told his highness that, if he would make open protestation unto them that he received it not as, or in manner of a privy councillor; and would promise, on his honour, not to deliver it unto any but his majesty's own hands; and, besides, undertake to bring them all to his father's presence, they would then deliver it unto him; otherwise not. When these conditions would not be entertained, nor they

[1] Wilson, *History of Great Britain*, 187.

otherwise forgo their petition, at last his majesty sends for the foremost of them, which was the Earl of Oxford, the chief peer, and commands him to deliver the petition, supposing that he had it. But he, according as was agreed amongst them before he entered, delivered it to the next, and so informed his majesty that he had it not. Whereat, his majesty, much moved, asked, "Who had it?" Answer was made, the Earl of Lincoln; who, being likewise called in, and answering that he had not the petition, but had given it to the next; at length they told his majesty it was in vain to send for any more of them, for they were fully resolved not to deliver unless they were admitted all together. Whereupon his majesty, wonderfully incensed, sent them all away *re infectâ*, and said that he would come into Parliament, and bring them all to the bar, as he had before threatened; that he would find him out that had packed them together, and make him smart for it.'[1]

Nothing followed, except that the Earl of Oxford fell into disfavour with the King, and an opportunity was taken a little later to arrest him on a frivolous charge.[2] The English peers, as the obnoxious practice did not cease, made a second protest in the reign of Charles I. A petition from the Upper House in general was presented to the King on February 17, 1628, complaining that English holders of Scotch or Irish titles were claiming precedency in England 'to the great disparagement of the English nobility.' Charles gave a temporising answer[3] which failed to satisfy the petitioners.

[1] Rev. Joseph Mead to Sir Martin Stuteville, February 25, 1620–1; *Court and Times of James I*, ii. 230–2.

[2] Clarendon, *Rebellion*, i. 66; *Cabala*, ed. 1691, p. 308. *Court and Times of James I*, ii. 269.

[3] Rushworth, i. 237; *Lords' Journals*, iv. 25, 34.

CHAP. I 1603-53

The sale of peerages undoubtedly produced political results very detrimental to the monarchy. The conferment of titles of honour for money instead of public services degraded the peerage, and robbed it of respect and influence. The Commons became less disposed to accept the arbitration of the Upper House in disputes with the Crown, and less inclined to defer to its judgment. Of old the members of that House had been few, and most of them had been men of administrative, military, or diplomatic experience. Now its members were many in number, but a large portion of them were mere courtiers or rich landowners, possessing neither political knowledge nor official training. At least half of the peers who owed their creation to Buckingham's influence were mere nonentities.

The lavish creation of new peers also caused great discontent in the Upper House itself. The feeling of peers of older creation towards these additions to their body was far from cordial, and when an earl by purchase rudely asserted his precedence over an ancient baron the pent-up antagonism revealed itself. It was observed, too, that there was a distinct divergence in political opinion between the two sections of the peerage; the old peers were generally disposed to stand up for the constitution against the court, the new were generally subservient to the King and the favourite, though there were marked exceptions in both classes. This appeared plainly in the Parliaments of 1626 and 1628. Contemporaries had no doubt about the impolicy of these too numerous additions to the peerage. In 1653 Sir Edward Walker, Garter King at Arms, and some time clerk to Charles I's Council, beguiled his exile in Holland by composing a treatise headed: 'Observations upon the Inconveniences which have attended the frequent promotions to Titles of Honour

and Dignity since King James came to the Crown of England.'[1] Investigating the causes of the revolution which had destroyed the monarchy, he concluded that one of the chief was, the 'advancing so many persons in the three kingdoms to the degree of nobility.' Former princes, he said, had strengthened the Crown 'by the wary dispensing of honours,' recent ones had weakened it by their multiplication, and by conferring them on 'persons of no public merit.' Walker wrote very cautiously, suggesting all the apologies he could think of for King James, and stating in a hypothetical form the ill results he believed to have followed. Probably he meant his paper for the eyes of King Charles II or one of his ministers.

CHAP. I 1653

'King James, no doubt with great reason, coming to the possession of a greater and richer kingdom than his own, thought it fit to oblige some worthy and notable persons, ranking them amongst the nobility. For should there be no rewards for virtue or eminent services, nor no advancement in titles of honour, diligence and industry would be abated, and in time nobility be worn out. For in no King's reign but some deserve as well the marks of royal favour as those that have them because their ancestors were worthy of the advancements they received. Besides, probably the King was induced to it by the hard measure he had found from some few factious nobility at home, who had in his minority opposed him; and he in his maturity of years coming to reside in another kingdom, thought fit to oblige some of that nation to him, the better to preserve his royal dignity. And possibly might conclude, that as the Scripture saith, in the multitude of counsellors there is wisdom, so in the multitude of nobility there is strength. And thus far the promotions

[1] *Historical Discourses*, by Sir Edward Walker, 1705, p. 289.

CHAP. I 1653

given by him in the first ten years of his reign did well conduce; but when by alliance to a favourite, riches though gotten in a shop, persons of private estates, and of families that many of them and their fathers would have thought themselves highly honoured to have been but knights in Queen Elizabeth's time, were advanced; then the fruit thereof began to appear. As first, it might cause the greater nobility to think themselves undervalued, that persons, some of whose ancestors had depended on theirs should (no eminent deserts appearing) be brought into equality with them. Next, it might disoblige the ancient baronage to be left in their old places, and many of inferior families and estates to have higher titles and precedency of them.

'Again, it took off from the respect due to nobility, and introduced a parity in conversation; which, considering English dispositions, proved of ill consequences, familiarity (which such persons were obliged to use) begetting contempt, and the curtain being drawn they were discovered to be men that heretofore were reverenced as angels. Again, it abated the King's revenues by fees out of the Exchequer; but most of all by pensions and gifts to enable many of them to support their dignities; whereas had they been left in private condition, they would have had less confidence to demand, and smaller gratifications would have satisfied them. But that which essentially was destructive, was that the King was not in capacity to gratify them all; which had this ill effect, that some of them grew envious, others factious because they were not employed; others ingrateful because denied something they aimed at, how highly soever obliged. Whereas had the number been less, they might every one in his time and station have had opportunity to have tasted of the royal favours.'[1]

[1] Walker, *Historical Discourses*, pp. 302, 303.

Walker goes on to argue that for lack of employment by the Crown ambitious peers became factious, and joined with the Commons to overthrow the monarchy.

King Charles made the same mistake as his father had done. At his coronation he promoted eight existing peers to the rank of earl, and between his accession and the meeting of the Long Parliament he made fourteen additional promotions to the same rank, besides turning three barons into viscounts. He created about thirty barons during the same period, and summoned eight eldest sons to sit in the Upper House during the lifetime of their fathers. He also continued to create Irish and Scottish peers in large numbers, some of whom were Englishmen. Two of the new peers were soldiers: Horace, Lord Vere of Tilbury, and Edward Cecil, Viscount Wimbledon; two were diplomatists: Dudley Carleton, Viscount Dorchester, and Edward, Lord Herbert of Cherbury. The Earls of Marlborough and Manchester, and Lords Coventry, Finch, and Littleton represented the law. Paul, Viscount Bayning, Baptist Hicks, Viscount Campden, and William, Lord Craven, represented the City. The rest, with the exception of a few officials, all belonged to the class of large landowners, and represented acres rather than what Walker terms 'public merit.' The promotion of some leading members of the opposition in the Lower House, such as Sir Thomas Wentworth, Sir John Savile, and Sir Francis Seymour, indicated the King's desire to conciliate the Commons, while the summoning eldest sons of peers to the Upper House showed that he thought it necessary to strengthen the government's majority there.

In the second period of the reign of Charles I, that is, during the seven years which elapsed between the

CHAP. I 1642-9

beginning of the Civil War and the King's death, he created nearly as many peers as he had done in the previous seventeen. Walker comments on this as follows:

'I am very confident had not the fatal and horrid Rebellion broken out, His Majesty would have for the future restrained himself from frequent creations, finding the inconveniences that attended them. But when for his own just defence he was forced to take arms against his rebels, the merits of many gentlemen and some of the nobility that attended him, the ambition of others that had pretences, and the necessity of his affairs, drew on more advancements in four years' time than had passed him in all the rest of his reign; for he increased their number above fifty in the three kingdoms, and if all of them either deserved it or proved grateful their memories will be the better. But whether his Majesty advantaged himself by yielding to importunity, and his necessity for small sums of money, will be another question.'[1]

Titles were the only way in which Charles could reward his adherents. The promotion of Newcastle from the rank of earl to that of marquis, the similar promotion of Worcester, and the promise of dukedoms to both, were not undeserved rewards to men who had raised armies for his service and spent their fortunes like water in it. The first is said to have lost or expended about £700,000 in the King's cause, the second about £900,000. As all the ordinary financial resources of the governent were in the possession of the Parliament, money to raise and maintain his forces was the King's chief need, and it is not surprising that he reverted to the sale of peerages to obtain it.

Two instances of this are mentioned by Clarendon. One occurred at the very beginning of the war, when

[1] Sir E. Walker, *Historical Discourses*, p. 301.

Charles was trying to get together the army with which he fought the battle of Edgehill. CHAP. I 1642

'There was a gentleman of a very good extraction, and of the best estate of any gentleman of that country, one Sir Richard Newport, who lived within four or five miles of Shrewsbury, who was looked upon as a very prudent man, and had a very powerful influence upon that people, and was of undoubted affections and loyalty to the King and to the government both in Church and State: his eldest son, Francis Newport, was a young gentleman of great expectation and of excellent parts, a member of the House of Commons, who had behaved himself very well there. This gentleman intimated to a friend of his that if his father might be made a baron, he did believe he might be prevailed with to present his majesty with a good sum of money. It was proposed to the King, who had no mind to embrace the proposition, his majesty taking occasion often to speak against "making merchandise of honour; how much the Crown had suffered at present by the license of that kind which had been used during the favour of the Duke of Buckingham; and that he had not taken a firmer resolution against many things than against this particular expedient for the raising money." However, after he returned from Chester, and found by the increase of his levies and the good disposition all things were in, that he might in a short time be able to march, and in so good a condition that he should rather seek the rebels than decline meeting with them, if the indispensable want of money did not make his motion impossible, the merit and ability of the person, and the fair expectation from his posterity, he having two sons, both very hopeful, prevailed with his majesty to resume the same overture; and in a few days it was perfected, and Sir R. Newport was made Baron Newport

CHAP. I 1645

of High Ercall who presented the sum of £6000 to his majesty.'[1]

The other instance recorded occurred nearly three years later. Sir John Lucas, who had suffered considerable losses in consequence of his affection to the King's cause, asked the Duke of Richmond to recommend him for a peerage. He said 'he might modestly hope that when his majesty scattered his favours upon others of his own rank, his poor service might likewise be remembered; but he had seen men raised to dignities who he was sure had not the advantage over him in their sufferings, whatever they might have in their actings; and he desired no more but (since it was too evident that his Majesty's wants were great and that money would do him some service) that he might receive that degree of honour which others had, and he would make such a present to him as should manifest his gratitude.' Richmond spoke to the King, who expressed himself very graciously about the merits of Lucas, but said he was resolved to make no more lords.

Richmond looked upon this as a good answer and a good resolution, only begging the King, if he found it necessary at any time to change his resolution, to bear his request in mind, and 'gratify that gentleman.' To his surprise, a few days later, he learnt that John Ashburnham, of the King's bedchamber, had obtained the coveted title for Lucas, and got £500 for his pains as 'market-man.'[2]

[1] Clarendon, *Rebellion*, ed. Macray, vi. 66. The date of the creation was October 14, 1642. Mr. Hyde himself was in this case the intermediary, as one of the suppressed passages in the note shows.

[2] Clarendon, *Life*, ii. 62–63. Sir John was created Baron Lucas of Shenfield, January 3, 1645. See also Ashburnham, *Vindication of the Character of John Ashburnham*, 1830, i. 65. There is no reason to regard this payment as an 'illicit commission' exacted by Ashburnham. Probably it was sanctioned by the King as a reward for Ashburnham's services.

It would not be difficult to add examples of promotions in the peerage given in return for pecuniary services. Lord Brudenell's case is an interesting example. In September 1648, when Charles was a prisoner at Carisbrooke, he needed money in order to effect his escape, either for the purpose of bribing his gaolers or hiring a ship. Accordingly he applied to Lord Brudenell for a thousand pounds. 'Your doing that courtesy for me,' he wrote, 'which this noble lady will tell you of, who will deliver you this, I do hereby promise you, as soon as I have a great Seal in my own power, to confer upon you the title and honour of an earl of this kingdom; wherefore I hope you will take and trust to this my word, presently performing that which I am made believe you will do for me.'[1] With some difficulty, for he had already spent or lost large sums in the King's service, Brudenell raised and sent the thousand pounds required. Charles was never able to fulfil his promise, but his son did so, and Brudenell was created Earl of Cardigan on April 20, 1661.

Six other English peers were raised to the rank of earl by Charles during the war, and one Scottish peer, Patrick Ruthven, Earl of Forth, was created Earl of Brentford. Brentford, who became the King's general in chief after the death of the Earl of Lindsey, was one of the many who owed their peerages to their military services. Other examples were Sir Ralph Hopton, Sir John Byron, Henry Hastings, Sir Jacob Astley, John Bellasis, and Charles Gerard. Three other soldiers, Ogle, Hawley, and Bard, were given Irish peerages. Charles II added to the list of military peers by creating Sir Marmaduke Langdale a baron, and raising Lord Wilmot to the rank of Earl of Rochester.

Neither Walker nor any one else could accuse these

[1] *Report on the MSS. of the Duke of Buccleugh at Montague House*, i. 310, 313.

CHAP. I soldiers of purchasing their titles with anything but their blood, and they were all gentlemen of good family, 1653 though, with few exceptions, of small estates. It was this last fact which was the ground of Walker's objection to the King's rewarding them with peerages. 'As some of his father's time and other in the beginning of his reign wanted birth to qualify their dignities, so most of those wanted estates to support them; and whether that be not a great inconvenience to the Crown will I fear in time be made evident.'

The objection did not rest merely on the possible expense which the King might incur, by attempting to provide these needy peers with the wherewithal to support their dignities. A definite economic and political theory underlay the stress laid on landed property as a qualification for a peerage. Land was the source of political power, and the House of Lords collectively must hold so much of the soil of England that it could counterpoise the growing wealth of the House of Commons and those it represented.

This theory is plainly set forth in the writings of two eminent republicans, James Harrington and Henry Neville—one writing during the Protectorate, the other in the reign of Charles II. Both attributed the political revolution they had witnessed to a change in the distribution of landed property. Harrington's favourite 1656 principle was that the nature of the government which existed in every country depended upon what he termed 'the balance of property.' If the bulk of the land belonged to the King the government was necessarily an absolute monarchy; if it was possessed by the nobility and clergy the result was a mixed monarchy; if it was in the hands of the people the result was democracy. 'If the whole people be landlords, or hold the lands so divided among them that no one man, or

number of men, within the compass of the few or aristocracy, overbalance them, the empire (without the interposition of force) is a commonwealth.' In England, he said, owing to the statute of alienations which gave leave to the nobility to sell their lands, and the policy of Henry VII in abating the power of the nobility, a series of changes had taken place which transferred the bulk of the land from the nobility to the people. This change in the balance of property led naturally to a transference of power from the nobility to the people, and to a change in the nature of the government. 'Property falling to the people they have quite overthrown the nobility.' They overthrew the monarchy too, 'the House of Peers, which alone had stood in this gap, sinking down between the King and the Commons.'[1] CHAP. I 1656

Henry Neville took the same view. In his 'Plato Redivivus'—a dialogue between a Venetian and an Englishman about the government of England—he argued that the reality of power had passed to the Commons. For in England the nobility originally 'possessed nine parts in ten of the lands and the prince but a tenth part.' But now the nobility no longer owned the bulk of the land. 'Two parts in ten of all these vast estates, as well manors as demesnes, by the luxury and folly of the owners, have been within these two hundred years purchased by the lesser gentry and the commons.' 1681

Moreover, in old time, whatever land the people held they held from the lords, and it was 'so clogged with tenures and services that they depended, as to public matters, wholly on their lords,' whereas now 'not only all villainage is long and utterly abolished, but the other tenures are so altered and qualified that they signify nothing towards making the yeomanry

[1] Harrington, *Oceana*, ed. 1887, pp. 19, 49, 59, 60.

CHAP. I 1681

depend upon the lords.' The result of these changes was the present disorder—the continual struggle between Parliament and King, between the House of Lords and the House of Commons. The position might be illustrated by taking the case of a private family. 'Suppose you had five or six thousand pounds a year, and keep forty servants; and at length by your neglect, and the industry and thrift of your domestics, you sell one thousand to your steward, another to your clerk of the kitchen, another to your bailiff, till all were gone: can you believe that these servants, when they had so good estates of their own, and you nothing left to give them, would continue to live with you, and to do their service as before? It is just so with a kingdom. In our ancestors' times most of the members of the House of Commons thought it an honour to retain to some great lord, and to wear his blue coat; and when they had made up their lord's train, and waited upon him from his own house to the Lords' House, and made a lane for him to enter, and departed to sit themselves in the Lower House of Parliament, as it was then (and very justly) called; can you think that any thing could pass in such a Parliament that was not ordered by the Lords? . . . Can it be believed that in those days the Commons would dislike anything the Lords did in the intervals, or that they would have disputed their right to receive appeals from courts of equity, if they had pretended to it in those days, or to mend money bills?'[1]

Both Harrington and Neville laid too much stress on the possession of land, and failed to take into account the growth of trade and manufactures, and their effect upon the distribution of wealth in England, but in the main their argument was sound enough. The balance

[1] *Plato Redivivus*, ed. 1763, pp. 25, 37, 39, 136–139, 163. Compare Neville's speech in Parliament in 1659. Burton's *Diary*, iv. 24.

of property had shifted: the Commons were much richer, the Lords comparatively poorer, despite the increase in the number of peers. Modern historians speak of the process as indicating the rise of democracy, seventeenth century writers spoke of it as the decay of aristocracy. It is not possible to trace the stages of the process exactly, or to calculate the relative wealth of nobility and commons at different times. There are no figures available for the purpose. However, in the absence of statistics, a few rough estimates are available which show what was thought to be true at certain dates.

A newsletter written in 1628 compares the relative wealth of the two Houses in the Parliament of that year. 'The House of Commons,' it says, 'was both yesterday and to-day as full as one could sit by another. And they say it is the most noble magnanimous assembly that ever those walls contained; and I heard a Lord estimate they were able to buy the Upper House (his Majesty only excepted) thrice over, notwithstanding there be of Lords temporal to the number of 118. And what Lord in England would be followed by so many freeholders as some of those are?'[1]

A speaker in the Parliament of 1659, arguing against the claims of the House of Lords to a co-ordinate power with the Commons, declared that the peerage no longer possessed sufficient landed property to justify the claim. 'Divide the lands of the nation into twelve parts. The peers this day have scarce a twelfth part, where they had two-thirds. . . . It was reason that they had a co-ordination: the same reason is not now.'[2]

In Chamberlayne's 'Angliae Notitia' for 1673 there is the following calculation: 'The nobility of England

[1] *Court and Times of Charles I*, i. 331.
[2] Burton's *Diary*, iii. 408.

CHAP. I 1673

have been accounted the richest in lands of any neighbouring nation, some having about £20,000 yearly, others £15,000, and so many of them above £10,000. If one with another they have but £8000 yearly, it will amount, as amongst all the 154 Lords, to above 1,200,000 pounds a year, about the eleventh part of the yearly revenue of England, which upon computation is found to be about fourteen millions yearly.' [1]

These estimates are valuable as expressions of contemporary opinion rather than as facts. They are beliefs which it is necessary to take into account in judging the actions of seventeenth century politicians.

[1] *Angliae Notitia*, ed. 1673, p. 307.

CHAPTER II

THE OPPOSITION AMONGST THE PEERAGE

ONE of the political phenomena of the early part of the seventeenth century was the formation of a definite opposition party in the Upper House, and its alliance with the popular party in the Lower House. This was a new thing. The Duke of Newcastle, who witnessed the process, having been a peer since 1620, attributed it solely to the creation of too many peers. 'Making so many peers,' he told Charles II, 'made the Upper House more factious than the Lower House. Nay, the House of Commons had not been factious but for them. For as soon as ever one is made a Lord he thinks himself capable of the greatest place in England, though most unfit (partiality hath such force), and if he be denied, he grows factious, and makes parties, and joins with the House of Commons to disturb your Majesty's government.' It was not so in Queen Elizabeth's time. In her days there were few lords, and she made hardly any new ones. Consequently there was no faction then, 'there was no joining with the House of Commons.' [1]

The theory has some basis of truth, but must not be pressed too far. Ambition for place, and the fact that there were too few places to go

[1] Strong, *Catalogue of the Letters and Historical Documents at Welbeck*, p. 215. The quotation is from Newcastle's advice to Charles II, telling him how to govern when he should be restored to his throne. Compare Sir Edward Walker's remarks, p. 22 ante.

CHAP. II 1603-10

round, may account for the conduct of individual noblemen, but the opposition in the Upper House owed its origin to more general and deeper causes. When James told the two Houses that as it was blasphemy to dispute what God may do, so it was sedition in subjects to dispute what a King may do, and Charles asserted that Parliaments were 'entirely in his power for their calling, sitting, and dissolution,' and that 'as he found the fruits of them good or evil they were to continue or not to be,' they attacked the rights of the Lords as well as those of the Commons. The two Houses gradually drew together for the joint defence of their rights, but the process was a slow one. In the first Parliament called by James, the Lords, to employ Hallam's phrase, 'acted as the mere agents of the government.'[1] All the efforts of the Commons to put an end to the abuses of the system of purveyance were 'wrecked by the resistance of the Lords.'[2] Though the Lords frequently said that the two Houses were 'members of one body,' they sometimes showed an inclination to undervalue the other member. In 1607 Northampton, as their mouthpiece, told the representatives of the Commons at a conference about the grievances of the merchants against Spain, that one reason why the Lords should not concur with the petition of the Commons was the composition of the Lower House.' 'Which he took in the first foundation thereof to be merely democratical, consisting of knights of shires and burgesses of towns, and intended to be of those that have their residence, vocation, and employment in the places for which they serve'; and therefore to have 'a private and local wisdom, according to that compass, and so not fit to examine or determine

[1] Hallam, *Constitutional History*, i. 313.

[2] Gardiner, *History of England*, i. 170, 176, 299.

secrets of state.' There might be, he acknowledged, amongst the House 'divers gentlemen that are of good capacity and insight in matters of state,' but that was merely an accident and did not affect the nature of the institution.[1] It does not appear that the Commons resented this language. Indeed, they had recently represented to the Lords that a certain question was 'a matter of state, so fitter to have beginning from the Upper House that is better acquainted with matters of state.'[2] But it is evident that the words used by Northampton went beyond the general feeling of the Peers, for they showed themselves remarkably anxious to ascertain the opinion of the Commons on subjects such as the Union with Scotland and the Great Contract. Time after time they demanded conferences of their own accord, and they insisted that a conference should not be an audience on the one part and the delivery of a message on the other, but a full and free interchange of arguments on both sides; in short, 'a free conference,' not 'a dry meeting,' something intended to form opinion rather than to express cut and dried resolutions.[3] The Commons, on the other hand, were inclined to limit the discretion of their spokesmen, because they were afraid of allowing the Lords to interpose between the King and themselves.[4]

CHAP. II 1603-10

In the King's second Parliament, that of 1614, the Commons appealed to the Lords to support them in resisting taxation without Parliamentary consent. Having brought in a bill for the abolition of the new impositions on merchandise established by James in 1608, and read it twice, they demanded a conference on the subject. The Lords hesitated and finally refused

1614

[1] Spedding, *Life of Bacon*, iii. 360; Gardiner, ii. 353.
[2] *Lords' Journals*, ii. 454, 483.
[3] *Lords' Journals*, ii. 455, 457, 478, 483, 495, 590, 601, 670.
[4] *Parliamentary Debates in* 1610, Camden Society, pp. 33, 45, 51.

CHAP. II 1614

(May 24, 1614). 'As yet,' comments Mr. Gardiner, 'the Lords were unwilling to occupy the ground which the Commons assigned to them as leaders in a constitutional resistance to the Crown.' Nevertheless, nearly two-thirds of the English peers present voted with the opposition; and but for the bishops the conference would have been agreed to. 'Upon the numbering of the votes,' wrote Chamberlain to Carleton, 'there were only thirty lords for it, and thirty-nine directly against it: the whole stream of bishops (excepting the Archbishop of York) going that way; together with the two Scottish English peers[1] and some sixteen English or thereabouts. This refusal is like to breed no good blood.'[2] Neile, Bishop of Lincoln, opposed a conference very bitterly, denouncing the action of the Commons as an attack upon the King's prerogative, and saying 'that he thought it no way fit to admit of any parley in a matter of that nature, which did not strike at the branches, but at the root; yea, at the very crown and sceptre itself; adding further, for he spake twice, that the Lower House was known to be composed of such turbulent and factious spirits, as if that they should give way to a communication or treaty with them, they were like to hear such mutinous speeches, as were not fit for those honourable personages to lend their hearing to.'[3]

The Commons were so much incensed by his words that 'laying all other business aside, they minded nothing but the reparation of their honour, and the vindicating themselves from so foul a blot.'[4] They

[1] Robert Carr, Earl of Somerset, the first Scottish lord made an English peer, and Lodowick Stuart, Duke of Lennox, created Earl of Richmond in 1613.

[2] John Chamberlain to Sir Dudley Carleton, May 26, 1614. *Court and Times of James I*, i. 312.

[3] Thomas Lorkin to Sir Thomas Puckering, May 28, 1614; *Court and Times of James I*, i. 316.

[4] Ib.

complained to the Upper House which required the Bishop to explain his speech; on which Neile protested with grief that he had been misconstrued, and never meant to speak any evil of the House of Commons whom he highly esteemed.[1] James put an end to both the personal and the constitutional dispute by an abrupt dissolution.

During the seven years which passed between this Parliament and the next, discontent grew steadily both among nobility and gentry. Both classes were dissatisfied with the King's policy, and both felt the loss of influence in public affairs caused by the cessation of Parliaments. The nobility had grievances of their own. The lavish creation of new titles was one, and still more general was the objection to the bestowal of Irish and Scottish titles on Englishmen.[2] Above all the nobility were outraged by the ascendency of Buckingham; created a viscount in 1616 (August 27), an earl in 1617 (January 5), a marquis in 1619 (January 1), soon to be a duke (May 18, 1623), and already a Knight of the Garter, honours which he owed neither to services to the state nor aptitude for state affairs. It added to the discontent that his fortune was based on the forfeiture of Grey of Wilton and his power on the fall of the Howards. There was no open protest against the favourite or against the government, but an opposition party was formed in the House of Lords and developed in course of time into the party which sided with the Commons during the Civil War. On the one side were the Court peers and the bishops, on the other what were termed 'the country lords.' A contemporary historian describes the latter as 'gallant spirits that aimed at the

[1] *Lords' Journals*, ii. 709, 711, 713.

[2] See p. 17 for the text of the petition and the history of its delivery. See also Gardiner, *History of England*, iv. 37.

CHAP. II 1621

public liberty more than their own interest . . . among which the principal were Henry Earl of Oxford, Henry Earl of Southampton, Robert Earl of Essex, Robert Earl of Warwick, the Lord Saye, the Lord Spencer, and divers others, that supported the old English honour, and would not let it fall to the ground.' [1]

The Parliament of 1621 is a landmark in the history of Parliaments. It revived the right of those assemblies to call the ministers of the King to account, the one House accusing, the other pronouncing the judgment. Both Houses co-operated to attain this result. When the Lower House sent up its charge against Bacon to the Lords, King James intervened, and proposed that he should be tried by a commission selected by the King, consisting of six Lords and twelve members of the Commons. But the Commons preferred to support the claim of the Lords to judge the case. This was no small gain. No doubt, as Mr. Gardiner says, 'The House of Lords was, with the single exception of the House of Commons, the most unfit body in existence for conducting a political trial,' and very few of its members 'could be depended upon to give a strictly judicial vote.' On the other hand, 'if some of the peers were factious and some were servile, the House was still as a body tolerably independent, and this was more than could be said of the new tribunal which James proposed to create.' [2] Nor could the judges of that day, removable at pleasure by the Crown, have been trusted with the task of deciding on the validity of the charges against a minister of state.

In the two sessions of this Parliament the House of Lords did not come into direct conflict with the King

[1] Arthur Wilson, *The History of Great Britain*, p. 161; cf. *Memoirs of Sir Philip Warwick*, pp. 5, 9, 16.

[2] Gardiner, *History of England*, iv. 69; Pike, *Constitutional History of the House of Lords*, p. 228.

as the Commons did, but in more than one way it showed its independence. It declined to accept the King's theory that the Commons had no right to question the conduct of his ministers. Though Buckingham was not openly attacked there was a widespread revolt against his ascendency, which certainly caused him considerable alarm. The leader of this opposition was the Earl of Southampton, Shakespeare's patron.[1] At the close of the session he was arrested, and charged with practising with some of the Lower House 'to cross the King.' One of the questions put to him was: 'Whether in the time of Parliament some of the Lower House did not usually come up into the Committee Chamber of the Upper House, upon design and plot, to receive a direction from him what to do in their House?' Another was: 'Whether he had not said, there would never be a good reformation while one did so wholly govern the King?'[2]

CHAP. II 1621

Many other incidents during the session showed the temper of the peers. There was a reluctance to admit that office conferred any superiority on a peer who held it, an insistence on the view that all peers were equal. When Pembroke described the Lord Chancellor and the Lord Treasurer as 'great Lords' Spencer protested against the term, and the Lords passed a resolution that 'no members of the House are to be named "great lords," for they are all peers.'[3] Another day, when Arundel, Buckingham's chief supporter, urged the Lords to condemn a state offender without hearing his defence, Spencer, who was arguing on the other side, reminded him that two of his own ancestors, the Duke of Norfolk

[1] Gardiner, iv. 54.

[2] Southampton's examination is printed in the two volumes of *Debates of the Commons in* 1620–1, published in 1766, vol. ii. appendix. See also *Court and Times of James I*, ii. 259–268, and *Cabala*, p. 331.

[3] *Lords' Journals*, iii. 42.

CHAP. II 1621

and the Earl of Surrey, had been condemned to death unheard. 'I do acknowledge,' retorted Arundel, 'that my ancestors have suffered, and it may be for doing the King and country good service, and in such a time as when perhaps the Lord's ancestors that spake last kept sheep.' As Arundel refused to apologise to Spencer for this insult the Lords committed him to the Tower, and he remained there till the end of the session.[1] Buckingham rewarded him for his support by obtaining for him the office of Earl Marshal.[2]

The second session ended with a complete breach between the Commons and the King. They discussed his foreign policy and attacked the Spanish match; he forbade them to meddle with matters of government or 'mysteries of state.' They replied by a protest in defence of their liberties; he answered by a dissolution, and tore the leaves containing the protest out of the Journals. In this dispute the Lords took no part. Probably they regarded with some distrust the capacity of the Commons to discuss such *arcana imperii* as foreign policy. Certainly many of them regarded this violent breach as impolitic and dangerous. Only the Earl of Pembroke, however, disapproved it in Council, and entreated the King not to persist in the dissolution. The day would come, he was reported to have said, when this error would be imputed to the Council, and not to the King, and therefore they must protest.[3]

Had the Lords in general desired to mediate, the Lord Chamberlain, William Herbert, Earl of Pembroke, was the man whose position and influence pointed him

[1] Gardiner, *History of England*, iv. 114, 116. The traditional version, which differs from this, is given by Arthur Wilson, *History of Great Britain*, p. 163; *Court and Times of James I*, ii. 254–257. See also Mr. Round's paper on 'The Rise of the Spencers,' *Peerage and Family History*, p. 279.

[2] Gardiner, iv. 137; *Court and Times of James I*, ii. 268, 272; *Cabala*, p. 262.

[3] *Court and Times of James I*, ii. 287.

out as their leader. He was the richest peer in England, and the most popular. Clarendon calls him 'the most universally loved and esteemed of any man of that age.' Some personal qualifications for leadership he undoubtedly possessed. 'He was a man very well bred and of excellent parts, and a graceful speaker upon any subject, having a good proportion of learning, and a ready wit to apply it, and enlarge upon it; of a pleasant and facetious humour, and a disposition affable, generous and magnificent. He was master of a great fortune from his ancestors, and had a great addition by his wife . . . but all served not his expense, which was only limited by his great mind and occasion to use it nobly. . . . As he lived and spent upon his own fortune, so he stood upon his own feet, without any other support than of his proper virtue and merit; and lived towards the favourites with that decency as would not suffer him to censure or reproach his master's judgment and election, but as with men of his own rank. He was exceedingly beloved in the Court, because he never desired to get that for himself which others laboured for, but was still ready to promote the pretences of worthy men. And he was equally celebrated in the country for having received no obligations from the Court which might corrupt or sway his affections and judgment; so that all who were displeased and unsatisfied in the Court, or with the Court, were always inclined to put themselves under his banner, if he would have admitted them; and yet he did not so reject them as to make them choose another shelter, but so far to depend on him that he could restrain them from breaking out beyond private resentment and murmurs.' [1]

CHAP. II 1621

On the other hand, much as he disapproved Buckingham's policy, Pembroke was too irresolute to act vigorously

[1] Clarendon, *History of the Rebellion*, i. 120.

CHAP. II 1624

or consistently against it. 'For his person he was not effectual,' was Bacon's summing up of his character. This was proved by his conduct in the Parliament of 1624. In Council he had opposed the breach with Spain, which Buckingham urged, but in Parliament he remained mute, or supported him. For in 1624 both Houses were equally eager against Spain and the Catholics, and both agreed in acquitting Buckingham of all blame for the failure of the negotiations about the Palatinate and the Spanish match. The King now not only allowed but invited the Commons to discuss those questions of foreign policy which in 1621 he had declared too high for them. The tide ran so strongly against Spain that only two peers ventured to oppose Buckingham when he demanded war. One was the Lord Treasurer. Sir Lionel Cranfield had distinguished himself in the last Parliament by attacking monopolies and other financial abuses, and by his zeal against Bacon. In July, 1621, he had been raised to the peerage, 'the first peer,' says Gardiner, 'whose elevation can in any way be connected with success in attaining the confidence of the House of Commons.'[1] In January, 1622, he had been made Lord Treasurer, and in September, Earl of Middlesex. But his fall was as rapid as his rise. He was impeached for malversation on April 15, 1624, and sentenced on May 13 to be deprived of all his offices, pay a fine of £50,000, and to lose his seat in the House of Lords. His real crimes were his hostility to the Spanish war and his opposition to Buckingham's will.[2]

Buckingham's other adversary was John Digby,

[1] Gardiner, *History of England*, iv. 140.

[2] Ib. v. 228, 231. An attempt to obtain his readmission to the House of Lords was made in 1640 by the Earl of Bristol. See *Fifth Report Hist. MSS. Comm.*, p. 1. On the sentence see Mr. Pike's remarks, *Constitutional History of the House of Lords*, p. 231.

Earl of Bristol, the English ambassador at the Spanish court when Prince Charles and the Duke made their famous journey to Madrid. Bristol knew too much about the real history of the negotiations to be allowed the opportunity of vindicating himself from blame. When he arrived in England, Buckingham prevented the King from granting him a hearing. He was confined to his own house; his request for a trial in Parliament was refused, and he was informed that he must confess the truth of the charges brought against him as the price of his liberty. Bristol was still under restraint when James died (March 27, 1625), and though he received a formal summons to the first Parliament called by Charles was commanded not to avail himself of it.[1]

Parliament met on June 30, 1625. The Commons refused to support the adventurous war policy of Buckingham and the King. After voting the King a sum utterly inadequate for his needs they proceeded to attack the minister, and were dissolved on August 12. In this conflict the House of Lords remained passive. Southampton was dead, and Pembroke was willing to wound, but afraid to strike, while, owing to the plague, the numbers of the House were reduced to a minimum. In October the expedition to Cadiz sailed, and ended in a disgraceful failure. In February, 1626, Charles was obliged to summon a second Parliament. Buckingham prepared himself for the coming storm by getting rid of Lord Keeper Williams, and by endeavouring to effect a sort of reconciliation with Pembroke, whom he suspected of encouraging the opposition in the last Parliament.[2]

[1] *Camden Miscellany*, vol. vi.

[2] Gardiner, vi. 29; cf. *Strafford Letters*, i. 28. Pembroke, Arundel, Lord Keeper Williams, and Archbishop Abbott, were the four members of the Upper House suspected.

CHAP. II 1626

From the first the Upper House showed its independence. On February 25, in spite of all the efforts of the official members, a resolution was carried that henceforth no peer should hold more than two proxies. As Buckingham held no less than thirteen this was a blow at his power.[1] The King maladroitly irritated the Lords further by committing Arundel to the Tower. The reason alleged was the clandestine marriage of his son, Lord Maltravers, with Elizabeth Stuart, sister of the Duke of Lennox, whose hand the King designed to give to Lord Lorne. The King declared that Arundel was committed for 'a misdemeanour which was personal to his Majesty, and had no relation to affairs in Parliament,' but everyone knew that if he had not attracted the animosity of Buckingham by his conduct in council and Parliament, his imprisonment would never have taken place. The Lords took up the case, voted that no peer ought to be imprisoned while Parliament was sitting, except for treason, felony, or breach of the peace, and presented three successive petitions to the King for his release. Charles sent several temporising answers. On May 25 he promised to 'use all possible speed to give them satisfaction.'[2] This was not enough for the House. 'They,' says a newsletter, '(if it be not presumptuous to speak so of lords) murmured at the word speedily, as being too slow for their desires, who would have had him presently. My lord Duke, my Lord of Dorset, my Lord of Carlisle, my Lord of Holland, stood all up, one after another, to have spoken, but could not be heard; and in fine, an order was made this morning in the upper

[1] *Lords' Journals*, iii. 507; Rushworth, i. 259. *Lords' Debates in* 1626, p. 114.

[2] *Court and Times of Charles I*, 86, 90, 91, 106; Gardiner, vi. 108, 115; *Lords' Journals*, iii. 526, 562, 564, 594, 630, 650, 653–655. *Lords' Debates in* 1626, p. 212. See also *Prynne's Plea for the House of Lords*, ed. 1658, p. 24, and Rushworth, i. 363.

house, that no bill should be read, nor any business at all despatched, till my Lord Arundel's actual restoration. CHAP. II 1626

'And whereas there are some new barons, viz. my Lords Mandeville, Grandison, and Carleton, called by writ into the upper house to weigh down (as it is supposed) the balance on the Duke's side; the Lords have found out an ancient order of the house, that no lords called or created, *sedente parliamento*, shall have voices during the session, but only shall have the privilege of sitting among the rest.'[1]

The last report is not borne out by the Journals, but the expedient was no doubt considered, and it shows the temper of the Lords. The King was obliged to give way. Arundel was restored to his liberty on June 5, and resumed his place in the House.

Still more damaging to the Duke was the case of the Earl of Bristol. As Bristol was still confined to his house at Sherborne, and received no summons to Parliament, he petitioned the House to mediate with the King that he might either be brought to trial or allowed his rights as a peer. The House promptly resolved that the summons should be sent, and he came to London to obey it. At once he was accused of high treason on behalf of the King, and on May 1 he was brought to the bar of the House as a delinquent. 'The attorney-general intimated to the Lords that he was there to accuse him of high treason. Then said the Earl of Bristol: "My lords, I am a freeman, and a peer of the realm unattainted. Somewhat I have to say of consequence for his Majesty's service; and therefore I beseech your lordships give me leave to speak." Which being granted: "Then my lords, I accuse that man, the Duke of Buckingham, of high treason, and I will prove it."[2] The House accepted

[1] May 26, 1626. *Court and Times of Charles I*, i. 106.

[2] Ib. i. 99.

CHAP. II 1626

the charge against Buckingham, and resolved to go into the evidence on both sides. Charles made every effort to protect his minister. He sent the Lords a message that Bristol's charges were false, and tendered himself as a witness to their untruth. He contested the right of the Lords to allow Bristol the use of counsel. He urged that Bristol should be tried in the King's Bench instead of by the House. All this interference was useless: the Lords maintained their jurisdiction, and insisted that Bristol should have a fair trial. He put in an answer full of damaging revelations supported by good documentary evidence, and it became evident that it would be impossible to convict him of high treason.[1]

Meanwhile the Commons had drawn up a formal impeachment of Buckingham, which was laid before the Lords on May 8. The King committed to the Tower Sir Dudley Digges and Sir John Eliot, two of the managers of the impeachment, for words used in their speeches. But the Commons, like the Lords, claimed that no member of their House should be arrested in Parliament time, except for treason, felony, or breach of the peace, and thirty-two peers protested that Digges had not spoken the words attributed to him.[2] The King was obliged to release both Digges and Eliot. In the hearing of these charges and counter-charges the whole session was consumed, so the King, finding that there was no hope of obtaining a grant of money from the Commons, and that they were about to present a remonstrance demanding the duke's removal from his councils, determined to dissolve Parliament. On learning this the Lords drew up a petition for the continuance of Parliament, in view of the 'great

[1] *Lords' Journals*, iii. Rushworth, i. 249–302.
[2] *Lords' Journals*, iii. 627; Rushworth, i. 361.

and apparent dangers of the realm both at home and abroad.' While it was drawing up four Lords were sent to pray the King for at least two days' delay. 'Not a minute,' answered Charles, for a dissolution was the only way in which he could save Buckingham. [1]

During the sitting of Parliament the Lords had been, by virtue of their position as judges, 'the supreme arbitrators between the nation and the Crown.' Now a prosecution was commenced against Bristol in the Star Chamber, from which he was not likely to escape unpunished.[2] But Buckingham's power was evidently weakened. It was rumoured that he was trying to patch up a reconciliation with Arundel and Bristol.[3] Matches arranged for his needy kinswomen with members of the peerage unexpectedly fell through.[4] The opposition Lords remained hostile. Essex refused to accept the post of vice-admiral in Buckingham's fleet.[5] Buckingham sought to strengthen his position by promotions, creations of new peers, additions to the Privy Council, and other favours, and treated his opponents amongst the peerage with some show of moderation. Whilst gentlemen were committed to the Fleet or the Marshalsea in dozens for refusing the forced loan, the fifteen or sixteen peers who refused to lend were merely dismissed from office. Only one, the Earl of Lincoln, who agitated against the loan in the country, was actually imprisoned.[6] It was evident that Buckingham had learnt to respect the rights of the Lords, for in 1628, when Charles summoned a third

[1] *Lords' Journals*, iii. 682; *Lords' Debates in* 1626, p. 232; *Court and Times of Charles I*, i. 3.

[2] *Court and Times of Charles I*, i. 116, 133, 135, 167, 169, 184, 188, 199, 213.

[3] Ib. i. 141, 176.

[4] Ib. i. 126.

[5] Ib. i. 210, 270, 274.

[6] *Diary of Walter Yonge*, p. 98.

CHAP. II 1628

Parliament, he made no attempt to prevent either Lincoln or Bristol from taking their places in the Upper House.

The Parliament of 1628 is memorable for the passing of the Petition of Right. King and Commons each appealed to the Upper House for support, and its decision in favour of the Commons forced the King to give way and assent to the Petition. The Commons throughout showed the greatest solicitude to secure the co-operation of the peers. They began by passing three resolutions against arbitrary imprisonment, and one against arbitrary taxation, and then asked the Lords for a conference about 'some ancient fundamental liberties of the kingdom.' Coke, Selden, and two other representatives of the Commons, set forth the legal arguments against the power claimed by the King, and then the Attorney-General and other lawyers argued the case for the Crown. It was generally believed that a majority of the Lords would decide in favour of the King and reject the resolutions sent up by the Commons. Just before the decisive debate began the King reinforced his party with five new peers. A letter said that the members of the Commons were doubtful about the result, because the Court faction in the House of Lords was so numerous and increasing.[2] The debate, which began on April 22 and continued till April 25, turned mainly on the question of reserving to the King some discretionary power in emergencies. The speeches were not reported, but two newsletters supply a summary of the discussion.[3] The greater part of the Lords, says the first, 'stand for the King's prerogative against the subject's liberties. My lord

[1] *Lords' Journals*, iii.

[2] *Court and Times of Charles I*, i. 351.

[3] Notes of the Debates exist and ought to be printed.

President made a speech in the Upper House on the King's behalf, endeavouring to show the inconveniences which might follow in having our kings so tied. Against whom the Earl of Arundel stood up, confuted him, and made a public protestation against him, and the rest who were of the same opinion, concluding that those liberties which now they would betray, were those which had cost so much of their predecessors' blood to maintain them; and for his own part, he was resolved to lose his own life, and spend his own blood, rather than he would ever give consent to the betraying of them. Of his part were fifty lords and earls: Shrewsbury, Essex, Sussex, Warwick, Lincoln, Devonshire, Bristol, Saye, Clare, Bolingbroke, Mulgrave, and the more ancient nobility.[1] The bishops were divided: Canterbury, Norwich, and Lincoln for the subject. The Bishop of Lincoln, much commended for what he spoke on behalf of the subject, acknowledging he had once offended in the days of his late master, in standing for the prerogative to the prejudice of the subjects' liberties; for which he now desired forgiveness, professing that henceforth neither hope of great preferments, nor fear of the loss of what he presently enjoyed, should make him do or speak against his conscience.'[2]

The second letter says: 'The like tongue combat

[1] According to Lord Brougham's speech on the Reform Bill of 1832, there was a similar division between the recent and the older peerage on that question. He says: 'A noble friend of mine has had the curiosity to examine the list of peers opposing it and supporting it with respect to the dates of their creation, and the result is somewhat remarkable. A large majority of the peers created before Mr. Pitt's time are for the Bill. The bulk of those against it are of recent creation. And if you divide the whole into two classes, those ennobled before the reign of George III and those since, of the former 56 are friends and only 21 enemies of the Reform. So much for the vain and saucy boast that the real nobility of the country are against Reform.' Atlay, *The Victorian Chancellors*, i. 308.

[2] Mead to Stuteville, April 28, 1628. *Court and Times of Charles I*, i. 347.

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was never heard in the Upper House. It was performed by nine peers of the side that stood for freedom, and by nine others of that party, that to please one man, laboured might and main to make themselves and their posterity slaves. But to the end that nothing might be binding or conclusive, they called my Lord Keeper off his woolsack, and converted the House into a grand committee. On the free side, the Bishop of Lincoln used the greatest freedom, giving neither way nor respect to those of the opposite party, no, not to the Duke himself; the King only he mentioned with humble reverence. "In brief by his wisdom and courage," saith mine author, "he won that day immortal renown." My Lord Saye did likewise rarely on that side. So did the Earl of Bristol. And when the ducal party would have metamorphosed the committee into a small House, to the end that they must have gone to voices, my Lord Saye challenged that all of them that would so ignobly stand against the most legal and ancient liberty of the subject, should together with their name, subscribe their reason to the vote to remain upon record unto posterity; which motion daunted them all with a lively sense of their ignominy, which should have been stamped upon their fame to all posterity. Had they proceeded then to votes, it is supposed the greater part would have exceeded the better by ten voices at least, that is to say, 66 to 56. Yet, had it come to voices, indeed no man knew how a man's mind and conscience might have carried him.'[1]

The opposition was so strong and determined that the court party did not venture on a division. A compromise was agreed upon by which the Lords, instead of rejecting the resolutions of the Commons, drew up five counter propositions in lieu of them. The

[1] Mead to Stuteville, May 3, 1628. *Court and Times of Charles I*, i. 349.

fifth recognised that the King possessed a royal prerogative 'intrinsical to his sovereignty,' which he might employ when he found just cause 'to imprison or restrain any man's person.' The authors of these propositions were sincerely anxious to mediate. Whilst they wished,' explains Mr. Gardiner, 'to exclude the Crown from all interference with the ordinary administration of the law, they also wished that the King should enjoy a right, analogous to the suspending of the Habeas Corpus Act in our own times, of over-riding the law in any special emergency.' [1]

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The Commons were not inclined to trust the King with extraordinary powers. They dropped both their own resolutions and the counter-propositions of the Lords, and determined to prepare a bill and send it up to the Lords for acceptance or rejection. When the King stopped that scheme by a declaration that he would not hear of any encroachment on his sovereignty, but would simply confirm and promise to observe the old statute, they fell back on a third plan. 'Let us have a conference with the Lords,' said Sir Edward Coke, 'and join in a Petition of Right to the King for our particular grievances.' On May 8 the Petition was brought in, and the Lords were asked to fix a day for a conference. The Lords proposed a few amendments 'to sweeten the petition'; and wished to add a saving clause of some kind giving the King a discretionary power. Arundel proposed, and the House accepted, the addition of a clause saying: 'We humbly present this petition to your Majesty, not only with a care of preserving our liberties, but with a due regard to leave entire that sovereign power wherewith your Majesty is entrusted for the protection, safety, and happiness of your people.' But the Commons professed that

[1] *History of England*, vi. 261.

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they did not know what 'sovereign power' meant, and rejected this addition. Next it was suggested by Buckingham, on behalf of the government, to substitute 'prerogative' for 'sovereign power.' This was opposed in the Upper House by Saye, North, Essex, and other peers, and after new conferences the Lords gave way, and agreed to join with the Commons in the petition without insisting on any material amendment or addition (May 26).

Thus the middle party in the House, after its attempts at compromise had failed, decided in favour of the Commons, and not, as it usually had done, in favour of the Crown.

Furthermore, in all the difficulties which resulted from the King's ambiguous and evasive answer when the Petition of Right was first presented to him, the Upper House stood by the Lower. On June 5, when the King, enraged by the attack which the Commons had made on Buckingham as the author of his evasive answer, stopped the debate in the Lower House, and seemed to meditate an immediate dissolution of Parliament, the Lords intervened. Bristol moved for a committee to draw up a representation 'to show the dangers likely to ensue unto this kingdom, if the Parliament should be now dissolved,' and though this committee was not appointed, the feeling of the peers was made so clear that the King drew back. In announcing his change of purpose, he declared that the dutiful and discreet proceedings of the Lords had been his chief motive to suspend those intentions. The Lords followed up their victory by asking the Commons to join with them in requesting the King for 'a clear and satisfactory answer' to the Petition, and in answer to the joint request of the two Houses, the King at last assented to the Petition of Right in the usual form (June 7).

In all their proceedings the Lords had behaved with tact and firmness. They had co-operated with the Commons to maintain the liberties of the people, but they had endeavoured to do it in such a way as to spare the feelings of the King, and to preserve the necessary powers of the government. The instrument employed to effect an agreement between the two Houses had been the system of conferences, which now reached its highest development. Glanville, speaking on behalf of the Lower House, said: 'The House of Commons cannot but observe that fair and good respect which your lordships have used in your proceedings with them, by your concluding or voting nothing in your House until you had imparted it to them; whereby our meetings about this business have been justly styled free conferences, either party repairing here disengaged to hear and weigh the other's reasons, and both Houses coming with a full intention, upon due consideration of all that can be said on either side, to join at last in resolving and acting that which shall be found most just and necessary for the honour and safety of his Majesty and the whole kingdom.'[1]

On the same day Sir Thomas Wentworth, speaking in the Lower House, had pressed home upon its members the necessity of agreement with the Upper. 'We are now fallen,' he said, 'from a new statute and a new law to a Petition of Right, and unless the Lords co-operate with us, the stamp is out of that which gives a value to the action. If they join with us it is a record to posterity. If we sever from them it is like the grass upon the house top, that is of no long continuance. And therefore let us labour to get the Lords to join with us.' Two things, he concluded, were necessary, first, 'not to recede in this petition, either

[1] *Lords' Journals*, ii. 813. Rushworth, i. 569.

CHAP. II 1628-9

in part or in whole, from our resolutions,' secondly, 'that the Lords join with us, else all is lost.'[1]

To Sir John Eliot, full of democratic enthusiasm, and convinced that the House of Commons ought to be the supreme power in the state, Wentworth's insistence on the impossibility of effecting anything without the co-operation of the Lords seemed an insult. 'As though,' said he, 'the virtue and power of this House depended upon and were included in their Lordships. I cannot make so slight an estimation of the Commons as to make them mere cyphers to nobility. I am not so taken with the affectation of their lordships' honour, so much to flatter and exalt it. No, I am confident that should the Lords desert us, we should yet continue flourishing and green.'[2]

Next year, in the second session of the same Parliament, Eliot's theory was put to the test.[3] Led by him, the Lower House attempted to obtain the redress of its grievances about religion and taxation, without making the slightest endeavour to procure the co-operation of the Upper House. It insisted on imposing its own interpretation of the Petition of Right, without consultation or conference of any kind, and its own interpretation of the Thirty-nine Articles.

The result of the experiment was the abrupt dissolution of March 2, 1629, 'the most gloomy, sad, miserable day for England that happened in five hundred years last past.' According to Milton, it was 'the sad breaking of that Parliament' which broke the heart of the Earl of Marlborough. Many other peers were sufficiently in sympathy with the aims of the Commons to be anxious to prevent a rupture, and would have

[1] Gardiner, vi. 283.

[2] Ib. vi. 284.

[3] See Gardiner, vii. 59, 67. He blames Eliot severely, though for other reasons, and condemns his leadership.

lent their aid to devise some compromise.[1] In the end, no doubt, a complete breach between the House of Commons and the King was inevitable, but it might have been postponed, and rendered less violent. Until this breach there was still some possibility of a reconciliation between King and people. Buckingham's death (August 23, 1628) had removed one great obstacle. Moreover, shortly before that event, the King had shown an inclination to adopt advisers more likely to gain the support of the nation. The leaders of the majority in the House of Lords furnished men who were anxious to maintain the constitutional rights of the Crown, and at the same time eager for peace, economy, and good administration. In the summer of 1628 Bristol and Arundel were restored to favour, Manchester became Lord Privy Seal, Sir Richard Weston, who had been created a baron April 13, 1628, became Lord Treasurer. At the same time two men who, as members of the Commons, had been prominent in opposition were elevated to the peerage. One was Sir John Savile, who had distinguished himself by opposing unparliamentary taxation in the reign of King James, but had for some years been reconciled to the Court; the other was Sir Thomas Wentworth, who had been one of the leaders of the Commons during the last session. Savile became Lord Savile of Pontefract on July 21, 1628; Wentworth, Lord Wentworth of Wentworth Woodhouse on July 22.[2]

CHAP. II 1628-9

The attempt to initiate a more conciliatory policy which these appointments indicated was not long pursued. The vindictive prosecution of Eliot and the leaders of the Commons was one obstacle to a reconciliation; Laud's enforcement of conformity was

[1] The attempts of the peers to prevent the dissolution of 1626, and their efforts to devise an acceptable compromise on the Petition of Right prove this.

[2] Gardiner, vi. 335; *Court and Times of Charles I*, i. 351, 387, 382; *Strafford Letters*, i. 44; *Memoirs of Sir Philip Warwick*, p. 48.

CHAP. II 1630-2

another. The King's financial expedients gave all classes of the nation a common grievance.

The employment of obsolete laws as machines for extorting money affected the nobility just as much as the gentry. In 1630 the old law which obliged every man owning an estate worth £40 a year to receive knighthood, under penalty of a fine, was revived and enforced. Peers who had not taken up their knighthood were obliged to compound for the neglect by payment, only at a much higher rate than commoners. It is said that the fine was to be calculated according to the sum at which a man was rated in the subsidy-book; if he was rated at £10 he must pay £35. This was not merely a threat. 'On Monday morning,' says a newsletter dated January 26, 1632, 'my Lord of Essex and divers others of the nobility appeared before the lords of the privy council at Whitehall, about compounding for their knighthoods. His lordship said, he was not only present at the coronation, but employed also in services very near his majesty's person, as bearing the sword before him, and helping to put on and put off his robes; and was there ready to have received knighthood, or any other honour his majesty should have been pleased to vouchsafe on him. So, my lord treasurer asked his lordship, whether he would stand to that plea? He said he would; and so said all the rest.'[1] Another letter adds: 'I hear that the unknighted Catholic lords, lying all under the lash of Queen Elizabeth's statutes (which, whensoever his majesty shall be pleased strictly to put in execution he may soon undo them all), do willingly compound for their knighthood, paying only double to what they are in their subsidy; whereas others, if they can get it from them, must pay treble, and one half over and

[1] *Court and Times of Charles I*, ii. 163.

above. My lord Pierrepoint, Earl of Kingston, who is £300 only in the subsidy, is required to pay £2000, which is almost seven times as much; but his lordship refuseth so to do, and standeth upon his plea: and so, I hear, do twenty-five more.'[1] The revival of the Forest Laws was still more menacing. It was said that the Earl of Southampton would lose £2000 a year by the extension of the boundaries of the New Forest. The Earl of Salisbury was sentenced to a fine of £20,000, the Earl of Westmoreland to a fine of £19,000, Lord Newport and other Lords to smaller sums for alleged encroachments on Rockingham Forest.[2] Other peers were hit by the enforcement of the proclamations against the extension of London. The Earl of Bedford, for instance, was threatened with a Star Chamber suit for his buildings in Covent Garden, and had to pay some kind of composition.[3] In 1632 Lord Clare and six other peers were summoned before the Star Chamber for contravening the proclamations against residing in London, instead of on their estates in the country.[4] A commission was issued to enforce the laws against depopulation, that is, the conversion of arable to pasture land, and it was employed to punish Lord Saye for his political conduct.[5] The Court of Wards was an old grievance, and its exactions greatly increased during this period. 'By which,' says Clarendon, 'all the rich families of England of noblemen and gentlemen were exceedingly incensed, and even indevoted to the Crown, looking upon what the law intended for their protection and preservation to be now applied to their destruction.'[6]

[1] *Court and Times of Charles I*, ii. 170–1.
[2] *Strafford Letters*, i. 467; ii. 117; Gardiner, vii. 362; viii. 77, 86, 282.
[3] *Strafford Letters*, i. 263, 372.
[4] Rushworth, ii. 289.
[5] Ib. ii. 333.
[6] Clarendon, ii. 102.

CHAP. II 1630–40

Ship-money was a new grievance and a still greater one. In December, 1636, the Earl of Danby wrote to the King, representing the general discontent that this unparliamentary levy caused, and urging Charles to summon a Parliament. Warwick made a similar protest against it.[1] No one, however, was as bold in his resistance as Lord Saye. Owing to his influence the refusal to pay became almost universal in Oxfordshire. He was anxious to fight the legality of the impost in the courts, but as a test case the government preferred to select Hampden's rather than Saye's, perhaps because the issue was more simple, perhaps because a commoner seemed a less formidable antagonist than a peer. In consequence of this and similar acts of courage, Saye became during the intermission of Parliaments the recognised leader of the opposition among the peerage. Clarendon styles him 'the oracle of those who were called Puritans in the worst sense,' and says that he 'steered all their counsels and designs.'[2]

Another Puritan leader was Robert Rich, Earl of Warwick. Since 1626 he had been counted amongst the popular party, though he was no expert in constitutional law, and had very little of the Puritan about him. 'He was a man of a pleasant and companionable wit and conversation, of an universal jollity, and such a licence in his words and in his actions that a man of less virtue could not be found out. . . . But with all these faults, he had great authority and credit with that people who in the beginning of the troubles did all the mischief; and by opening his doors, and making his house the rendezvous of all the silenced ministers in the time when there was authority to silence them, and spending a good part of his estate, of which he was very prodigal, upon them, and being present

[1] Gardiner, viii. 201, 203.

[2] Clarendon, *Rebellion*, iii. 26.

with them at their devotions, and making merry with them (and at them, which they dispensed with), he became the head of that party, and got the style of a "godly man." '[1] CHAP. II 1630-40

Clarendon probably exaggerates Warwick's moral shortcomings. In character the Earl resembled the Elizabethan rather than the usual seventeenth century type of peer. Privateering ventures and colonial enterprises occupied his mind far more than political or religious questions. The Elizabethan tradition still survived, and even officials and courtiers still interested themselves in colonisation. The Earl of Carlisle obtained from Charles I a grant of the Caribbean islands; other islands in the West Indies were granted to Pembroke;[2] Baltimore founded Maryland; Arundel cherished a scheme for the acquisition and plantation of Madagascar. Warwick took a prominent part in the affairs of the Virginia and the New England companies, and in the settlement of the Bermudas. The Massachusetts patent was obtained through him, and the patent to the New Plymouth colonists was signed by him on behalf of the Council of the New England company. In two enterprises he was closely associated with Lord Saye. In 1630 Warwick and Saye, together with Lord Brooke, John Pym, Oliver St. John, and others, obtained a patent incorporating them as a company for the colonisation of certain islands lying off the Mosquito coast, known from the name of the chief island as 'The Providence Company.'[3] In 1632 Warwick, as President of the Council of New England, granted to a company of twelve, including Lord Saye, Lord Brooke, Sir Arthur Haslerig, and John Hampden,

[1] Clarendon, *Rebellion*, vi. 404.
[2] Lucas, *Geography of the British Colonies*, ii. 170.
[3] *Lismore Papers*, second series, iv. 108.

CHAP. II 1630-40

a patent for the territory lying about the Connecticut river.[1] Neither enterprise produced permanent results. The Colony of Connecticut was settled by emigration from Massachusetts, rather than under the patent, but the name of Saybrooke, given to the fort built by the patentees at the mouth of the Connecticut river, attests their connection with the foundation of the colony. After some ten years' existence the colony established in Providence Island was destroyed by the Spaniards. But in each case the future leaders of the popular party in the two Houses of the Long Parliament were brought together, and learned to co-operate in the attempt to build up Puritan commonwealths beyond the seas. According to a well-known tradition, Hampden and Cromwell contemplated emigrating, and it is certain that both Saye and Brooke thought of it. About 1636 the two lords made certain proposals to the Colony of Massachusetts as conditions of their removing to New England. They demanded that the government of the colony should be assimilated to that of England; there should be two houses of legislature each with a negative on the other. One should consist of the representatives of the freeholders; the other of an hereditary class, styled 'gentlemen of the country.' Saye and Brooke, in consideration of their 'great disbursements for the public work in New England,' together with 'such other gentlemen of approved sincerity and worth as they, before their personal remove, shall take into their number,' were 'to be admitted, for them and their heirs, gentlemen of the country; but for the future none shall be admitted into this rank but by consent of both Houses.' The

[1] Justin Winsor, *Narrative and Critical History of America*, iii. 369; *Cal. State Papers Colonial*, 1574–1660, p. 123.

New Englanders were anxious not to alienate tried and influential friends; at the same time they were too democratic in spirit to accept these proposals. They answered that they approved of the idea of two legislative chambers, 'only as yet it is not practised among us, but in time the variety and discrepancy of sundry occurrences will put them upon a necessity of sitting apart.' As for establishing a class of hereditary legislators, that was another matter. 'The great disbursements of these noble personages and worthy gentlemen we thankfully acknowledge, because the safety and presence of our brethren at Connecticut is no small blessing and comfort to us. But though that charge had never been disbursed, the worth of the honourable persons named is so well known to us all, and our need of such supports and guides is so sensible to ourselves, that we do not doubt the country would thankfully accept it, as a singular favour from God and from them, if he should bow their hearts to come into this wilderness and help us. As for accepting them and their heirs into the number of gentlemen of the country, the custom of this country is, and readily would be, to receive and acknowledge, not only all such eminent persons as themselves and the gentlemen they speak of, but others of meaner estate, so be it is of some eminency, to be, for them and their heirs, gentlemen of the country. Only thus standeth our case: Though we receive them with honour, and allow them pre-eminence and accommodations according to their condition, yet we do not ordinarily call them forth to the power of election or administration of magistracy, until they be received as members unto some of our churches; a privilege we doubt not religious gentlemen will willingly desire (as David did in Psalm xxvii. 4), and Christian churches will as readily impart to such

CHAP. II 1636

desirable persons. Hereditary honours both nature and Scripture doth acknowledge (Eccles. x. 17), but hereditary authority and power standeth only by the civil laws of some commonwealths; and yet, even amongst them, the authority and power of the father is nowhere communicated, together with his honours, unto all his posterity. Where God blesseth any branch of any noble or generous family, with a spirit and gifts fit for government it would be a taking of God's name in vain to put such a talent under a bushel, and a sin against the honour of magistracy to neglect such in our public elections. But if God should not delight to furnish some of their posterity with gifts fit for magistracy, we should expose them rather to reproach and prejudice, and the commonwealth with them, if we should call them forth, when God doth not, to public authority.' [1]

Puritans though they were, neither Saye nor Brooke recognised the necessary connection which existed between Independency and democracy; they did not perceive that men who chose their pastors naturally demanded the right to choose their magistrates too. It became clear to them three or four years later. Saye was anxious to divert men from emigrating to New England, and to persuade them rather to settle in the West Indies, on the ground that the islands were more fertile. But he found that 'godly men were unwilling to come under other governors than such as they should make choice of themselves.' He and his fellow patentees therefore, says John Winthrop, 'condescended to articles somewhat suitable to our form of government, although they had formerly declared themselves much against it, and for a mere aristocracy.' [2]

[1] Hutchinson, *History of Massachusetts Bay*, i. 492, ed. 1865. For comment see Palfrey, *History of New England*, i. 389.

[2] Winthrop, *History of New England*, ii. 333.

Either from aversion to democracy, or because there was some prospect of a change in England, Saye and Brooke stayed at home. The signs were indeed unmistakeable. News of the resistance of the Scots to the imposition of the Liturgy came to England in August, 1637, and next year the signing of the Covenant followed. In the spring of 1639 the King collected an army to subdue the Scots. Strafford was of opinion that the opponents of Ship-money should be 'whipped into their right wits,' and that the insolence of the Scots should be 'thoroughly corrected.' Laud agreed, and the Court lords in general were of the same opinion. But even in the King's own council there were lords who saw the danger. Northumberland, his Lord High Admiral, urged concession. 'The people through all England,' he wrote to Strafford, are 'generally so discontented . . . as I think there is reason to fear that a great part of them will be readier to join the Scots than to draw their swords in the King's service. . . . God send us a good end of this troublesome business; for to my apprehension no foreign enemies would threaten so much danger to this kingdom as doth now this beggarly nation.' [1]

CHAP. II 1639

It was soon evident that the discontent was not confined to the people. The King's great difficulty was the want of money, and as usual he sought to raise it by exerting obsolete feudal claims. Lords owning land on the Borders were ordered to repair to their estates and arm their retainers, in order 'to resist the malice of our enemies and rebels.' All peers were required to attend the King in arms and with their retinues against the Scots. In this way it was calculated that either 1200 horse could be raised without cost, or money exacted in lieu of personal service.

[1] *Strafford Letters*, ii. 186.

CHAP. II 1639

Some lords subscribed liberally, offering from four to twenty horses apiece, some offered money instead. Others pleaded poverty, and alleged large debts due to them from the Crown as a reason for incapacity to contribute. Saye and Brooke at first refused to contribute anything, declaring that the subject was not obliged to any aid of that nature but by Parliament. On second thoughts they said that they would attend the King in person when any part of England was invaded. The King's camp at York was full of peers, many of them disaffected to the service on which they came. His army numbered about 14,000 men. Arundel, the Lord Marshal, was general-in-chief, 'a man who had nothing martial about him but his presence and his looks,' says Clarendon; Essex, 'the darling of the sword-men,' was lieutenant-general; Holland, the Queen's favourite, was general of the horse. Arundel drew up a form of oath which, with the King's approval, he offered to the lords. It was a promise to hazard life and fortune for the King, against all kinds of rebellions, but especially against any rebellion which should come veiled under the pretence of religion. All the lords present took it till Saye's turn came. He said that he had taken the oaths of Supremacy and Allegiance on several occasions, and was ready to take them again, since they were legal oaths, but desired to be excused if he forebore the taking of any oath that he held was not legal.[1] The King replied in a passion: 'My lord, there be as good men as you that will not refuse to take it. But I find you are averse to all my proceedings.'

Lord Brooke also refused the oath, and after the meeting ended Charles kept both lords back to argue

[1] *Lismore Papers*, II. iv. 19–23. According to another account he added that he was willing to defend England against any invaders, 'but to go and kill a man in Scotland he was not satisfied thereof.' *MSS. of the Duke of Rutland*, i. 507–509; *Verney Papers*, p. 229; *Clarendon State Papers*, ii. 45.

with them. He 'received such answers as farther moved him, and drew from them a declaration that they were not satisfied of the quarrel. The King then asked my Lord Saye wherefore he was come thither: he said, in obedience to his Majesty's summons, and to wait on his person, and to defend him to his best power, in case he or his kingdom should be invaded. The King asked him if he would not assist him against his subjects that should rebel in Scotland. He told him he could not serve him as a peer out of this kingdom. The King said if he would not serve him in quality of a peer he would give him a troop of horse, but my Lord Saye desired the King to excuse him therein; for that if serving voluntarily in this quarrel, he should be slain, he should die with a very ill satisfied conscience; or if he should kill any man, against whom he had no obligation to fight, he doubted he should commit murder. The King hereupon thought it fit to commit both the Lord Brooke and the Lord Saye close prisoners, with some servants to attend them, the one to the Mayor's, the other to the Recorder's of this City. And the committment of these Lords is said, not to have been for the refusal of the Oath, but for their avowing to be unsatisfied in the quarrel.' CHAP. II 1639

It proved impossible to punish the recalcitrant peers; the Crown lawyers could find no pretext for the purpose. After four days' confinement they were sent home in disgrace. Arundel pressed them to leave their horses behind them for the King's service, but Saye refused even that small concession. In quieter times both would have been severely dealt with, but England too 'was unsatisfied in the quarrel.' Disaffection, want of money, and the weakness of his forces, obliged the King to make concessions, and on June 18, 1639, what was known as the Treaty of Berwick was signed. But

CHAP. II 1640

Charles was not prepared to concede enough, and a new breach followed. In March, 1640, he was again preparing to invade Scotland, but first of all he called a Parliament to see if he could not secure the support of his people. It met on April 13, 1640. Charles hoped that the revelation of the treasonable overtures of the Scottish leaders to the King of France would cause a revulsion of feeling in his favour, but the Commons fell at once to discussing the financial and religious grievances of the nation. The Upper House, according to one of its members, seemed 'apt to take fire at the least sparkle'; a strong feeling against the bishops showed itself. Hall, Bishop of Exeter, was obliged to ask pardon at the bar, for terming Lord Saye one who 'savoured of a Scotch Covenanter.' Mainwaring, Bishop of St. David's, obnoxious for preaching the doctrine of absolute monarchy, was bitterly attacked.[1]

As the Commons, in answer to a demand for supply, resolved that they would take grievances first, the King appealed to the Lords to intervene, and sixty-one Lords in a House of eighty-six Lords voted that supply ought to have precedence (April 24).[2] The Commons declared this a breach of privilege (April 27), and the Lords replied by a resolution affirming the legality of their intervention (April 29). The debates in the Upper House were long and warm.

'My Lord Saye,' it was reported, 'spoke nobly for the kingdom;' he confuted Lord Keeper Coventry and Archbishop Laud; no one was found a match for him but Lord Strafford. In a division on April 29, the court majority sank from thirty-six to twenty, and only the solid episcopal vote saved it from defeat.

[1] Gardiner, ix. 101, 106, 107.
[2] Ib. ix. 109.

Outside there were loud complaints against the Upper House; it was said that 'there were few cordial for the commonweal' amongst its members; that they spoke 'so cautelously as doth not become a free commonwealth,' and that they were 'fully fitted for slavery.'[1] CHAP. II 1640

On May 2 the King demanded from the Commons an immediate answer to his request for money. He was willing to surrender his claim to Ship-money if they would grant him a large enough sum of money: twelve subsidies was the amount mentioned by Secretary Vane on his behalf. The Commons were willing to grant a certain number of subsidies, but they demanded that the abolition of the new military charges would be included in the bargain as well as that of Ship-money. It became known that they were in communication with the Scots, and meant to petition the King to come to terms with them. To prevent this Charles, on May 5, suddenly dissolved Parliament. Two peers in his Council, and two only, opposed this dissolution—Northumberland and Holland. Northumberland blamed the Lower House for their impatience. 'Had they been well advised,' he wrote, 'I am verily persuaded they might in time have gained their desires, but they in a tumultuous and confused way went on with their business.'[2] In the Council he opposed the vigorous offensive war against the Scots which Strafford urged. 'What will the world judge of us abroad,' he wrote to the Earl of Leicester, 'to see us enter into such an action as this is, not knowing how to maintain it for one month? It grieves my soul to be involved in these counsels, and the sense I have of the miseries that are like to ensue is held by some a disaffection in me.'[3]

[1] Gardiner, ix. 111.
[2] *Cal. State Papers Dom.*, 1640, p. 115.
[3] Collins, *Sydney Papers*, ii. 652.

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The Scottish leaders did not wait to be invaded, but prepared to march their army into England. Well aware of the sympathy of the popular leaders in both Houses, they endeavoured to obtain a promise of active support. Lord Savile was the intermediary employed.[1] Through him Sir Archibald Johnston of Warriston applied to the popular lords for 'some assurance of us before our entry, and bond of conjunction after our entry.' He proposed that they should sign a definite invitation, and specify the assistance they would give in men and money. The Lords refused: such an act would be treason by the law of England. There was no reason, they added, for the Scots to doubt either their effectual support, or their fidelity. The aim of the Scots was essentially the same as that of the English. 'The enemies are all one, the common interest one, the end is all one; a free Parliament to try all offenders, and to settle religion and liberty, and to make our abused King more great in goodness than unhappy in ill.' They were convinced that they could obtain their end in a constitutional way.[2]

The letter was signed by Bedford, Essex, Brooke, Warwick, Saye, Mandeville, and Savile. As this was not sufficient to satisfy the Scots, Savile forged the signatures of the six peers to an engagement of the kind desired.[3] In August the Scottish army crossed the Tweed; on the 28th they defeated Lord Conway at Newburn and forced the passage of the Tyne; on the 30th they occupied Newcastle. The King had dismissed the three peers who commanded his forces in the previous year, replacing Arundel, Essex, and

[1] Son of the first Lord Savile, Strafford's rival and enemy.

[2] Oldmixon, *History of England under the House of Stuart*, pp. 141, 144; Gardiner, *History of England*, ix. 179; Sanford, *Studies and Illustrations of the Great Rebellion*, p. 170; Nalson, ii. 428.

[3] This engagement is not extant and no copy has survived.

Holland by Northumberland as general-in-chief, and Conway as general of the horse. When Northumberland fell ill, Strafford was made lieutenant-general, and Charles himself arrived at York on August 23 to encourage his army. Meanwhile the leaders of the opposition held a meeting in London on August 28, and adopted a petition drawn up by Pym and St. John. It enumerated the grievances of the nation, and demanded a free Parliament and a treaty with the Scots. Twelve peers signed the petition: Bedford, Essex, Brooke, Warwick, Saye, Mandeville, Exeter, Hertford, Rutland, Mulgrave, Howard of Escrick, and Bolingbroke.[1] Mandeville and Howard were despatched to York to present it to the King; Hertford and Bedford laid it before the Council whom the King had left in London, and asked them for their concurrence, saying that it was supported by many other noblemen and most of the gentry. The Council naturally refused, saying that it was indecent and unreasonable 'to press their grievances when king and kingdom were in this strait, and in danger to be overrun by a pack of rebels.' The petitioners replied that the best remedy was the summoning of a Parliament. 'The danger,' said the councillors, 'is present and imminent, and cannot wait for a Parliament,' and asked them what they thought of a general meeting of all the peers in council to advise what is to be done in this exigency.' The two Earls answered 'that such an assembly might be to very good purpose; but if it should be intended exclusive to the Commons, or to raise monies any other way than by a Parliament, it would give no satisfaction.'[2]

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[1] The petition is printed in Gardiner's *Constitutional Documents*, p. 134. The original is amongst the MSS. of the House of Lords. On March 18, 1641, the thanks of the House were given to the petitioners. *Lords' Journals*, iv. 188.

[2] *Clarendon State Papers*, ii. 94, 97, 110, 115, 117.

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The King's position was so hopeless that he was obliged to summon the peers to meet at York on September 24. Clarendon dwells at length on the novelty of this expedient, and proceeds to speculate as to the King's motives in adopting it.

'A new Convention not before heard of, that is, so old that it had not been practised in some hundreds of years, was thought of; to call a Great Council of all the Peers of England to meet and attend his majesty at York, that by their advice that great affair might be the more prosperously managed. Whether it was then conceived that, the honour of the King and kingdom being so visibly upon the stage, those branches of honour which could not outlive the root would undoubtedly rescue and preserve it; or whether it was believed that upon so extraordinary an occasion the peers would suffice to raise money, as it was in that meeting proposed by one of them, "that they might give subsidies"; whether the advice was given by those who had not the confidence in plain terms to propose a Parliament, but were confident that would produce one; whether a Parliament was then resolved on, and they called to be obliged by it, and so to be obliged to some sober understanding in it; or what other ground or intention there was of that Council, was never known.'[1]

The King's first motive was to gain time, and he certainly cherished some hope that this meeting of peers would support him. To secure its support he opened the proceedings by announcing to the seventy or eighty peers who obeyed his summons that he intended to call a Parliament together on November 3.[2] The Lords at once resolved to appoint a Committee

[1] *Hist. Rebell.* ii. 95.

[2] An account of the proceedings of the Great Council from September 25 to October 28, containing notes of the speeches made, is printed in the *Hardwicke State Papers*, vol. ii. pp. 208–298; see also p. 186.

of sixteen of their number to treat with the Scots. Strafford urged that it was against the King's honour to treat with rebels, but he had lost all influence, and the peers with one accord preferred to follow the leadership of Bristol. 'Your father,' wrote Sir Kenelm Digby to Bristol's son, in an account of the first day's meeting, 'steereth affairs so dexterously, and securely, and masterly, that by the consent of all sides he is already put single to the helm; and what he speaks may rather be termed the assembly's resolution than his single opinion.'[1] Sir Kenelm compared Bristol to the 'foreman of a jury,' and said that he was 'at every rub called upon by the King, as if nothing could be well done that he did not dictate.' Bristol spoke to the King with a frankness to which Charles was not accustomed. 'Sir,' said he, 'you have called us hither, and are pleased to give us freedom of speech, and I hope your Majesty will give me leave to deal plainly with you.' Then he showed the weakness of the King's position and the strength of the Scots, and continued: 'You see, Sir, how you have lost your kingdom's heart by your taxes and impositions, and that till you be united to them by giving them just satisfaction in all their grievances, you are no great king; for without the love and hearts of his people what can a king do; and whosoever advises you otherwise he is against your honour and greatness.'[2]

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Bristol was equally candid in pointing out the limitations of the power of the Great Council itself. Lord North proposed that all the neighbouring counties and towns, as being most deeply concerned in the success of the King's arms against the Scots, should be urged to contribute money for the support of the army,

[1] *Lismore Papers*, second series, vol. iv. pp. 129, 135.
[2] *Report on the MSS. of the Duke of Rutland*, i. 524.

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and that the Lords themselves should agree to vote Charles a certain number of subsidies, and to advance their proportion thereof. Bristol answered that those ways were difficult and perhaps unfeasible, and that if the Lords should give subsidies by themselves it would be 'a kind of forestalling the Parliament,' and 'might put jealousies between the Commons and them.' Moreover, even if the plan should take effect, it 'would not serve to shoe the horses of the army.'[1] He urged that the only plan was to apply to the City for a loan until Parliament could meet, and for 'the whole body of the nobility and peers of the kingdom' to guarantee its repayment. This plan was adopted, six lords were sent to London, and the citizens, allured by the promise of an immediate meeting of Parliament, agreed to advance £200,000.

The negotiations with the Scots began at Ripon on October 2. There was a revulsion of feeling in the Council when it was discovered that they demanded a large monthly payment for the maintenance of their army, until peace should be definitely signed. Strafford urged that the King should stand on the defensive and let the Scots do their worst. Herbert of Cherbury[2] and some others were also in favour of resistance, but Bristol showed that it was impossible to resist successfully the further advance of the Scots, and cheaper to grant them a maintenance than leave them to levy contributions at their pleasure. In the end it was agreed to pay the Scots £850 per diem for the support of their army, to conclude a cessation of arms, and to remove the seat of the negotiations to London.

Bristol's influence in the Great Council was not merely due to his character and ability. He incarnated

[1] *Lismore Papers*, II. iv. 133.

[2] Rushworth, iii. 1293; *Hardwicke State Papers*, ii. 260.

the temper of the peerage at the moment. The great majority of them felt strongly about the misgovernment and the mistakes of the past, but demanded a change in the King's policy and not an alteration in the constitution. 'Hereafter when he shall play his part in the Parliament,' said Kenelm Digby of Bristol, 'he will show himself as stiff and rigid for the King's greatness and authority, as now he is to have things rightly understood.'[1] It remained to be seen how far such a purely conservative attitude could be successfully maintained by the Upper House. It had now assumed the position which it had declined to take in 1614. In the coming Parliament it was certain that the punishment of the King's obnoxious ministers would be demanded, and the demand would give the Upper House the position of arbitrators in the great quarrel. This, in the opinion of the politicians of that period, was the chief function of the House. 'The lords,' said a declaration drawn up for the King against the Parliament in 1642, 'being trusted with a judicatory power, are an excellent screen or bank between the prince and people, to assist each against any encroachments of the other, and by just judgments to preserve that law which ought to be the rule of every one of the three.'[2]

[1] *Lismore Papers*, II. iv. 139.

[2] Rushworth, iv. 731. The words are taken from the declaration in answer to the Nineteen Propositions. Clarendon complains that Colepeper and Falkland, who drew it up, forgot that the clergy were an estate of the realm. *Life*, ii. 61.

CHAPTER III

THE BEGINNING OF THE LONG PARLIAMENT

CHAP. III 1640

DURING the first two sessions of the Long Parliament the House of Lords was the arbiter between the Crown and the Commons. As in 1626 and in 1628 both Crown and Commons appealed to it for support, and once more it endeavoured to mediate between the two. Its inability to effect a compromise led directly to the Civil War, and indirectly to the abolition of the House of Lords itself.

In November, 1640, when the Long Parliament met, the Upper House consisted of about 150 members. There were two archbishops and twenty-four bishops, but as the Archbishop of York and two other bishops died within a few months after it began, and as the Archbishop of Canterbury was accused of high treason and sent to the Tower on December 19, the episcopal vote was usually under twenty.

The lay peers numbered 124 when the Parliament began. At a call of the House on November 16, six bishops and forty lay peers were noted as absent, so that the full strength of the House on important debates was about a hundred.[1]

[1] Parry, *Parliaments and Councils of England*, 1839, p. 340, gives the number as 124, and is followed by Masson, *Life of Milton*, ii. 150; Sanford, *Studies and Illustrations of the Great Rebellion*, p. 285, makes the number 123. There is a contemporary list, entitled 'A Catalogue of the Dukes, Marquesses, Earls, etc., that sit in Parliament,' published by Thomas Walkley, British Museum, E. 1901 (1), which enumerates 128 peers and bishops, but it was evidently drawn up about

Charles had good reasons for believing that he could rely on the support of a majority of the House. The contemporary list of the peers sitting divides those of each degree into three classes: those created or promoted by Charles himself; those created by James; and those whose peerages were of older date. The first class numbered forty-four, the second thirty-eight, the third forty-six. Add the bishops, and it is clear that about two-thirds of the House either owed their place there to the King and the King's father, or were indebted to them for an accession of rank. On the other hand, this majority was disorganised by the loss of its official leaders. Strafford was impeached and sent to the Tower on November 11, and Laud on December 19, while Lord Keeper Finch fled from England on December 22. Cottington, the Master of the Court of Wards, and Juxon, the Lord Treasurer, were both anxious to lay down their offices and escape into private life. In short, all officials, even court officials, sought to make their peace with the leaders of the Commons, especially those who had something to atone for. Henry Rich, Earl of Holland, was an example. He was a typical courtier: he had been first Buckingham's favourite, then the Queen's, was the chief instrument employed in the enforcement of the obsolete Forest Laws, and had profited by many illegal monopolies. Holland was willing to go a long way with the popular party, for he had vague ambitions, an old grudge against Strafford, and an instinctive desire to save his own skin. Clarendon describes him as 'a very fine gentleman' who 'too much desired to enjoy ease and plenty,' and thought poverty 'the most

February 1641, when there had been several new creations. In the Short Parliament of April 1640, the peers present are noted every day in the Journal; for the Long Parliament there are no lists of this kind till September 22, 1643.

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insupportable evil that could befall any man in this world.'[1]

Philip Herbert, Earl of Pembroke, was the brother of that Pembroke who had been leader of the country party at the beginning of the King's reign, and was perhaps influenced by his brother's example. He had gained the favour of James by the comeliness of his person, and by his skill and industry in hunting. As he 'pretended no other qualifications than to understand horses and dogs very well,' his success aroused no jealousy. James made him Earl of Montgomery, Charles Lord Chamberlain. He was reputed to be good-natured, though notoriously choleric, and to be honest because he was outspoken. Chance made this jovial sportsman a politician, which was unlucky, 'his understanding being easy to be imposed upon, and his nature being made up of very strong passions.' According to Clarendon, fear of being called to account for his part in the decrees of the Star Chamber and the Council made him surrender himself to the dictation of Lord Saye. He lost the place of Lord Chamberlain in July 1641, nominally on account of a quarrel with Lord Maltravers, in reality because he had encouraged the mob who cried for justice against Strafford.[2]

Owing to defections of this kind, the majority which the government had possessed in the Upper House during the Short Parliament could no longer be depended upon in the following November. It was still a majority, though reduced in numbers, but it was broken and discouraged. The part Bristol had played in the Great Council designated him

[1] Clarendon, *Rebellion*, i. 137.

[2] *Rebellion*, i. 127; vi. 399; *Clarendon State Papers*, ii. 144–148; *Cal. State Papers Dom.*, 1641–3, pp. 59, 62.

for leadership, but his influence was diminished by the lack of official position. He was not admitted to the Privy Council till February 19, 1641, nor restored to his old post as a gentleman of the Bedchamber till August 1641. The fact that he had not the complete confidence of the King prevented him from controlling the King's party, and besides this he had some personal disqualifications for party leadership. 'Though he was a wise man and a man of great parts,' says Clarendon, 'yet he had been for the most part single and by himself in business, which he managed with good sufficiency, and had lived little in consort; so that in council he was passionate and supercilious, and did not bear contradiction without much passion, and was too voluminous a discourser.' In short, his experience was diplomatic rather than political, and he was not accustomed to deal with assemblies.[1]

There was no very definite line of division between the two parties, but the opposition in the Upper House cannot have numbered much more than thirty peers. However, it proved the truth of Clarendon's words that 'three diligent persons are a greater number in arithmetic, as well as a more significant number in logic, than ten unconcerned.'[2] The opposition was better organised and better led, and since a considerable number of peers absented themselves, and many who sat had no very fixed opinions, its power was out of proportion to its numerical strength. The most influential member of the party was the Earl of Bedford. Clarendon terms him 'a wise man, and of too great and plentiful a fortune to wish a subversion of the government.' He adds that he was 'the only man with that authority with the

[1] Clarendon, *Rebellion*, vi. 388; *Cal. State Papers Dom.*, 1641–3, pp. 81, 106.

[2] Clarendon, *Rebellion*, iv. 74.

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leaders that he could to some degree temper and allay their passions.' Bedford's influence over the popular party in the Commons, and his known moderation, made him the ideal leader for a middle party.[1]

Saye had great authority, owing to his skill in debate, his political experience and his consistent defence of constitutional rights, but in ecclesiastical questions he was too much of a partisan to command a following. He and Lord Brooke were the only peers 'believed to be positive enemies to the whole fabric of the church,' and to desire the complete abolition of episcopacy. They were also held to be 'too favourable to the extreme sectaries.'[2]

The last of the three whom Clarendon describes as 'the principal agents in the House of Peers' was Edward Montague, who had sat in the House since 1626 as Baron Montague of Kimbolton, but was better known by his courtesy title of Viscount Mandeville. He was the son of that Earl of Manchester who was Chief Justice and Lord Treasurer under James I, had married a daughter of the Earl of Warwick, and since his marriage had become estranged from the court. 'No man,' says Clarendon, 'was more in the confidence of the discontented and factious party than he, and none to whom the whole mass of their designs, as well what remained in chaos, as what was formed, was more entirely communicated.' At the same time Mandeville was 'universally acceptable and beloved,' partly owing to his 'generous way of living,' partly to his 'natural civility, good manners, and good nature.' Obliged to censure, but unable to dislike him, Clarendon winds up by saying

[1] Clarendon. *Rebellion*, iii. 25, 192 n.
[2] Ib. iii. 26, 146.

that 'he loved his country with too unskilful a tenderness.'[1] CHAP. III 1641

In the early part of 1641 the King hoped to obtain the support of some of the popular leaders, and especially the popular peers, by personal favours and by places. He began by making seven of the peers Privy Councillors, viz. Bristol, Bedford, Essex, Hertford, Saye, Mandeville and Savile (February 19, 1641). 'All,' says Clarendon, 'were persons at that time very gracious to the people, and had all been in some umbrage at court, and most of them in visible disfavour there.' Robert Baillie, in one of his letters, calls them 'all commonwealthsmen,' that is champions of popular rights, and adds: 'this for two or three days did please all the world.'[2] Charles even went so far as to give offices to some of the popular peers. Holland was made general of the army (April 16, 1641), Saye Master of the Court of Wards (May 17, 1641), and Essex Lord Chamberlain. Savile was promised the Presidency of the Council of the North, while it was understood that Bedford was to be Lord Treasurer, and Mandeville Lord Privy Seal.[3] As the King was not prepared to give these new officers any real influence over his policy, their appointment led to no lasting result. It remained, in Clarendon's phrase, a 'stratagem for winning men by places,' and the death of the Earl of Bedford in May, 1641, removed the man whose influence might have made it the basis of a reconciliation.

It had been part of the original plan to give office to some of the popular leaders in the Lower House also; places were to be offered to Pym, Hampden, and Holles; but this part of the scheme was entirely abandoned,

[1] Clarendon, *Rebellion*, iii. 27; vi. 406.

[2] Clarendon, iii. 50; Baillie, *Letters*, i. 304, 305. Compare Sir Philip Warwick's character of Manchester, *Memoirs*, p. 245.

[3] Clarendon, *Rebellion*, iii. 83–88, 191, 213; iv. 79, 232.

CHAP. III 1641

except that St. John was appointed Solicitor-General. Its abandonment was due to the impossibility of effecting a compromise about Strafford, whose trial widened the breach between King and Commons, and threatened to create one between the two Houses. The Upper House was not absolutely averse to constitutional changes. The Lords passed on February 5, 1641, without any objection, the Triennial Bill, which provided machinery for the election of a Parliament every third year, whether the King summoned it or not. By it, if the King failed to call a Parliament, the Lord Chancellor, Lord Keeper, or Commissioners of the Great Seal were to summon one, and if those officials neglected their duty, any twelve peers might meet and issue writs for the purpose.[1] On the other hand, the Lords were rightly sensitive about the proper exercise of their judicial functions, and resented the attempts of the Commons to dictate their procedure.

To the Lords the question of Strafford's guilt or innocence was a judicial question, which must be legally proved, and the accused was entitled to certain definite rights. To the Commons the question was a political one. Strafford was a danger to the nation, and his capital punishment necessary to its safety. They had no sense of fair play. They regarded any license allowed to the defence, or any adjournment of the court to deliberate about its procedure, as culpable indulgence to a criminal, or wilful procrastination. On April 10, 1641, an open breach between the Houses took place. The managers of the accusation wished to offer fresh evidence in support of certain articles which had already been stated and answered. Strafford asked to be allowed to offer fresh evidence too. The Lords decided that both sides should be given permission, and should

[1] Rushworth, iv. 190.

specify those articles to which they wished to recur. CHAP. III

At this the Commons refused to allow their managers to go on with the case. 'The Commons,' says Baillie, 'on both sides of the House, raise in a fury, with a shout of "Withdraw, withdraw, withdraw," get all to their feet, on with their hats, cocked their beavers in the King's sight. We did all fear it should go to a present tumult. They went all away in confusion; Strafford slipped away to his barge, and to the Tower, glad to be gone lest he should be torn in pieces; the King went home in silence; the Lords to their House.' [1] 1641

In the Lower House that afternoon a bill of attainder against Strafford was brought in and read for the first time, but, before it went further, a conference took place in which the Commons endeavoured to persuade the Lords to recede from their decision. It was in vain, for the Lords were angry too. Some of them 'went so high in their heat as to tell the House of Commons, that it was an unnatural motion for the head to be governed by the tail, that they hated rebellion as bad as treason; that the same blood that ennobled their ancestors did also move in their veins, and therefore they would never suffer themselves to be suppressed by a popular faction.' [2]

For the moment the Commons gave way. On April 13 Strafford's defence was heard. Glyn complained in his reply that the Earl magnified the peers of the realm 'almost to idolatry,' and certainly Strafford neglected no opportunity of pointing out that the extension of the law of treason was dangerous to his judges. He besought their Lordships 'not to make

[1] Baillie, *Letters*, i. 346.

[2] *A Brief and Perfect Relation of the Answers, etc., of the Earl of Strafford*, 1647, p. 58.

CHAP. III 1641

themselves so unhappy, as to disable themselves and their children from undergoing the great charge and trust of the commonwealth. Their lordships have it from their fathers, they are born to great thoughts, and nursed up for the great and worthy employments of the kingdom, and God forbid that any but themselves, *caeteris paribus*, should have this great trust. . . . But let this be admitted that a counsellor delivering his opinion under an oath of secrecy and faithfulness at the Council table . . . shall upon his mistaking or not knowing of the law, be brought unto question, and every word that passeth from him out of a sincere and noble intention, shall be drawn against him, for the attainting and convicting himself, his children, and posterity; under favour, after this shall be so, he doth not know any wise and noble person of fortune, that will upon such perilous and unsafe terms adventure to be a counsellor to the King; and therefore if their lordships put these hard strains and tortures upon those that are counsellors of state to his Majesty, when they speak nothing but their hearts and consciences . . . this shall disable their lordships from those great employments to which their birth and thoughts do breed them, and make them more uncapable than any other inferior subjects.'

In a similar fashion Strafford drove home his argument that facts which were not treason taken separately could not cumulatively amount to treason; that the Commons were practically making a new law by their doctrine of constructive treason. 'My Lords,' he said, 'may your lordships be pleased to have that regard to the peerage of England, as never to suffer yourselves to be put upon those moot points, upon such constructions, and interpretations, and strictness of law as these are. If there must be a trial of wits, I do most humbly

beseech your lordships to consider that the subject may be something else than of your lives and honours.' [1] CHAP. III 1641

'Except your Lordships' wisdoms provide for it, it may be the shedding of my blood may make way for the tracing of yours. You, your estates, your posterity, lie at the stake. If such learned gentlemen as these, whose tongues are well acquainted with such proceedings, shall be started against you, if your friends, your counsel denied access to you, if your professed enemies admitted to witness against you, if every word, intention, or circumstance of yours be sifted and alleged for treason, not because of a statute, but because of a consequence, a construction of lawyers pieced up in a high rhetorical strain, and a number of supposed probabilities: I leave it to your Lordships' consideration to foresee what may be the issue of such dangerous and recent precedents.

'These gentlemen tell me they speak in defence of the commonwealth against my arbitrary laws, give me leave to say I speak in defence of the commonwealth against their arbitrary treason.' [2]

It would not have been surprising if these considerations had influenced the peers, but the conduct of the Commons furnished other grounds for declining to condemn the Earl. On April 15, when the lawyers on the two sides ought to have argued the legal questions at issue, the House of Lords received a request for an adjournment, and was informed that the Commons were considering a bill for Strafford's attainder. The motive for this change was the belief that the Lords would acquit Strafford, on the ground that his offences did not legally amount to treason. 'Without question

[1] Rushworth, *Trial of Strafford*, pp. 571, 659, 729.
[2] *Brief and Perfect Relation*, p. 64.

CHAP. III 1641

they will acquit him, there being no law extant whereupon to condemn him of treason,' wrote Sir John Coke, on April 17. 'Wherefore the Commons are determined to desert the Lords' judicature, and to proceed against him by bill of attainder, whereby he shall be adjudged to death upon a treason now to be declared.'[1] The Lords, indignant at this attempt to evade their verdict, answered the message of the Commons by declaring that they would go on with the trial, whether the Commons appeared or not, and after hearing counsel would proceed to deliver their judgment. A complete breach between the two Houses was imminent. It was reported that the Commons meant to pass their bill, to secede if the Lords and King refused to confirm it, and to declare to their constituents that 'they had deserted the Parliament for denial of justice.'[2] The financial confusion which existed at the moment strengthened the position of the Commons: Ship-money had been abolished, Tonnage and Poundage had not been voted, and the government was dependent on loans for the payment of the Scottish and English armies as yet undisbanded. In these circumstances the Lords thought it best to accept a compromise devised by Hampden and Pym. The change of procedure was allowed on the understanding that the legal arguments of both sides were to be fully stated, and that the Lords were to pass or reject the bill as they thought fit. On April 21 the Commons passed the third reading of the bill by 204 to 59 votes, in spite of an impassioned speech against it by Lord Digby.[3] The bill was

[1] *MSS. of Lord Cowper*, ii. 278; cf. Gardiner, *History of England*, ix. 294, 307.

[2] Baillie, ii. 346.

[3] For Digby's speech see Rushworth, iv. 225. He was one of the members for Dorsetshire. For his earlier speeches see ib. iv. 30, 146, 170. Digby was called in question for the speech on April 23, and it was ordered to be burnt on July 13.

at once sent to the Lords, who waited till April 26 before reading it a first time. There was a long debate, 'a great part of the Lords seeming much to oppose it.' The chief spokesmen of the opponents of the bill were Bristol and Savile. 'My Lord Savile,' wrote Baillie, 'was one of the stoutest lords in all England for the country and our cause at first, but since we made him a counsellor clearly the court way, for Strafford and all the court designs; he thought the receiving of the bill into the House prejudicial to the privilege of the peers. Essex took him presently up, and required him to explain himself; while he is doing it Stamford admonisheth him, he did not explain the words he spake, but others. He replied that Stamford durst not speak so to him in another place. He answered, if both were without the bar, he would speak so to him in another place, and he durst not challenge it.' The House stopped the altercation by ordering both to withdraw.[1] The bill was read a second time the following day, and then, in committee, the real struggle began. It was computed that about eighty lords had usually attended the proceedings during the trial, and of those thirty were in favour of passing the bill.[2] The bishops took no part in the trial on the ground that ecclesiastical persons ought not to have their hands in blood, but, despite the demands of the Commons, the Lords asserted the right of the barons created since the beginning of the session to sit and vote.[3] On April 29, St. John's argument for the bill was heard. It was reported that the Lords were yielding, partly because they

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[1] Baillie, *Letters*, i. 348; according to a letter quoted by Mr. Gardiner, Savile's words were 'that the Lower House did encroach upon the Higher House's liberties, and did not know their duties.' *History of England*, ix. 339.

[2] Gardiner, *History of England*, ix. 345, quoting a newsletter amongst the Tanner MSS. Clarendon, *Rebellion*, iii. 166.

[3] Clarendon, *Rebellion*, iii. 98–104.

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were convinced by him, partly on account of the rumoured plots for contriving Strafford's escape from the Tower. On May 1 the King intervened, and declared to the Lords that he would not consent to the bill, but would promise that Strafford should be debarred from office for life. 'I leave it to you, my Lords, to find some way to bring me out of this great strait, and keep ourselves and the kingdom from such inconveniences. Certainly he that thinks him guilty of high treason in his conscience may condemn him of misdemeanour.'[1] This intervention did great harm. The Commons were troubled and discontented by the King's interference, the Lords irritated by the attempt to dictate to them, the people enraged by the fear that Strafford's life would be spared. On Monday, May 3, when the two Houses met again, crowds of citizens and apprentices flocked to Westminster, and 'cried to every Lord as they went out and in, in a loud and hideous voice, for justice against Strafford and all traitors.' A detailed account of the scene is given in a contemporary pamphlet.[2]

'The storm was quiet from thence till Monday, when the people being inflamed again, by the King's speech, came to Westminster with the number of five or six thousand, having weapons and battoons in their hands; at the entering of every coach some cried Justice others Execution, a third man told his fellows that both were to be conjoined, and that Justice and Execution was the noble word; upon which (*quasi dato signo*) all the rabble cried aloud with one voice Justice and Execution, with a wonderful strange noise; some went to the coach sides, and told the Lords that they must

[1] *Lords' Journals*, iv. 232; *Nalson*, ii.; cf. Forster, *Grand Remonstrance*, p. 127 (extract from D'Ewes).

[2] Baillie, i. 351; Rushworth, iv. 249; *Brief and Perfect Relation*, p. 82.

and would have justice done upon the Deputy. In particular above a thousand of them beset the Lord Steward's coach, and demanded justice and execution of him. "Justice," said they, "we have gotten already, and we only desire (and must have it) execution." The Lord Steward replied they should have justice and execution, and desired them only to forbear and have patience awhile; "no," said they, "we have had too much patience, we will not suffer longer, and therefore, my Lord, before you go from us you must grant us execution'; the Lord Steward told them he was going to the House to that effect, and that they should have all content. But whilst they were about to detain him longer, some of the greatest power among them said, "we will take his word for once," and with difficulty enough made passage for him. CHAP. III 1641

'The Lords stayed within till twelve of the clock, nor was there any course taken in the mean time for dissolving of the multitude, the greatest part went home the back way by water, only when the Lord Holland, Lord Chamberlain, and Bristol, came out to their coach, all of them called justice and execution; but when they perceived that Bristol was in the coach they drew near to the coach side, and told him, "for you my Lord Bristol we know you are an apostate from the cause of Christ, and our mortal enemy, we do not therefore crave justice from you, but shall (God willing) crave justice upon you and your false son the Lord Digby."

'Let a man cast his eyes back now, but for some few months past, and he shall see what trust may be reposed in the favour of the giddy multitude, unless a man shall resolve to quit all religion and honesty, and to mould and fashion his conscience to the present distemper and fancy of the people; neither can he do

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so safely, when so much hazard lies in the inconstancy of their conceptions.' [1]

The Lords sent a message to the Commons asking for a conference about the means of preventing these tumults. The Commons returned a dilatory answer: they were busy discussing a 'Protestation' proposed by Pym that morning—that is, an act of association binding those who took it to maintain the Protestant religion, the authority of the King, and the privileges of Parliament. In the preamble it was said to be caused by the endeavours of designing men to engage the army against the Parliament. On the fourth of May the Protestation was sent up to the Lords: sixty-nine lay peers and nine bishops took it without hesitation. On the fifth Pym revealed the details of the plot for bringing up the army to overawe the Parliament, and the Lords appointed a committee of investigation.

The consideration of the Attainder Bill was resumed by the Upper House in committee on the fifth and seventh of May. The charges were discussed in order. Strafford was voted guilty on two charges; on the fifteenth article for levying money by force in a warlike manner in Ireland; on the nineteenth for imposing an oath upon the subjects in Ireland. The judges were then consulted on the question whether the charges voted to be proved amounted to high treason. They said 'that they were of opinion, upon all that which their Lordships have voted to be proved, that the Earl of Strafford doth deserve to undergo the pains and forfeiture of high treason by law.' [2]

On the morning of the eighth the Attainder Bill was passed, and both Houses petitioned the King for his assent. On the tenth the King complied with the

[1] *Brief and Perfect Relation*, p. 84, 85.
[2] *Lords' Journals*, iv. 239.

request by appointing three Lords as commissioners to signify his assent,[1] and Strafford suffered on Tower Hill two days later.[2] CHAP III 1641

The history of the Attainder Bill in the Upper House is obscure. There are no notes of the debates; the proceedings relative to Strafford were erased from the Journals at the Restoration; there are no private letters from peers present which might serve to elucidate the matter. The minute book for the period from April 11 to November 28, 1642, is missing, and even the precise number of votes by which the bill passed is uncertain. According to one account it was passed by twenty-six to nineteen votes; according to another by thirty-five to eleven; according to a third, by fifty-one to nine. The first are the figures usually accepted, and it is coupled with a statement of the reason for the smallness of the number. 'Upon Saturday, May the eighth, the bill against the Lord Strafford past the Lords, there were forty-five present, of which nineteen voiced for him, and twenty-six against him; the greatest part of his friends absented themselves upon pretence (whether true or supposititious) that they feared the multitude, otherwise his suffrages had more than counterpoised the voters for his death.' This is from a pamphlet called, 'A Brief and Perfect Relation of the Answers and Replies of Thomas Earl of Strafford,' etc., published in 1647.[3]

[1] *Lords' Journals*, iv. 243. The Lord Privy Seal, the Lord Chamberlain and the Lord Steward.

[2] Ib. iv. 245.

[3] The same figures are given in Sanderson's *Life of Charles I*, published in 1658 (p. 406), and in Whitelocke's *Memorials* (i. 130), put together after the Restoration. But Whitelocke expressly gives these figures as being the number of the voters on the fifteenth and nineteenth articles of the charge. *Diurnal Occurrences*, 1641, mentions under April 6 the vote on the two articles, and also the delivery of the opinion of the judges. The last certainly took place on April 7.

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Clarendon's statement, which was written in 1646, is: 'In an afternoon when there were only six and forty lords in the House (the good people still crying at the doors for "Justice"), they put the bill to the question, and eleven Lords only dissenting it passed the House.' [1]

The third statement is contained in a letter from Sir Henry Vane, Secretary of State at the time, to Sir Thomas Roe. 'This day the Earl of Strafford's Bill of Attainder passed the House. Many who had appeared much for him absented themselves; yet there were 60 present, whereof 51 voted for the bill, and 9 against it, the judges having before delivered their opinion that the treason was within the statutes.' [2]

This, though dated by mistake April 7, 1641, was clearly written on May 7. The probable solution of this conflict of evidence is that the figures given refer to votes on different stages of the proceedings. As to the names of the absentees, a statement contained in a letter dated May 6 supplies a little information. It says that most of his (*i.e.* Strafford's) friends in the Lord's House 'forsook him; all the popish Lords did absent themselves, the Lords of Holland and Hertford were absent, so was Bristol and others; Savile and the Duke (of Lennox) only stuck close and faithfully to him, and some few other Lords.' [3] The Journals prove that Lord Newnham, the Earl of Bristol, and the Earl of Holland, were excused from voting on the Attainder Bill, while six others obtained leave of absence, on the ground of illness, between May 5 and May 8.[4]

[1] Clarendon, *Rebellion*, iii. 196. This passage is from the original *History*, and was written in the summer of 1646.

[2] *Cal. State Papers Dom.*, 1640–1, p. 571. Baillie, writing on the same day, says: 'The Higher House has with one consent voiced Strafford guilty of the facts charged especially in the 15th, 21st, 27th articles; only nineteen who were either his allies or witnesses went out before the voicing' (i. 352).

[3] Letter said to be written by Father Phillips to Walter Montague; Rushworth, iv. 257.

[4] *Lords' Journals*, iv. 235, 236.

The reduction of the number of peers voting, whether from eighty to sixty, or from eighty to forty-five, was not due to fear of mob violence. That motive perhaps affected a few of their number, but not so large a proportion. As a matter of fact, the tumults took place on the third and fourth of May, and were practically over before the bill was considered in committee, or read for the third time. It is not only a question of absentees. There is also a certain transference of votes from one side to another to be accounted for. The real explanation is the change in the political situation during the last days of the bill. The implacability of the Commons—their absolute refusal to accept any compromise—was a fact which events had made clearer than it had been when the trial began. In the second place, the King, by showing an inclination to appeal to force against the Parliament instead of confining himself to legal ways, had created a feeling of alarm and distrust which weakened the middle party. The necessity for an agreement between the two Houses, even at the cost of Strafford's life, became clear. The acceptance by the Lords of the bill against the dissolution of the existing Parliament without its own consent was a sign of this. Ostensibly the measure was rendered necessary by the refusal of merchants to advance money without some security for the continuance of Parliament. It was introduced in the Lower House on May 4, and passed by the Lords on May 8. The Upper House suggested an amendment to the effect that the operation of the bill should be limited to two years, but withdrew the proposal in deference to the objections of the Lower House. So the bill received the royal assent on May 10 at the same time as the Attainder Bill.[1]

[1] Clarendon, *Rebellion*, iii. 206–208, 230; *Lords' Journals*. Baillie, *Letters*, i. 352; Gardiner, *Constitutional Documents*, p. 158.

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The Act provided that during this present Parliament the House of Peers should not be adjourned 'unless it be by themselves or their own order,' but it altered the position of the Commons far more than that of the Lords. Clarendon terms the measure 'The Act for the perpetual Parliament,' and says its effect was 'to remove the landmarks and destroy the foundation of the kingdom.' He adds that after its passing 'the House of Commons took much more upon them in point of their privileges than they had done, and more undervalued the concurrence of the Peers.'

The rest of the session, which lasted four months longer, was quieter, but the independence of the House of Lords was menaced from both sides. The King sought to secure a permanent majority in it by adding to its numbers, the Commons by diminishing them. In February, 1641, Edward Littleton, who had succeeded Finch as Lord Keeper was created Baron Littleton of Mounslow, and Sir Francis Seymour, brother of the Marquis of Hertford, Baron Seymour of Trowbridge. In July Thomas Bruce, Earl of Elgin, was created Baron Bruce of Whorlton, in Yorkshire, and in August, Arthur Capel, one of the members for Hertfordshire, was made Baron Capel of Hadham. During the same period about eight eldest sons of peers were summoned to sit in the Lords by writ. Of these the most important was Lord Digby (June 9), who had made the Lower House too hot to hold him, and was threatened with punishment by it for the publication of his speech against Strafford's attainder.[2]

It had been reported in February, 1641, that the

[1] *Rebellion*, iii. 230.

[2] See *Lords' Journals* for the date of their introduction and for creations by patent. On Digby's elevation see Gardiner, ix. 386.

King meant to create a number of new peers who were to pay largely for their titles. Capel and others are said to have made such payments.[1] The Upper House endeavoured to put a stop to this project. On July 2, 1641, they asked the Commons for a conference, in order 'that both Houses may petition his Majesty that titles of honour may not be bought and sold for money, but that they may be conferred as anciently for virtue and merit, and that a bill to this effect may begin from the first day of this Parliament.'[2]

Meantime the Commons persistently pressed for the exclusion of bishops and Catholic peers from the Upper House. On May 1 they passed and sent up to the Lords a bill for the restraining bishops and other persons in holy orders from intermeddling in secular affairs. On May 24 and 25 it was discussed in the Upper House, and an amendment was inserted to the effect that the archbishops and bishops shall have suffrage and voice in the House of Peers in Parliament. This, says Dr. Gardiner, 'was a defiance of the majority in the House of Commons.' They retorted by adopting the bill for the complete abolition of episcopacy, usually termed the Root and Branch Bill, which was read twice by the Commons on May 27. Neither this threat nor the arguments used at a conference on June 4 convinced the Lords, and they threw out the bill for the exclusion of the bishops on June 8, 1641.[3]

Observers predicted trouble. 'The business of the bishops will be of dangerous consequence,' wrote Sidney Bere to Pennington, 'they being violent and passionate

[1] Gardiner, *History of England*, ix. 293; Sanford, *Studies and Illustrations of the Great Rebellion*, p. 421; *Cal. State Papers Dom.* 1641–3, p. 38.

[2] *Lords' Journals*, iv. 297. A bill of the kind was read a third time in the Lords on May 14, 1642, passed, and transmitted to the Commons. Capel and five other peers protested. *Lords' Journals*, v. 64.

[3] *Lords' Journals*, iv. 257, 259, 265, 269. Gardiner, *History of England*, ix. 378.

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in their own defence, and having engaged, as it were, thousands by their late votes in their favour, to the maintenance of their cause, whereas the Commons seem as resolute to pass the bill for their utter extirpation, and to transmit it to the Lords according to the custom, and then it may justly be feared the City will prove as turbulent as they were in Strafford's case.' [1]

The second aim of the Lower House was to deprive Catholic peers of their votes. At the beginning of the session the Upper House had directed that all prosecutions against recusants who were peers should be suspended, in order that they might exercise their parliamentary rights (December 15, 1640). The Lower House complained of this, 'there being more cause of fear from them in regard of their power and greatness than others,' and when a bill for disarming recusants was passed, peers were included in the disarmament (August 30, 1641).[2] An attempt was also made to use the 'Protestation' to exclude them. Two Protestant lords, namely, Southampton and Robartes, had declined to take it, alleging that there was no law that enjoined it, and that there was no knowing what results such engagements might produce. The Commons published, on May 13, an official explanation of the Protestation, to the effect that the pledge to maintain 'the true reformed Protestant religion expressed in the doctrine of the Church' did not imply any promise to maintain the existing form of government or forms of worship. It was felt to be unfair that one House should assume the right to interpret an engagement taken by both. In July the Commons transmitted to the Lords a bill for imposing the Protestation on the whole nation, under

[1] Sidney Bere to Pennington, June 17, 1641. Forster's *Arrest of the Five Members*, p. 96.

[2] *Lords' Journals*, iv. 110, 384.

the title of an Act for the securing of the true religion; this the Lords rejected at its second reading on July 29.[1] The Commons retorted by voting that all who refused the Protestation were unfit to be in office in Church or state, and ordered the vote to be printed and circulated amongst their constituencies. When the Lords complained the Commons justified their action, saying that they meant the Protestation as 'a Shibboleth to discover a true Israelite.' This was not only an affront to the Lords, but the imposition of an illegal test on the whole nation. But the difference was smoothed over by the intervention of the King, who was anxious not to be delayed in his intended journey to Scotland.

The breach between the two Houses in ecclesiastical matters grew wider as the session progressed. The Lords had on January 16, 1641, published an order that divine service should be everywhere celebrated according to law, and that all who disturbed it should be punished.[2] On March 1 they appointed a committee to take into consideration all innovations in the Church concerning religion. John Williams, Bishop of Lincoln, was its chairman. A bill for 'the better regulating Archbishops, Bishops, Deans, and Chapters, for the better ordering of their revenues, and for the better governing of the courts ecclesiastical' was drawn up by this committee, and read twice in the House.[3] The Commons were not content to wait for the passing of the bill, nor to limit themselves to enforcing the existing laws about religious worship. On September 8 they passed a series of orders for the suppression of innovations in

[1] *Lords' Journals*, iv. 333, 337, 338; Nalson, *An Impartial Collection*, ii. 414, 415; Clarendon, *Rebellion*, iii. 187, 231; Gardiner, *History of England*, ix. 353, 361, 413; *MSS. of Lord Montagu of Beaulieu*, p. 130; *Cal. State Papers Dom.*, 1641–3, p. 761; *Perfect Occurrences*, p. 317.

[2] *Lords' Journals*, iv. 134; Gardiner, *History of the Civil War*, ix. 267.

[3] Ib. ix. 401; *Constitutional Documents*, p. 163.

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public worship, enjoining the removal of communion tables from the east end of churches, the taking away of all crucifixes and scandalous pictures, and the cessation of the practice of bowing at the name of Christ, &c. They then applied to the Lords for their concurrence. The Lords replied by printing and publishing the order they had made on January 16 for the maintenance of the *status quo*. But out of the twenty peers who were present nine voted in the minority, and six protested against the refusal to confer with the Lower House, and to ask their assent before publishing the order.[1]

The Commons then published the orders of the two Houses together, with a commentary exhorting the people to wait quietly 'for the reformation intended, without any tumultuous disturbance of the worship of God.' Clarendon terms the conduct of the Lower House 'a transcendent presumption and breach of privilege,' but the worst of it was that the people everywhere disobeyed the order of the Lords and obeyed the resolutions of the Commons.[2]

The recess lasted from September 9 to October 20. As soon as the Houses met again the attacks on the bishops and the Catholic lords were vigorously renewed. The Commons, abandoning the policy embodied in the Root and Branch Bill, introduced another bill for the exclusion of the bishops from the House of Lords, passed it through all its stages in three days, and sent it up to the House of Lords. Nicholas told the King, on October 25, that it had passed its first reading in the Upper House, which 'intended to speed it as fast as may be, notwithstanding it is said to be against the

[1] The Protesters were Bedford, Warwick, Clare, Newport, Wharton and Mandeville. Littleton, Manchester and Hunsdon voted in the minority but did not protest.

[2] Nalson, *Impartial Collection*, ii. 481; Gardiner, x. 16; *Lords' Journals*, iv. 392, 395; Clarendon, *Rebellion*, iv. 8; Evelyn's *Diary*, iv. 84, 85, 110.

ancient order of Parliament to bring in a bill again the same session that it was rejected.' The King answered: 'Bid my servants make as much use of this objection as may be.' More effective was the circulation (by the King's order) of an extract from a letter which Charles had just written to Nicholas. It denied the report that he intended to alter the government of the Church of England, and assured his servants that he was 'constant to the doctrine and discipline of the Church, and would die in its maintenance.'[1] On the other hand the Commons demanded that the Lords should debar the bishops from voting on the bill, on the ground that it was not fit they should be judges in their own case. The Lords neither assented nor refused, but postponed the further discussion of the subject till November 10. When the day came the bill was not taken up again. 'The bill for the removing the bishops out of our House sticks there,' wrote Northumberland, 'and whether we shall get it passed or not is very doubtful, unless some assurance be given that the rooting out of the function is not intended.'[2] It was no easier to get rid of the persons of the bishops. Thirteen had been impeached on August 4 for their part in the illegal canons passed by Convocation in 1640. On October 26 the Commons demanded that these thirteen should be sequestered from the House till their case had been decided.[3] The Lords postponed their decision on this question too, and meanwhile the King signified his intention of appointing five new bishops to fill the vacant sees.[4]

[1] Evelyn's *Diary*, iv. 104, 111, 112; cf. Sir Philip Warwick's *Memoirs*, p. 185.

[2] *Lords' Journals*, iv. 407; Northumberland to Roe, November 12; *Cal. State Papers Dom.*, 1641–3.

[3] *Lords' Journals*, iv. 340, 407, 436; Evelyn, iv. 114, 116; Clarendon, *Rebellion*, iv. 37.

[4] Evelyn, iv. 89, 96, 114, 116, 129; Clarendon, *Rebellion*, iv. 34.

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As to the Catholic Lords, the Upper House, pressed once more by the Commons to deprive them of their votes, declined to accede, and simply ordered that the laws against recusants should be put into execution.[1] Thus at the beginning of November, 1641, the leaders of the Commons found themselves brought to a standstill. They resolved to appeal to the nation by drawing up and publishing the Grand Remonstrance. That manifesto was not merely an indictment of the King for his past misgovernment, and a catalogue of the reforms achieved by the popular party. It was also an attack upon the Upper House for preventing the further progress of the work of reformation. In one clause it declared, that there was 'such a party of Bishops and Popish lords in the House of Peers, as hath caused much opposition and delay in the prosecution of delinquents, [and] hindered the proceeding of divers good Bills passed in the Commons' House, concerning the reformation of sundry great abuses and corruptions both in Church and State.' It enlarged upon the dangers created by the plots for employing the army against the Parliament, and by the rebellion in Ireland, but professed the incapacity of the Commons to devise a remedy.

'What hope have we but in God, when the only means of our subsistence and power of reformation is under Him in the Parliament?

'But what can we the Commons [do] without the conjunction of the House of Lords, and what conjunction can we expect there, when the Bishops and recusant Lords are so numerous and prevalent that they are able to cross and interrupt our best endeavours for reformation?'[2] At first it was believed that the Remonstrance

[1] Evelyn, iv. 132; *Lords' Journals*, iv. 429.

[2] Gardiner, *Constitutional Documents*, ed. 1899, p. 228.

would be offered to the Lords for their concurrence, but these passages explain why it was not sent.[1] Colepeper urged that a Declaration coming from the Lower House alone went upon but one leg; to which Pym replied that the matter of this particular Declaration was in no respect fit for the Lords, because many of the Lords were accused.[2]

The Remonstrance passed the Commons on November 22. Three days later the King returned to London from Scotland. He had been encouraged to refuse any compromise on the Church question by the change which had taken place in the political situation during the last few months. In the course of September the Scottish and English armies had been disbanded. It ceased to be necessary to provide about £80,000 per month for their maintenance. The Commons had granted the King about a million and a half since the Parliament began, and he was no longer compelled to give way to them by the mere pressure of his financial necessities. At the same time Parliament could no longer reckon on the support of the Scots against the King. By the political settlement which Charles had effected during his visit to Edinburgh, he flattered himself that he had won the hearts of the Scottish people, and was secured against their future intervention in England. There were also signs of a reaction in England. The King's party in the Lower House had notably increased, and in London the Lord Mayor and the richer citizens seemed to be on his side. Backed by them, and by the majority of the Upper House, he felt able to resist the demands of the Commons and their leaders.

[1] Evelyn's *Diary*, iv. 116, 130, 132, 141.

[2] Forster, *Grand Remonstrance*, p. 304; cf. pp. 310, 311, 317, 323-6, 334, 402. Clarendon's statement is incorrect, iv. 52.

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The King's calculation was upset by the outbreak of the rebellion in Ireland on October 23, 1641. It became necessary to raise money to suppress the rebellion, and that could only be obtained from the Commons. It became necessary to raise forces, and the Commons declined to trust the King with the control of an army, unless they obtained some guarantee that it should not be employed against themselves. For this reason the Lower House began to lay hands upon the executive.

On November 8, in some instructions drawn up for a committee of the two Houses, Pym demanded that the King should employ only such counsellors and ministers as should be approved by Parliament. The Upper House demurred when its agreement was asked for. 'This stops in our House, and I believe will hardly pass us without some alteration,' wrote Northumberland.[1] The Earl of Bristol and his son, Lord Digby, were particularly vehement in their opposition, and in the end the consideration of the question was adjourned. Nicholas urged the King to take notice of 'the singular good service that was in that business done by the two noblemen, especially by the son, who did beyond admiration,' and Charles promised to thank them in person as soon as he came to London.[2]

Here, as in ecclesiastical matters, the policy of the Commons was frustrated by the refusal of the Lords to act with them. A new appeal for co-operation was made at the beginning of December. On December 3, say the notes of a member of the Commons, Pym 'moved for a committee to review what bills we had passed, and the Lords rejected, and the reasons why; and

[1] Gardiner, *History of England*, ix. 55–59; *Commons' Journals*, ii. 307; *Lords' Journals*, iv. 431, 435.

[2] Evelyn's *Diary*, iv. 134.

if the Lords would not join with us, then let us go to the King, and make a declaration to the people, to let them see where the obstructions lie; and because the Lords have a liberty to protest, and cannot be involved by the major part, let us take those Lords with us, and represent the obstruction to the King.'

The Committee was appointed, and instructed to enumerate the acts in question, and to say bluntly, 'This House being the representative body of the whole kingdom, and their lordships being but as particular persons, and coming to Parliament in a particular capacity, if they shall not be pleased to consent to their passing of these acts, and others necessary for the preservation and safety of the kingdom, then this House, together with such of the Lords as are more sensible of the safety of the kingdom, may join together and represent the same to his Majesty.' [1]

Immediately after this a new disagreement between the two Houses took place. The Commons had transmitted to the Lords a bill for impressing soldiers to serve in Ireland, wherein they had introduced a clause denying the King's right to compel men to military service outside their own counties, except in case of actual foreign invasion. The Lords declared that this took away one of the prerogatives of the Crown, and altered the clause. Neither House seemed inclined to give way. While this dispute was still in progress the King intervened with a proposal for the insertion of a clause of his own devising (December 14). Both Houses at once united in drawing up a strong protest against this breach of their privileges.[2] Four days

[1] Verney's *Notes of Proceedings in the Long Parliament*, p. 131; *Commons' Journals*, ii. p. 330; compare *Memoirs* of Sir Philip Warwick, p. 186.

[2] *Lords' Journals*, iv. 462, 463, 469, 473–477; Gardiner, *History of England*, x. 95; Clarendon, *Rebellion*, iv. 88.

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later the Commons again urged the Lords to pass the Impressment Bill, saying that they had done all they could to relieve the distressed Protestants in Ireland, and that the responsibility for the blood and misery which delay would cause would rest on the Lords.[1]

Immediately after this a new cause of difference arose. The King suddenly dismissed Sir William Balfour, the Lieutenant of the Tower, and appointed in his place on December 23, Sir Thomas Lunsford—a man of evil reputation and no scruples, whose appointment was regarded as the prelude to some act of violence against the popular leaders.[2] The Commons asked the Lords to join in a petition for his removal—the Lords refused, on the ground that 'they took the placing, or displacing of the King's officers to be part of the King's prerogative, and therefore they would not meddle with it' (December 23). Next day the Commons sent the Lords a declaration that the kingdom was in 'great and imminent danger,' through the designs of the Papists and the malignant party in England. They complained of 'the delays and interruptions' which their attempts to provide against this danger had met with in the House of Peers, 'as we conceive by the great number of Bishops and Papists notoriously disaffected to the common good.' They concluded by saying that they meant to petition the King on the subject, 'and if any of your lordships have the same apprehension that we have, we hope they will likewise take some course to make the same known to his Majesty, and will further do what appertains to persons of honour and fidelity for the common good.'[3]

[1] *Lords' Journals*, iv. 482.
[2] Clarendon, *Rebellion*, iv. 102, 147.
[3] *Lords' Journals*, iv. 488.

The Upper House deferred the discussion of this declaration to its next meeting, though twenty-two peers of the popular party protested against the postponement, on the ground that the matter concerned 'the instant good and safety of the king and kingdom.'[1] On this refusal to co-operate the Commons asked Lord Newport, the Constable of the Tower, to take charge of the Tower himself, and thus supersede the Lieutenant. The King promptly dismissed Newport, on a charge which he withdrew five days later as baseless.[2]

Meanwhile London, equally threatened by Lunsford's appointment, had joined in the movement. It was on a petition from some of the Common Council that the Commons had originally taken action. Both citizens and apprentices had also petitioned against the retention of bishops and Catholic peers in the Upper House, and every turn in the political struggle at Westminster was watched with anxiety in the City.[3] On December 26, the Lord Mayor informed the King that he could not answer for the public peace unless Lunsford was removed; the apprentices would try to storm the Tower. Yielding to this pressure the King dismissed Lunsford and appointed Sir John Byron instead. However, this did not put a stop to the popular excitement. Crowds of apprentices and citizens flocked to Westminster to demonstrate in support of the Commons. There were tumults on Monday, December 27, and on the two following days, in which swords were drawn and blood was shed. Popular members of both Houses were cheered, unpopular ones insulted, as they went in or out. 'I was witness,' says Sir John Bramston in his autobiography, 'to a lane made in both Palace

[1] *Commons' Journals*, ii. 354; *Lords' Journals*, iv.; Rushworth, iv. 460.
[2] *Commons' Journals*, ii. 357.
[3] Rushworth, iv. 459, 462; Nalson, ii. 733, 776.

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Yards, and no man could pass but whom the rabble gave leave to, crying: "A good Lord," or "A good man"; "Let him pass." I did see the Bishop of Lincoln's gown torn as he passed from the stairhead into the entry that leads to the Lords' House.'[1] According to Clarendon, 'No Bishops' and 'No Popish Lords' were the popular cries, and certain peers were designated as 'false, evil and rotten-hearted Lords.'[2] The bishops, unarmed, and easily distinguished by their dress, were the object of special animosity, and some feared for their lives. Hall, Bishop of Norwich, relates their adventures on the first day of the riots. 'The rout,' he says, 'did not stick openly to profess that they would pull the bishops in pieces. Messages were sent down to them from the lords. They still held firm both to the place and their bloody resolutions. It now grew to be torch-light. One of the lords, the Marquis of Hertford, came up to the bishops' form, told us that we were in great danger, advised us to take some course for our own safety, and being desired to tell us what he thought was the best way, counselled us to continue in the Parliament house all that night; "for," (saith he) "these people vow they will watch you at your going out, and will search every coach for you with torches, so as you cannot escape." Hereupon the House of Lords was moved for some order for the preventing their mutinous and riotous meetings. Messages were sent down to the House of Commons to this purpose more than once. Nothing was effected; but for the present (for so much as all the danger was at the rising of the house) it was earnestly desired of the Lords that some care might be taken of our safety. The motion was received by some lords with a smile. Some other

[1] *Autobiography of Sir John Bramston*, p. 82.

[2] Clarendon, *Rebellion*, iv. 297.

lords, as the Earl of Manchester, undertook the protection of the Archbishop of York and his company (whose shelter I went under) to their lodgings; the rest, some of them by their long stay, others by secret and far-fetched passages, escaped home.'[1] CHAP. III 1641

The Lords applied to the Commons to join them in a declaration against tumultuous assemblies, and in a petition to the King for a guard, but the Commons refused to concur in the declaration, though they offered, after some delay, to join in the request for a guard, provided it might be commanded by the Earl of Essex. The fact was that they were not willing to discourage their friends in the City, and were far more afraid of the King than of the mob.[2] On the 28th the mob was as bad as ever, and an attack was made, but repulsed, on Westminster Abbey. Only two bishops—Goodman, Bishop of Gloucester, and Pierce, Bishop of Bath and Wells—ventured to appear in the House. Lord Digby moved a resolution to declare that Parliament was no longer free in consequence of the pressure of the rabble, saying that the House of Commons had 'invaded the privilege of the Lords' House and the liberty of the subject.'[3] But the resolution was defeated by a majority of four, in a House of fifty-four, for the Lords were not disposed to provide the King with a pretext for getting rid of the Parliament. They preferred to guarantee the future freedom of their debates by ordering the sheriffs of Middlesex and London, and the justices of Westminster, to suppress the mob, and by prohibiting the wearing of weapons in the vicinity of the Parliament.[4]

On December 29 twelve bishops, at the instigation of

[1] Wordsworth, *Ecclesiastical Biographies*, iv. 297.
[2] Ib. x. 118; *Lords' Journals*, iv. 491–495; *Commons' Journals*, ii. 358–361.
[3] Gardiner, *History of England*, x. 118.
[4] *Commons' Journals*, ii. 361; Gardiner, *History of England*, x. 119, 123.

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Archbishop Williams, drew up a protestation declaring that, as they had been kept out of the House by violence, all laws and resolutions made in their absence were null and void, and presented it to the King for transmission to the Lords. This attempt to nullify the vote of the House on the previous day was too much for the Lords to endure; all concurred in regarding it as dangerous as well as foolish, and the enemies of the bishops exulted saying that the finger of God was bringing that to pass which they could not otherwise have compassed. The protestation was at once communicated to the Lower House, as 'intrenching upon the fundamental privileges and being of Parliament,' and therefore a business 'concerning the whole Parliament.' The Commons promptly impeached the twelve signatories for high treason, and by night they were all lodged in prison.[1]

A contemporary letter describes the protestation as a plot of the bishops 'to make the Parliament no Parliament, and so to overthrow all acts past, and to cause a dissolution of it for the present.'[2] In that sense the House of Commons regarded it, and the majority of the peers looked upon it in much the same light. Even Clarendon characterises the conduct of the bishops, after making every possible excuse for them, as an indiscretion which gave such 'scandal and offence to all those who passionately desired to preserve their function' that only one member in the House of Commons raised his voice in their behalf, and his apology was that 'they were stark mad.'[3]

[1] *Lords' Journals*, iv. 496; Clarendon, *Rebellion*, iv. 142.

[2] Thomas Smith to Sir John Pennington, December 30, 1641; Forster's *Arrest of the Five Members*, p. 99.

[3] Clarendon, *Rebellion*, iv. 145.

It is unlikely that the absence of the bishops would have led the Lords to pass the bill for their permanent exclusion, nor did the loss of their votes give the opposition a majority in the House. The King could still count on the support of the Lords both on the ecclesiastical and the constitutional issue, but he wilfully threw it away by taking the aggressive. By his command, on January 3, 1642, the Attorney-General impeached Lord Mandeville and five members of the Lower House of high treason, asking the Lords to order their arrest and appoint a committee to examine into the charge. The most important article was one accusing them of inviting the Scots to invade England. Mandeville's inclusion was an afterthought. Originally the Attorney-General's instructions were to object to seven peers as members of the examining committee, namely Essex, Warwick, Holland, Saye, Wharton, Brooke, and Mandeville, on the ground that they were to be called as witnesses. But the King with his own hand struck Mandeville's name out of the list of witnesses, and added it to the list of the accused. The alteration was a great error, for if Mandeville was guilty of inviting the Scots, so were nearly a dozen others. Mandeville vehemently denied the charge, and though the majority of the fifty-five lay peers present were men who subsequently took up arms for the King, not one of them moved for his committal. Instead of complying with the demands of the King, the House appointed a committee to inquire whether the Attorney-General's procedure had been according to law. Charles did another foolish thing by sending the Serjeant-at-Arms to arrest the five members of the Commons, instead of leaving the Lords to decide on the question in the usual way. Next day he committed the crowning folly of attempting to

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arrest them himself, thus further assailing the privileges of both Houses.[1]

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Offended though they were, the Lords behaved with great moderation. They concurred with the Commons in petitioning for a guard, and passed a bill sent up from the Lower House enabling the Parliament to adjourn its sittings to any place it thought fit. After investigating the facts and precedents they voted that the impeachment was a great breach of privilege, and joined in a petition to the King for redress. But they firmly declined to join the Commons in demanding the removal of Sir John Byron from the government of the Tower and the appointment of Sir John Conyers in his place. They refused on January 11, and again on January 17. On the last occasion seventeen lords entered a protest against their decision. On January 24 the House also refused to join the Commons in demanding the control of the forts and the militia, though this time thirty-two lords protested against the refusal.[2]

Clarendon speaks of these protests as a device invented by the leaders of the popular party to overcome the resistance of the Upper House, by making its divisions public, and so putting pressure on the members of the majority.

'When the House of Commons found that none of these extraordinary ways would throughly subdue the House of Lords, but that, though they had very sturdy champions there, the major part (albeit the bishops and all the recusant lords were driven from thence) still opposed them, whereby neither the bill for the taking away the bishops' votes, nor for pressing, could pass,

[1] *Lords' Journals*, iv. 500; Clarendon, *Rebellion*, iv. 150; Forster, *Arrest of the Five Members*, p. 114; *Nicholas Papers*, i. 62; Gardiner, *History of England*, i. 131.

[2] *Lords' Journals*, iv. 506, 514, 516, 521, 528, 533.

and that they peremptorily still refused to join in the business of the militia; they found a new way, as unpractised and as unnatural as any of the former, whereby they would be sure to have an influence upon the House of Peers. It is an old custom and privilege of that House that, upon any solemn debate, whosoever is not satisfied with the conclusion and judgment of the House may demand leave to enter his protestation, which must be granted. The original of this was in jealous times, when men desired, for avoiding the ill consequences of any act there, that their dissents might appear; and was very seldom practised but when they conceived religion or the Crown trenched upon. . . . But since this Parliament, as they altered the custom from cases of high concernment to the most trivial debates, the minor part ordinarily entering their protestation to the end that their opinions might be taken notice [of], and who were opposite to them, whereby the good and bad lords were known and published, so they altered the form, and, instead of short general entries, caused the matter of the debate to be summed up, and thereupon their protestation that they were not to be answerable for any inconveniences or mischieves that should befall the commonwealth by reason of this or that resolution. So that from an act for the particular indemnity of the person that made it, it grew to be a reproaching and arraigning the sense of the House by any factious number that disagreed. Then, because the House of Peers is a court of record, they concluded that "any man upon any occasion might peruse their journals"; and so every night the House of Commons could see how the debates had been managed and carried all the day, and take public notice and make use of it accordingly, which they could not do of those discourses they received from the[ir]

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confidants; for supplying whereof this trick was most unjustifiably found out.'[1]

The protests were backed by petitions in support of the policy of Pym and the Commons; from the merchants and citizens of London, from the artizans and the apprentices of the City, and from all the adjacent counties.[2] On January 25, at a conference, Pym presented petitions from London, Middlesex, Hertfordshire, and Essex in favour of the policy of the Commons, and appealed to the Lords for co-operation.

Taking first one subject, then another, he showed what obstructions and delays the measures proposed by the Commons had met with in the Upper House, and the dangers which had resulted therefrom. 'Whatsoever mischief this obstruction shall produce,' he said, 'we are free from it; we may have our part in the misery, we can have no part in the guilt or dishonour.' At the conclusion he said: 'I have nothing to propound to your lordships by way of request or desire from the House of Commons. I doubt not but your judgments will tell you what is to be done: your consciences, your honours, your interests, will call upon you for the doing of it. The Commons will be glad to have your concurrence and help in saving of the kingdom, but if they fail of it, it should not discourage them in doing of their duty. And whether the kingdom be lost or saved (but I hope through God's blessing it will be saved) they shall be sorry that the story of the present Parliament should tell posterity, that in so great a danger and extremity the House of Commons [were] enforced to save the kingdom alone, and that the House of Peers should have

[1] Clarendon, *Rebellion*, iv. 254; cf. v. 361.

[2] *Lords' Journals*, iv. 521, 523, 534–536, 538–540, 544.

no part in the honour of the preservation of it, you having so great an interest in the good success of those endeavours, in respect of your great estates and high degrees of nobility.'[1]

Neither these appeals nor the steady pressure of the Lower House made the Lords give way. Nor was it, as Clarendon asserts, fear of the London mob. There were no serious riots in January as there had been in December, and both Houses were now adequately guarded. The King's party in the House was broken up by his attempts to get possession of Hull and Portsmouth, by the discovery that he was plotting to introduce foreign troops into England, by all the evidence of a design to appeal to force which came to light during the latter part of January. Some of the majority absented themselves; others changed sides. The middle party no doubt argued that the best hope of peace lay in persuading the King to yield what the Commons desired.[2]

On February 1 the Upper House joined the Lower in petitioning for the control of the militia, on the fifth it passed the bill for the exclusion of the bishops, and on the eighth it agreed to the Impressment Bill. The union of the two Houses obliged the King to give way. On February 6 he sent a conciliatory and a temporising answer to the demand for the control of the militia. On the 15th he gave his assent, by commission, to the Impressment Bill, and to the bill for the exclusion of the bishops. The passage of the latter bill made a great and a very visible change in the composition of the Upper House. On February 16

[1] *Lords' Journals*, v. 542.

[2] An examination of the *MS. Minute Book of the House of Lords* shows that while there were about sixty peers usually present at the end of January, the average during February was less than forty.

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the Lords appointed a committee to consider 'how the peers shall sit in this House now that the bishops' seats are empty.' A casual visitor a few days later noticed the alteration produced in the appearance of the assembly. 'There was,' says Sir Symonds D'Ewes, 'but a thin House of Lords, and on the right side thereof, a great emptiness, the two forms on which the bishops used to sit being thrust up close against the wall.'[1] Clarendon discusses at length the reasons which induced the House to pass the bill and the King to assent to it.[2] Something he attributes to the view that the three estates of the realm were King, Lords, and Commons, and that the clergy were not one of the estates—an error so widespread that Falkland and Colepeper embodied it in one of the declarations they wrote for the King.[3] He also points out that the passage of the bill extremely weakened the King's party, 'as it perpetually swept away so considerable a number out of the House of Peers, which were constantly devoted to him'; but it was the servility of the bishops to the crown whenever constitutional questions came before the Upper House which had originally roused popular feeling against them. He admits that 'the preservation of the bishops in the House of Peers' was a thing 'which few men thought essential, and most men believed prejudicial, to the peace and happiness of the kingdom.' On this point the King agreed with Mr. Hyde rather than the people, and he accepted the bill with very great reluctance. One of his reasons for assenting was the importunity of the Queen, who never rested till she persuaded him to consent, but his chief motive was the desire to gain

[1] *Lords' Journals*; Forster, *Arrest of the Five Members*, p. 104.
[2] Clarendon, *Rebellion*, iv. 297–305; *Life*, ii. 18–22.
[3] Clarendon, *Life*, ii. 61–62; cf. *Memoirs* of Sir Philip Warwick, p. 183.

time. The Queen was threatened with an impeachment by the Commons, and he wished to despatch her safely to the Continent. The Prince of Wales was at Hampton Court, practically in the hands of the Parliament, and there was a danger that, in case of a complete breach, the Parliament might endeavour to set him on the throne in place of his father.

The Queen embarked for Holland on February 23, and the King secured the person of the Prince three or four days later. Then his tone changed and he refused all further concession. 'Now I have gotten Charles,' he said, 'I care not what answer I send them.'[1] He declined to assent to the Militia Bill, and established himself at York early in March.

The next four months were spent in declarations and counter declarations—'Paper wars,' Clarendon calls them—which preluded the real war, and prepared men's minds for it by sharpening their temper. The controversy turned largely on the respective validity of the Parliament's Militia Ordinance and the King's commission of array. The King made no attempt to reconstitute his shattered party in the House of Lords. Protests signed by thirteen or fourteen Royalist peers on March 2 and March 7, and by eight on April 18 and May 23, supply the names of those who kept up the constitutional struggle. By May the number of the protesting Royalists sank to six.[2] The number of absentees steadily increased. At a call of the House on February 9, sixty-seven peers were absent, on April 2, sixty-nine, on April 15, eighty-two.[3] The King summoned the peers to attend him at York, the Parliament ordered them to remain at Westminster, or to

[1] Clarendon, *Life*, ii. 27.

[2] *Lords' Journals*, iv. 623, 631; v. 4, 64, 72, 80.

[3] Ib. iv. 571, 693, 718.

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return thither.[1] On May 20 the Lords declared that finding the business of the kingdom to be on a very few, they had thought fit to call their several members, which when sent for received a command from the King not to come. They asked the Commons to consult with them how such delinquents should be dealt with, and the Commons impeached nine recalcitrant peers on June 16.[2]

Amongst the deserters were Lord Keeper Littleton, who carried the Great Seal with him to York.[3] The Earl of Bristol was one of the last to go, and before going he made two speeches in favour of an accommodation.[4] One of the most conspicuous was Lord Paget, who, after accepting a commission from the Parliament as Lord Lieutenant of Buckinghamshire, and executing the Militia Ordinance, suddenly announced his change of mind. 'It may seem strange,' he said, 'that I, who with all zeal and earnestness have prosecuted, in the beginning of this Parliament, the reformation of all disorders in church and commonwealth, should now in a time of such great distractions desert the cause. Most true it is that my ends were the common good; and whilst that was prosecuted, I was ready to lay down both my life and fortune; but when I found a preparation of arms against the King under the shadow of loyalty, I rather resolved to obey a good conscience than particular ends, and am now on my way to his Majesty, where I will throw myself down at his feet, and die a loyal subject.'[5]

[1] The letters from the King to the Earls of Peterborough and Pembroke are good examples. *Lords' Journals*, v. 82, 100.

[2] *Lords' Journals*, v. 139; *Commons' Journals*, ii. 584. See also p. 286 *post*.

[3] Clarendon, *Rebellion*, v. 203-214.

[4] Bristol's two speeches are printed at the end of his *Apology*. One is dated May 20, the other June 11. But there is some doubt about their authenticity. See *Lords' Journals*, v. 186.

[5] *Lords' Journals*, v. 152; Clarendon, *Rebellion*, v. 339. Lord Spencer changed sides about the same time.

A list drawn up about the end of May enumerates thirty-two lords as being with the King at York. On June 15 thirty-five peers signed a declaration asserting that the King had no intention of making war upon the Parliament. On the other hand, out of the forty-two peers mentioned in the same list as continuing to sit in Parliament, twelve joined the King within the next few weeks, as against three who obeyed the order of the Parliament to leave him.[1]

Taking the peerage as it stood at the opening of the Long Parliament, it may be roughly calculated that half of them actively supported the King and a quarter the Parliament, while the remainder were either absent from England, minors, or in some other way disqualified from taking part in the contest.[2]

Rather more than thirty peers remained at Westminster and continued to act with the majority of the Lower House. The nucleus of this party consisted of seven out of the twelve peers who had signed the petition of August, 1640, namely Essex, Warwick, Saye, Brooke, Mandeville, Bolingbroke, and Howard of Escrick. Of the rest of the original petitioners Hertford adhered to the King; Bedford was dead; but his son now acted with the Parliament; Rutland was dead; Exeter and Mulgrave were disabled by age or infirmities from action with either party. Other peers since 1640 had associated

[1] *Old Parliamentary History*, xi. 87; Clarendon, *Rebellion*, v. 343; Sanford, p. 493.

[2] It is not easy to give exact figures. In January, 1644, when Charles called a Parliament at Oxford forty-five peers signed a letter which that body addressed to the Earl of Essex, and five more subsequently concurred. Lists are added of twenty-two peers employed in his Majesty's service absent with leave, and of nine absent in parts beyond the seas, while two are mentioned as in prison for their loyalty to his Majesty. But a number of these peers had been raised to the peerage since the war began. *Old Parliamentary History*, xiii. 73; see also Clarendon, *Rebellion*, vii. 375. May in his *History of the Long Parliament* gives a good account of the secession of the peers, with instructive comments (ed. 1854, pp. 175–188).

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themselves with the seven, and the growth of the party can be traced by the names attached to the protests entered in the Journals. Wharton, Robartes, Grey of Wark, Willoughby of Parham, and Stamford, were amongst the most zealous of these new recruits. Some of the recent accessions were converts from the court party, such as Pembroke and Holland. Pembroke remained firm to the Parliament, but it was believed by the Royalists that Holland, out of jealousy of Essex, was anxious to make his peace with the King and be restored to favour.[1] Salisbury had committed himself so far to the King's cause as to attend him to York, and to sign the declaration of the Royalist peers on June 15, but a few days later he stole away from York and returned to Westminster.[2] Basil, Lord Feilding, eldest son of the Earl of Denbigh, was a man whose character and capacity made him a more valuable accession; as his father adhered to the King, and his mother was the Duke of Buckingham's sister, while he himself had been summoned to the Upper House by Charles and employed as ambassador to Venice, Feilding was freely taxed with ingratitude.[3] His later career proved that he possessed strong political convictions and independent views. The most important of all the peers who took the side of the Parliament was the Earl of Northumberland. Knight of the Garter in 1635, Lord High Admiral since 1638, and Lord General in the first war against the Scots, he had been for years high in the King's favour. Charles complained that 'he had courted him as his mistress and conversed with him as his friend.'[4] During the early part of the Long Parliament Northumberland had gradually drawn closer to the popular party, and

[1] Clarendon, *Rebellion*, v. 31, 411–415.

[2] Ib. v. 364; vi. 403.

[3] Ib. viii. 246. He succeeded his father as earl on April 8, 1643.

[4] Ib. iii. 228.

throughout the second session he had steadily acted with it. In March, 1642, when the King refused to appoint the Earl of Warwick to command the fleet as the two Houses desired, Northumberland had not hesitated to make Warwick vice-admiral.[1] The King revoked Northumberland's commission on June 28, 1642, but it was too late then to prevent the control of the fleet from passing into the hands of Warwick.

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Clarendon styles Northumberland 'the proudest man alive,' and represents him as a man flattered into rebellion. 'He was in all his deportment a very great man, and that which looked like formality was a punctuality in preserving his dignity from the invasion and intrusion of bold men, which no man of that age so well preserved himself from. Though his notions were not large or deep, yet his temper, and reservedness in discourse, and his unrashness in speaking, got him the reputation of an able and a wise man; which he made evident in the excellent government of his family, where no man was more absolutely obeyed; and no man had ever fewer idle words to answer for; and in debates of importance he always expressed himself very pertinently. If he had thought the King as much above him as he thought himself above other considerable men, he would have been a good subject; but the extreme undervaluing those, and not enough valuing the King, made him liable to the impressions which they who approached him by those addresses of reverence and esteem which usually insinuate themselves into such natures made in him. And so, after he was first prevailed upon not to do that which in honour and gratitude he was obliged to, (which is a very pestilent corruption,) he was with the more facility led to concur in what in

[1] Clarendon, *Rebellion*, iv. 330; v. 376–380.

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duty and fidelity he ought not to have done, and which at first he never intended to have done.'[1]

This is a very one-sided and unfair view of his character. Northumberland had the independent spirit of a feudal potentate, and none of the superstitious veneration for royalty which had grown up in England since the Middle Ages. He desired no change in the constitution, but in his view the rights of the nation were as sacred as those of the King, and must be preserved with equal care. 'It is too apparent,' he wrote in May, 1642, 'that neither King nor Parliament are without fears and jealousies; the one of having his authority and just rights invaded; the other of losing that liberty which free born subjects ought to enjoy, and the laws of the land do allow us. The alteration of government is apprehended on both sides; we believe that those persons who are most powerful with the King do endeavour to bring Parliaments to such a condition that they shall only be made instruments to execute the commands of the King, who were established for his greatest and most supreme council. . . . It is far from our thoughts to change the form of government, or to invade upon the King's just prerogative. . . . Let us but have our laws, liberties, and privileges secured to us, and let him perish that seeks to deprive the King of any part of his prerogative or that authority which is due to him. If our fortunes be to fall into troubles, I am sure few (excepting the King himself) will suffer more than I shall do; therefore for my own private considerations, as well as for the public good, no man shall more earnestly endeavour an agreement between the King and his people.'[2]

[1] *Hist. Rebell.* vi. 398.

[2] See three letters from Northumberland to Sir John Bankes, printed by Mr. George Bankes in his *Story of Corfe Castle*, pp. 122, 129, 139.

Northumberland's letters express the spirit which animated most of the noblemen who fought for the Parliament against the King. They were not seeking new liberties or rights, but endeavouring to maintain old ones. Hence whenever there was a possibility of effecting an accommodation they were eager to treat, and more anxious to effect a compromise than to win a victory. For that reason, as the war progressed their influence decreased, and when the movement developed into a democratic revolution they fell away from the cause, or were set aside as lukewarm and ineffective. According to the Royalists they ought to have foreseen that from the beginning.

In his dialogue on the history of the Civil War Hobbes discusses the causes which led so many of the Lords to take part with the Commons against the King. Neither House, says Hobbes, understood the true principles of government. Both believed in a limited monarchy, and did not perceive that an absolute monarchy was essential to the welfare of the nation.

'The greatest part of the Lords in Parliament, and of the gentry throughout England, were more affected to monarchy than to a popular government, but so as not to endure to hear of the King's absolute power; which made them in time of Parliament easily condescend to abridge it, and bring the government to a mixed monarchy, as they called it; wherein the absolute sovereignty should be divided between the King, the House of Lords, and the House of Commons.'[1]

He goes on to say that the Lords and the gentry never realised the possibility that Lords and Commons might fail to agree, and the consequences that their disagreement would produce. 'I am sure they never meant the sovereignty should be wholly either in one or both the

[1] *Behemoth*, p. 33.

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Houses.' As little did the Lords suspect, when they permitted the Commons to punish as delinquents first one then another member of their House, that the process would end in the abolition of the House itself.

'It is a strange thing,' says one of his characters, 'the whole House of Lords should not perceive that the ruin of the King's power, and the weakening of it, was the ruin and weakening of themselves. For they could not think it likely that the people ever meant to take the sovereignty from the King to give it to them, who were few in number, and less in power than so many Commoners, because less loved by the people.' [1]

'It seems not so strange to me,' answers the other. 'For the Lords, for their personal abilities, as they were no less, so also they were no more skilful in the public affairs, than the knights and burgesses. For there is no reason to think, that if one that is to-day a knight of the shire, in the Lower House, be to-morrow made a Lord and a member of the Higher House, he is therefore wiser than he was before. They are all, of both Houses, prudent and able men as any in the land, in the business of their private estates, which require nothing but diligence and natural wit to govern them. But for the government of a commonwealth, neither wit, nor prudence, nor diligence, is enough, without infallible rules and the true science of equity and justice.' [2]

Neither the members of the one House nor the other foresaw how the war was likely to end when they took up arms against Charles I; but they knew enough to realise that the choice lay between absolute monarchy and civil war, and preferred the risks of civil war.

[1] Sir Philip Warwick makes similar reflections, *Memoirs*, p. 182.

[2] *Behemoth*, p. 70.

CHAPTER IV

THE CIVIL WAR

On both sides the peers took a leading part at the beginning of the war. The lords at York subscribed to levy horse to assist the King, each promising to maintain so many for three months. The Duke of Richmond, Lord Coventry, and Lord Capel promised a hundred apiece, Southampton, Bristol, and Devonshire sixty, poorer peers twenty, like Carnarvon, or ten like Grey of Ruthyn.[1] 1642

Like promises were made by those who adhered to the cause of the Parliament. Some subscribed arms, some money, some both; Essex promised a thousand pounds and twenty horse, Pembroke a thousand pounds and forty horse, Saye a thousand pounds, Lincoln twenty horse, Rochford and St. John ten horse each, and to serve in person. Bedford offered part of his contribution in plate, and said that if he went in person he would bring all the horses he could.[2]

In both armies many peers served in person. The Parliamentary army had Essex for its commander-in-chief, Bedford for general of the horse, Peterborough for general of the ordnance; eleven of the twenty regiments of infantry in the list were commanded by peers, and three regiments of horse. Peers took the leading part in the local wars which broke out in every quarter of

[1] Peacock, *Army Lists of the Roundheads and Cavaliers*, 1874, p. 7.

[2] *Lords' Journals*, v. 123, June 10, 1642.

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England. At the head of each of the associations of counties formed to support its cause the Parliament placed a peer. Lord Grey of Wark, and after him the Earl of Manchester, commanded the Eastern Association; Lord Brooke and afterwards Lord Denbigh commanded the associated counties of Warwickshire, Staffordshire, Worcestershire, and Shropshire. Stamford, after putting into execution the militia ordinance in Leicestershire, commanded the Parliamentary forces in Somerset and Devon, Willoughby of Parham led those of Lincolnshire, Fairfax those of Yorkshire. On the other side Lord Strange, the eldest son of the Earl of Derby, raised the Royalists of Lancashire, was credited with shedding the first blood spilt in the war, and was impeached by the House of Commons about a month before the battle of Edgehill.[1] In the west the Marquis of Hertford raised the King's standard in Somersetshire, and Lord Herbert, the Marquis of Worcester's eldest son, levied a little army in South Wales.[2] In Northumberland and Durham, the Earl of Newcastle secured ports and castles, gathered an army, and marched south to subdue Yorkshire in the spring of 1643.[3]

The defect of those noble generals was that most of them possessed no military training. The commanders of the two armies opposed at Edgehill, Lindsey and Essex, had commanded regiments in the Netherlands, and knew how war should be conducted.[4] But they were conspicuous exceptions. At first, however, the important consideration was not the military skill of a peer, but his popularity, and his local influence. The King's cause suffered in Yorkshire because the Earl of Cumberland, the head of the

[1] Clarendon, *Rebellion*, vi. 67, 271; Rushworth, v. 680.
[2] Clarendon, *Rebellion*, vi. 287.
[3] Ib. vi. 262.
[4] Ib. vi. 78.

house of Clifford, had not either sufficient influence or sufficient energy. 'The Earl of Cumberland,' says Clarendon, 'was a man of great honour and integrity, who had all his estate in that county; and had lived most amongst them, with very much acceptation and affection from the gentlemen and the common people; but he was not in any degree active or of a martial temper, and rather a man more like not to have many enemies than to oblige any to be firmly and resolutely his friends, or to pursue his interests: the great fortune of the family was divided, and the greater part of it carried away by an heir female, and his father had so wasted the remainder that the earl could not live with that lustre, nor draw so great a dependence upon him, as his ancestors had done.'[1] The quarrels of different noble houses and the local divisions resulting from them played a large part in the struggle. In South Wales it was urged that if Lord Herbert was selected to command, the feuds between his family and their neighbours would lessen the zeal of the gentry for the King's cause.[2]

CHAP. IV 1642-3

In Leicestershire 'the King's service was the more advanced by the notable animosities between the two families of Huntingdon and Stamford, between whom the county was divided passionately enough without any other quarrel.' Stamford's son, Lord Grey of Groby, who headed the Parliamentarians there, was a 'young man of no eminent parts'; Henry Hastings, who led the Royalists, 'by his personal reputation had supported his decaying family, and by the interest of his family and the affection that people bore to him, brought no doubt an addition of power to the very cause.' The more the local history of the civil war is examined the

[1] Clarendon, *Rebellion*, v. 445.
[2] Ib. vi. 287.

CHAP. IV 1642-3

more evident becomes the survival of feudal traditions and feudal feeling.[1]

On the other hand, these great lords did not know how to make the best use of the forces their influence gathered round them. They had not the military training which the mediæval baronage had possessed. Derby, for instance, was believed to have a greater influence in Lancashire and Cheshire, 'and a more absolute command over the people in them than any subject in England had in any other quarter of the kingdom,' but he was 'unactive, and through greatness of mind uncomplying with those who were fuller of alacrity.'[2] As to the Marquis of Hertford, his 'unactivity in all things relating to the war, and his too much retirement to his ease, lost all the reverence and devotion of the soldiers.'[3] After a little time even his friends admitted his unfitness for command. Newcastle, whose character Clarendon describes at length, is a typical example of these great noblemen who played at being generals.

'He was a very fine gentleman, active and full of courage, and most accomplished in those qualities of horsemanship, dancing, and fencing, which accompany a good breeding; in which his delight was. Besides that, he was amorous in poetry and music, to which he indulged the greater part of his time; and nothing could have tempted him out of those paths of pleasure which he enjoyed in a full and ample fortune, but honour, and ambition to serve the King when he saw him in distress, and abandoned by most of those who were in the highest degree obliged to him and by him. He loved monarchy, as it was the foundation and

[1] Clarendon, *Rebellion*, vi. 275; cf. Stubbs, *Constitutional History*, iii. 550.
[2] Clarendon, *Rebellion*, vi. 269, 271.
[3] Clarendon, *Life*, iii. 27.

support of his own greatness; and the Church, as it was well constituted for the splendour and security of the Crown; and religion, as it cherished and maintained that order and obedience that was necessary to both; without any other passion for the particular opinions which were grown up in it, and distinguished it into parties, than as he detested whatsoever was like to disturb the public peace. . . . He liked the pomp and absolute authority of a general well, and preserved the dignity of it to the full; and for the discharge of the outward state and circumstances of it, in acts of courtesy, affability, bounty and generosity, he abounded; which in the infancy of a war became him, and made him for some time very acceptable to men of all conditions. But the substantial part, and fatigue of a general, he did not in any degree understand, (being utterly unacquainted with war,) nor could submit to, but referred all matters of that nature to the discretion of his lieutenant-general, King. . . . In all actions of the field he was still present, and never absent in any battle; in all which he gave instances of an invincible courage and fearlessness in danger; in which the exposing himself notoriously did sometimes change the fortune of the day when his troops begun to give ground. Such articles of action were no sooner over than he retired to his delightful company, music, or his softer pleasures, to all which he was so indulgent, and to his ease, that he would not be interrupted upon what occasion soever; insomuch as he sometimes denied admission to the chiefest officers of the army, even to General King himself, for two days together; from whence many inconveniences fell out.'[1] CHAP. IV 1642-4

Peers of less importance, who took subordinate commands, often threw themselves into the business

[1] *Hist. Rebell.* viii. 82.

CHAP. IV 1643

of war with a zeal and energy that soon made them good soldiers. One instance was the Earl of Northampton. 'He was a person of great courage, honour, and fidelity, and not well known till his evening, having, in the ease and plenty and luxury of that too happy time, indulged to himself with that license which was then thought necessary to great fortunes, but from the beginning of these distractions, as if he had been awakened out of a lethargy, he never proceeded with a lukewarm temper. . . . As soon as an army was to be raised, he levied, with the first, upon his own charge, a troop of horse and a regiment of foot, and (not like other men, who warily distributed their family to both sides, one son to serve the King, whilst the father or another son engaged as far for the Parliament) entirely dedicated all his children to the quarrel, having four sons officers under him, whereof three charged that day in the field: and, from the time he submitted himself to the profession of a soldier, no man more punctual upon command, no man more diligent and vigilant in duty. All distresses he bore like a common man, and all wants and hardnesses as if he had never known plenty or ease; most prodigal of his person to danger, and would often say that 'if he outlived these wars, he was certain never to have so noble a death.'[1]

Another example was Carnarvon. Before the war 'he seemed to be wholly delighted with those looser exercises of pleasure, hunting, hawking, and the like, in which the nobility of that time too much delighted to excel. After the troubles began, having the command of the first or second regiment of horse that was raised for the King's service, he wholly gave himself up to the office and duty of a soldier, no man more diligently obeying or more dexterously commanding; for he was

[1] Clarendon, *Rebellion*, vi. 283.

not only of a very keen courage in the exposing his person, but an excellent discerner and pursuer of advantage upon his enemy, and had a mind and understanding very present in the article of danger, which is a rare benefit in that profession. Those infirmities and the license which he had formerly indulged to himself he put off with severity, when others thought them excusable under the notion of a soldier.' [1] CHAP. IV 1642-5

Both Northampton and Carnarvon fell in 1643; the one at Hopton Heath, the other, like Falkland, at the first battle of Newbury.

Besides the three lords named, there were slain on the King's side the Earl of Lindsey and Lord Aubigny, at Edgehill, while Aubigny's brothers, Lord John Stuart and Bernard Stuart, Earl of Lichfield, fell, the first at Cheriton, the second at Rowton Heath.[2] The Earl of Sunderland, the Earl of Denbigh, and the Earl of Kingston[3] also lost their lives during the first Civil War.

On the side of the Parliament only two peers were killed, namely, Lord St. John, eldest son of the Earl of Bolingbroke, at Edgehill, and Lord Brooke, in an attack on Lichfield Close. The latter was a great loss to the Parliamentary cause, not only on account of his zeal and energy, but because he alone amongst the Lords was in full sympathy with the Independents. Milton styles him 'a right noble and pious Lord,' who 'sacrificed his life and fortunes to the Church and Commonwealth,' and quotes in 'Areopagitica,'

[1] Clarendon, *Rebellion*, vii. 216.

[2] Ib. vi. 90, 91.

[3] Ib. vi. 59; vii. 33, 215. To make the list complete one ought perhaps to add Lord Widdrington, killed in 1651 (xiii. 69), and the second Duke of Hamilton, mortally wounded at Worcester in the same year (xiii. 76). Three peers suffered on the scaffold in 1649, after the second Civil War: the first Duke of Hamilton, the Earl of Holland, and Lord Capel. The Earl of Derby was executed in 1651.

CHAP. IV

1642-5

Brooke's 'Discourse of Episcopacy' as containing the true doctrine of toleration.[1]

There were two good reasons for the greater mortality amongst the Royalist peers—this 'dismal inequality' as Clarendon calls it. One obvious reason was that there were more than twice as many peers on the King's side as there were on the side of the Parliament. The other was that the Parliamentary peers had work to do which kept them out of danger, while the Royalist peers, for the most part, had no other occupation but fighting. The peers who stayed at Westminster still had important political functions: they could influence and shape the whole policy of the Parliament, the terms of peace, the conduct of the war, the ecclesiastical and constitutional measures their government adopted and its relations to foreign powers. Those who had followed the King to Oxford could exercise only a diminished and indirect influence in political questions.

Theoretically the policy pursued by the King during the war was determined in consultation with his Council. Clarendon gives a list of the Privy Council as it stood at the beginning of 1643. It consisted of eleven peers, Lord Falkland as Secretary of State, and five commoners. Taken individually, some of these councillors were very little qualified to guide the King's policy. Clarendon justly says 'there were not many who had been acquainted with the transaction of business.'[2] Considered as representatives of the sixty odd peers who were risking their lives and fortunes for the King they were not a good choice, and even if they had been their advice was continually neglected. Ever since the war began the soldiers,

[1] Clarendon, *Rebellion*, vi. 93, 277; Milton, *Areopagitica*, ed. Hailes, p. 51; Baillie, *Letters*, ii. 63; Gardiner, *Great Civil War*, i. 98.

[2] *Rebellion*, vi. 382-397. The eleven peers were Littleton, Richmond, Hertford, Southampton, Leicester, Bristol, Newcastle, Berkshire, Dunsmore, Seymour, and Savile.

headed by Prince Rupert, had done all they could to restrict and diminish the authority of the Council, 'thinking themselves the best judges of all counsels and designs, because they were for the most part to execute them.'[1] Even in purely political questions, the Council had to contend with the influence of private and irresponsible advisers, whose counsel the King preferred to theirs.[2] Above all there was the influence of the Queen. Before she left England the King had promised her that he would consent to no accommodation save with her knowledge and consent, and when she returned her influence was still more powerful. It extended to all personal questions, and the King hardly appointed a court official or created a peer without her approval.[3] In the desire of the peers for a compromise she recognised a danger to the cause of monarchy as she understood its nature. In September, 1642, when the King was making a last attempt to come to terms before appealing to the fortune of battle, she denounced the Royalist peers as its authors. 'If the parliament listen to a treaty all those who have served you will be excluded, and I fear that the lords even of your own party will be very glad of it, for they are rogues who fear good people, and provided they live in repose they will care little for your honour. . . . The gentlemen are those who must do the business, and the lords those who ruin you.'[4] In the same way and for similar reasons Prince Rupert undervalued the nobility. 'He lived towards them,' says Clarendon, 'with no condescension;' they were 'an order to which the Prince had not

CHAP. IV 1642–6

[1] Clarendon, *Rebellion*, vi. 397; vii. 278.

[2] On the 'Oxford Junto' see Baillie, *Letters*, ii. 125, 244; Clarendon, *Life*, iii. 37.

[3] Green, *Letters of Queen Henrietta Maria*, pp. 119, 182, 276, 296; Clarendon, *Life*, iii. 14.

[4] Green, *Letters of Henrietta Maria*, p. 110; cf. Clarendon, *Rebellion*, vi. 8.

CHAP. IV 1644-5

expressed himself very debonair.'[1] The latter part of the war was a long struggle for influence between Rupert and Lord Digby, in which Digby, being not only Secretary of State, but having the Queen's influence at his back, contrived to get the upper hand. There was only one moment when the King seemed willing to consult the peers in general about his policy, and that was when, at Mr. Hyde's suggestion, he summoned those members of the two Houses who had adopted his cause to meet as a Parliament at Oxford. This anti-parliament, as it was termed, met in January, 1644, and was attended by some fifty lords.[2] As the records of its proceedings were destroyed, little save what a few vague reports supply is known of its resolutions or debates. It is certain, however, that a number of voices were raised in favour of a compromise, and that Lords Percy, Wilmot, Savile, and Colepeper, who were the leaders of the movement, fell under the King's displeasure in consequence.[3] When this assembly ended Charles wrote to the Queen rejoicing that he was 'freed from the place of base and mutinous motions, that is to say, our mongrel Parliament here.'[4] The King's neglect to consult the lords was of a piece with his general aversion to parliamentary government.

Yet though the lords at Oxford might disapprove of his policy they had no choice but to support it. By the 7th of the Nineteen Propositions presented to the King on June 2, 1642, the two Houses demanded 'that the votes of popish lords in the House of Peers may be taken away, so long as they continue Papists,' and by the

[1] Clarendon, *Life*, iii. 25; *Rebellion*, vii. 145.

[2] Clarendon, *Rebellion*, vii. 326, 370, 389.

[3] See Baillie, *Letters*, ii. 137, 139; Carte, *Original Letters*, i. 80; 'Papers relating to the Delinquency of Lord Savile,' 6, 17, 20, 27, *Camden Miscellany*, vol. viii.

[4] *The King's Cabinet Opened*, 1645, pp. 13, 46, 47.

19th the King was asked to pass 'a bill for restraining peers made hereafter from sitting or voting in Parliament, unless they be admitted thereunto with the consent of both Houses of Parliament.' In the peace propositions presented to the King at Uxbridge in November, 1644, this requirement was made retrospective. 'That by an Act of Parliament all peers made since the day that Edward, Lord Lyttelton, then Keeper of the Great Seal, deserted the Parliament, and that the said Great Seal was surreptitiously conveyed away from the Parliament, being the 21st day of May, 1642, and who shall hereafter be made, shall not sit or vote in the Parliament of England without consent of both Houses of Parliament.' An ordinance passed on August 30, 1646, embodied this stipulation in a law, and declared null and void all titles conferred since May 20, 1642. Those Royalist lords whose peerages were of older date were, by an ordinance of June 29, 1644, debarred from sitting in the present Parliament until their readmission should be agreed to by both Houses.

Thus the peers who sided with the King were threatened with complete exclusion from political authority if the Parliament triumphed. They had little authority while the war lasted, and they were not likely to have much if the King's arms were successful, because that meant the permanent diminution of the power of Parliament and the permanent increase of the kingly power.

On the other hand, the thirty or more peers who remained at Westminster had the sole exercise of the constitutional rights of the Upper House and the sole possession of the privileges of the peerage. Their individual importance was greatly increased, but they could not but be sensible of the precarious tenure by

CHAP. IV 1642

which they held their power. If the King triumphed they would be lost. If the Parliament triumphed the power of the Lower House would be permanently increased at the expense of the Upper, and though they might gain individually their order would lose by it. While the war lasted their alliance was necessary to the Commons, so they could impose certain conditions as the price of their assistance, but they were so much weaker than their allies that prolonged or successful resistance to them was almost impossible. Hence the Parliamentary peers, like the Royalist peers, had most to gain by a compromise, and were ready to take the lead in negotiations for peace.

Negotiations began almost directly after Edgehill. The peace party in the Lords was headed by Northumberland, Holland, and Pembroke, the first of whom may be regarded as its real leader.[1] On October 29, 1642, the Lords proposed to open negotiations with the King, and on November 2 the Commons concurred with them. On December 13 the Lords appointed a committee to draw up propositions to be offered to the King. A week later they sent them down to the Commons, and on February 1, 1643, commissioners of the two Houses presented them to the King.[2] At the head of the commissioners was Northumberland, whose 'sober and stout carriage' to the King attracted the admiration of his fellow negotiators as much as the 'state and nobleness' of his housekeeping during their stay at Oxford.[3] A difference of opinion between the Houses as to the method of negotiating at once revealed itself. Parliament had proposed the disbandment of both armies

[1] Gardiner, *Great Civil War*, i. 53; *L.J.* v. 424. Rutland and Bedford are also named by D'Ewes. Sanford, *Studies and Illustrations*, p. 543.

[2] Gardiner, *Great Civil War*, i. 63, 75, 78–81, 84, 89.

[3] Whitelocke, *Memorials*, vol. i. pp. 196, 198, 200 ed. 1853.

as a preliminary to the negotiations; the King proposed a cessation of arms while they lasted. The Lords suggested a middle course, which the Commons with some dissatisfaction accepted, but the King would make no adequate concessions and the negotiations were broken off in April, 1643.

In May there was an attempt to reopen them. 'There was a majority in the Upper House in favour of any possible compromise,' says Dr. Gardiner. Two of the Lords, Conway and Portland, did not confine themselves to argument, and were found to be implicated in a plot for an armed rising in London on behalf of the King. One of the plotters alleged that the whole House of Lords, except three or four, would support the movement, and though the statement was untrue the peace party was for the moment hopelessly discredited.[1] On June 9 the sixteen peers then present in the Lords asserted their fidelity to the cause by taking the so-called 'Parliamentary Covenant,' which pledged them to support the Parliamentary forces against the King so long as the King protected delinquents from the justice of the Parliament.[2] A month later the Lords, by nine to seven votes, negatived a proposal made by Essex to re-open negotiations with the King.[3] This refusal took place on July 11; the disasters to the Parliamentary arms which took place during the rest of the month altered the position. Sir William Waller's army was routed at Roundway Down on July 13; Bristol surrendered to the King on July 26, and about the same time Lincoln and Gainsborough fell into the hands of the Earl of Newcastle. The north and west of England seemed to be entirely lost, while

[1] Gardiner, *Great Civil War*, i. 145; Sanford, *Studies and Illustrations*, p. 562.

[2] *Lords' Journals*, vi. 87; Gardiner, *Great Civil War*, i. 149.

[3] *Lords' Journals*, vi. 128.

CHAP. IV 1643

the east was in danger, and the army under Essex was so disheartened and disorganised that it was hardly capable of keeping the field. The cry for peace grew daily stronger, so upon August 2 the House of Lords appointed a committee to draw up propositions to be sent to the King.[1] Though the propositions the committee drew up were, in Dr. Gardiner's phrase, 'not a compromise but a capitulation,' the Lords assented to them on August 4, and the Commons, by ninety-four to sixty-five votes, agreed to them on August 5. Then London intervened to prevent the further progress of the scheme. The next day was a Sunday, and throughout the city 'preachers filled all the pulpits with alarums of ruin and destruction, if a peace were now offered to the King.' Notices were posted up summoning all men who wished to defend their religion, laws, and liberties against Irish rebels and bloodthirsty papists to meet to-morrow at Westminster Hall. Next morning, Monday, August 7, a petition from the Common Council against the propositions was presented to the Commons, and a mob assembled to back it. There was no violence; the mob confined itself to hooting Holland, Bedford, Clare, and other lords of the peace party, and to threatening the members of the two Houses that if they did not get a favourable answer they would return with double the number next day. But the demonstration proved sufficient, and by eighty-eight to seventy-nine votes the Commons rescinded their previous resolution, and decided not to concur with the Lords. Two days later there was a demonstration on the other side. Four or five thousand 'civilly-disposed women,' as they called themselves, presented a petition in favour of peace. They threw brickbats at the Trained Bands who guarded the doors of the House against them, and cried out, 'Give

[1] *Lords' Journals*, vi. 162.

us those traitors that are against peace, that we may tear them in pieces. Give us that dog Pym.' But the Commons remained firm, and still refused to concur with the Lords.[1]

This defeat was final, and the peace party in the Upper House broke up. Six lords—Portland, Lovelace, Conway, Clare, Bedford, and Holland—made their way to Oxford either directly or indirectly. Northumberland, pleading ill health, retired to his own house at Petworth; it was said that he was waiting to see how the deserters would be received by the King, but the statement rests on conjecture only. Portland, Conway, and Lovelace were received at Oxford as men who had stayed at Westminster in order to serve the King's interests. There was no serious objection against Clare. 'He was looked upon,' says Clarendon, 'as a man not only firm to the principles of monarchy but of duty to the person of the King,' and 'would have been an excellent person if his heart had not been set too much upon the keeping and improving his estate.' Bedford, however, had borne arms against the King as general of the horse under Essex, and Holland had taken a leading part in the councils of the Parliament. To prove their loyalty, Bedford, Clare, and Holland fought in the ranks of the King's regiment of horse at the battle of Newbury, but in spite of this they found themselves coldly treated at court. Holland, who had expected to be restored to his old post of groom of the stole, and to be readmitted to the Privy Council, was particularly indignant at his treatment.[2] He returned to London in November, 1643, and published a declaration announcing that he had found the King disinclined to

[1] Gardiner, *Great Civil War*, i. 185–7; *Mercurius Aulicus*, August 10, 1643; Rushworth, v. 357; Clarendon, *Rebellion*, vii. 169; *Lords' Journals*, vi. 171.

[2] Clarendon, *Rebellion*, vii. 178–189, 241–248.

CHAP. IV 1643

peace and the papists too powerful at court for him to effect the reconciliation which had been his aim when he went to Oxford.[1] Bedford, Clare, and Conway returned a little later.[2]

Holland was so successful in putting a favourable colour on his conduct that the House of Lords readmitted him to sit and vote as a peer (January 13, 1644), but the Commons refused to suffer this, and after some dispute between the two Houses, the Lords agreed in June, 1644, to the ordinance which excluded members of either House who had deserted the Parliament. Thus the net result of the failure of the movement for peace was to reduce the scanty number of peers still sitting in the Upper House by half a dozen. Of the seven who seceded in August, 1643, Northumberland, who had remained quietly at Petworth, was the only one who took his place in Parliament again. Though Clarendon more than once repeats the statement that the earl would have joined the King if he had been sure of a good reception, his subsequent conduct gave no ground for suspicion, and he was not the kind of man to make terms for himself, however much he might desire an accommodation.[3]

After this secession the Upper House was less able to stand out against the Lower. The decrease in its numbers diminished its moral weight, and the defeat of its policy of compromise weakened its influence still more. Against its will it had already yielded to the Commons on several questions of importance. According to Clarendon, the Lords had consented to pass the bill for the total abolition of episcopacy[4] only because the Commons made its acceptance a condition for the

[1] Rushworth, *Historical Collections*, v. 368.

[2] *Old Parliamentary History*, xii. 436, 464, 478; xiii. 210.

[3] Clarendon, *Rebellion*, vii. 21, 248; viii. 244.

[4] Gardiner, *Great Civil War*, i. 84; Clarendon, *Rebellion*, vi. 230.

opening of peace negotiations. They had consented with equal reluctance to the ordinance for calling an assembly of divines.[1] For six months they had refused their assent to the proposal of the Commons to make a new Great Seal in place of that which Littleton had carried off to York: now on October 12, 1643, they agreed to it.[2] They had been very reluctant to join the Commons in applying to the Scots for armed assistance against the King, and though they consented in July, 1643, neither Grey of Wark nor Rutland, the two commissioners they appointed, actually took part in the negotiation of the league with the Scots.[3] Now the Lords accepted the consequences of the alliance, passed the Solemn League and Covenant, and agreed to its imposition on the members of both Houses as a necessary condition for public employment (September 20, 1643). With the exception of Lincoln, they all took the Covenant themselves. To the representatives of the Kirk of Scotland the Lords seemed as zealous for the establishment of Presbyterianism in England as the Commons were. 'Northumberland is thought most cordial for us, Saye and all says as much,' wrote Robert Baillie. Essex was one of the representatives of the Upper House in the Westminster Assembly. Both Houses obliged the Scots by appointing Presbyterian chaplains, and by abandoning the use of the Liturgy in their daily prayers; both agreed to sit on Christmas Day, and to abolish the observation of that superstitious festival. Lord Saye and Lord Wharton gave some trouble by their obstructiveness and their patronage of the Independents, but at present neither possessed much influence.[4]

[1] Gardiner, *Great Civil War*, i. 149.

[2] Sanford, *Studies and Illustrations*, p. 564; Rushworth, v. 339.

[3] Gardiner, *Great Civil War*, i. 228.

[4] Baillie, *Letters*, ii. 107, 115, 117, 120, 130, 146, 220, 236, 298.

CHAP. IV

1644

At the beginning of 1644, according to Robert Baillie, there seemed to be complete harmony between Lords and Commons. On January 18 the members of both Houses and of the Westminster Assembly were entertained by the City in Merchant Taylors' Hall. At the banquet 'the Speaker of the Commons' House drank to the Lords in name of all the Commons of England. The Lords stood all up, every one with his glass, for they represent none but themselves, and drank to the Commons. The Mayor drank to both in the name of the City.'[1] Baillie thought the ceremony 'a fair demonstration of the great unanimity of all these,' but he adds, 'we wish the union in reality had been as great as it was in show. Within a few days . . . the jealousies betwixt the Houses were like to break out more than ever.'[2]

There had been differences of opinion and small cases of friction between the two Houses, but as yet no serious attempt had been made by the Commons to diminish the authority of the Lords. The progress of the war inevitably necessitated the establishment of some executive body which could act more swiftly and more secretly than Parliament could do. The necessity had been foreseen, and before actual hostilities began the two Houses appointed a Committee of Safety (July 4, 1642). This Committee of Safety consisted of five lords and ten commoners, but it had been strictly subordinated to the two Houses, and was in effect 'a mere channel to convey information to Parliament, and to take its orders.' Now that the Scots had allied themselves with the English Puritans, it became necessary to establish some joint governing body to manage the affairs and direct the armies of the two nations. The heads of the war

[1] Baillie, *Letters*, ii. 134.

[2] Ib. ii. 135.

party resolved that the new committee should be less absolutely dependent on Parliament than the Committee of Safety, responsible to Parliament indeed, but possessing large executive powers of its own. This 'Committee of Both Kingdoms' was to consist of seven peers, fourteen commoners, and four commissioners of the Scottish Parliament. It was 'to advise, consult, order, and direct concerning the carrying on and managing the war,' and 'to hold good correspondence and intelligence with foreign states.' [1] At first the Lords, surprised or unsuspecting, had accepted the proposal, and sent down to the Commons an ordinance giving the new Committee powers so great that the Lower House refused to accept it. But when the Commons sent up an alternative scheme of their own, the eyes of the Lords were opened, and they ran into the opposite extreme. 'To the Lords, weak in numbers and reputation, the appointment of the new Committee, to the importance of which they had been blind a few days before, appeared now to be a far heavier blow than it could be to the Commons. They would no longer be consulted as heretofore on every matter of military detail, and they could no longer hope that their wishes would be indirectly taken account of. They fought hard on every point on which it was possible to resist, struggling longest on the clause which empowered the Committee to order and direct all military matters.' [2]

CHAP. IV 1644

At last the Upper House yielded; on February 16, 1644, the ordinance became law. 'Craven Lords,' indignantly wrote one of their friends amongst the Commons. But they had limited the existence of the Committee to a period of three months, and they were successful in preventing the imposition

[1] Gardiner, *Great Civil War*, i. 36; *Constitutional Documents*, 190.
[2] Gardiner, i. 306. Baillie, *Letters*, ii. 142.

CHAP. IV 1644

of an oath of secrecy on its members. Every peer, voted the Lords on February 21, had a perfect right to come to every committee, whether appointed by the House of Lords or by both Houses. The proposed oath would debar members of the two Houses who were not members of the Committee 'from coming to the knowledge of those things that concern the safety of the kingdom,' and there was no reason, they said, that the peers, 'who are in so high a manner engaged and concerned both for themselves and posterity, should preclude themselves from all knowledge of the condition of the affairs of the kingdom, but must be implicitly led by the conduct of a few chosen for this service.' [1]

Three months later, when the question of the reappointment of the Committee came up, there was a still fiercer struggle. Vainly the City petitioned the two Houses to continue 'their former union and concurrence in the carrying on the great cause of God and the Kingdom.' 'Let the House of Commons and the City do what they would, if all should have gone to all, the House of Lords was peremptory. The Committee they would not renew, without such alterations as made it ineffectual for its end; yet by God's providence, a means at last was found, which, nill they will they, forced them to renew it as it was before.' [2] The expedient, which pious Robert Baillie attributed to Providence, was rather due to the unscrupulous ingenuity of Vane and St. John. They took up once more the ordinance which the House of Lords had originally passed and the House of Commons had laid aside. As it had never been formally rejected it was now passed by the Commons, and became law without being again submitted to the

[1] *Old Parliamentary History*, xiii. 122, 133; Gardiner, *Great Civil War*, i. 343.
[2] Baillie, *Letters*, iii. 187.

Lords. Outgeneralled, the Lords could do nothing but submit, and the men who composed the old Committee continued to act, with enlarged powers. They were henceforth authorised, in the comprehensive words of the ordinance: 'To order and direct whatsoever doth or may concern the managing of the war, keeping good intelligence between the forces of the three kingdoms, and whatsoever may concern the peace of his Majesty's dominions, and all other things in pursuance of the ends expressed in the Covenant and Treaty.' [1] 1644

The seven lords who were members of the Committee —Northumberland, Essex, Warwick, Manchester, Saye, Wharton, and Robartes—gained something in authority, but what they gained the House of Lords, as a whole, lost by this erection of an independent executive. The influence of the House was further reduced by the diminution in the number of peers holding high military commands. Some, like Lord Grey of Wark, the first commander of the forces of the Eastern Association, abandoned duties for which they felt unfit, and confined themselves to political functions. Others had proved themselves incapable, and resigned or were superseded. The Earl of Stamford, who commanded the forces of the Parliament in the West during the first half of 1643, was routed by Sir Ralph Hopton at Stratton on May 16, although he had the advantage of superior forces and a superior position. It was said that 'he stood at a safe distance all the time of this battle,' and gave the example of shifting for himself, as soon as he saw the day lost. Stamford then threw himself into Exeter, which he defended for the next three months against the Royalists, but did not succeed in retrieving his

[1] *Old Parliamentary History*, xiii. 188–199, 202, 205–209. Gardiner, *Constitutional Documents*, 192.

CHAP. IV 1644

reputation.[1] Lord Wharton, after fighting at Edgehill, seems to have ceased to take an active part in the war. In that battle his regiment was one of the first to run, and he was accused by the Royalist wits of running away too and hiding in a sawpit, though, as a matter of fact, he stayed and joined one of the regiments who stood.[2] Lord Willoughby of Parham, commander of the Parliament's forces in Lincolnshire, was charged with abandoning Gainsborough and Lincoln when both could have been held, and proved incapable of maintaining discipline amongst his own forces. In January, 1644, he was forced to resign his commission, and the forces of Lincolnshire were joined to those of the Eastern Association, and placed under the command of the Earl of Manchester.[3] Willoughby sent a challenge to Manchester, for which, as a breach of privilege, he was obliged to ask the pardon of the House of Lords. Colonel King and Captain Rous, two officers whom he accused of defaming him by their criticisms on his military conduct, were fined and committed to prison by the Lords in June, 1644. As their charges against their commander were being examined by the Lower House, the Commons voted King's commitment a breach of privilege, and ordered him to be discharged from his imprisonment (July 3, 1644). Embittered by all these personal quarrels, Willoughby became dissatisfied with the cause for which he had fought, and uttered the gloomiest prognostications about its future. 'We are all hasting to an early ruin,' he wrote to Lord Denbigh in June, 1644.

[1] Rushworth, v. 267, 273; Clarendon, *Rebellion*, vii. 87–91. There is an interesting letter of expostulation from Stamford to the King printed in the *Clarendon State Papers*, ii. 150. For a Royalist ballad on his defeat see *Rump Songs*, p. 134.

[2] For Wharton's account of the battle see the *Old Parliamentary History*, xi. 472, 486.

[3] Sanford, *Studies and Illustrations of the Great Rebellion*, p. 581.

'Nobility and gentry are going down apace.'[1] Denbigh, who had succeeded to the command held by Brooke in the East Midlands, was involved in a violent quarrel with the Committee of Coventry and other local authorities, which prevented him from achieving any military exploits of importance, and damaged his reputation, though he appears to have been in the right. The House of Lords acquitted him of all blame in the matter; the House of Commons condemned him on several charges and removed him from his command (November 20, 1644).[2]

It is hardly too much to say that by the end of 1644 most of the Parliamentary peers had been discredited as commanders. The one exception was Warwick, who employed the fleet with considerable success to support the operations of the land forces of the Parliament and to intercept the King's supplies from the continent. Essex, whose fidelity was above reproach, had saved the Parliamentary cause in 1643 by his relief of Gloucester, but the surrender of his army in Cornwall in September, 1644, was obviously the result of his blunders. Instead of staying to share the fate of his men, Essex, in company with Lord Robartes, escaped by sea, pleading 'fear of slavery and to be triumpht on' as an excuse for this desertion. Nevertheless, Parliament assured him that their opinion of his fidelity and merit was not lessened by his misfortunes, and but for his illness they would have entrusted him with the command of the army which fought the second battle of Newbury on October 28, 1644.[3] Robartes redeemed his character

[1] *Lords' Journals*, vii. 405, 409, 414, 528, 531, 555, 571–6, 595, 600, 605, 612; *Commons' Journals*, iii. 534, 550. Fourth Report of the Historical MSS. Comm. p. 268.

[2] *Commons' Journals*, iii. 604, 700; *Lords' Journals*, vi. 652; vii. 51, 64.

[3] *Lords' Journals*, vi. 699; Clarendon, *Rebellion*, viii. 117; Rushworth, v. 699–711.

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by the stubbornness with which he defended Plymouth. Clarendon styles him 'a man of a sour and surly nature, a great opiniastre, and one who must be overcome before he would believe that he could be so.' [1]

At the second battle of Newbury the Parliamentary forces were commanded by the Earl of Manchester, Sir William Waller, Major-General Skippon, and Sir William Balfour, but the blame for failing to make the most of the success gained there fell mainly upon Manchester. The charge which was brought forward by Cromwell on November 25, 1644, accused him not only of military errors, but of political delinquency. The errors were natural. Manchester became commander-in-chief of the forces raised by the Eastern Association in August, 1643, and having no previous military experience allowed himself, for the most part, to be guided either by his lieutenant-general, Cromwell, or his major-general, Lawrence Crawford. When these advisers differed he was not capable of forming a correct judgment of his own, and his lack of decision, energy, and insight made the movements of his forces slow and ineffective. Religious and political disputes complicated and embittered the situation. Crawford was a strong Presbyterian, Cromwell an Independent, and Manchester allowed his judgment of men and things to be influenced by Crawford's ecclesiastical prejudices. Cromwell came to regard Manchester not merely as incompetent and lacking in energy, but as a general who purposely subordinated military to political ends, and failed to do his duty for that reason. 'The said Earl,' ran Cromwell's charge against him, 'hath always been indisposed and backwards to engagements, and against the ending of the war by the sword, and for such a peace

[1] Clarendon, *Rebellion*, viii. 133.

to which a victory would be a disadvantage.' This backwardness, explained Cromwell's detailed narrative of the campaign of 1644, did not arise merely from inertia or disinclination to fight, but from a deliberate purpose; 'from some principle of unwillingness to have this war prosecuted to a full victory, and a design or desire to have it ended by accommodation, and that on some such terms to which it might be disadvantageous to bring the King too low.' One of Cromwell's witnesses was ready to depose that Manchester had said 'this war would never be ended by fighting.' Another had heard the Earl say 'that war would never be ended by the sword but by accommodation, and that he would not have it ended by the sword, and that if we should beat the King ninety-nine times, and he beat us but once, we should all be hanged.'[1] Manchester did not stand alone in holding these opinions: the view he expressed was that of the House of Lords in general, but, though there was much to be said for their desire to end the constitutional struggle by a compromise, it ought not to have been allowed to influence the conduct of military operations.

Manchester vindicated his military conduct at length, pleading generally that he had acted in accordance with the resolutions of his council of war, but he made no adequate answer to the political charge. He evaded that issue by representing the demand for energetic and single-minded strategy as part of a political plot directed against Presbyterianism and aristocracy. He had come to suspect, said Manchester, that Cromwell's designs were not in harmony with his professions. 'For his expressions were sometimes against the nobility,' and he had said that 'he hoped to live to see never a

[1] Baillie, *Letters*, ii. 245; Rushworth, v. 732; vi. *Manchester's Quarrel with Cromwell*, Camden Society, 1875, pp. 79, 99, *Camden Miscellany*, vol. viii.

CHAP. IV 1644-5

nobleman in England, and that he loved such better than others because they did not love Lords.' According to report, he had told Manchester himself 'that it would not be well till he was but Mr. Montagu.'[1] This counter-charge was intended to enlist the support of the House of Lords, and would have converted the military dispute into a quarrel between the two Houses, but Cromwell wisely changed his tactics, and ceasing to attribute motives, confined himself entirely to facts.

Dropping the personal question of his quarrel with Manchester, he took up the general question of the conduct of the war, and proposed a complete change of commanders. 'People say,' he boldly told the Commons, 'that the members of both Houses have got great places and commands, and the sword into their hands; and what by interest of Parliament, and what by power of the Army, will perpetually continue themselves in grandeur, and not permit the war speedily to end lest their own power should determine with it.'[2] Under his influence the Commons resolved on December 9, 1644, that for the rest of the war no member of either House should have office or command, military or civil. Ten days later the Self-Denying Ordinance passed the Commons, and on December 21 it was transmitted to the Lords. It was read a second time on December 26, and on January 7, 1645, the Lords demanded a conference with the Commons in order to set forth their reasons against its passing. They were willing, said the peers by the mouth of their Speaker, to sacrifice their places and offices, and all that was dearest to them, for the good of the kingdom, but not to put themselves in a worse condition than any free subject.

[1] *Memoirs of Denzil, Lord Holles*, p. 18.

[2] *Camden Miscellany*, vol. viii.; Carlyle's *Cromwell*, ed. Lomas, i. 186; Rushworth, vi. 4.

'As to that part of the Ordinance which does bar the Peerage from military command, both by sea and land, they cannot consent unto it for these reasons: CHAP. IV 1645

'1. It deprives the Peers of that honour which in all ages hath been given unto them (as may appear by many writers), whose part it was to be employed in military commands. It also crosses the constant practice of the Peers of England; for our stories make mention that, in all ages, they have been principally active, to the effusion of their blood, and hazard of their estates and fortunes, in regaining and maintaining the fundamental laws of the land, and the rights and liberties of the subject; nor was there ever any battle fought for those ends, wherein the nobility have not been employed in places of chiefest trust and command; and it doth not only deprive them of their due honour, but lays a blot upon them by this incapacity; which is a punishment usually inflicted upon delinquents, and such as have highly demerited from the Parliament.

'2. Though some few of the gentry and Commons, as Members of Parliament, are excepted, yet the rest of the gentry and Commons of the kingdom may have liberty to discharge their duty, and the honour to carry on this cause without the Peers; so that the case is not alike between the two Houses in point of excluding the members of both Houses from military employment.'

As the Commons showed no signs of yielding, the Lords on January 13 threw out the Self-Denying Ordinance, with only four dissentient votes.[1] The Lower House replied by reviving the attack on Manchester, and pressing forward the scheme for remodelling the army. On January 9 the scheme for the 'New Model' had been introduced into the Commons, and

[1] Those of Kent, Nottingham, Northumberland, and Saye. Gardiner, *Great Civil War*, ii. 118. *Lords' Journals*, vii. 128, 135.

CHAP. IV 1645

on the 28th the ordinance constituting it was despatched to the House of Lords. The 'New Model' was to consist of 22,000 men, and on January 21, by a hundred and one to sixty-nine votes, the Commons had resolved that Sir Thomas Fairfax should be its commander-in-chief. The Lords passed the ordinance on February 15, but struggled to secure themselves a veto on every appointment, by stipulating that all officers above the rank of lieutenant should be nominated by both Houses. They were obliged to content themselves with the compromise that officers should be nominated by the General with the approval of the Houses, and, when it came to the point, they had to accept unaltered the list sent them from the Commons.[1]

Now that the organisation of a new army under a new general had been decreed, the removal of the old commanders was a foregone conclusion. Yet the struggle was not over. The Commons, in their commission to Fairfax, had omitted the clause for the preservation of the King's person, formerly inserted in Essex's commission, and the Lords insisted on its reinsertion. Parties were so nearly balanced in the Upper House that the disallowance of Lord Clanricarde's proxy (on the ground that he was a Catholic) had forced the Lords to accept Fairfax's list of officers. Now the transference of the Earl of Bolingbroke's vote from one side to the other secured the passing of Fairfax's commission. It remained only to pass the new Self-denying Ordinance which the Commons had sent up to the Lords on March 31. Unlike the first, this second ordinance merely required members of either House holding military or civil

[1] *Old Parliamentary History*, xiii. 404, 422; Gardiner, ii. 187, 190.

commands conferred by the existing Parliament to resign within forty days. The objection of the Lords had been so far met that neither Lords nor members of the Commons were disqualified for future employment. On April 3, 1645, the Lords unanimously accepted the ordinance.

Its final passage was facilitated by the willingness of Essex himself to surrender his commission. On April 2 he delivered it up to the House of Lords with a declaration, which plainly revealed the feeling that his services had been requited with ingratitude. 'I have,' he said, 'for this now almost three years faithfully served you; and I hope without loss of honour to myself, or prejudice to the public. . . . I see by the coming up of these ordinances, that it is the desire of the House of Commons, that my commission may be vacated; and it hath been no particular respect to myself (whatever is whispered to the contrary) that hath made me thus long omit to declare my readiness thereto; it being not unknown to divers men of honour, that I had resolved it after the action of Gloucester; but that some importunities (pressed on me with arguments of public advantage, and that by those of unquestionable affection) overruled me therein. I now do it; and return my commission into those hands that gave it me; wishing it may prove as good an expedient to the present distempers as some will have it believed: which I shall pray for with as hearty zeal as any can desire my doing this which I now do.' He concluded by expressing his affection to the Parliament: 'the prosperity whereof I shall ever wish from my heart, what return soever it bring me; I being no single example, in that kind of fortune I now undergo.'

On the same day the Earl of Manchester and the Earl of Denbigh gave up their commissions. On the

CHAP. IV 1645

ninth, Warwick followed their example by surrendering his office of Lord High Admiral.

A complete revolution had thus been effected in the relations of the two Houses. The Lords might and did oppose the policy of the Commons from time to time during the later part of the civil war. But their substantial power was gone; the supreme control of military and political affairs alike had passed into the hands of commanders, nominated by the Commons, or committees, of which commoners formed a majority. The Committee of the Admiralty and Navy which succeeded to Warwick's authority consisted of six lords and twelve commoners.

On the other hand, the Commons, in removing noblemen from command, had not been moved by any animosity against the House of Lords itself, or by any desire to invade its rights. They had superseded them simply in order to place the management of affairs in stronger and more competent hands, and to guarantee the vigorous prosecution of the war. They desired to secure the triumph of a particular policy, not to effect a change on the balance of the constitution. In order to soothe the ruffled pride of the Peers they now drew up a declaration, affirming their intention of maintaining the rights of the Upper House:

'The House of Commons, taking notice of some unworthy endeavours to asperse the integrity of their proceedings, as aiming at the overthrow of the Peerage and undermining the rights and privileges of the House of Peers, do unanimously declare, That they hold themselves obliged, by the fundamental laws of the land, their several protestations and covenant, to preserve the Peerage, the rights and privileges belonging to the House of Peers, equally as their own, and will really perform the same. And as, in the first place, they look

to the carrying on that great common cause of religion and liberty, wherein both Houses stand mutually engaged; which no respect whatsoever shall make either of them desert, and which they will not, God assisting them, suffer to miscarry; so shall they, to these public ends, be very careful to preserve a right understanding between the two Houses; and will maintain the right and honour belonging to the places and persons of the Peers of England.'[1]

This declaration the Commons entered on their Journals on March 23 and presented to the Lords on the following day. Sir John Evelyn, who was charged to deliver it, denounced the charge that the Commons sought to overthrow the Peerage as a 'malicious scandal.' The Commons, he asserted, abhorred and detested the idea: 'and say that if there be any that do dream it necessary to reduce all things to their first principles, and know no way to perfection but by confusion, may their thoughts perish with them.' 'The thing itself,' was his conclusion, is 'so much contrary to the laws of nature, ancient and laudable customs of all nations, grounds of reason, and principles of religion, that they hope they shall use no other argument to satisfy your Lordships than to tell you that they that sit in the House of Commons are gentlemen.' The Lords appreciated the force of the argument, and replied by thanking the Commons for their 'seasonable' and 'acceptable' declaration, and by asserting that 'notwithstanding some discourses that pass frequently about this town, they could never suspect that the House of Commons, composed of so many gentlemen of ancient families, would do any act to the prejudice of the nobility of England.'[2]

[1] *Old Parliamentary History*, xiii. 428. *Lords' Journals*, vii. 237.
[2] Ib. xiii. 449.

CHAP. IV 1645-6

A proof that the Commons had no desire to abolish the Peerage was given by the propositions drawn up by the House on December 1, 1645, to be tendered to the King. He was asked to raise Essex, Northumberland, Warwick, and Pembroke to the rank of dukes, to make Salisbury and Manchester marquises, to give earldoms to Saye, Robartes, Willoughby of Parham, and Wharton, and to create Holles a viscount, and Cromwell, Waller, and the elder Vane barons.[1] But though the Commons were prepared to reward those who sided with them against the King with titles of honour, it was evident that they intended to reduce the House of Lords to a very subordinate position. The faithful few who might continue to sit there were to be allowed very little independence. On questions of policy and legislation they were expected to concur with the Commons, and if they did not yield to the pressure, the Commons discovered that their assent was unnecessary. In May, 1646, the two Houses differed about the question how to dispose of the King's person after he should be surrendered by the Scots. Sir John Evelyn at a conference used words implying that, if the Lords did not agree to the course proposed in the resolution of the Commons, the Commons would do it without them. When the Lords complained, the Commons justified their member, and said that even if his words meant what the Lords supposed, 'they are not contrary to the course and proceedings of Parliament, and the like have been used several times in this Parliament, without any exceptions taken thereunto by their Lordships.' And further 'that they hoped the Lords did not intend so to bind up this House to one way of proceeding, as that in no case whatsoever . . . the Commons of England might not do their duty, for the good and safety of the kingdom,

[1] *Old Parliamentary History*, xiv. 139.

in such a way as they may, if they cannot do it in such a way as they would, and most desire.'[1]

This intimation was effective and the Lords agreed to the vote. There were many reasons for avoiding a quarrel with the Lower House. The war was practically over, and, as the Commons pointed out, 'nothing in appearance can destroy us but quarrels amongst ourselves'—nothing else prevent, as it seemed, 'the speedy settling of a happy and well grounded peace.' Moreover during the war the position of the Lower House had grown stronger, and that of the Upper House weaker. At the beginning of the war the claim of the House of Commons to represent the nation was weakened by the fact that about 200 members had joined the King. They were expelled for so doing, but their seats remained vacant, and it was not till after the victory at Naseby that the House ventured to order fresh elections to fill the vacancies. In August, 1645, it began to issue writs; by the end of that year 146 new members had been elected, and by the end of 1646 the number of 'recruiters,' as they were termed, had risen to 235. While the House of Commons had been strengthened and made more representative by this infusion of fresh blood, the House of Lords had become less representative and numerically weaker.[2] A list drawn up in the summer of 1646 gives the names of twenty-eight peers qualified to vote in the House, and the number usually present was much smaller.[3] During 1644 the average number of peers was from twelve to sixteen. During 1645 the number slightly increased. In January, 1646, the average number daily was seventeen, in February twenty, in May it rose to twenty-two,

[1] *Commons' Journals*, iv. 548, 550; *Lords' Journals*, viii. 321.

[2] See Masson, *Life of Milton*, ii. 430; iii. 33, 376, 401.

[3] Gardiner, *Great Civil War*, iii. 105. The name of Lord Bruce, accidentally omitted, should be added, making the total twenty-nine.

CHAP. IV 1646-7

by December it sank to seventeen again.[1] Parties were so evenly balanced that more than once during 1646 a tie took place, and the transfer of the Earl of Mulgrave's proxy from Saye to Essex gave the Presbyterians a majority over the Independents.[2]

While the Commons could, and did, fill the vacancies in their body by ordering fresh elections, the Lords had no such resource. Peers who had once committed themselves to the King's cause, however slightly and for however short a time, permanently lost their seats in the Upper House. Left to themselves, the Peers would probably have readmitted minor delinquents after a period of purgation and the payment of a moderate fine, but the Upper House had no longer the sole right to decide on the admission or exclusion of its members. By the ordinance of June 29, 1644, no peer who had once deserted the Parliament could be readmitted to the exercise of his rights without the consent of both Houses.[3] That consent the Commons were not likely to give, as their action in the case of Holland had shown.[4] A second attempt to procure his readmission was made in 1647. On February 10, 1647, Manchester brought forward a motion for the purpose in the House of Lords. 'He put them in mind of the thinness of their House,' saying 'that the House of Commons had recruited their House, and that he thought it requisite for their Lordships to do the like to their House, and to that end he proposed to them the readmitting of some Lords (naming the earls of Bedford, Holland, and Clare) who had showed

[1] The lists of peers present in the House recommence on September 22, 1643. The averages are worked out by Parry, *Parliaments and Councils of England*, pp. 458–472.

[2] *Lords' Journals*, May 18, October 8, October 30, 1646.

[3] See *Lords' Journals*, vi. 391, 536, 608, 610; *Commons' Journals*, iii. 423, 447, 532.

[4] *Lords' Journals*, vi. 377, 495, 608. Clare had been readmitted, as well as Holland, and obliged to retire again.

much affection to the Parliament since their return, and during their long attendance.'[1] But the proposed ordinance was negatived by ten to nine, for it was felt that Holland deserved no special favour, and that there were many moderate Royalists who had a better claim to readmission. Moreover, the probability, if not certainty, that the ordinance would be rejected by the Commons influenced the voting. The possession of this veto by the Lower House made the House of Lords less able to resist the will of the Commons, when the two Houses differed. In addition to this, just when the first civil war was ending, a formidable agitation against the authority of the House of Lords began, which made the support of the Commons indispensable to the Lords.

1647

[1] *Lords' Journals*, viii. 718; Blencowe, *Sydney Papers*, pp. 9–12, 14. The Lords for it were Northumberland, Lincoln, Salisbury, Warwick, Manchester, Dacre, North, and Bruce. Against, Kent, Rutland, Middlesex, Mulgrave, Willoughby, Rochford, Grey of Wark, Robartes, Maynard, and Howard of Escrick.

CHAPTER V

THE ATTACK ON THE LORDS

CHAP. V 1646

As the struggle between the King and the Parliament developed, democratic opinions spread with startling rapidity. In the ranks of the army, in the congregations of the sectaries, amongst the young men and the citizens of London, opinions in favour of both 'church democracy and state democracy'[1] took root and flourished. For custom and tradition, either in ecclesiastical or constitutional things, these men had no reverence, and rejected all claims to authority which could not prove themselves valid to the individual conscience or the individual reason. It was in the exercise of its judicial powers that the House of Lords came into collision with this democratic spirit, and was exposed to an attack which began as a denial of its claim to exercise judicial rights, became next a denial of its claim to a share in legislation, and ended as a demand for the abolition of hereditary authority in general. The House of Lords, like the House of Commons, claimed and exercised the right of punishing those who spoke evil either of the House itself or its members. Lieutenant-Colonel John Lilburne, who had served for a time in Manchester's army, and had been one of the witnesses for Cromwell's charge against Manchester, took occasion, in a pamphlet which he published in June, 1646, to say that if justice had been properly executed, the Earl would have lost

[1] Baxter.

his head. Lilburne was summoned before the House of Lords to answer for his conduct, and appeared at their bar on June 11. His enemy, Manchester, who, as Speaker of the House, was in the Chair, demanded to know whether he had written the incriminating pamphlet. But to this and to all other questions Lilburne resolutely refused to reply, alleging that the House had no right to take cognisance of his case. 'You,' said the written protest which he handed in to the House, 'being Peers, as you are called, merely made by prerogative, and never entrusted or empowered by the Commons of England, the original and fountain of power; Magna Carta, the Englishman's legal birthright and inheritance, so often bought and redeemed with such great seas of blood and millions of money, hath justly, rationally, and well provided that your Lordships shall not sit in judgment, or pass sentence in criminal causes, upon any commoner of England, either for life, limb, liberty or estate, but that all commoners in such cases shall be tried only by their peers or equals.' [1]

CHAP. V 1646

As might have been expected, the Lords committed Lilburne to Newgate for contempt, and Lilburne, who was always miraculously supplied with pens, ink, and paper in his various prisons, published a new pamphlet reiterating his charges against Manchester, and his defiance of the House of Lords.[2] On June 23, he was brought to the bar of the House, and again he showed equal contumaciousness. The Lords now directed elaborate articles against Lilburne to be drawn up and presented to the House, and on July 11 he appeared for the third time at the bar to answer the charge. His writings were therein stated to be: 'An

[1] *Lords' Journals*, viii. 370. The pamphlet was *The Just Man's Justification*. Thomason Tracts, E. 340 (12).

[2] *Lords' Journals*, viii. 388. The new pamphlet was *The Free Man's Freedom Vindicated*. E. 341 (12).

CHAP. V 1646

high breach of the privilege of Parliament . . . and tending to the great scandal of the Peers, and the authority with which they are invested, and to stir up difference between the said Peers and other the subjects of this realm.'[1] Lilburne came into the House with his hat on, refused to kneel, and stuffed his fingers into his ears to avoid hearing the charge. He was more defiant than ever, again announced that he appealed to the House of Commons against them, and when allowed to speak used what the Lords styled very 'ill language.'

'My lords, I tell you to your faces that the Commons of England are by right your judges as well as mine in this case: and I do not doubt to live to see the day that they will make you to know, whether you will or no, that they are so; and of their justice and protection I do not the least doubt. And, my lords, are not you the men, that have been principal instruments to engage this kingdom in a bloody war to maintain their laws and liberties? and have not you often sworn and covenanted so to do? But, my lords, it seems to me that you nothing value your oaths and engagements, and in going to war never intended but merely to set us a-fighting to unhorse and dismount our old riders and tyrants, that so you might get up, and ride us in their stead. And therefore, my lords, I protest here, before the God of heaven and earth, if you shall be so unworthy as to persevere in endeavouring the destruction of the fundamental laws and liberties of England, as at present you do, I will venture my life and heart's blood against you, with as much zeal and courage as ever I did against any of the king's party, that you set

[1] *Lords' Journals*, viii. 429–432; Lilburne, *The Free Man's Freedom Vindicated*, 1646, p. 5; Gardiner, *Great Civil War*, iii. 124; *Old Parliamentary History*, xiv. 445, 462; xv. 19–29.

us together by the ears with.'[1] The Lords, who were not yet accustomed to hear their conduct or their powers questioned, completely lost their tempers, and passed a sentence upon Lilburne which amply justified the popular indignation it excited. In the first place, he was to be fined the exorbitant sum of four thousand pounds;[2] secondly, he was to be imprisoned for seven years in the Tower; and, finally, he was to be disabled from holding any office, military or civil, for the rest of his life.[3]

CHAP. V 1646

Through his wife Lilburne petitioned the House of Commons for redress, but they were in no mood to engage in a quarrel with the Lords on behalf of so notorious a firebrand, and in prison he remained for the next eighteen months. The House of Commons went so far as to appoint a Committee (of which Marten was chairman) to examine the case, and Lilburne was twice brought before it to plead for himself; but the subject presented many legal and political difficulties, and the report of the Committee was delayed and postponed. On the other hand, if the Commons were lukewarm, the populace was deeply stirred by Lilburne's wrongs. Pamphlet after pamphlet was printed denouncing the tyranny of the Upper House and the apathy of the Lower. Foremost amongst Lilburne's champions was a certain Richard Overton, a man of exactly the same type as Lilburne himself, and possessor of a secret press at which he used to print attacks against the Presbyterians and the Assembly of Divines. Overton now published a tract entitled:

[1] See Godwin, *History of the Commonwealth*, ii. 414. Mr. Godwin thinks this speech was actually made by Lilburne. That is doubtful, but it exactly represents his sentiments and those of his party towards the Lords. See *Lords' Journals*, viii. 432; *Anatomy of the Lords' Tyranny*, p. 14. E. 362 (6).

[2] Equal to £12,000 or more, comparing the value of money then and now.

[3] *Regal Tyranny Discovered*, 1647, pp. 63–76. E. 370 (12).

CHAP. V 1646

'An Alarum to the House of Lords against their insolent usurpation of the common liberties and rights of this nation. Manifested by them in their present tyrannical attempts against that worthy commoner, Lieut.-Col. John Lilburne, Defender of the Faith and of his country's freedom, both by his words, deeds and sufferings against all tyrants in the kingdom; whether Black-coats, Papists, Kings, Lords, etc.' [1]

The Lords, who had instituted a special Committee for the suppression of seditious pamphlets and unlicensed printing, ordered Overton's arrest, and on August 11, 1646, he was brought before the House. Like Lilburne, 'he carried himself in an insolent manner both by words and gestures,' said that as a free-born subject he was not bound to accuse himself, and appealed to the House of Commons.[2] The Lords committed him to Newgate, whence he at once issued a narrative of his case called: 'A Defiance of all arbitrary Usurpations, or Encroachments, either of the House of Lords or any other, upon the sovereignty of the supreme House of Commons.' [3]

'Though I be in their prerogative clutches,' he said, 'I care not who lets them know, that I acknowledge none other to be the supreme Court of Judicature of this land but the House of Commons, the Knights and Burgesses assembled in Parliament by the voluntary choice and free election of the people thereof; with whom and in whose just defence I 'll live and die, maugre the malice of the House of Lords. For I acknowledge that I was not born for myself alone, but for my neighbours as well as for myself; and I am resolved to discharge the trust which God has reposed in me for the good of others with all diligence, and fidelity, as I will answer it at God's great tribunal, though for my pains

[1] Thomason Tracts, E. 346 (8).
[2] *Lords' Journals*, viii. 457.
[3] Thomason Tracts, E. 353 (17).

I forfeit the life and earthly being of this my little thimbleful of mortality.' And to show that his courage was not daunted by his confinement, he published a still more violent attack on the Peers, and put his name to it. It bore the title of: 'An Arrow against all Tyrants and Tyranny, shot from the prison of Newgate into the prerogative bowels of the arbitrary House of Lords. . . . By Richard Overton, prerogative archer to the arbitrary House of Lords.' [1]

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By these, and by a series of similar pamphlets, petitions, and addresses, clandestinely printed and hawked about the streets, the populace of London were familiarised with the wrongs of Lilburne and Overton, and the rising feeling against the Peers was fanned. There was no argumentative discussion of the constitutional limits of the judicature of the House of Lords —that was left to the lawyers of the Commons. There was simply an appeal to general principles, and a blunt, outspoken denunciation of the claims put forward by the House of Lords. What good is the House of Lords? asked one pamphleteer. 'Why presume ye thus, O ye Lords? Set forth your merit before the people, and say "for this good it is that we will reign over you". . . . Which of ye before this Parliament, minded anything so much as your pleasures—Plays, Masques, feastings, huntings, gamings, dancings, with the appurtenances. If you owed any man money, or abused any man, what law was to be had against you? What patents and projects did you suppress, or so much as move against (nay had not a hand in)? What fearful enemies you were to Ship-money and to the proceedings of the High-Commission, Star-Chamber, and Council-Board—indeed your goodness was unexpressible and undiscernible before this Parliament.'

[1] Thomason Tracts. E. 356 (14).

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That the Lords had really done much to overthrow the arbitrary rule of Charles I, and to oblige him to summon the Long Parliament, was now totally forgotten. All that was remembered was that they had prevented the passing of laws which the House of Commons had drawn up, and measures which it had held necessary for the public good. 'What other have they ever been, but a mere clog to the House of Commons, in all their proceedings? How many necessary things have they obstructed! How many evil things promoted! What devices have they had of prudentials and expedients, to delay and pervert what is good, and subtle policies to introduce things evil!'[1]

The next question asked the Lords was how they came to be Lords, and obtained this power to oppress and obstruct. Certain it was, urged Overton, that most of them had not gained their titles by services to the people.

'By what means some of you came by your titles is very uncertain, but this is certain, that most of you gained no part of it yourselves: and the common ways your ancestors gained it for you, was generally by adhering to kings, in subduing and oppressing the Commons, or by pleasing their lusts, malice, revenge, or covetousness; for so histories manifest, and those that have been made Lords in our times have been advanced by the same occasions;

'As for example, what was Sir Lionel Cranfield advanced for, but for betraying the secrets of the City, and devising ways to shark the people; being now Earl of Middlesex? What was Coventry advanced for,

[1] A *Pearl in a Dunghill, or Lieut-Col. John Lilburne in Newgate* (June 1646), pp. 3, 4. E. 342 (5).

Thomas Edwards in the third part of *Gangraena*, published in 1646, sets forth at length the attacks of the sectaries upon the constitution, with many specimens of their language about the House of Lords, pp. 195–203.

but for his great abilities in deceivings, and various ways to oppress the people, heaping up masses of wealth by extremity of bribery, extortion and cruelty, for which virtues, his son, and son's son forsooth, must be Lords for ever? How came Montagu to be Lord Privy-Seal, and Earl of Manchester, but by the most palpable corruption that ever was; his son must now remain an Earl and Speaker in the House of Peers. We need not enlarge; for your own selves know very well how, and by what means you came to be Lords.' [1]

The source of the older titles, asserted Lilburne, was equally unrighteous. Their present holders had inherited them 'from their predecessors whom William the Conqueror, alias "The Thief and Tyrant," made Dukes, Earls, and Barons, for helping him to subdue and enslave the free nation of England, and gave them by the law of his own will the estates of the inhabitants the right owners thereof, to maintain the grandeur of their tyranny.' [2]

Neither the King's grant, nor hereditary descent, nor anything but the voice of the people, could rightfully confer political authority upon any body of men.

'It is a maxim in Nature and Reason that no man can be concluded but by his own consent, and that it is absolute tyranny for any what (or whom) -soever to impose a law upon a people, that were never chosen nor be-trusted by them to make them laws.'

'Our present House of Peers . . . are no legal judicature at all, nor have no true legislative or law-making power at all in them; having never in the least derived it from the people, the true legislators and fountain of power.'

'And therefore away with the pretended power of

[1] *An Alarum to the House of Lords*, 1646, p. 4.
[2] *Regal Tyranny Discovered*, 1647, p. 45, 46, 92.

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the Lords; up with it by the roots, and let them sit no longer as they do, unless they will put themselves upon the love of their country, to be freely thereby chosen as their commissioners to sit in Parliament.'

'O all ye freemen or commoners of England, out of that duty you owe to yourselves, and your native country . . . petition to your own House of Commons . . . . to desire them speedily to remove them before the kingdom be destroyed.'

Addresses were printed and petitions were presented to the House of Commons by the friends of Lilburne and Overton, urging them immediately to abolish the House of Lords. The Commons were rebuked for their luke-warmness, their carelessness of the people's rights, their persistence in the obsolete ceremony of asking the Lords for their assent to laws.[1]

'You must also deal better with us concerning the Lords, than you have done? You only are chosen, by us the People; and therefore in you only is the power of binding the whole nation, by making, altering, or abolishing of Laws; you have therefore prejudiced us, in acting so, as if you could not make a law without both the royal assent of the King (so you are pleased to express yourselves), and the assent of the Lords; yet when either King or Lords assent not to what you approve, you have so much sense of your own power, as to assert what you think good by an order of your own House.

'What is this but to blind our eyes, that we should not know where our power is lodged, nor to whom to apply ourselves for the use thereof; but if we want a law, we must wait till the King and Lords assent; if an

[1] *A Remonstrance of many thousand citizens and other freeborn people of England to their own House of Commons . . . calling those their commissioners in Parliament to an account how they have discharged their duties to the universality of the people, their sovereign Lord*, 1646. E. 343 (11).

ordinance, then we must wait till the Lords assent; yet you knowing their assent to be merely formal, (as having no root in the choice of the People, from whom the power that is just must be derived,) do frequently importune their assent, which implies a most gross absurdity. CHAP. V 1646

'. . . Prevail with them (enjoying their honours and possessions), to be liable, and stand to be chosen for Knights and Burgesses by the People, as other the gentry and free-men of this nation do, which will be an obligation upon them, as having one and the same interest: then also they would be distinguished by their virtues, and love to the commonwealth, whereas now they act and vote in our affairs but as intruders, or as thrust upon us by Kings, to make good their interests, which to this day have been to bring us into a slavish subjection to their wills.

'Nor is there any reason, that they should in any measure, be less liable to any law than the gentry are. Why should any of them assault, strike, or beat any, and not be liable to the law, as other men are? Why should not they be as liable to their debts as other men? There is no reason: yet have you stood still, and seen many of us, and some of yourselves, violently abused without reparation. We desire you to free us from these abuses, and their negative voices, or else tell us, that it is reasonable that we should be slaves.' [1]

In London, amongst the middle class and amongst the artisans, there was widespread sympathy with Lilburne, and much agreement with his views on the question of the Lords. On March 15, 1647, a petition which was being circulated amongst the Independent congregations was brought before the House of Commons. It demanded the abolition of the 'negative voice' of

[1] '*A Remonstrance*,' &c., pp. 6–7.

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the Lords and of their judicial power, reparation for Lilburne and his fellow prisoners, and a long list of sweeping reforms. It was directed 'To the right honourable and supreme authority of this nation, the Commons in Parliament assembled.' But the Commons were so far from desiring to claim any such unconstitutional sovereignty that they ordered a committee to inquire into the conduct of the petitioners, and finally had the petition burnt by the hangman in Palace Yard (May 22, 1647). Out of this there grew a dispute about their right of petitioning, which ended with the burning of another petition, and the imprisonment of some of the petitioners.[1] The Commons were, in consequence, denounced for their 'illegal and tyrannical dealing,' and declared to be worse than Charles himself.

If the House of Commons gave no support to the attack upon the Lords, the case was otherwise with the army. There the seed sown by Lilburne and Overton fell upon fruitful ground. When Richard Baxter became a chaplain in the 'New Model,' he found the sectaries, officers and men alike, 'vehement against the King and against all government but popular.' For the Peers and their claims they had no respect, and held that their own victories gave them a better right to power. 'What were the Lords of England,' they said, 'but William the Conqueror's colonels? Or the Barons but his majors? Or the Knights but his captains?'[2] To the army, therefore, the opponents of the Lords appealed, since the House of Commons refused to help them. 'When I saw,' wrote Lilburne to Cromwell, 'that they would not hear, regard, or receive, but burnt or slighted all those just petitions I set underhand on

[1] Gardiner, *Great Civil War*, iii. 254–257; Lilburne, *Rash Oaths Unwarrantable*, 1647, pp. 29–47, E. 393 (39); *Commons' Journals*, v. 112, 118, 125, 179. Cf. Rushworth, vii. 887.

[2] *Reliquiae Baxterianae*, pp. 51, 54.

foot for justice and my liberty, I applied myself vigorously unto the honest blades (the private soldiers, I mean) of the army.' Since the officers would not take up his cause, he resolved to appeal to their men against them, and to see what 'the hobnails and clouted shoes' would do for him.[1] Lilburne's and Overton's appeals were eagerly circulated in the army. The war ended in the summer of 1646 and the soldiers during the next three-quarters of a year had plenty of time to instruct themselves in political questions. 'Being usually dispersed in their quarters,' says Baxter, 'they had such books to read when they had none to contradict them.' 'Lilburne's books,' it was reported in April, 1647, 'are quoted by them as statute law.'[2]

Such was the state of opinion in the army in the spring of 1647. But sincere though the sympathy of the 'honest redcoats' might be for Lilburne and his fellows, and deep their indignation against the Lords, it would have mattered little to the Lords if Parliament had acted with ordinary wisdom. As it was, at the very moment when these feelings were at their height, the dominant party in the two Houses adopted a policy which made the 'honest redcoat' the arbiter of the kingdom. The Presbyterian majority and its leaders attempted to disband the army without giving its members sufficient pay for their past services, or adequate security against future molestation for acts done during the war. They treated the representations of the soldiers with contempt, refused to redress their grievances, suppressed their petitions, and declared the petitioners enemies to the state. A military revolt began and spread like wildfire from regiment to regiment.

[1] *Jonah's Cry out of the Whale's Belly*, 1647, p. 9. Gardiner, iii. 364. E. 400 (5).

[2] *Reliquiae Baxterianae*, p. 53; Gardiner, iii. 237.

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Hitherto the leaders of the army had striven to moderate, and to mediate, in order to keep the army in obedience to Parliament. But the discovery of the ulterior aims of the Presbyterian leaders changed the attitude of Cromwell and Fairfax. Furthered by French diplomacy, a coalition had taken place between English and Scottish Presbyterians, and a scheme had been accepted for restoring King Charles to his power without any adequate securities, either for religious or civil freedom. The London trained bands, purged of sectarian officers and put under the control of a Presbyterian committee, were to supply the military force needed to override possible opposition. A Scottish army was to cross the border and to help to crush the resistance of the English Independents. Had the plot succeeded, the war of 1648 would have been fought in 1647, under different conditions and probably with a different issue. But for the success of the plot two things were needful: one was the possession of the King's person, and the other the disbanding of the army. Placed between the two alternatives of joining a military revolt, or submitting to an unconditional restoration, Cromwell made his choice swiftly and resolutely. He threw in his lot with the army in the hope of controlling the movement amongst the soldiers, forcing Parliament to accept a reasonable compromise, and preventing a new civil war. Fairfax adopted the same course, and refused to obey the orders for disbanding; Cornet Joyce seized Charles at Holdenby and carried him off to Fairfax's headquarters; and the whole army threateningly advanced towards London. Suddenly, and as if by magic, from a mutinous mass of troopers and musketeers the army became a political organisation. The soldiers elected for their government in political matters a Council of the Army, consisting of

two privates and two officers to represent each regiment, with all the colonels and general officers who had taken their side. No longer content to require the redress of their wrongs as soldiers, they demanded a voice in the settlement of the nation. 'As Englishmen—and surely our being soldiers hath not stript us of that interest, although our malicious enemies would have it so,—we desire a settlement of the peace of the kingdom and the liberties of the subject. . . . We think we have as much right to demand and desire to see a happy settlement as we have to our money, and to the other common interests of soldiers which we have insisted upon.'

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Unprepared for the moment to resist, Parliament was obliged to negotiate, and negotiation spelt concession.

As the Lords were less strongly Presbyterian than the Commons, and more sensible of their precarious political position, they were foremost in yielding. In both Houses the moderate party obtained the upper hand. But the Presbyterian citizens of London, stirred up by their ministers, were blind to facts, and enraged at every concession. When Parliament, at the demand of the army, repealed the ordinance which had placed the control of the trained bands in the hands of the Presbyterians of the City, a mob flocked down to Westminster to force the two Houses to rescind their votes. On July 26 petitions were presented from the Common Council, and as both Houses returned negative answers, stronger means of persuasion were applied. The Lords—nine of whom only were present in the House—were the first to be attacked. Some of the mob 'getting to the windows of the House of Lords threw stones in upon them.' Others burst into the House, and told the Lords that, unless they recalled their votes, 'they should never come out.' One of the

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boldest of the rioters stood up at the bar, and demanded the Earl of Manchester: 'Where is Manchester? We must call him to an account.' But luckily for himself, Manchester—obnoxious as one of the instigators of the late concessions to the army—had already left the House. In the end the Lords obeyed the orders of the mob, and retracted their votes; and then the mob applied similar pressure to the House of Commons with equal success.[1]

At the news of the riots and of the violence offered to the two Houses, the army declared its intention of maintaining the independence of Parliament, and invited those members who would to seek its protection. Speaker Lenthall and fifty-seven Independent members of the Commons accepted the invitation, accompanied by Manchester, the Speaker of the House of Lords, and eight peers.[2] All signed a solemn engagement 'to live and die with Sir Thomas Fairfax and the army, in the vindication of the honour and freedom of Parliament.'[3] On their part the soldiers, at a great review on Hounslow Heath, received the seceders with a hearty welcome, 'crying with a loud voice, "Lords and Commons and a free Parliament," shouting and hallooing and throwing up their hats.'

In London the Presbyterian leaders prepared for armed resistance. The two Houses met, and elected new Speakers, the Upper House Lord Willoughby of Parham, the Lower Mr. Henry Pelham, and both proceeded to vote that the King should come to London to treat. But when the army advanced all attempts to resist broke down, and on August 6 Fairfax entered

[1] *Fairfax Correspondence*, iii. 380; Ludlow's *Memoirs*, i. 161; Rushworth, vi. 640; *Lords' Journals*, ix. 355.

[2] Namely, Salisbury, Denbigh, Northumberland, Grey of Wark, Mulgrave, Kent, Howard, and Saye.

[3] Rushworth, vii. 750, 754.

London in triumph, the seceding members reoccupied their places, and Manchester and Lenthall returned to the chairs of the two Houses. A fortnight later, after a futile struggle on the part of the Presbyterians in the Commons, an ordinance was passed declaring all votes and enactments during the absence of the two Speakers null and void, and the dominion of the army and the Independent party seemed finally established.[1]

On the position of the House of Lords the political revolution which had taken place had two serious effects. Its already scanty numbers were still further diminished. Nine Lords had joined the army whilst eight had continued to sit and to act with the Presbyterians. Seven of the eight now ceased to attend the House, and at the demand of the army, were on September 8 impeached on the charge of high treason, 'for levying war against the King, Parliament, and Kingdom'. These were the Earls of Middlesex, Lincoln, and Suffolk, with Lords Willoughby, Hunsdon, Maynard, and Berkeley.[2] Pembroke had also continued to sit, but pleaded compulsion, and went over to the stronger party with his usual alacrity. 'His easy disposition made him fit for all companies,' observed a Presbyterian pamphleteer.[3]

In another respect, however, the late revolution seemed to strengthen, for the moment at least, the position of the Upper House. Manchester and the eight peers who had co-operated with army leaders in the struggle against the Presbyterians, had acquired in return a claim to gratitude and support. It was freely reported that Cromwell and Ireton had engaged themselves 'to stand in the defence of those

[1] *Lords' Journals*, ix. 388, 397.
[2] *Commons' Journals*, v. 296.
[3] For Pembroke's excuse, see *Lords' Journals*, ix. 433.

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Lords, and in maintenance of their dignity and rights, who had so freely adventured their persons to join with them.'[1] True or not—and there seems to have been no definite engagement of the kind—an understanding evidently existed between the army leaders and the present occupants of the House of Lords.[2] For in the proceedings which followed the return of the two Speakers to Westminster, the Lords were observed to be 'leading the way and outdoing the Commons' in their zeal to carry out the demands of the army. And when the Presbyterians in the Commons time after time refused to annul the votes passed in the absence of the Speakers, 'the Lords still renewed the same message to them, beating back their votes into their throats, and would not acquiesce, but upon every denial put them again to roll the same stone.'[3]

Nevertheless, in spite of this newly-born willingness to comply with the demands of the army, the position of the Upper House was evidently precarious. The hostility of the rank and file to its authority was still unallayed. The power of the army leaders to save it was limited by their power to control the democracy which this new revolution had made the dominant factor in English politics.

For the last six months of the year 1647 Parliament and army were both busily engaged in constructing schemes for the settlement of the kingdom. Those drawn up by the army clearly reveal the disagreement which existed between the soldiers and their leaders on the question of the House of Lords. First in order

[1] Sir William Waller's *Vindication*, pp. 191–193.

[2] A call of the House of Lords on November 9 showed twelve peers present and six others qualified to sit but absent. The seven impeached peers are of course not included in this number.

[3] Walker, *History of Independency*, i. 47; cf. *Old Parliamentary History*, xvi. 266.

of time and in importance amongst these schemes was the 'Heads of the Proposals of the Army,' published on August 1, 1647, and mainly drawn up by Ireton as the ablest penman of the Council. In these 'Proposals' the continued existence of the House of Lords was tacitly assumed, and while the power of the Parliament in general, and of the House of Commons in particular, was limited and restricted, that of the House of Lords was scarcely touched. There was a stipulation that no peers created since May 21, 1642, or to be created hereafter, should sit in Parliament without the consent of both Houses, but this had been anticipated in the demands of Parliament itself at the Uxbridge treaty. There was also a demand 'that the right and liberty of the Commons of England may be cleared and vindicated, as to a due exemption from any judgment, trial, or other proceeding against them by the House of Peers, without the concurring judgment of the House of Commons.'[1]

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The spokesmen of the soldiers bitterly expressed their discontent at the authority thus conceded to the House of Lords. 'All the Commons of England,' wrote John Wildman, 'are made to depend upon the King's absolute creatures for freedom and justice.' He instanced four points in which the Lords were unduly favoured:

1. 'The Proposals allow them a power over the Militia co-ordinate and co-equal to the representative of all the nation, the Commons in Parliament.

2. 'A judicial power in exposition and application of law is estated in the Lords. So that any sentence of the Commons representing all England may be contradicted by five or six Lords, by virtue of the King's patent. . . .

[1] Gardiner, *Constitutional Documents*, p. 316, ed. 1899.

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3. 'They are invested with a power equal to the Commons in disposing all the offices of power and trust in the nation. . . .

4. 'A restriction to their usurpation of a negative voice to all the resolutions of the Commons, is not once named, or intimated.' . . .

Wildman's criticism concluded with an attack upon Cromwell as the author of the 'Proposals.' 'Is this that valiant, just, and faithful Cromwell, whose courage daunted the most daring champion of Kingly Lordly interest? Is this that Cromwell who professed to Manchester's face, that England would never flourish, until he was only Mr. Montagu, nor the public affairs be managed successfully whilst a House of Peers are extant? *O quantum mutatus ab illo!* Doth he not now prostitute the estates, liberties, and persons of all the people, at the foot of the King's Lordly interest?' [1]

Another source of complaint was the undue respect shown by the leaders of the army to the judicial authority of the Lords. The Agitators—as the representatives of the private soldiers were termed—repeatedly demanded that Lilburne, Overton, and their fellow sufferers should be forthwith set at liberty and compensated for their sufferings (July 16). But all that the Council of the Army asked from Parliament was that they should be brought to a regular and equitable trial, and in the meantime be released on bail (July 18). Lilburne had expected that the triumph of the army would be the signal for his immediate release. When Cromwell, instead of moving that he should be set free, supported a motion for inquiry into precedents for the jurisdiction of the

[1] *Putney Projects, or The Old Serpent in a New Form. Presenting to the view of all the well affected in England the serpentine deceit of their pretended friends in the army, &c.* By John Lawmind, 1647, pp. 40–42. E 421 (19).
Clarke Papers, i. 171; *Declarations of the Army*, 1647, p. 97.

Lords over commoners, Lilburne denounced him as an apostate and a juggler. Once 'the greatest anti-Lord in England,' the Lieutenant-general had become 'a patron, approver, and protector of them in all their arbitrary, illegal, and tyrannical usurpations,' because the Lords were now his tools, 'being more his drudges and more conformable to his will than the House of Commons itself.' [1]

CHAP. V 1647

As neither the 'Heads of the Proposals of the Army,' nor the 'Propositions' offered by Parliament to the King on September 7, 1647, were definitely accepted by Charles, both bodies betook themselves to the task of drawing up new schemes of settlement, or rather amending and altering the old. The dissatisfaction of the soldiers with the policy of their commanders found expression in two documents, which the Agitators of five regiments of horse drew up, and presented to the Council of the Army. The first was a manifesto entitled: 'The Case of the Army truly stated,' complaining that the engagements of the army to the nation had been broken, and that the grievances of the people were unredressed. It concluded with a general list of radical reforms which were to be immediately carried out. The second document was a short sketch of a new constitution, 'offered to the joint concurrence of the free Commons of England,' and entitled 'An Agreement of the People.' [2]

It demanded manhood suffrage, equal electoral districts, and biennial parliaments. Supreme power in legislation and in government was declared to reside in the representatives of the nation in Parliament 'without the consent or concurrence of any other persons,' thus

[1] *The Legal Fundamental Liberties of the People of England*, 1649, 2nd edition, p. 31. E. 567 (1). *The Additional Plea of Lieut.-Col. Lilburne*, 1647, pp. 21, 23. E. 412 (11).

[2] Gardiner, *Constitutional Documents*, p. 333; *Great Civil War*, iv. 392.

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implicitly abrogating the authority of King and Lords. An article declaring that in all laws made, or to be made, every person was to be bound alike, and that no 'tenure, estate, degree, birth or place' should confer any exemption from the ordinary course of legal proceedings, aimed at abolishing the personal privileges of the peerage.[1]

Over this constitutional scheme raged for many days a furious debate in the Council of the Army, chiefly round the three questions of the engagements of the army, the expediency of manhood suffrage, and the abolition of the share of King and Lords in legislation. Cromwell and Ireton were plainly told, that their credit had been 'much blasted' by the belief that they had made some secret engagement with the King or with the Lords. To this Cromwell replied, that he was hampered by no promises other than the general engagements of the whole army. He was 'as free from engagements to the King as any man in the world.' Neither was he privately pledged to maintain the right of the Lords to a share in the legislative power. There was nothing—other than the printed engagements of the army which all the world knew—to prevent him from concurring with the demand of the Agitators, that sovereignty should be recognised as residing in the people and the people's representatives.[2]

As for the new constitutional scheme, it involved great alterations of the government of the kingdom, 'alterations of that government that it hath been under, I believe I may almost say since it was a nation,' and 'wise men and godly men' ought to consider the consequence of such alterations. There were good

[1] See *Clarke Papers*, i. 355.

[2] Borgeaud, *Rise of Modern Democracy*, pp. 67–72; Gardiner, *Great Civil War*, iii. 379, 392. *Clarke Papers*, i. 228, 243, 249.

things in the scheme, but others might put forth equally plausible schemes, and seek to impose them on the nation. The result would be a new civil war—utter confusion, perhaps absolute desolation. It was not enough to propose a good scheme: the ways and means of accomplishing it must be considered. The real question was 'whether the spirits and temper of the people of this nation are prepared to receive it.' He believed that there were real difficulties in the way of the scheme, 'great mountains,' he might say.[1]

Cromwell's reasoning drew a fiery protest from Colonel Rainborow, the head of the democratic party amongst the officers. He denounced the men of little faith who looked at difficulties, and urged that if the soldiers were convinced a thing was just they were bound in conscience to carry it through despite all difficulties. He denied that the antiquity of a government was any argument against its alteration.

'I hear it said, "it 's a huge alteration," "it 's a bringing in of new laws," and "this kingdom hath been under this government ever since it was a kingdom." If writings be true, there hath been many scufflings between the honest men of England and those that have tyrannised over them, and there is none of those just and equitable laws that the people of England are born to but were intrenchments on the rights of these tyrants. But if they were those laws which the people have been always under, if the people find they are not suitable to freemen, I know no reason should deter me, either before God or the world, from endeavouring by all means to gain anything that might be of more advantage to them than the government under which they live.'[2]

[1] *Clarke Papers*, i. 236–239.

[2] Ib. i. 246. The MS. runs 'but that they are intrenchments altogether,' *i.e.* all the good laws we enjoy were once intrenchments on the rights of the King or Lords.

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In the end Cromwell carried the day, and procured the appointment of a committee to consider the public engagements of the army, and to report at once to the Council.

The engagements of the army towards the King were perfectly well known. When Charles had consented to certain specified proposals he was to be restored to the exercise of his authority. The engagements of the army towards the House of Lords were more difficult to determine. They formed part of the engagements of the army towards the Parliament as a whole. It had promised to maintain the Parliament, and had drawn no distinction between the two Houses which composed it. The letter of Cromwell and the officers to the City on June 10, 1647, had been very emphatic in its language. 'We have said before, and we profess it now, we desire no alteration of the civil government. . . . We come not to do any act to prejudice the being of Parliaments, or to the hurt of this, in order to the present settlement of the kingdom.'

The Declaration of June 15 struck the same note. In it the soldiers expressed the desire 'that the authority of this kingdom in a Parliament rightly constituted, freely, equally, and successively chosen, according to its original intention, may ever stand, and have its course,' and they propounded certain changes in the election and duration of Parliaments as necessary to their right constitution. But they disclaimed 'any overture tending either to overthrow that foundation either of order or government in this kingdom.' When the proposed reforms were accepted they would willingly submit, as of old, to be bound by what a Parliamentary majority should determine. 'A firm foundation being thus laid in the authority and constitution of Parliaments for the hopes, at least, of common and equal rights and

freedom to ourselves, and all the freeborn people of this land; we shall, for our parts, freely and cheerfully commit our stock or share of interest in this kingdom, into this common bottom of Parliaments; and though it may, for our particulars, go ill with us in one voyage, yet we shall thus hope, if right be with us, to fare better in another.'[1] CHAP. V 1647

The 'Heads of the Proposals of the Army' had throughout referred to the two Houses, and vested authority in the one as well as the other, while the suggested limitations of the authority of the Upper House had implied an assurance that its remaining rights were to be maintained. At the same time the army had announced to the nation, that it regarded those peers who had taken refuge with it 'as persons in whom the public trust of the kingdom is still remaining,' and had promised to stand by them till they could with freedom and security return to Westminster, and again discharge their trust.[2]

When the Agitators demanded the abolition of King and Lords, they were obliged either to deny the validity of these engagements, or to assert that all engagements which conflicted with the imprescriptible rights of the people were null and void. Most of them adopted the second course. The engagements, urged one, gave away the rights of the people, and therefore they were unjust, and ought to be broken. A nameless trooper declared, that whatever engagements he had bound himself to, supposing God revealed to him that they were unjust, he would break them speedily, 'if it were an hundred a day.' Wildman argued that by the fundamental laws of the kingdom neither King nor Lords had rightfully any negative voice in legislation: it was

[1] Rushworth, vi. 554, 568.

[2] Declaration of August 2, 1647. Rushworth, vii. 748.

CHAP. V 1647

a mere usurpation on their part, and it was time to put an end to it. 'Both the power of King and Lords,' argued Pettus, 'was ever a branch of tyranny, and if ever a people shall free themselves from tyranny, certainly it is after seven years' war and fighting for their liberty.' [1]

Against this sort of reasoning Ireton passionately protested. 'The name and honour of God, the name and reputation of the people of God, and of that Gospel they profess, is deeply, and dearly, and nearly concerned in the good or evil carriage of this army. . . . That's the only thing to me. It is not to me so much as the vainest or lightest thing you can imagine, whether there be a king in England or no, whether there be Lords in England or no. For whatever I find the work of God tending to I should desire quietly to submit to. If God saw fit to destroy, not only King and Lords, but all distinctions of degree—nay, if it go further, to destroy all property—if I see the hand of God in it I hope I shall with quietness acquiesce, and submit to it, and not resist it. But still I think that God will so lead those that are His, and I hope too He will so lead this army, that they may not incur sin, or bring scandal upon the name of God and the name of the people of God. . . . I would not have it incur the scandal of neglecting engagements, and laying aside all consideration of engagements, and of juggling and deceiving and deluding the world, making them believe things which they never meant.' [2]

In conclusion Cromwell summed up the views of the two parties in the Council.

'We all speak to the same end, and the mistakes are only in the way. The end is to deliver this nation from oppression and slavery, to accomplish that work

[1] *Clarke Papers*, i. 240, 261, 273, 351, 386.
[2] Ib. i. 296–297.

that God hath carried us on in, to establish our hopes of justice and righteousness in it. We agree thus far. I think we may go thus far further, that we all apprehend danger from the person of the King, and from the Lords. All that have spoke have agreed in this too.' Himself and Ireton had been accused of a design to 'set up' the King and the House of Lords, but the charge was untrue. 'If it were free before us whether we should set up one or other, I do to my best observation find an unanimity amongst us all, that we would set up neither.' More than that 'I must further tell you that as we do not make it our business or intention to set up either the one or the other, so neither is it our intention to preserve one or the other with a visible danger and destruction to the people and the public interest.'

The real difference between the two parties was whether the King and Lords could be preserved consistently with the safety of the kingdom. 'On the one part there is this apprehension: that we cannot with justice and righteousness at the present destroy, or go about to destroy, or take away, or lay aside both, or all the interest they have in the public affairs of the kingdom; and those that do so apprehend, if they see that they may consist without any considerable hazard to the interest of the kingdom, do so far wish to preserve them.' On the other hand, the position of the opponents of the Lords was this: 'That there is not any safety or security to the liberty of the kingdom and the public interest, if you do retain these at all; and therefore they think that this is a consideration paramount to the consideration of particular obligations of justice, or matter of right or due towards King or Lords.'[1] Personally Cromwell held that there was a

[1] *Clarke Papers*, i. 379–383. Cromwell's remarks are considerably abridged in this quotation.

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certain amount of hazard in retaining King and Lords, but 'would strain something in the point of security,' for the sake of keeping the faith of the army untarnished. Ireton had threatened to lay down his commission if a policy were adopted which involved the breach of public engagements, and Cromwell also hinted at withdrawal.

In the end the Council sided with Cromwell and Ireton. Instead of an attempt to impose the crude scheme of the Agitators upon the nation, it was resolved to amend the earlier proposals of the army, and to offer them to the acceptance of Parliament. 'The new constitution was to be brought into existence by an understanding with the King and the House of Lords, not to be a direct emanation from the people sweeping both King and Lords away.'[1] Instead of simply abolishing the House of Lords it became necessary to consider by what changes its existence could be reconciled with the safety of the nation, and with the practical supremacy of the representatives of the people.

During the last six years various schemes had been suggested for removing the difficulty created by the veto of the House of Lords whilst preserving the rights of those peers who had sided with the Parliament to a voice in the government of the country. That which had found most favour was a proposal for 'uniting the Houses in one body after the fashion of a Scottish Parliament.'[2] It was privately discussed about January, 1645, when the Lords refused to renew the ordinance for martial law, and hesitated to pass that for Laud's attainder. On January 20 the Dutch ambassadors sent

[1] Gardiner, *Great Civil War*, iii. 391.

[2] During the period 1603–1707, and indeed, during the whole of its existence, the Scottish Parliament consisted of a single Chamber. Terry, *The Scottish Parliament*, 1905, p. 1. A modern parallel to the proposal is the expedient called 'a congress' in the French constitution, i.e. the temporary union of the two branches of the legislature to revise the fundamental laws. Lowell, *Government and Parties in Continental Europe*, i. 12.

their government a detailed account of the design of the Commons. 'The Lower House hath caused the Chamber where they sit in, to be hanged with tapestry, which was heretofore never so; it is said it is done that the Lords, changing their Chamber, shall come and sit in the House of Commons, and so to be both together reduced into one body, and the better agree by number of votes. When heretofore the Parliament was full, then the Lords' Chamber did consist of about 126 or more votes, and the Lower House above 500 votes; and they have always been in several Houses, and the one could not conclude anything for a resolution of the King, unless the other House did also consent; but now the King is absent and the Upper House should now be melted into the Lower; and in the common assembly of about 26 Lords which are now here, and some 200 Commoners, so the most votes should rule and ordain all matters: thus much we are told, and that it tends to shun many disputes and hindrances which happen in their resolution every day; the Lords remain constant to maintain their right, and say, this is to take away all their right and prerogative, taking away their House, and so bring all the power under the Commons.' The Parliament by a Declaration of August 5, 1645, denounced this story as a malicious fabrication, asserting that 'there never was any debate in the House of Commons concerning any such matter, nor was the same ever intended or desired by the said House.' But though it was doubtless true that there had been no public debate on the subject, it must have been talked of in the private councils of the Parliamentary leaders, for both the Venetian and French agents told the same story.[1]

[1] Gardiner, *Great Civil War*, ii. 106. Husband, *Collection of all the Public Orders, Ordinances, and Declarations of both Houses, etc.*, folio 1646, p. 699.

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This suggestion was now revived in the Council of the army. Colonel Rainborow quoted the example of Scotland, and asked why the Lords should not have as a matter of right a place amongst the Burgesses, and the two Houses be united? To this Ireton answered that 'for so many persons to be the permanent interest in the House,' and to sit in parliament after parliament without the necessity of election, would be dangerous to the State. He appears to have preferred the plan of making the Lords eligible to the Lower House, which had been already suggested by Lilburne, and was the solution finally adopted in 1649.[1]

Two other schemes were also propounded during these discussions. The first of these was that the Lords (as also the King) should possess a suspensive veto with regard to legislation. It was at one point agreed (1) 'That all the power of making laws should be in those that the people should choose,' *i.e.* in the House of Commons; (2) That the King and the Lords 'should serve only to this end; that laws should be presented to them, [in order] that if they would do the Commons that right as to confirm the laws they should do it. If they should not think fit to sign them, it should beget a review of that by the House of Commons; and if, after a review, the House of Commons did declare that was for the safety of the people, though neither King nor Lords did subscribe, yet it was a standing and a binding law.' Ireton's summary of the proposals is: 'That the Commons should make so much use of the Lords in all affairs they might occasion a review, but if the Commons should upon that review think it fit, it should be looked upon as a law.'[2]

[1] *Clarke Papers*, i. 395. The same argument against the proposal is given in a contemporary pamphlet.

[2] Ib. i. 396–7. The text of the debates is here very defective, but this is the only meaning I can put upon it.

This solution, though accepted for a moment, was finally set aside in favour of a second and more complicated scheme, advocated by Ireton himself on the ground that it was fairer to the Lords. The laws passed by the House of Commons were to be binding on all commoners without the consent of the Lords being necessary. The resolution of the committee of officers ran: 'That the power of this and of all succeeding representatives of the Commons in Parliament doth extend on the behalf and as to the whole interest of all the Commons of England to the enacting, altering, and repealing of laws, to the conclusive exposition and declaration of law, and to final judgment without further appeal, and generally to all things concerning the Commonwealth whatsoever is not by the represented reserved to themselves.'[1]

While the supremacy of the House of Commons was thus declared, neither the legislative nor the judicial rights of the Lords were to be entirely abolished. Unless they themselves consented to it, the Lords were not to be bound by a law which the House of Commons passed. The House of Lords was to be able to exempt the persons and estates of its own members from the operation of the law. This Ireton termed giving the Lords a power 'to preserve themselves against the injuries of the Commons.' You must leave the Lords, he argued, a power to protect themselves. 'That you can do to the utmost for their safety is, that a Lord . . . may preserve his own person or estate free from the Commons.'[2] Many godly men, argued Wildman, the leader of the advanced party in the committee, would not be satisfied with this solution. I do not see, answered Ireton, that they would be satisfied with

[1] *Clarke Papers*, i. 407.
[2] Ib. i. 391, 398, 405.

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anything 'without having a power over other men's liberties.'[1] The scheme, he asserted, 'gives the negative voice to the people, no laws can be made without their consent. And secondly it takes away the negative voice of the Lords . . . as to what concerns the people; for it says that the Commons of England shall be bound by what judgments, and also by what orders, ordinances, or laws shall be made for that purpose by them; and all that follows for the Lords is this, that the Lords are not bound by that law for their own persons or estates as the Commons are, unless they consent to it.'[2] The negative voice of the King was to be dealt with in precisely the same way. The judicial powers of the House of Lords were also reduced to a minimum. They were not to proceed against any commoner 'without the particular consent and concurrence of the House of Commons, except in case of actual violence or affront done by a Commoner to the House of Peers as a court; and in that case no further proceeding to be valid but by the House of Commons, saving the securing or imprisoning of the offender's person till he can be tried.' A peer who was 'an officer of justice or minister of state' was to be 'accountable and subject to the power and judgment of the House of Commons for any mal-administration of his place to the hurt or damage of the Commonwealth.' But peers who did not hold any official position were to retain the right of being judged by their peers.[3] 'We have stood very much,' said Ireton, referring to the case of Lilburne and Overton, 'that we should be judged by our peers and our fellow-commoners: I would fain know this, how we can take away that right of peers to be tried by their peers?'[4]

But these excited debates and elaborate schemes all

[1] *Clarke Papers*, i. 403.
[2] Ib. i. 391.
[3] Ib. i. 392, 408.
[4] Ib. i. 392.

came to nothing. A sudden change in the political situation produced a corresponding alteration in the attitude of the army leaders. Day by day their soldiers were becoming more difficult to control. The Levellers denounced in the strongest language any compromise with King or Lords, and demanded that the 'man of blood' should be brought to justice, and the House of Lords totally abolished. To restore subordination and order was the only way to prevent division in the army, and anarchy in the nation. Cromwell and Fairfax perceived the necessity, put a temporary stop to the meetings of the Council, sent the Agitators back to their regiments (November 8, 1647), and quelled by a few arrests and a single execution the beginnings of a mutiny (November 15, 1647). 1647

At three great reviews a new compact was made between the general and his soldiers. Fairfax declared that unless discipline were restored he would no longer retain his command. For the future, as in the past, he would join with the soldiers for the redress of their military grievances, and concur with them in demanding the speedy dissolution of the present and the reform of future Parliaments. But henceforth they must leave to the determination of Parliament the political settlement of the kingdom. With the acceptance of this compact, the ingenious compromise, intended to reconcile the continued existence of the House of Lords with the practical and theoretical sovereignty of the Commons, fell to the ground. It was never actually proposed by the army to Parliament. At the same moment that the leaders of the army thus reasserted their control over their soldiers, the news reached the Parliament that King Charles had fled from Hampton Court to the Isle of Wight. Nothing could have been worse for the King's interests; nothing better calculated to

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inflame the suspicions of his sincerity which his attitude during the negotiations had aroused. Its effect was plainly shown in the action of the two Houses. When Charles asked to be allowed to come to London and treat in person, the Lords answered by drawing up four propositions which they required that the King should accept as the preliminary to the treaty. The Commons went further. Converting the propositions into bills, they presented the Four Bills to the King, with the demand that he should assent to them within four days. Upon their refusal by Charles, the Lower House passed the famous vote of January 3, 1648, that no more addresses should be made by the Parliament to the King. The army immediately declared their concurrence with the vote, and their resolution to stand by the Commons in settling the kingdom 'without the King and against him.' But the Upper House hesitated to follow the lead of the Lower. Though they were willing to impose hard terms upon the King, they shrank from setting him aside altogether. Therefore they delayed to take the vote into consideration, and it was evident that if they dared they would refuse their concurrence. The Royalists eagerly encouraged them to resist.

> 'Stand to the King, ye House of Peers;
> We 'll pull the Commons out by their ears,'

said a paper which was posted up on the door of the House. On January 13 twenty peers were got together to discuss the votes, and it was rumoured that ten were for agreeing with the Commons and ten against. Northumberland, who, said a Royalist newspaper, 'is now gotten out of his trance, and is no doubt of a noble spirit,' headed the opposition, arguing 'that by such a vote the Parliament would be dissolved, they having been

summoned thither by writ to consult with his Majesty, and not against him.' He also took the more practical ground of objection, that it was unwise to destroy one form of government before another had been created to take its place. Reports were circulated that the old plan of amalgamating the two Houses was to be revived. 'We are very confident,' says a newsletter, 'that the Lords shall be compelled to come and sit in the House of Commons, whether they consent to the vote of the House against the King or not.'[1] More effective was the movement of a couple of regiments to Whitehall, ostensibly for the protection of Parliament from the mob of the city. The suggestion of military intervention sufficed, and the opposition of the Lords collapsed. Three peers, Stamford, Robartes, and North, asked for leave of absence, while Northumberland, Warwick, and the rest yielded to necessity. On January 15, 1648, sixteen lords agreed to the resolution of the Commons, salving their consciences by the addition of a preamble, which set forth that the security of the peace of the kingdom demanded a speedy settlement of the present government.[2]

Now that the policy of the army had been adopted by Parliament, the soldiers were willing to abandon the attack on the House of Lords for the sake of maintaining the union of the Independent party. Accordingly, on January 17, a Declaration from Fairfa and the Council of War was presented to the Peers.

'The General and his Council of War, taking notice of some unworthy endeavours to asperse the integrity of their proceedings, as aiming at the overthrow of

[1] *Mercurius Pragmaticus*, January 18–23, 1648. Gardiner, iv. 52. *Old Parliamentary History*, xvi. 488–491.

[2] *Lords' Journals*, ix. 662, 664; Gardiner, iv. 53.

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Peerage, and undermining of the rights and privileges of the House of Peers, do unanimously declare that they hold themselves obliged in justice and honour to endeavour to preserve the Peerage of this Kingdom, with the just rights belonging to the House of Peers; and will readily in their places and calling perform the same. And as, in the first place, they look upon the carrying on of this great common cause, wherein both Houses of Parliament stand engaged (which they hope no respect shall make them to desert), so they shall, to and in prosecution of those public ends, be very careful to preserve and maintain the rights and honour belonging to the places and persons of the Peers in England.'

The Lords expressed their thanks and satisfaction, and assured Fairfax in return 'that as they have hazarded their lives and fortunes in the maintenance of true religion, and the liberties of the kingdom and privileges of Parliament . . . and for the procuring a just and safe peace to this distracted and distressed kingdom, so they shall still pursue those ends, from which no respects whatsoever shall either alienate their hearts or lessen their endeavours.' [1]

About the same time that the army thus pledged itself to maintain the rights of the Lords, those rights found a champion in the person of William Prynne, who for the rest of his career as a pamphleteer defended them through thick and thin. He began by a pamphlet against Lilburne and Overton, published about February 21, 1648. Its title summarises its contents: 'The Levellers levelled to the very ground, wherein the dangerous, seditious opinion and design of some of them, that it is necessary, decent and expedient, now to reduce the House of Peers, and to bring down

[1] Rushworth, vii. 967. *Old Parliamentary History*, xvi. 496.

the Lords into the Commons House, to sit and vote together with them as one House, and the false absurd grounds whereon they build this paradox, are briefly examined, refuted, and laid in the dust.' [1] Prynne said that to bring the Lords down to sit with the Commons would be 'such a dishonour and affront to the Lords that none but degenerate and ignoble spirits can so much as bear to think of it with patience, nor no peer resent it but with just scorn and contempt, and rather die than consent to it.' Yet unless the peers consented to the scheme 'it cannot be done without both Houses' ruin.' On the other hand, 'to bring up the House of Commons to sit and vote jointly with the peers' would be equally objectionable. It would 'advance the Commons above their degree, not level the Lords'; it would 'make some men Lords before they were gentlemen, and every commoner no less than a lord.' This would be very detrimental to the character of members of the Commons, for it would 'too much puff and bladder them with pride, and make them slight those whom they represent.' [2]

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Ten days later Prynne followed this up by another pamphlet: 'A Plea for the Lords; or a short yet necessary and full vindication of the judiciary and legislative power of the House of Peers.' [3] As usual with Prynne, most of the pamphlet consisted of extracts from records and chronicles, adduced to prove the antiquity of the things he was defending. But after he had 'impregnably evinced' the right of the Lords by historical

[1] British Museum E. 428 (7).

[2] *The Levellers Levelled*, p. 12. Lilburne answered Prynne's pamphlet in another entitled *A Whip for the present House of Lords*, E. 431 (1), which contained the substance of a speech delivered by himself against the Lords, at the bar of the House of Commons, on January 19, 1648.

[3] British Museum E. 430 (8), published, according to Thomason, on March 2, 1648. This tract of some seventy pages developed into a volume of over five hundred pages bearing the same title, published by Prynne in 1658.

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evidence, he undertook to discover 'to our illiterate ignoramuses' the reasons which led to the institution of Peers of Parliament. First of all, in England as elsewhere, the nobles and great officers had been generally reputed the wisest counsellors in affairs of state, and facts had borne out this theory. 'Our Lords and Barons sitting and voting in parliament . . . if you take them poll by poll, have in all ages been more able parliament-men and statesmen in all respects, than the Commons, though chosen by the people.' Secondly, Lords and great officers had been given their place in Parliament, 'because by their great power and interest they were best able to redress public grievances, and withstand encroachments of the King upon the people's liberty.' Many instances proved that this was true. Therefore since 'our peers and nobles have been always persons of greatest valour, power, estate, interest, most able and forward to preserve the laws and people's liberties, which they have upon all occasions defended with the hazard and loss of their lives, liberties, and estates, and upon this ground were thought meet by the wisdom of our ancestors, to enjoy this privilege of sitting, voting, and judging in Parliament by virtue of their peerage and baronies: and since we must all acknowledge that the Lords were the chief instruments of calling this present Parliament, and were therefore in the Act for triennial Parliaments, principally entrusted to summon and hold all future Parliaments in the King's and Lord Chancellor's or Lord Keeper's defaults: and were very active in suppressing the Star-chamber, High Commission, Council-Table, Prelates, and other grievances, and those who first appeared in the wars against the King and his party, to the great encouragement of others (witness the deceased Lord General Essex, Brooke, Bedford, Stamford, Willoughby, Lincoln, Denbigh,

Manchester, Robartes, and others) it would be the extremity of folly, ingratitude and injustice to deny our peers this privilege and honour now, which their ancestors have purchased at so dear a rate; and a means to disengage them for ever from the Commons, and Republic, for such an high dishonour and affront.' [1] CHAP. V 1648

Another argument adduced by Prynne was that the peers, having greater estates and fortunes, had more to keep and lose than ordinary commoners, and therefore a greater interest in state affairs; but he laid most stress on their independence. Sir Edward Coke, he said, had laid down in his Institutes the principle that members of Parliament ought to be 'constant, stout, inflexible, and not to be bowed or turned from the right and public good by fear, favour, promises, or rewards.' Now 'peers of noble birth and education, and more generous heroic spirits than the vulgar sort of men, are not so apt to be over-awed with regal threats, terrified with menaces, tempted with honours, preferments, and wealth (which they already enjoy in a higher proportion than others), nor seduced with rewards and private ends from the common good and interest, wherein their honour, wealth and safety are embarked, as ordinary commoners, and men of meaner rank and fortunes; as experience of former ages, and this present manifests. Therefore it was thought just and reasonable by our ancestors, these nobles in this regard should sit in Parliament in their own rights, without the people's election; and to leave the people to elect such other persons to represent and vote for them in Parliament in whom they most confided.' [2]

Prynne's arguments about the value of an independent peerage were sound, both historically and politically, but by the beginning of 1648 they had

[1] *A Plea for the Lords*, p. 25. [2] Ib. p. 26.

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ceased to apply to the existing House of Lords. It was only by a constitutional fiction that the score or so of peers who still sat in the Upper House could be held to represent the order. Their moral authority was undermined by the progress of democratic ideas amongst the populace and the army. Their political power depended on the goodwill of the House of Commons, and on the ability and willingness of that House to control the army. Nevertheless, during the course of 1648 the Lords made a courageous attempt to assert their independence, and to stay the progress of the revolution by effecting an agreement with the King.

CHAPTER VI

THE LAST DAYS OF THE HOUSE OF LORDS

In the negotiations with the King during 1647 there had been no serious difference between the two Houses. Both had agreed in claiming for the Parliament of England the right to dispose of the King's person without consulting the Scots. Both had agreed in the policy of demanding the King's assent to certain propositions as the basis of a peace, and had rejected his demand for a personal treaty, although it was backed by the Scots. In the summer of 1648 the two Houses began to differ on the question of peace. The Lords reverted to the position that they had taken up in 1643; they took the lead in proposing fresh negotiations with the King, and in the end carried the majority of the Commons with them.

No doubt personal motives played some part in determining their conduct. The leaders of the Lords were continually being reminded that the peerage could not subsist if the monarchy were to be abolished,[1] and the attacks on the privileges and rights of the Upper House, both by the leaders of the Commons and by the Levellers, proved the reality of the danger. But it is certain that public motives supplied the strongest possible arguments for a change

[1] For instance: *A letter to the Earl of Pembroke concerning the Times*, March 14, 1648, British Museum E. 522 (5); *A letter from a Nobleman now in Arms for his King and Country to the Lord Saye, inviting him to return to his Allegiance*, July 18, 1648, British Museum E. 453 (12).

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of policy. By April, 1648, it was clear that a new civil war was at hand, and that many men who had fought for the Parliament in the first war were willing to fight for the King now. It had proved impracticable to settle the government without the King. Plans for dethroning Charles and placing the Prince of Wales or the Duke of York on the throne had been discussed in private, but abandoned, and though there was a party in favour of abolishing the monarchy and establishing a republic, it was few in numbers and weak in influence.[1]

Hence on April 28, when the House of Commons considered the settlement of the kingdom, it resolved, by 165 votes to 99, not to alter 'the fundamental government of the kingdom by King, Lords, and Commons;' and on May 6 both Houses concurred in a declaration to that effect.[2] The propositions presented to the King at Hampton Court in September, 1647, were to be made the basis of a treaty. Yet nearly two months elapsed before those votes were followed by action, and meanwhile war began in all parts of the country. In April a rising broke out in Wales, and the northern Royalists seized Berwick and Carlisle; in May part of the fleet in the Downs revolted, the Kentish men rose in arms, and it became known that the Scots were raising an army to invade England.

Petitions in favour of a personal treaty with the King poured in to the two Houses, headed by one from the City of London. On June 30, 1648, the Lords resolved that the vote of January 3, forbidding all addresses to the King, should be rescinded, and that the three propositions which the King had been required to grant before a personal treaty began, should no longer be insisted upon.[3]

[1] Gardiner, *Great Civil War*, iv. 56, 99.

[2] *Old Parliamentary History*, xvii. 122, 130; *Hamilton Papers*, p. 191.

[3] *Lords' Journals*, x. 353, 368, 371, 386, 395; Gardiner, *Great Civil War*, iv. 159, 168.

Then came a dispute between the two Houses. The Commons concurred with the first resolution, but not with the second. They were willing to treat with the King, but only on condition that he accepted these three propositions first. Charles must engage to recall his declarations against the adherents of the Parliament, promise the establishment of Presbyterianism for three years, and grant Parliament the control of the military forces of the nation for ten. This was resolved on July 3, by eighty to seventy-two votes. The Lords stood firm. They repeated their resolution in favour of an unconditional treaty, and gave their reasons. 'The condition of the affairs of the kingdom at this time, will not permit delay, but requires all possible expedition to satisfy the expectation of the people, who insatiably thirst after peace.' Two conferences took place between the Houses without producing any agreement, and a fresh cause of difference arose before the old one was settled. The Marquis of Hamilton and a Scottish army entered England on July 8, coming ostensibly to restore the King to his throne and establish Presbyterianism in England. The Commons on July 14 voted that the Scottish forces were enemies, and those who invited them or aided them traitors. The Lords declined to concur in the vote, and ordered the printing of the declaration issued by the Scots to explain their action.[1]

This unexpected independence on the part of the Upper House filled the Royalists with hope. 'The Lords,' said a newspaper, 'dare be Lords again; they begin to kick lustily against their riders.' They were encouraged in verse to maintain their rights.

> 'Stand to 't, ye Lords, we'll stand to you,
> And clip the Commons' wings,
> Let not the Levelling rascal crew
> Thus domineer like kings.'

[1] *Lords' Journals*, x. 384, 389; *Old Parliamentary History*, xvii. 314.

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They were reminded of the disrespect with which the Commons had treated them in the past.

'The Lower is the Upper House,
And hath been so seven years,
Your votes they value not a louse
Ye antichristian peers.' [1]

The Royalists were greatly mistaken if they fancied that the Upper House had any thought of complete surrender to the King, or of separating its fortunes from those of the Lower House. On July 28 a compromise was effected. The Commons agreed to a personal treaty with the King without requiring his assent to the three propositions as a preliminary condition, but stipulated that the treaty should take place in the Isle of Wight, instead of in or near London. The Lords accepted this scheme on August 1.[2] Having gained their point about the treaty the Lords adopted a more decided tone about the war. They did not hesitate to concur with the Commons in ordering Warwick, as Lord High Admiral, to fight the Prince of Wales and his fleet.[3] Moreover, though they did not formally rescind their refusal to join in the vote against the Scots, they practically did so by proposing a day of thanksgiving for Cromwell's victory at Preston.[4]

The treaty began at Newport in the Isle of Wight on September 18, 1648. Of the fifteen commissioners representing the parliament five were peers, namely

[1] *Mercurius Pragmaticus*, July 25–August 1, 1648. The number of this paper for June 6–13 had been mainly devoted to an attack on the characters of the leaders in the Upper House.

[2] Gardiner, *Great Civil War*, iv. 171–2; *Lords' Journals*, x. 405.

[3] *Lords' Journals*, x. 401; *Old Parliamentary History*, xvii. 347. Rutland, Suffolk, Lincoln, Middlesex, and Hunsdon protested against this vote.

[4] Ib. x. 452. Ludlow sarcastically observes: 'The House of Lords, who had avoided to declare the Scots enemies whilst their army was entire, now after their defeat prevented the House of Commons, and moved that a day might be appointed to give God thanks for this success.' *Memoirs*, i. 203.

Northumberland, Pembroke, Salisbury, Middlesex, and Saye. The King was assisted by the advice of Richmond, Hertford, Southampton, and Lindsey, but they were not allowed to take any part in the discussions. Charles had to conduct the argument on all the legal and constitutional questions at issue unaided, and the polemical skill he showed astonished his old servants. 'The King is wonderfully improved,' said Salisbury to Sir Philip Warwick. 'No, my Lord,' answered Warwick, 'he was always so, but your Lordship hath too late discerned it.' Plain dealing and despatch, however, were more necessary at the moment than polemical skill. Most of the Commissioners, and above all the peers, were anxious to come to an agreement. What they were particularly concerned about was to obtain a full act of indemnity and oblivion, but the King very unwisely hesitated to grant all they thought essential. On that point even those most anxious for a settlement could not give way. 'My good lord,' urged Sir Philip Warwick to Northumberland, 'remember how gracious this good Prince hath been to you, and do you compassionate his distress, and the strait he is in.' 'Sir,' said Northumberland, 'it is impossible for me to do anything; for the King in this point is safe as King, but we cannot be so.'[1] The most exacting of the peers was Saye, and even he, according to Clarendon, was very anxious that the treaty should end in an accommodation.' 'As all the other Lords desired, in their own natures and affections, no more than that their transgressions might never more be called to remembrance, so the Lord Saye himself (who was as proud of his quality, and of being distinguished from other men by his title, as any man alive) well foresaw what would become of his peerage, if the treaty

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[1] *Memoirs* of Sir Philip Warwick, 1701, pp. 323–4.

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proved ineffectual, and the army should make their own model of the government they would submit to; and therefore he did all he could to work upon the King to yield to what was proposed to him, and afterwards upon the Parliament to be content with what his majesty had yielded.'[1]

In the end the King consented to legalise the action of the two Houses in making war against him, granted them the control of the military forces of the realm for twenty years, promised the establishment of Presbyterianism for three, and made other concessions. He even agreed to the nullification of all the honours and titles conferred by himself since May 21, 1642, and that none of the peers he had created since that date, and none to be created hereafter, should sit or vote in Parliament without the consent of both Houses.[2] Charles made this last concession very reluctantly, and in a letter to his son explained his reasons for yielding as follows: 'Touching disabling Peers, etc., we were sensible how this was but a part of that design which was to make us distasted of all sorts of men, as well those that had served us, as those that had not. But believing time would make those that were misled against it, to see their errors, and that those that knew us, would not let other men's artifices draw them off of their affection and duty towards us, we consented to this proposition, since we were assured, in this particular we were able to repair them. We met with another great difficulty in this proposition, not only as it limited us

[1] *Clarendon Rebellion*, xi. 155; see also x. 160. Report accused Saye, 'a subtle old fox,' of urging the King to refuse the propositions of Parliament, on the ground that he might get easier terms thereby, and of assuring Charles 'that the House of Lords were wholly his and at his devotion.' The story is groundless. Lily, *Observations on the Life and Death of King Charles*, ed. Maseres, *Select Tracts*, p. 180.

[2] Walker, *Historical Discourses*, 'Perfect Copies of the Votes at the Treaty in the Isle of Wight,' p. 56; *Old Parliamentary History*, xviii. 326.

that were the fountain of honour, but as it submitted the peerage and sitting of the Lords in Parliament to the House of Commons, and so might in time change the whole frame and constitution of that House.' [1]

The bill to which Charles had thus promised his assent was one of the four which he had refused to accept in the previous January.[2] It resembled in some respects the Peerage Bill of 1719. Both bills sought to make it impossible to secure a majority in the Upper House by the creation of peers. But the bill of 1719 attempted to guarantee the independence of the House of Lords against King and Commons, by limiting its numbers and making it a close corporation. The bill of 1647 attempted to guarantee the independence of the House against the King, by providing that the political opinions of new peers should be in accord with those of the majority in the Commons. Henceforth the Commons would permanently possess that veto on the admission of members to the Upper House which they had practically exercised ever since 1644. In the words of Prynne, they would be made 'not only in some sense the judges of the peers, but even their very creators.' [3]

The treaty ended on November 27, 1648, and the question next to be determined was whether the King's concessions afforded a satisfactory basis for a settlement. There was no doubt that the Lords would answer in the affirmative. Throughout the negotiations they had shown themselves eager to arrive at any reasonable compromise, and though the House of Commons had been much less yielding it was certain that a majority in it would concur with the Lords. Outside the two Houses there was a strong and active party opposed to

[1] *Clarendon State Papers*, ii. 439.

[2] It was the third of the Four Bills, 'An Act concerning Peers lately made and henceforth to be made.' Gardiner, *Constitutional Documents*, 2nd edition, p. 340.

[3] *Old Parliamentary History*, xviii. 326.

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the treaty. The Levellers and the extreme democrats were wild with rage at the prospect of a settlement which would maintain the monarchy and the House of Lords. On September 11 they had presented to the House of Commons a petition against the treaty, which was signed by 40,000 persons in and about London, and is said to have been drawn up by Harry Marten. They told the House that it was the 'supreme authority of England, as chosen by and representing the people,' and complained that it proposed to allow a share in that authority to the King and the Lords. 'It is impossible for us to believe,' they said, 'that it can consist with the safety or freedom of the nation to be governed by two or three supremes.' 'Most of the oppressions of the commonwealth have in all times been brought upon the people by the King and Lords, who nevertheless would be so equal in the supreme authority as that there could be no redress of grievances, no provision for safety, but at their pleasure.' In conclusion the petitioners set forth under twenty-seven heads the things the House of Commons ought to have done. 'It ought to have abolished all pretences of negative voices either in the King or Lords,' to have made 'kings, queens, princes, dukes, earls, lords, and all persons alike' amenable to the laws of the land, to have 'freed all commoners from the jurisdiction of the Lords,' to have established complete commercial and religious freedom, abolished most of the taxes, and reformed all possible grievances. If these omissions were speedily repaired the House would 'once more be strengthened with the love of the people.' [1]

The soldiers of the army were less extravagant in their expectations, but they did expect that the authors

[1] The petition, of which the pressmark is E. 464 (5), is reprinted in the *Old Parliamentary History*, xvii. 451–460.

of this second war should be severely punished. Before the campaign began a council of officers had determined 'to call Charles Stuart, that man of blood, to an account,' and they were equally determined to punish his chief instruments. The Duke of Hamilton, as the leader of the Scottish invaders, the Earls of Holland and Norwich and Lord Capel as the leaders of the rising in England, were specially obnoxious. Thanks to the lenient provisions of the treaty of Newport and to the legal privileges of the peerage it seemed likely that these noble delinquents would escape with their lives, in spite of the protests of the army and its spokesmen in the Commons. 'We have had,' said Dennis Bond, in a debate on the persons to be excepted from pardon, 'many doctrines preached here by several gentlemen against the power of this House; such as, that we cannot try my Lord of Norwich but by his peers, because it is against Magna Charta; but I trust ere long to see the day when we may hang the greatest Lord of them all, if he deserves it, without trial by his peers; and I doubt not but we shall have honest resolute judges to do it, notwithstanding Magna Charta.'[1] But the Lords and the majority of the Commons held banishment a sufficient penalty for Holland, Norwich, and Capel, and voted that Hamilton should be liberated on payment of a fine.[2]

Regiment after regiment sent addresses to their generals protesting against the proposed settlement, and their protests were summed up in the Remonstrance which the army presented to the Commons on November 20. It contained two significant references to the House of Lords. They described them as 'in everything relating to the treaty closing readily with the desire of the City

[1] *Old Parliamentary History*, xvii. 34, 78.

[2] Hamilton, Holland, and Capel were beheaded in 1649.

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Malignants, the Prince, and all your enemies; and in their votes for the same, going before you, and haling you after; although in all things concerning the prosecution of the war in your own and the kingdom's necessary defence, especially in declaring with you against those visible enemies and actors therein the Scots army, and others, they would neither lead nor follow.' The abolition of the House of Lords was foreshadowed by a clause demanding that 'the supreme power and trust' should be in the representative assemblies of the people, '*without further appeal to any created standing power.*'[1]

Dissatisfaction with the constitutional and political settlement contemplated by the treaty was heightened by distrust of the King. Granting that his concessions were adequate, there was good reason for doubting his sincerity in making them, and for regarding the guarantees offered as insufficient. Cromwell described the treaty at the time as 'this hypocritical agreement,' and said afterwards that it would have put into the King's hands all that had been fought for, 'and the only security would have been 'a little piece of paper.'[2]

Under these circumstances the compromise which the House of Lords advocated had little chance of success, although it was supported by a majority in the House of Commons too. The debate on the King's concessions began in the Lower House on December 1, with a speech in which Nathaniel Fiennes argued that Charles had yielded all that was necessary 'to secure religion, laws, and liberties.' It ended early on the morning of Tuesday, December 5, when by 129 to 84 votes the King's answers were voted satisfactory. The same day the fifteen peers present in the House

[1] *Old Parliamentary History*, xvii. 170, 233.
[2] Carlyle's *Cromwell*, Letter 85, and speech i.

of Lords voted with unanimity 'that the answers of the King to the propositions of both Houses are a ground for the Houses to proceed upon for the settlement of the peace of the kingdom.'[1] But even the union of the two Houses was not enough to stem the impending revolution. The Republican minority in the House of Commons appealed to the army. On the afternoon of Tuesday, December 5, a conference between some of the leaders of the army and some representatives of the minority took place at Whitehall. They concluded that the measures taken by the Parliament were contrary to the trust reposed in them, and that it was the duty of the army to put a stop to their proceedings. The soldiers were for a dissolution and the calling of a new Parliament; the members for the purgation of the existing Parliament. The civilians carried the day, and the result was 'Pride's Purge.' On Wednesday, December 6, and Thursday, December 7, the doors of the House of Commons were beset by soldiers; forty-five members were arrested, and ninety-six others prevented from entering. Only seventy-eight members sat in the House on December 7, and about a score of those, on the refusal of the Council of Officers to release the imprisoned members, declined to continue sitting. Thus the House was suddenly reduced from about two hundred and forty to little more than fifty members, and it was often difficult to obtain the forty necessary to form a quorum.[2]

The soldiers who beset the doors of the House of

[1] Gardiner, *Great Civil War*, iv. 264. The best account of the debate is given in *Mercurius Pragmaticus*, December 5–12, which is the authority followed in the *Old Parliamentary History*, xviii. 286–447. See also *Lords' Journals*, x. 624; *Commons' Journals*, vi. 93.

[2] The figures of the excluded and imprisoned are given in Prynne's pamphlets. A list of seventy-two who sat on December 12 and December 13 is given in *Mercurius Pragmaticus*, December 12–19, which adds that 'divers since that time have absented themselves, very few sit constant.'

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Commons made no attempt to interfere with the meetings of the Lords. As the Lords were all of one mind purgation would have been useless. Seven peers sat on December 6, eight on December 7. On the second of those days the House adjourned till the 12th, 'for fear of an humiliation by the soldiers,' said a journalist, adding, 'for aught I know the next time they may adjourn for ever, and be scattered about as limbs of the prerogative.'[1] When December 12 came, only four Lords appeared, and on December 14 the number fell to three. They 'sit and tell tales by the fireside in their House in hope of more Lords to drive away the time,' said a newspaper. Even a call of the House which took place on December 28 only brought together eight peers.[2] The wisest realised that the military *coup d'état* they had witnessed meant the abolition of the Upper House; only a few were sanguine enough to believe that its existence might be prolonged by submission. On December 15, four of the compliant section concurred in an ordinance passed by the Commons against the protestation published by the excluded members. On the 19th the Earls of Pembroke, Salisbury, and Denbigh, together with Lord North, paid a visit to Fairfax. They assured him, if rumour may be trusted, that they would agree to anything judged conducive to the safety of the nation, and that they were willing to renounce all privileges thought grievous, or contrary to the liberty of the people.[3] Probably their visit was connected with an obscure negotiation designed to save the King's life, in which Denbigh is known to have played an important part.[4] On the failure of this

[1] *Mercurius Pragmaticus*, December 5–12, 1648.

[2] *Lords' Journals*, x. 630, 637, 639.

[3] *Mercurius Pragmaticus*, December 19–26; *Clarendon State Papers*, ii. Appendix, p. xlviii.

[4] Gardiner, *Great Civil War*, iv. 283–287.

negotiation with the leaders of the army an ordinance for the King's trial was passed by the Commons. The ordinance appointed 150 commissioners to try the King, including amongst them six peers, the Earls of Denbigh, Pembroke, Kent, Mulgrave, and Nottingham, and Lord Grey of Wark.[1] This was sent to the House of Lords by the Commons on January 2, 1649, and with it a resolution declaring that 'by the fundamental laws of the kingdom, it is treason for the King of England for the time being to levy war against the kingdom and Parliament.' Of the twelve peers present in the House not one had a word to say in favour of either ordinance or resolution.[2] 'By the fundamental laws of England,' argued the Earl of Manchester, 'the Parliament consists of three estates, of which the King is the first. He only hath power to call and dissolve them and confirm all their acts. Without him there can be no Parliament; and therefore it is absurd to say, the King can be a traitor against the Parliament.' The Earl of Northumberland added: 'That the great part, even twenty to one, of the people of England were not yet satisfied whether the King did levy war against the Houses or the Houses against him. And besides, if the King did levy war first, they had no law extant, or that could be produced, to make it treason in him to do so; and for us, said he, my lords, to declare it treason by an ordinance, when the matter of fact is not yet proved, nor any law in being to judge it, seems to be very unreasonable.' Pembroke refused either to consent to the ordinance, or to speak against it, on the ground 'that he loved not to meddle with

[1] *Heads of a Diary*, December 26–January 2.

[2] The Earl of Leicester says 'This day theyr Lordships were in a full House, for besides the 7 that usually have sate of late, there were the Earle of Northumberland, Earle of Manchester, Earle of Rutland, Lord North, Lord Rochford, Lord Maynard and the Lord Dakers.' Blencowe, *Sydney Papers*, p. 47. Whitelocke says sixteen lords were present.

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businesses of life and death.' Denbigh protested 'that whereas the Commons were pleased to put his name into the ordinance, as one of the commissioners for trying his Majesty, he would rather be torn to pieces than have any share in so infamous a business.'[1]

So both ordinance and resolution were unanimously rejected, and the House then adjourned for a week.[2] 'There was not one person who concurred,' observes Clarendon, 'which considering the men, and what most of them had done, might seem very strange.' The Commons answered by once more passing the resolution rejected by the Lords, and by giving a first and second reading to a new ordinance creating a High Court of Justice (January 3). The next day they voted the three famous resolutions:

1. That the People are, under God, the original of all just power.

2. That the Commons of England in Parliament assembled, being chosen by and representing the People, have the supreme power in this nation.

3. That whatsoever is enacted or declared for law by the Commons in Parliament assembled, hath the force of law; and all the people of this nation are concluded thereby, although the consent or concurrence of the King or House of Peers be not had thereunto.[3]

On January 6 the ordinance for the trial of the King was read a third time and passed. On January 8 it was ordered to be endorsed '6° Januarii 1648: Read the third time and upon the question Resolved, That

[1] *Mercurius Pragmaticus.* Clarendon, *Rebellion*, xi. 217; *Lords' Journals*, x. 641.

[2] Clarendon wrongly says that 'when the day came to which the Lords had adjourned their House they found their doors all locked and fastened with padlocks, that there should be no more entrance for them.' *Rebellion*, xi. 217. As we shall see, the House continued to meet for another month.

[3] *Commons' Journals*, vi. 111, Thursday, January 4, 1649.

it be enacted for law, and have the force of a law, and that the clerk do endorse the same accordingly.'[1]

This was a plain intimation to the Lords that the Commons intended henceforth to legislate without them. On Tuesday, January 9, the Upper House met again after the adjournment—Denbigh, Kent, Pembroke, Salisbury, Hunsdon, and Howard of Escrick were present. Denbigh, who was chosen Speaker, was probably the inspirer of the policy adopted. A plan was suggested which was intended to save both the King and the House of Lords. The Lords appointed a committee to draw up an ordinance 'That whatsoever king of England shall hereafter levy war against the Parliament and kingdom of England, shall be guilty of treason, and be tried in Parliament.' At the same time, in order to maintain their claim to a share in the legislative authority, they passed some small orders and ordinances, which had been sent up previously from the Lower House, and returned them to the Commons with amendments to which they desired their concurrence. This at once obliged the Commons to discuss the precise meaning of their resolution of January 4, which had not explicitly abolished the House of Lords. 'The great question,' says a newsletter, 'was whether, having voted the supreme power among themselves, they should own the Lords so far as to entertain their message.'[2] The extremists, headed by Harry Marten, were for refusing to admit the messengers of the Lords, but they could only muster eighteen votes against thirty-one, so the messengers were received, and after a second division, in which the numbers were thirty-three to

[1] *Commons' Journals*, vi. 113. A second Act similarly endorsed passed on January 16. Ib. p. 119.

[2] *Lords' Journals*, x. 642; *Clarendon State Papers*, ii. Appendix, p. 50.

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nineteen, the House resolved to send a formal answer in the usual way.[1]

There is no record of this discussion except another Royalist newsletter, dated January 12. It says: 'Several motions have been made in the House of Commons against the Peers; one that they might be brought to sit with them; against which Whitelocke spoke, saying if it were so, they should find that the Lords might prove so powerful among them, that one might carry a dozen or twenty of them to vote as they list, without any sense or reason, and so might bring that House into a confusion. Therefore his opinion was they should keep as they are, and if any extravagancy were committed, they being by themselves could not much prejudice their House. The Speaker and other seconding him it was laid aside.

'Another motion was, that the House of Peers might be wholly suppressed. Against this Cromwell seemed to be very violent, and asked them if they were all mad, to take these courses to incense the Peers against them, at such a time when they had more need to study a near union with them. The House was divided hereupon, and Cromwell with thirty-two more went out and eighteen remained within, fifty in all, which it seems is now the greatest number of this gallant junto that governs all under their masters the soldiers.'[2]

The decision whether the House of Lords was to be maintained or abolished was for some weeks delayed. The Lower House was busy with the King's trial. On January 18, the Lords passed an order for the adjournment of the next law term, 'in regard of the great businesses now in agitation about settling the affairs of the kingdom,' and sent it to the Commons for

[1] *Commons' Journals*, vi. 115.

[2] *Clarendon State Papers*, ii. Appendix, p. 50.

concurrence. An answer was promised. The friends of the Lords in the Lower House brought forward a resolution, that their concurrence should be desired to the three votes passed by the Commons on January 4. This was clearly intended as the basis of a compromise. It intimated that if the Lords would renounce all claim to a co-ordinate power in legislation the existence of the House should be continued. But the extremists were gaining strength, and the resolution was negatived by twenty-five to eighteen votes.[1] On February 1, two days after the execution of the King, the Lords made a fresh move. They appointed a committee of nine Lords (five to be a quorum) to join with a proportional number of the Commons, in order 'to consider of the settlement of the government of the kingdom.' The vote was sent to the Commons with a request that they would appoint their representatives, and agree on a place and time of meeting. To this demand to be consulted the Lower House returned no answer; the messengers were not even admitted: it was resolved that 'the business for settling the general government of the kingdom should be considered the next day.'[2] 'The aim of some,' remarked a newspaper, 'is seeing that they cannot get them a House of Lords *statu quo prius*, that now they should be constituted only a consultory court.' The debate on this question was adjourned till February 5. It was 'long and smart,' says Whitelocke, who spoke in defence of the Lords; adding, 'I informed them out of records and histories as well as I could of their constitution.'[3] A newspaper says: 'The House of Commons sate according to former order, to debate

[1] *Lords' Journals*, x. 646; *Commons' Journals*, vi. 121; Whitelocke, *Memorials*, ii.

[2] *Lords' Journals*, x. 649; *Commons' Journals*, vi. 128.

[3] Whitelocke, *Memorials*, ed. 1853, ii. 521; *Commons' Journals*, vi. 132.

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concerning the House of Lords, whether they should be continued a Court of Judicature, or a Court consultory only (though they have lately passed several Acts in their own names, all the Lords dissentient with them in this whole proceedings against the King, and voted the supreme power to be in themselves); this debate held till six a clock at night; the thing driven at was, that it might be referred to a Committee, to consider what power or constitution their Lordships should have; but the season of the night requiring candles, the House was divided, whether there should be any brought in, or not, to finish this debate, and it was carried in the negative; so the House rose, ordering to resume this debate to-morrow. The House of Lords sate this day for a little time, and sent down the same messenger with the same message as they did the last week, for appointing a committee to join with the committee of their House, to consider of settling the kingdom, but they were never called into the House. The Lords adjourned till to-morrow nine of the clock in the morning.'[1]

On Tuesday, 6th, the debate was resumed. The newspaper before quoted, which called itself *The Moderate*, but was the chosen organ of the Levellers, figuratively described the debate as a consultation of the chief doctors of the nation about 'one of the greatest and most dangerous maladies of the whole kingdom'—a malady so deeply rooted, that it would probably in a short time endanger the whole body—so desperate and dangerous that a desperate remedy was necessary for its extirpation.[2] The conservative section of the Commons wished to retain the Upper House as an advising body. The motion they proposed was, 'That this House take

[1] *The Moderate*, January 30–February 6, 1649.

[2] Ib. February 6–13, 1649.

the advice of the House of Lords in the exercise of the legislative power, in pursuance of the votes of this House of the fourth of January.' According to Ludlow, Cromwell, for his own ends, was amongst the defenders of the Lords, 'having already had a close correspondence with many of them; and it may be presuming he might have further use of them in those designs he had resolved to carry on.'[1] In spite of Cromwell's support the motion was negatived by forty-four to twenty-nine votes, and it was then resolved without a division 'That the House of Peers in Parliament is useless and dangerous, and ought to be abolished.' A series of supplementary resolutions provided for the safekeeping of the records of the House, for the release of prisoners committed by the sole order of the Lords, and for the abolition of the Lords' privilege of freedom from arrest for debt. Bills were ordered to be brought in to put these resolutions in effect, and the task of drawing that for the abolition of the House of Lords was entrusted, much against his will, to Bulstrode Whitelocke.[2]

No one appears to have mourned much over the abolition of the House of Lords. The Royalists regarded the few peers who sat there with loathing and contempt, holding it a just judgment of God that noblemen who had sided with the Commons against their sovereign should be cast aside by their own accomplices. A protestation was indeed published in the name of the 'Peers, Lords and Barons of the realm of England,' denouncing the 'insolent and frantic vote' of February 6, as 'void, null and illegal . . . treasonable, detestable, tyrannical, and destructive to the

[1] Ludlow, *Memoirs*, ed. 1894, i. 220. Ludlow may be confusing this with the discussion on January 9, but Cromwell was certainly in London on February 6, and therefore probably present in the House. Carlyle's *Cromwell*, ed. Lomas, iii. 399.

[2] *Commons' Journals*, vi. 132; Whitelocke, *Memorials*, i. 521 (ed. 1853).

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privileges, rights and being of parliaments,' but nobody paid any attention to it.[1] The Commons themselves, in the declaration expressing the 'grounds of their late proceedings and of settling the present government in the way of a free state,' dismissed the question of the Lords in a couple of paragraphs. It had been found, they asserted, 'a great inconvenience' that the House of Lords 'should any longer exercise a negative voice over the people, whom they did not at all represent'; and 'a judicial power over the persons and estates of the Commons, whereof they are not competent judges.' 'And it being most evident that (especially in these times of exigency) neither the government of the Republic, nor the common safety, could bear the delays and negatives of a House of Lords, it was therefore thought necessary wholly to abolish and take the same away.' It was more difficult to answer the objection that the Commons themselves had solemnly promised to maintain the government of King, Lords, and Commons, but they met the difficulty with boldness. 'This was then fully their intent,' they said, for they had hoped that the King would conform himself to the desires of his people, and that the Lords would have been a great cause of his so doing. But they had been deceived in that hope, for the King 'lived and died in the obstinate maintenance of his usurped tyranny.' 'And to the upholding of this tyranny the Lords were still obliged, in regard of their own interest in peerage; whereby they assumed to themselves an exorbitant power of exemption from paying of their just debts, and answering suits in law, besides an hereditary judicatory over the people, tending to their slavery and oppression.' Therefore

[1] Walker, *History of Independency*, ii. 116; *Cal. State Papers, Dom.* 1649–50, p. 2. The pressmark of the printed protestation is 669 f. 13 (84).

the Commons 'were constrained to change their former resolutions . . . which change being for the good of the commonwealth, no Commoner of England can justly repine at; neither could the King or Lords take any advantage thereof, because they never consented thereto; and where no contract is made, there none can be said to be broken; and no contract is truly made, but where there is a stipulation on both sides, and one thing to be rendered for another; which not being in this case, but refused, the Commons were no ways tied to maintain that declaration, to the performance of which they were not bound by any compact or acceptance of the other part,[1] and to the alteration whereof so many reasons for the preservation of the people's liberties did so necessarily and fully oblige them.' CHAP. VI 1649

Another defender of the abolition of the House settled the constitutional point involved very simply:

'It may be asked, by what law the House of Lords could be laid aside by the Commons? By the same law which is the supreme law: the general good. For consider of what use that House could be, unless to retard and hinder all good laws, especially considering of what metal most of your Lords now are: how long do you think it would have been before an Act against Adultery and Fornication, an Act against Swearing, and an Act to make Lords pay their debts, or their lands to be sold, should have passed them? That Upper House was so high that most good motions were spent and out of breath, before they could get up to them; and then if perchance they had the good hap to meet with a thin House (most of your Lords having business other to mind than the public) and so pass; yet then they must pack to a King, whose prerogative, two to one, would whip them down again; and thus, O you Englishmen,

[1] *Old Parliamentary History*, xix. pp. 76, 77.

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bills of public right and interest were sent like beggars from constable to constable, and at last stript and whipt in a Bridewell for begging that you might be eased and set free.'

Not only was the abolition of the Upper House the necessary preliminary to all reforms, it was justifiable by nature and reason.

'There need be no argument brought to confirm this Act, but that which Prynne hath brought against it. For let us take for granted, what he hath lately in print affirmed, that the King and Lords were the Parliament heretofore, and so I hope by consequence had the power of the sword and purse too, and it will make much for us. For if our ancestors, upon feeling the inconvenience and mischief thereof, could take that power of taxing from them, and bestow it on their own representatives (for without doubt the major part of them parted not with it of their own accord), then sure it will follow, that we upon the sense of the like mischief may take away the rest; unless it can be shewed, that we only of all Englishmen must not have that power which our ancestors had; and which is allowed to all nations and peoples by the laws of nature and reason, both which are the laws of God; and which never commanded that a whole nation should be oppressed, to maintain the lust and riot of a few drones. Solomon bids the sluggard go learn of the ant, and why may not we of the bee, which will not suffer a drone in the hive, that perfect hieroglyphic, nature's own model of a commonwealth?'[1]

[1] George Wither, *Respublica Anglicana*, 1650, pp. 38, 40.

CHAPTER VII

THE PEERAGE UNDER THE REPUBLIC

THE government which was set up in England on the execution of Charles I was essentially a stop-gap. The army, which had by military force placed a small section of the House of Commons in the possession of supreme power, had no intention of permanently maintaining its sovereignty. As soon as possible the Long Parliament was to be dissolved, and a new assembly, elected by a wider suffrage and by more equal constituencies, was to take its place. But the precise period at which this dissolution was to take place the army leaders had left to the decision of Parliament itself. Theoretically the little remnant of the House of Commons was omnipotent, but its claim to represent the people was refuted by facts with which everybody was familiar.

A contemporary pamphlet stated the number of members then sitting or having liberty to sit at eighty-nine only, out of whom not more than sixteen were knights of the shire.[1] Whole counties were not represented either by knights or burgesses. Amongst the eighty-nine members mentioned there were none from the counties of Herefordshire, Hertfordshire, Cumberland, or Lancashire, or from any borough within their limits. All Wales was represented by three persons,

[1] '*A list of the members of both Houses of Parliament, that were forcibly excluded by the army in the year* 1648, *or since excluded by a few of their fellow members.*' *Somers Tracts*, vi. 37. The pamphlet is not dated.

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and London by a single citizen. In the four years during which the Commonwealth lasted the numbers of the House were gradually swollen by the readmission of old members, and by the election of new ones, but they never rose to a third of its original strength. The highest attendance during the first six months of 1649 was only seventy-seven. In the division on November 14, 1651, on the question of fixing a date for the dissolution of the House, ninety-six members voted. At the annual elections of the Council of State in 1651 and 1652 as many as 120 or 125 members were present, but even after Cromwell's victories in Scotland and Ireland had assured the existence of the new state a House of fifty members was considered a good House.[1]

Taking these facts into consideration it was obvious that the English republic could scarcely be regarded as a democracy, whatever the theories might be upon which its rulers based their claims. Hobbes in his 'Behemoth' classes it with oligarchies. 'Tell me,' says the questioner in his Dialogue, 'how this kind of government under the Rump or relic of a House of Commons is to be called?' 'It is manifest,' answers the author, 'that the authority was in a few, and consequently the state was an oligarchy.'[2]

One of the champions of the new government in the press asserted, that its great merit was that it was not a democracy, but resembled rather the aristocratic governments of Venice and the United Provinces.

'Aristocracy (or this government of a Commonwealth the Parliament have set up) is the most even and just government that men have yet come to the knowledge of, it being a middle state between popular anarchy and

[1] For a fuller description of the position of the Republic see my *Oliver Cromwell and the Rule of the Puritans in England*, 1900, chap. xii.

[2] *Behemoth*, ed. Tönnies, p. 157.

prerogative tyranny, whereby men are freed from the necessary exorbitancies of both, and seated securely in a uniform and equal condition free from all extremes. . . . And it 's observable those few nations which have once got the opportunity of casting off Kingly power, have naturally, and out of choice, fallen into this government as the middle and best, and that which was most safe and suitable to liberty and justice.' [1]

If the soldiers were alienated by the fact that the new government was only nominally democratic, its resemblance to an aristocracy might have been expected to attract to it the support of some of the nobility. Though the monarchy had been abolished, that was no reason why the Lords should not continue to play a great part in English history. It was even conceivable that the abolition of the monarchy might increase the personal importance of those who possessed a traditional right to political power, and enjoyed the influence inseparable from the ownership of great estates. A pamphlet entitled ' A Plea for a Free State compared with Monarchy ' argued that the change from one to the other did not detrimentally affect the interests of the peerage.[2]

Let the ancient nobility of the country consider how basely they had been trampled on by Prince Rupert and Prince Maurice. Let them remember the multitude of new creations which had swelled their numbers and diminished their dignity. In two or three generations the old lords would have lost honour

[1] *A short discourse between Monarchical and aristocratical government, or a sober persuasive of all true-hearted Englishmen to a willing conjunction with the Parliament of England in setting up the government of a Commonwealth by a true Englishman and a well-wisher to the good of this nation.*' 1649. E. 575 (31).

[2] *A Persuasive to a Mutual Compliance under the present Government, together with a Plea for a Free State,* 1652, p. 39. E. 655 (5).

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and precedency, but under a republic there was no likelihood that any more peerages would be created, 'it not being suitable to republics to give honours of that magnitude.' On the other hand, under a republic the existing peers might still retain their titles and possessions, as the example of the United Provinces showed. 'I doubt not,' said the pamphleteer, 'but they may do so here, if the implacableness of their spirits do not render them unworthy of that favour; in thinking it not felicity enough to be free from oppression themselves, unless they be in such a condition as they may exercise with impunity a tyrannical power upon others, as formerly they did, when, like burning glasses, they multiplied the heat of the King's oppressions.' He concluded in a less conciliatory strain by contrasting the attitude of the nobility towards Cromwell with their attitude towards Buckingham: 'It is a wonder to me to see how nice they are now of their honours, and what a scruple they make of submitting to this power—when I remember how basely I have seen them or their fathers lying at the feet of the court minion; scrambling for his dirty nieces, not leaving inns, shops, and (if not belied) worse places, unsought, to find some of his female kindred for their heirs; forgetting that he is more noble, who hath ventured his life for liberty, than he that hath nothing to show for his honour, but a good face, or an acquittance for so much money. Look upon our General in his cradle, and you shall find him as good a gentleman as most of these. But consider him in his saddle, and you will think such low spirits unworthy to be his footmen.'

The leaders of the Long Parliament, when they abolished the House of Lords, had cherished the hope that some of its members would still continue to act

with them. The Act depriving the peers of their legislative power did not debar them from public life, and contained a reservation explaining that it had no such object. 'Nevertheless,' ran the clause, 'it is hereby declared, that neither such Lords as have demeaned themselves with honour, courage, and fidelity to the Commonwealth, nor their posterities who shall continue so, shall be excluded from the public councils of the nation, but shall be admitted thereunto, and have their free vote in Parliament if they shall be thereunto elected, as other persons of interest elected and qualified thereunto ought to have.'[1] CHAP. VII 1649

This declaration was no mere form of words. The first Council of State of the Commonwealth was elected by Parliament on February 14, 1649. Amongst the members chosen were five English peers: Philip Herbert, Earl of Pembroke and Montgomery; William Cecil, Earl of Salisbury; Basil Fielding, Earl of Denbigh; Lord Grey of Wark, and Edmund Sheffield, Earl of Mulgrave. It included also two peers' sons: Philip, Viscount Lisle, son of the Earl of Leicester, and Thomas, Lord Grey of Groby, son of the Earl of Stamford; and one Scottish peer, Thomas, Lord Fairfax of Cameron.[2]

But the manner in which the House of Lords had been abolished was a fatal bar to the acceptance of the new régime by those peers who had hitherto sided with the popular party. To take a place in the Council of State, or to stand for a seat in Parliament, would imply accepting the abolition of their own constitutional rights. Some were willing to do this, but even those few who went farthest, shrank from recording their approval of the late revolution.

A difficulty at once arose about the engagement

[1] Gardiner, *Constitutional Documents*, p. 387.
[2] *Commons' Journals*, vi. 140.

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to be exacted from the new councillors. They were required to express their approbation of the King's trial, the abolishing of kingship, and the taking away of the House of Lords. Only nineteen out of the forty persons chosen were willing to accept this test, and none of the peers were amongst them. Lord Grey of Wark answered that he was always willing to do service in anything which he was commanded by both Houses; but this coming only from one House he desired to be excused. Pembroke, Salisbury, Mulgrave, and Fairfax objected to the retrospective character of the engagement, though expressing themselves willing to support the new government. The objections of Denbigh, who may be taken as their spokesman, explain their feeling. His answer was (as reported by Cromwell to the Parliament): [1] 'That he takes it as a great honour to be named by the House of Commons for this service: that he hath formerly had the honour to be employed by the late King to the State of Venice, and other princes; and served in it faithfully: that he was since employed by both Houses in arms; and was also faithful in that. That there is now no other power in England but that of the House of Commons, in whom the liberty and freedom of the people is so involved, that he is resolved to live and die with them, and doth acknowledge them the supreme power of this nation; and that what government they shall set up and appoint he will faithfully serve, to the best of his power, with his life and fortunes. But that in that engagement there are some particulars that look backwards, that he conceives he cannot with honour subscribe; as being contrary to what he then acted as a peer in the House of Lords, then acknowledged a third estate of this kingdom; and to which he was

[1] Whitelocke, *Memorials*, ii. 536, 537 (ed. 1883); *Sydney Papers*, p. 238; *Commons' Journals*, vi. 146

subordinate, as a member of that House, by a particular relation of duty and obedience; but saith as before, that he will for the future serve them with the best of his power.' CHAP. VII 1649-50

The opposition of these peers and of other dissentient councillors necessitated a compromise.[1] At Cromwell's instance a conference took place between the two parties in the Council, and a new form of engagement was agreed upon. Those who took it bound themselves to concur 'in the settling of the government of this nation for the future in the way of a republic, without King or House of Lords.' Three peers, Pembroke, Salisbury, and Denbigh, took their seats in the Council, and accepted this engagement. Mulgrave never took his seat. Fairfax appears to have been allowed to take the engagement in a slightly altered form, by which he bound himself 'to defend the proceedings of Parliament in settling the government in the way of a republic without King and House of Peers,' but did not bind himself to concur in what had been done. In the end, however, the necessity of owning the new government was forced upon the peers in general, whether members of the Council of State or not. In October, 1649, Parliament imposed upon all its members a promise 'to be true and faithful to the Commonwealth of England, as the same is now established without a King or House of Lords.' A similar declaration was to be exacted from all officers and officials, and on January 2, 1650, it was extended to the nation at large.[2] After April 20, 1650, no one who had not publicly taken this oath was to expect any benefit from the courts of law of the Commonwealth, and one nobleman after another was

[1] Gardiner, *The Commonwealth and Protectorate*, p. 7.

[2] Gardiner, ib. i. 196, 215.

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driven to swallow it. 'Two justices of the peace,' complains the Earl of Leicester, 'came to my house at Penshurst, and I subscribed the said engagement, for if I had not done so I could not have been plaintiff, nor have sued in any court of justice upon what occasion soever.' [1]

Leicester had heard that the Earls of Bedford, Northampton, Peterborough, Sussex, and Monmouth had subscribed the engagement, besides others whose names he does not mention.

Adhesions to the republic secured by such pressure were of no value, and must have increased the hostility with which the majority of the peers regarded it. Of the members of the late House of Lords only three availed themselves of the stipulation permitting them to be elected to Parliament, though it is just possible that their number would have been greater had there been more by-elections. Those three were the Earls of Pembroke and Salisbury, and Lord Howard of Escrick. Pembroke was not one of the most regular attendants at the Council of State, for he attended only some seventy-six times during his year of office, whilst at least ten members were present twice as often; but no one was so ostentatiously zealous in expressing his devotion to the new order. On February 19, 1649, a writ was issued for the election of a new member for Berkshire, in place of Sir Francis Pyle, deceased. Pembroke at once offered himself as a candidate for the vacancy, and after a sharp contest was declared elected. He was always the favourite butt of Royalist wits, and they utilised this opportunity to the utmost. A pamphlet on the election contains two fictitious speeches concerning it, one by Pembroke, the other by 'a well-affected tanner' against Pembroke. The tanner denounces 'this

[1] Blencowe, *Sydney Papers*, p. 100.

fellow that was a Lord, this Pembroke, this Montgomery, this Herbert, this what shall I call him ? . . . Let us be wise, we may see a design in this Lord as plain as the nose on his face. He was always false, false to the King that loved him, false to the Lords that sat eight years with him, and do you not think he will be false to the Commons too ? ' Pembroke's son and the son of Pembroke's steward were both members of Parliament already. ' If he get in too the time will come when the House of Commons will be all Lords, and Lords' sons, and Lords' servants ; and then Lords will be set up again, and King be in request again, which if we live to see again we have spun a fine thread.'

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' If we must choose a knight,' he concluded, ' let him not be a Lord. We do not read in all the Scriptures of any Lord was ever chosen Knight of the Shire for Berkshire.' [1]

On April 16, his ' lordship attended by many eminent members was received into the House with great respect.' [2] In another way, too, he publicly testified his respect for the new authorities. On May 7, 1649, when the Lord Mayor entertained the Parliament and the Council of State at dinner, Pembroke refused to take precedence of Whitelocke, the senior commissioner of the Great Seal.[3] Whitelocke urged him to do so. ' With that the Earl spoke aloud (as he used to do) that all near him might hear : " What, do you think that I will sit down before you ? I have given place heretofore to Bishop Williams, to my Lord Coventry, and my Lord

[1] *The Manner of the Election of Philip Herbert, etc.*, British Museum E. 55 (16). See also Nos. 6 and 17 in the same volume and E. 555 (5).

[2] Ludlow, i. 226 ; Carte, *Original Letters*, i. 278 ; *C. J.* vi. 187 ; Whitelocke, *Memorials*, iii. 15, 46.

[3] There is a fictitious speech on this occasion attributed to him, entitled *Gradus Simeonis*. It is reprinted with other satires of the same kind in vol. vii. of the *Somers Tracts*.

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Littleton; and you have the same place that they had; and as much honour belongs to the place under a commonwealth, as under a king, and you are a gentleman as well born and bred as any of them; therefore I will not sit down before you.' A few months later, on January 23, 1650, Pembroke died. Commenting on his death, the Earl of Leicester noted that it took place just a week before the anniversary of the day on which King Charles had been beheaded. Leicester was inclined to regard Pembroke's death as a judgment for his conduct at the King's execution. 'He told me himself, that out of his chamber-window he looked upon the King, as he went upstairs from the park to the gallery, on the way to the place of his death. This he should not have done, but have retired himself to pray for him, and to lament his misfortune, to whom he had so great obligations. As I remember the Earl of Salisbury hath told me, he was with the Earl of Pembroke at the same time. It would have become him also to have been away, whose father and himself were so much bound as any man to the said late King, and to his father, King James.'[1]

The Earl of Salisbury had followed Pembroke's lead with the greatest closeness throughout the whole duration of the civil war. He had attended the Council of State exactly the same number of times as Pembroke, and entered Parliament five months later than his colleague, as member for King's Lynn. The Assembly Book of King's Lynn under the date of September 8, 1649, contains the following entry:

'It is this day ordered that a letter be written to the Right Honble. the Earl of Salisbury by the mayor, to give him knowledge that this House hath granted him the freedom of this burgh, and that the commonalty

[1] *Sydney Papers*, ed. Blencowe, p. 96.

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of this burgh hath elected him a burgess of the Parliament of England.

Salisbury's effusive reply, accepting his election, has also been preserved:

'Gentlemen,—As the precedent you have made in choosing of me to be your burgess is unusual (I believe) if not the first amongst you, so doth it lay the greater obligation upon me, neither is that favour a little heightened by my being so much a stranger unto you as indeed I am. And as you have here an open and free acknowledgement from me of your kind and good affections in so unanimous an election of me to serve you in Parliament, as your letter doth express, so cannot they merit, or you expect more thanks than I do really return unto you for them; you have been pleased cheerfully (as you say) to confer your freedom upon me, I shall ever be as zealous in maintaining of yours. And as I am not ignorant of the great trust you have placed in me, so shall you never be deceived in it. For the addresses you are to make unto me (as your occasions shall require) they shall not be so many as cheerfully received. And whatsoever may concern the public good or yours shall ever be pursued with all faithfulness and diligence by him that is,

'Your very loving friend,

SALISBURY.'[1]

'*Hatfield, 15th. Sep.* 1649.

On September 18 Salisbury took his seat amongst the burgesses and knights of the Commons House, greatly to the surprise of some who remembered his former protestations on the subject. 'He should have done well,' sardonically observed Lord Leicester, 'not

[1] *Eleventh Report of the Hist. MSS. Comm.* Part iii. p. 182. Spelling modernised.

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to have protested so much as he did, unnecessarily, and almost in all companies.'[1] At the end of his first term in the Council of State, Salisbury was chosen again for a second year, and he was also elected to the fifth council.[2]

The third peer who consented to sit amongst the Commons was Edward Howard, whom Charles I had created in 1628 Lord Howard of Escrick. He took his seat on May 5, 1649, as member for Carlisle, and was elected to the Council of State in February, 1650. But Howard's political career was speedily brought to an untoward conclusion. He was one of the committee which sat at Haberdashers' Hall to assess the fines levied on the estates of the vanquished Royalists. These fines were graduated according to the degree of delinquency of the owner, that is, according to the extent to which he had taken part in the war against the Parliament. In 1650 complaints got about that Howard had taken bribes for excusing delinquents from sequestration and for reducing their fines, and that in one particular case he had received a diamond hat-band valued at eight hundred pounds. But no one was willing to incur the risk of bringing the accusation before Parliament. At last the accuser applied to Major-General Thomas Harrison, and he 'being a man of severe principles and zealous for justice, especially against such as betrayed the public trust reposed in them,' examined into the charge, and finding it true, publicly informed against Howard.

'The honour of every member,' he told the House, 'was dear to him, and of that gentleman in particular, because he had so openly owned the interest of the Commonwealth as to decline his peerage, and to sit upon the

[1] Blencowe, *Sydney Papers*, p. 95.

[2] Salisbury was elected a member of the Protector's second Parliament, but was one of those excluded from sitting by the Protector's council.

foot of his election by the people. Yet he loved justice above all things, looking upon it to be the honour of the parliament and the image of God upon them; that therefore he durst not refuse to lay this matter before them, though he was very desirous that the said Lord might clear himself of the accusation.'[1] Parliament at once appointed a committee to investigate the charge, and after an exhaustive inquiry, expelled Howard from the House, sent him to the Tower, and fined him ten thousand pounds. He remained in the Tower for six weeks, and a few days before its dissolution by Cromwell the House remitted the fine.

The ablest of the peers who sat in the first Council of State, or in the Parliament itself, was Lord Denbigh. He was also elected to the second council, but omitted in the three subsequent ones. One reason for this omission was that when the third Council was elected it was resolved to prevent the perpetuation of power in the same hands, and to reserve twenty places for new members. Another must have been that the rarity of his attendance at the Council naturally marked him out for omission. Moreover he was slowly and cautiously veering round to Royalism, and seems from later indications to have become connected with the Presbyterian opposition.

Of the two heirs to peerages who were Denbigh's colleagues in the first Council, Lord Lisle sat in the second, fourth, and fifth Councils. He was chosen in December, 1652, to go as ambassador to Christina of Sweden, but after at first accepting the mission, excused himself, and was replaced by Bulstrode Whitelocke. Lord Grey of Groby, who was one of the most thorough-going supporters of the republic, sat also in the second, fourth, and fifth Councils. When Charles II and

[1] Ludlow, *Memoirs*, i. 259 (ed. 1894).

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the Scots marched into England, Grey was commissioned to raise horse in Leicestershire and three other Midland counties to oppose the invaders. Lord Fairfax, who had been a member of the first two Councils, resigned his post as commander-in-chief in June, 1650, and ceased at the same time to sit in the Council. He had pleaded in his letter of resignation 'debilities both in body and mind, occasioned by former actions and businesses,' but his real motive was his disapproval of the proposed invasion of Scotland.[1]

From all these instances it is evident that a few of the nobility were willing enough to accept a republican form of government. During the four years which the Commonwealth lasted the peerage was never without its representatives both in the Parliament and the Council of State. Neither amongst the limited number of men who monopolised political power, nor amongst the electorate in general, was there any hostility to peers as such. If so few of them held office in the new state, it was because the majority of those who had adhered to the Parliamentary cause remained obstinately aloof.

Of the twelve peers who, in August, 1640, had signed the famous petition which led to the summoning of the Long Parliament, Warwick, Manchester, Mulgrave, Saye, and Howard of Escrick, were still alive. Mulgrave, as we have seen, did not accept the seat offered him in the Council of State, and Howard's adhesion had brought no credit to the republic. Warwick, whose services with the fleet had been of such value during the second civil war, had without doubt refused to serve the Commonwealth, and had been removed by Parliament on February 20, 1649, from his office of Lord High Admiral. Manchester's disapproval of the King's execution accounted

[1] Slingsby's *Diary*, ed. Parsons, p. 340.

for his retirement from public life. Saye, who had done all he could to promote the treaty of Newport, was definitely hostile to the Independent leaders, and betook himself to the island of Lundy, where, according to report, he occupied his leisure in writing a romance.[1] Of other Parliamentarian peers the most notable abstentionist was Philip, Lord Wharton.

Wharton had fought at Edgehill, was a rigid Puritan, and was also a personal friend of Cromwell's. Even as late as 1652 a match was proposed between his daughter and Henry Cromwell, and but for the unwillingness of the lady herself, would probably have taken place. Cromwell made repeated efforts to persuade Wharton of the groundlessness of his scruples. 'It were a vain thing,' he wrote to him from Ireland, 'by letter to dispute over your doubts, or undertake to answer your objections. . . . I do not condemn your reasonings; I doubt them. It 's easy to object to the glorious actings of God, if we look too much upon instruments.' The events of December, 1648, and the men by whom that revolution had been carried out, were evidently a great stumbling block to Wharton. 'Be not offended at the manner,' continued Cromwell, 'perhaps no other way was left. What if God accepted their zeal even as He did that of Phinehas, whose reason might have called for a jury? What if the Lord have witnessed His approbation and acceptance to this also—not only by signal outward acts, but to the heart too? What if, I fear, my friend should withdraw his shoulder from the Lord's work—through scandal, through false mistaken reasonings? . . . How great is it to be the Lord's servant in any drudgery . . . in all hazards His worst is far above the world's best. How hard a thing it is to reason ourselves up to the Lord's service, though

[1] *Letters of Dorothy Osborne*, ed. Parry, p. 162.

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it be so honourable; how easy to put ourselves out of it, where the flesh has so many advantages . . . You were with us in the form of things: why not in the power?'

Wharton remained deaf to Cromwell's arguments, and Cromwell wrote to him again on the day after the victory of Dunbar, begging him not to allow either pride in being consistent, or the fear of being thought to change his mind because of the successes of the republic, to be a snare to him. Just before the battle of Worcester Cromwell found time to make a third appeal to Wharton—urging him to seize the opportunity of helping against the Scottish invaders.[1] 'Give me leave to say one bold word. Your lordship, Dick Norton, Tom Westrow, Robert Hammond have, though not intentionally, helped one another to stumble at the dispensations of God, and to reason yourselves out of His service. Now you have opportunity to associate with His people in His work; and to manifest your willingness and desire to serve the Lord against His and His people's enemies. . . . Offer yourselves willingly to His work. Wherein to be accepted is more honour from the Lord than the world can give or hath. I am persuaded it needs you not—save as our Lord and Master needed the beast to show His humility, meekness and condescension; but you need it, to declare your submission to, and owning yourself the Lord's and His people's.'

Wharton's answers to these letters have not been preserved. He remained unconvinced, was still dissatisfied, and perhaps thought the parable of the ass's colt wanting in respect.

Socially as well as politically the peers lost much by the establishment of the Commonwealth. Together

[1] Carlyle's *Cromwell*, Letters, cxviii. cxlvi. clxxxi.

with their legislative and judicial powers, the Lords were deprived of their privileges, 'either in relation to person, quality, or estate.' They ceased to possess any immunity from arrest, and lost the right to be tried by their peers. It was shown in two conspicuous instances that, for the future, they were to be liable to the same punishments as other men if they committed similar offences.

On May 10, 1652, a duel took place at Putney Marsh, between Lord Chandos and Mr. Henry Compton. Compton was killed, and Chandos, with his second, Lord Arundel of Wardour, fled into France. They remained abroad till the danger of losing their estates obliged them to return to England, and to stand their trial. The Earl of Leicester, always interested in questions affecting his order, gives a detailed account of the proceedings in his diary.[1]

In 1653, 'towards the end of Easter term, the Lord Chandos, for killing in duel Mr. Compton the year before, and the Lord Arundel of Wardour, one of his seconds, were brought to their trial for their lives at the Upper Bench in Westminster Hall, when it was found manslaughter only, as by a jury at Kingston upon Thames it had been found formerly. The Lords might have had the privilege of peerage (Justice Rolle being Lord Chief Justice), but they declined it by advice of Mr. Maynard, and the rest of their Counsel; least by that means the matter might have been brought about again, therefore they went upon the former verdict of manslaughter, and so were acquitted, but yet to be burnt in the hand, which was done to them both, a day or two after, but very favourably. It is observable, 1st, that these Lords, having been of the

[1] Wharton, *Gesta Britannorum*; Collins, *Peerage*, vi. 726 (ed. Brydges) gives the date as May 13. See Cleveland's poem, '*To the Hectors upon the unfortunate death of H. C.*,' and David Lloyd, *Memoirs of Excellent Personages*, 1668, pp. 363–368.

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King's party, submitted to be tried by the present government, 2ndly, That they waived the privilege of peerage (as the Earl of Dover not long before had done also in Hertfordshire, where he was indicted for coining money), and 3rdly, That the said two Lords were burnt in the hand, they being the first Peers in England that had been so.' [1]

A grievance which specially affected the portion of the peerage who had fought for the King was the refusal to allow them to bear the titles conferred upon them as the reward of their loyalty. On February 4, 1651–2, Parliament passed an Act making null and void all titles of honour given by the late King since January 4, 1642. All patents were to be brought in and cancelled, under penalty of a fine of £50. Persons assuming such titles after March 25 next, were to be fined, in the case of a lord, £100, and in the case of a baronet or knight, £40. Persons who, in writing or in conversation, gave the prohibited titles to any such noblemen or gentlemen were likewise to be fined ten shillings for every offence.[2]

The Act seems to have been fairly strictly enforced. A contemporary poet, Patrick Carey, pictures the grief of the wife of one of these peers over her lost title:

'To a French Tune.
A griev'd Countesse, that e're long
Must leave off her sweet-noised title;

[1] *Sydney Papers*, ed. Blencowe, p. 143; see also Inderwick, *The Interregnum*, p. 28; *Clarendon State Papers*, iii. 172.

One of the earliest acts of the House of Lords after the Restoration was to testify their indignation at this treatment of its members. On June 9, 1660, they referred to the Committee for Privileges 'to consider the great violation that hath been committed upon the peers of this realm, by restraining their persons, burning them in the hand, refusing their privileges when they have been claimed, or any other breaches' and to send for the persons guilty of these offences.

[2] Scobell, ii. 178.

A griev'd Countesse, that e're long
'Mongst the crowd for place may throng;
In her hand that patent holding
Which perforce she must bring in,
Oft with moist eyes it beholding,
Her complaint did thus begin.' [1]

It was equally unpleasant for the noblemen themselves to be obliged to surrender up the evidence for their titles, since they did not cease to look forward to the time when the restoration of their rightful Sovereign would allow them to be used. The shift by which one such nobleman, the Marquis of Dorchester, evaded the necessity, is told with great satisfaction in his life:

'Some time before this, there was an order of the usurping power, that all letters patent for creating any noblemen after his Majesty left London should be brought into the Chancery, there to be cancelled, unless the parties came in and made oath before a Master by such a day, that they could not come to them, and knew not where they were. This put him to a great plunge; for, to part with that mark of honour his Majesty had been so graciously pleased to bestow upon him, he resolved never to do; and the other he could not do. So in this dilemma he found this expedient. There was one of the Masters at that time he had some knowledge of, and told him he knew not where his patent was, but was not willing to make oath, it not being the custom of men of honour to swear in Chancery, but only to deliver things upon their honour: and desired him to certify, as though he had sworn, for which he would give him a good gratuity. The Master made very shy of it; he could not possibly do it; he was upon his oath, and a great deal of that nature. The marquis left him for that time, and within three or

[1] Patrick Carey, *Trivial Poems and Triolets*, 1651, p. 29 (ed. 1819).

CHAP. VII 1649–53

four days sent his secretary to him. He was still in the same mind; it could be done but with the hazard of losing his place. The gentleman then told him, there was such a one would do it for £50 in gold. "Will he?" says he; "what a knave is that: come, bring me the money, and I will do it." And by this means he came off at that time.'[1]

Dorchester, like all other peers or gentlemen who adhered to the King, had to pay a considerable fine for his delinquency. These fines ranged from one-tenth to one-third of the value of the delinquent's whole property, calculating his lands at twenty years' purchase. Dorchester's father, the Earl of Kingston, had been killed fighting for the King, but he had never borne arms himself, though he sat in the Royalist anti-parliament at Oxford. His fine was fixed at £7467, being one-tenth of his estate. This was the rate at which minor delinquents amongst the Royalist peers were assessed. Lord Seymour, the Earl of Southampton, and the Duke of Richmond, all sentenced to pay one-tenth, were fined respectively £3725, £6466, and £9037. Lord Molineux, on the other hand, more obnoxious for his conduct during the war, was assessed at one-sixth, *i.e.* £9037.[2] There were a certain number of noblemen regarded as unpardonable delinquents whose whole estates were confiscated, namely, the Duke of Buckingham, the Marquises of Newcastle, Winchester, and Worcester, the Earls of Derby, Bristol, Cleveland, and Chesterfield, Lords Cottington, Craven, and Powis, and a number of the soldiers raised to the peerage for their military services to the King, such as Hopton, Langdale, and Byron. An allowance of one-fifth of the value of

[1] Munk, *Roll of the College of Physicians*, i. 287.

[2] See the *Calendar of the Proceedings of the Committee for Compounding with Delinquents*.

the estate was made to the wife and family of the delinquent. Sometimes also when the delinquent's whole estate was confiscated, he was granted something to subsist upon. The Earl of Chesterfield, for instance, was allowed five pounds a week by Parliament. Charles, Earl of Derby, son of the Earl who was executed at Bolton in 1651, was granted by a special Act of Parliament £500 per annum out of his father's lands. 'This noble family,' said a member during the debate, 'is in the most distressed condition of any family in England, and if you do not confirm this Act, they must go a begging.' [1]

While some of the Royalist peers were completely ruined, all were impoverished, for most of them, besides paying their fines, had spent their ready money in the King's cause, or encumbered their estates to help him. Even those peers who had taken the winning side in the war were generally much embarrassed. They had raised regiments or contributed freely to loans, and the financial difficulties of the state made repayment slow and uncertain. When their property lay in the King's quarters, or in districts which had been the seat of war, their lands had been devastated, their stock plundered, and their houses sacked. During the war some of them lost in this way most of their rents, and had to apply to Parliament for help. Lord Saye, for instance, was granted a temporary pension of £2000 a year out of the King's revenues in 1645, on a petition representing that his property lay in the King's quarters, that he had not received more than four hundred pounds from it in the last three years, and had suffered to the extent of about £12,000 by the seizure of his crops and the

[1] Burton's *Diary*, ii. 80.

CHAP. VII 1649-53

plunder of his houses.[1] There are many similar petitions in the Journals of the House of Lords.

Rents fell generally in consequence of the war,[2] and remained low for some time after it ended, while during the Commonwealth the taxes on land rose to an unprecedented height. All landowners, to whatever party they belonged, suffered alike from this general depression, but the political influence of the landed gentry was not, on the whole, much diminished, while that of the nobility was. The peers who had taken the Parliamentary side felt the loss of political power the more because they were regarded as traitors to their own order. Royalists exulted at their discomfiture. This appears in a sketch written about 1652, called 'A character of a degenerate nobleman.'

'He is a certain silly thing, who now he has no voice in Parliament, scarcely knows what to say. He has made the name of Lord only a mock-name, more ridiculous than the name of Lord of Misrule in ancient time; and they shun him, as they do "Lord have mercy upon us," upon doors: and this plague he has brought upon himself, by foolishly imagining he should be anything, when those were nothing who made him all he is. As if the stars should conspire to deprive the sun of light, or streams to dry up the fountain whence they flow'd: when no wonder if every glow worm or farthing candle out-shine them now, or that their greatness should be at so low an ebb, as every one boldly strides over them, who durst not approach so nigh as their brinks before. So they jostle him now in the streets, who was wont before, like mandarins, to make whole streets to give him way, and no body takes notice

[1] *Lords' Journals*, iii. 39, 68.

[2] See Gardiner, *Great Civil War*, iii. 196. The fall during the war was, in many parts of England, about one-half.

of him, unless some one in scorn points at him (perhaps) and says, "There goes a Lord!" and this is all the privilege of peerage they have now, besides the having every base fellow without commission to search their house, every tradesman cite them before their Worships at next shire-towns, and every common serjeant drag them away to prison, where they lie in the dungeon or common gaol: and this fine prerogative they have got, who would needs pluck down the King, only to be promoted to the King's Bench themselves.' [1]

[1] Richard Flecknoe, *Ænigmatical Characters*, 1665, p. 76. This particular character is noted as 'made anno 1652.'

CHAPTER VIII

SOME CONSTITUTIONAL EXPERIMENTS

CHAP. VIII 1647–53

IN the interval between the abolition of the House of Lords in 1649 and its restoration in 1660 an attempt was made to create a new second chamber in its place. A number of different schemes for the purpose were devised and put forward. The question why the House of Lords was abolished is not difficult to answer. The question why the soldiers who had effected its abolition endeavoured to devise some substitute for it is less easy, but more interesting.

The quarrel between the army and the Parliament in 1647 had produced in the minds of the officers a deep distrust of omnipotent Parliaments. They had learnt, as they said in their Remonstrance of June 23, 1647, 'that Parliament privileges as well as royal prerogatives may be perverted and abused, to the destruction of those greater ends for whose protection and preservation they were admitted or intended, viz. the rights and privileges of the people.'[1] Their distrust was not lessened by the reduction of the two Houses to one in 1649, and it was increased by the four years of single-chamber rule which followed. An assembly of unlimited powers—always in session—not content with the business of legislation, but taking upon itself by its committees to supersede the ordinary courts of law—uniting in itself the legislative, judicial, and executive powers—

[1] Rushworth, vi. 587.

seemed to Cromwell and his officers 'the horridest arbitrariness that ever was exercised in the world.' [1] Under such a government, however, England lived from the abolition of the House of Lords and the Monarchy in 1649 to the dissolution of the Long Parliament in 1653. 'This was the case of the people of England at that time,' declared Cromwell; 'the Parliament assuming to itself the authority of the three Estates that were before. It was so: and if any man would have come and said: "What are the rules you judge by?"—Why, we have none. But we are supreme in legislature and in judicature.' [2]

The question which Cromwell and the officers had to solve was, how to limit the powers of Parliament so as to prevent future assemblies from exercising the like arbitrary authority, and the plan they adopted was to define those powers by a written constitution. The officers who, in December, 1653, drew up the 'Instrument of Government,' inserted proviso after proviso restricting and diminishing the authority entrusted to the elected of the people. The legislative and executive powers were carefully separated, the duration of Parliament was limited, a fixed revenue was given to the government independent of Parliamentary control. The indenture by which members were to be returned expressly stated, 'that the persons elected shall not have power to alter the government, as it is hereby settled in one single person and a parliament.' The article which defined the Protector's part in legislation gave him the power to veto any bills which infringed its provisions. Official pamphleteers proclaimed the necessity of establishing a constitution on such foundations that

[1] Carlyle's *Cromwell*, Speech xiii. ed. Lomas, iii. 99.

[2] Carlyle's *Cromwell*, Speech xiii. ed. Lomas, iii. 95. The reader must supply the words 'it would have answered,' or some similar phrase, after the question.

CHAP. VIII 1654

neither the passions of the people nor the ambition of the legislature could overthrow it.

'If it be objected, that in the twenty-fourth article, a negative voice is placed in the Protector, as to whatever is contained in the said establishment; and that in the twelfth article, the Members elected are, by their indentures, to be debarred from altering the government, as it is declared to be in a single person and a Parliament; and that thereby the supreme power is limited and restrained in things most natural to their trust and employment; it is answered, that though it be not of necessity, yet it were a thing to be wished, that popular consent might always, and all times, have the sole influence in the institution of governments; but when an establishment is once procured, after the many shakings and rents of civil divisions, and contestings for liberty, as here now in England, doubtless we have the greater reason to value it, being purchased at the price of our blood, out of the claws of tyranny; and we conceive it highly concerns us, to put in some sure proviso to prevent a razing of those foundations of freedom that have been but newly laid; especially in such an age as this, wherein men are very apt to be rooting and striking at fundamentals, and to be running out of one form into another. . . . Which being considered, it was high time some power should pass a decree upon the wavering humours of the people, and say to this nation, as the Almighty himself said once to the unruly sea, "Here shall be thy bounds, hitherto shalt thou come, and no further."' [1]

The Protector's first Parliament, which met in September, 1654, refused to accept the bounds placed on its power. It was not content to be merely a legislative body, but endeavoured to turn itself into a constituent

[1] *A True State of the Case of the Commonwealth*, 1654, p. 33. E. 728 (5).

assembly. It sought to throw the whole constitution into the melting pot, and tor ecast it according to its own views. After Parliament had spent a week in futile discussions, Cromwell imposed on the members a promise not 'to propose or give consent to alter the government, as it is settled in a single person and a Parliament.' He drew a distinction, he told them, between the 'circumstantials' and the 'fundamentals' of the constitution. The former they might alter, and he would not have been averse to any alteration of the good of which they could have convinced him. The latter he could not permit them to alter. 'There are many circumstantial things, which are not like the laws of the Medes and Persians. But the things which shall be necessary to deliver over to posterity, these should be unalterable. Else every succeeding Parliament will be disputing to change and alter the government; and we shall be as often brought into confusion as we have Parliaments, and so make our remedy our disease.'[1] Behind the Protector, still more determined to maintain the constitution they had drawn up, and less willing than he was to make any reasonable compromise with the Republicans, were the officers of the army. 'No question,' wrote Secretary Thurloe, 'but they will live and die to maintain the government as it is now settled, and possibly they may be too severe upon that point, not being willing to part with any tittle of it.'[2] But the spirit of Parliament was too high to be daunted by Cromwell's warnings, the tradition of Parliamentary omnipotence too strong in its members for them to resign themselves to the subordinate part assigned to them. Under colour of revising circumstantials, they proceeded to alter the

[1] Carlyle's *Cromwell*, Speech iii. ed. Lomas, ii. 385.

[2] Vaughan, *The Protectorate of Oliver Cromwell*, 1838, ii. 85.

CHAP. VIII 1654

fundamental provisions of the constitution, and postponed all other business to that object. Cromwell angrily dissolved them at the first moment the terms of the 'Instrument' permitted.

This rupture revealed the defects of the new constitution. Its framers had provided no machinery to amend its provisions, and established no authority to interpret them. The men who drew up the American constitution, more than a century later, devised a supreme court for its interpretation, but this expedient did not occur to our seventeenth century politicians. There was no court then existing in England which could be employed for the purpose, and the judges of that day had not sufficient security of tenure to guarantee their independence. Nobody suggested that the Speaker should be trusted to determine whether a bill was contrary to the terms of the constitution or not. In theory he was merely the servant of the House, 'a servant,' as Lenthall said, 'with neither eyes to see, nor tongue to speak,' but as the House was pleased to direct him. It was impossible to think of him as the arbiter in disputes between the executive and legislative powers. Accordingly those two powers were left face to face without any third authority to mediate or to decide between them. The Protector could not veto any bill which was in accordance with the provisions of the constitution, and no law passed by the Parliament was valid if it conflicted with those provisions. But if the Parliament persisted in unconstitutional legislation, all the Protector could do was to dissolve it, and he might not do that till it had sat for five months.

The causes which produced the breach between Cromwell and Parliament in 1654 seemed likely to result in a similar conflict in 1656. The second Parliament,

like the first, refused to submit to the restrictions imposed by a written constitution. In one point both Parliaments agreed. Each was less tolerant than the authors of the 'Instrument of Government.' Each sought to limit the amount of liberty of conscience which the 'Instrument' had guaranteed. The first Parliament, after consulting a committee of divines, and debating for six days the 'fundamental principles' which everyone who claimed to be tolerated should be required to believe, came to the conclusion that the Protector ought to have no veto on any bills for punishing heretics and blasphemers. The second Parliament spent many weeks in discussing the blasphemies of James Naylor, and whether they should sentence him to death by a bill of attainder, or proceed against him by their judicial power. The constitution gave Parliament no judicial power of any kind, but that objection was not allowed to stand in the way. Old precedents were quoted in which the Commons had acted judicially, and it was urged that the judicial power of the House of Lords had, since its abolition, devolved upon the sole remaining House. 'I take it,' said Sir William Strickland, 'we have all the power that was in the House of Lords, now in this Parliament.' After they had voted that Naylor should be pilloried, whipped, have his tongue bored, be branded on the forehead, and be imprisoned, the Protector felt bound to interfere. 'We being interested in the present government on behalf of the people of these nations; and not knowing how far such proceedings, entered into wholly without us, may extend in the consequence of it —do desire that the House will let us know the grounds and reasons whereupon they have proceeded.' The demand was backed up by a large party in the House itself. 'It is not without good reason,' said Major-

CHAP. VIII 1656

CHAP. VIII 1656-7

General Lambert, 'that his Highness should be satisfied in the grounds. . . . He is under an oath to protect the people, both in freedom of their consciences, and persons, and liberties.' 'My Lord Protector,' added Colonel Sydenham, 'is under an oath, to maintain the laws, and all the articles of the Instrument of Government. Is not he then to look so far to the good and safety of the people as to see that no man be sentenced but by those laws, not without or against them?'[1]

The House refused to recede from the position it had taken up, and Cromwell was obliged to let the matter drop in order to avoid a breach. But no incident had more effect in convincing him of the necessity of a Second Chamber. 'Here,' said a member, summing up the dispute about Naylor's case, 'here is your power asserted on the one hand; the supreme magistrate, on the other hand, desiring an account of your judgment. Where shall there be *tertius arbiter?* It is a hard case. No judge upon earth.'[2] It was evidently necessary that there should be some power established to judge between the Protector and the Parliament, when they differed as to the interpretation of the constitution, and to support the Protector in defending, against the encroachments of the legislative authority, the rights which that constitution guaranteed to all Englishmen. This was the view which Cromwell expressed to the deputation of a hundred officers who came to him in February, 1657, to protest against the proposed revival of the monarchy and the House of Lords. 'Unless you have some such thing as a balance, we cannot be safe. . . . By the proceedings of this Parliament, you see they stand in need of a check, or balancing power,[3] for the case of

[1] Burton, i. 246, 255, 275, 276.

[2] Ib. i. 249.

[3] The writer of the letter reporting this speech adds the explanation 'meaning the House of Lords, or a House so constituted.' Burton's *Diary*, i. 384.

James Naylor might happen to be your case. . . . By their judicial power they fall upon life and member, and doth the Instrument enable me to control it?' CHAP. VIII 1657

While the Protector was thus becoming convinced that it was necessary to establish a second chamber of some kind, a great majority of the Parliament were coming to the conclusion that it would be best to re-establish the old form of government by King, Lords, and Commons. Such a solution offered the only hope of deliverance from direct or indirect military rule. It promised a more permanent settlement than any paper constitution could guarantee. In February, 1657, the project for restoring a monarchy and a House of Lords took shape in 'The Humble Address and Remonstrance' which Sir Christopher Pack presented to Parliament. The question whether the title of King should be given to the Chief Magistrate was for a time postponed, but on March 5 it was determined, apparently without a division, that future Parliaments should consist of two Houses.[1] On March 11 it was decided that the 'Other House' should consist of not more than seventy members, to be nominated by the Protector and approved by the Parliament, while on the 17th the limits of its judicial power were carefully defined.[2] Sir Thomas Widdrington, the Speaker, when he presented to the Protector the new constitutional scheme, referred to the article concerning the 'Other House' as a new thing. 'I may call this,' he said, 'a self-denying request, a modest condescension to admit others into so great a trust as that of the legislative (a very jealous point), therefore the desire of the Parliament may not be deemed unreasonable, to have the approbation of those persons thus intromitted, that they may know whom they trust. And the other may seem as just, that bounds be set to

[1] Burton, i. 380. [2] Ib. 385–388.

CHAP. VIII 1657-8

their judicial proceedings. . . . Their judicial power is limited and circumscribed, and it is necessary to be so; for it is natural to all men to be lovers and promoters of the latitude of their own jurisdictions.' [1]

The records of the debates about the composition and powers of the 'Other House' are scanty and imperfect, but there appears to have been no serious division of opinion. Two points in the amendments and explanations subsequently added to supplement the 'Petition and Advice' were discussed at some length. One was the question, whether persons appointed to fill future vacancies in the 'Other House' should be nominated by the Protector or elected by the House. In the end the right of nomination was given to the Protector. The second was the question, whether the names of the original members of the 'Other House' should be discussed and approved by the Commons, or whether the Protector should issue summonses to his nominees without first obtaining the assent of the Commons. That, too, was decided in favour of the Protector.[2]

Cromwell was thus left perfectly unfettered in the selection of the members of the new House of Lords, and after long deliberation made his choice, and issued the writs on December 10, 1657. Sixty-three persons were summoned, and about forty-two of them signified their acceptance by their presence at the opening of the session on January 20, 1658.

Cromwell's 'lords,' as the members of the new second chamber are usually termed, were not the collection of low-born soldiers of fortune which hostile pamphleteers described them as being.[3] They were a fair selection from the influential men of the party

[1] Burton, i. 404.

[2] Burton's *Diary*, ii. 21–23; 297–301. A summary of the discussions is given in *The Last Years of the Protectorate*, ii. 7–9.

[3] 'A Second Narrative of the Late Parliament,' *Harleian Miscellany*, iii. 475.

supporting the Protectorate. Amongst them were the Commissioners of the Great Seal and the Treasury, some judges, members of the Protector's Council, and other high officials. There were seventeen officers who were either generals or commanders of regiments in the standing army; finally there were about a dozen country gentlemen of good family and estates, and several representatives of the old peerage.[1] Cromwell's idea appears to have been to constitute a House of Lords consisting of a small nucleus of hereditary peers and a larger number of peers for life. With that aim he sent writs of summons to seven English peers, viz. the Earls of Mulgrave, Warwick, and Manchester, Viscount Saye, and Lords Eure, Wharton, and Fauconberg; to one Scottish peer, David Kennedy, Earl of Cassilis; and to one Irish peer, Roger Boyle, Lord Broghil. In addition to these he summoned Philip Sidney, eldest son of the Earl of Leicester, styled by courtesy Viscount Lisle, and Charles, Viscount Howard. The last was a peer of his own making. Cromwell appears to have assumed that the office of Chief Magistrate of these nations, conferred upon him by the Petition and Advice, implied the right to create peerages. Accordingly, about a month after his second installation, he created Charles Howard, late captain of his guard, Baron Gilsland and Viscount Howard of Morpeth (July 20, 1657).[2] This and two

[1] A list of the persons summoned, and a register of those present each day during the session are contained in 'The Journal of the Protectorate House of Lords from the original MS. in the possession of Lady Tangye,' printed as an appendix to the *MSS. of the House of Lords*, vol. 1699–1702.

[2] On this peerage creation see Noble's *House of Cromwell*, ed. 1787, i. 378, 439; and the list of Oliver's honours in the *Perfect Politician*, ed. 1680, p. 291. In G. E. C.'s *Complete Peerage* the question is not determined.

Howard was created by Charles II on April 20, 1661, Baron Dacre of Gilsland, Viscount Howard of Morpeth and Earl of Carlisle, and was the ancestor of the present Earl of Carlisle.

Cromwell made two other attempts to create peerages. Whitelocke notes in his *Memorials* that on August 21, 1658, 'a Bill signed by his Highness for a

CHAP. VIII 1658

other instances negative the supposition that a summons to the 'Other House' was intended to create an hereditary peerage, as Speaker Lenthall, and perhaps some others, supposed.[1]

Of the English peers summoned by Cromwell only two obeyed their writs: Thomas, second Viscount Fauconberg, and George, sixth Lord Eure. As Cromwell's son-in-law, Fauconberg was practically obliged to accept his writ. Eure had sat in a couple of Cromwell's Parliaments, but his narrow fortune and his personal insignificance made his adhesion of little importance. Broghil, Lisle, and Howard also took their seats in the House. Mulgrave, Manchester, Warwick, Saye, Wharton, and Cassilis all refused to sit. They were not all of them personally hostile to the Protector's government. Warwick, for instance, had borne the sword before Cromwell at his second installation as Protector, and praised his 'prudent and heroic' management of affairs. Wharton also was favourably disposed, and thought of accepting the writ sent him. The consideration which finally induced them to refuse was, that they would be thereby accepting the abolition of the House of Lords, and surrendering of their own free will all the inherited rights of the peerage. Saye put this argument with great force in a letter dissuading Wharton from acceptance. The old government of this kingdom, he declared, was the best in the world, being a mixture of monarchy, aristocracy, and democracy, 'in that manner that it hath the quintessence of them all, and thereby the one is a boundary unto the

patent to make me a Viscount, and in secretary Thurloe's hand to be passed, but I did not think it convenient for me' (*Memorials*, iv. 335, ed. 1853). The other person created a peer was Edmund Dunch, made Baron Burnell of East Wittenham. Noble in his *House of Cromwell* gives a facsimile of the Protector's patent to Dunch, which was then in possession of the Earl of Leicester.

[1] Ludlow's *Memoirs*, ii. 32; cf. Burton's *Diary*, ii. 421, 434, 468.

other, whereby they are kept from falling into extremes, which either apart are apt to slip into.' Of this government the House of Lords was an essential part. 'The chiefest remedy and prop to uphold this frame and building, and keep it standing and steady, is the Peers of England, and their power and privileges in the House of Lords; they have been as the beam keeping both scales, King and people, in an even posture, without encroachments one upon the other to the hurt and damage of both. Long experience hath made it manifest that they have preserved the just rights and liberties of the people against the tyrannical usurpation of Kings, and have also, as steps and stairs, upheld the crown from falling upon the floor, by the insolency of the multitude, from the throne of government. This being so, will it not be, as most unjust, so most dishonourable, and most unworthy of any ancient peer of England to make himself a *felo de se*, both to the nobility of England and the just and rightly constituted government of the kingdom, by being made a party, and indeed a stalking horse and vizard, to carry on the design of overthrowing the House of Peers, and in place thereof to bring in and set up a House chosen at the pleasure of him, that hath taken power into his hands to do what he will?' For his own part, concluded Saye, he should lay his writ aside, and sit still; and if he were sent for by force, he would tell Cromwell the truth to his face, and defend the government which was so unjustly to be subverted.[1]

CHAP. VIII 1658

The refusal of the five peers to accept seats in the 'Other House' deprived it of reputation and weight. They were men whose political ability and experience would have been of great value to the government—leaders of the aristocratic section of the Puritan party

[1] *English Historical Review*, x. 106.

CHAP. VIII 1658

in the past, and its best representatives now—men of the same type as the Whig noblemen who made the Revolution of 1688 and carried the Reform Bill of 1832. Their presence would have been a sign that the breach effected in the Puritan party by the events of 1648 and 1649 was healed. Their absence was a proof that the reunion of the party was still a long way off, and that even a return to something like the old constitution was insufficient to secure the political support of the conservative section of that party. Yet, though some were irreconcileable, many had been won over. The middle classes, and an increasing number of the gentry, accepted the Protector's government, because it guaranteed rest and stability after war and revolution. They approved of the new constitutional experiment, and their objection to the 'Other House' was only that it would not be conservative enough. The defects of its original composition were accentuated by the refusal of the peers to sit there. Without them it very inadequately represented the landed interest. Some of Cromwell's most faithful supporters complained of the excessive number of officers amongst its members. The preponderance of the military and official element in it was now still more overwhelming, and the House lost all semblance of independence. It would be so subservient to the executive that the Lower House was not likely to accept it as an impartial judge in its differences with the Protector.

On the other hand, the officers of the army in general were reconciled to the revival of a Second Chamber by the number of representatives they obtained in it. They regarded it as an institution that would protect them against a conservative reaction. When Thurloe wrote that this new house 'would preserve the good interest against the uncertainty of the Commons

House,'[1] he expressed the views of both officers and officials. Neither of these classes realised the difficulty of creating a Second Chamber.

When the second session opened (January 20, 1658), the Protector contented himself with congratulating the members of the two Houses on the attainment of a constitutional settlement more satisfactory than any one could have expected. Nathaniel Fiennes, one of the Commissioners of the Great Seal, delivered an harangue which showed that he had no misgivings about the capacity of the new assembly to fulfil the functions of a House of Lords. 'This constitution of a chief magistrate and two Houses of Parliament,' said he, 'is not a pageantry, but a real and well measured advantage to itself and to the Commonwealth; and so consonant to reason that it is the very emblem and idea of reason itself, which reasoneth and discourseth by a medium between two extremes. If there be two extremes, and the one vary from the other, how shall they be reconciled, if there be no medium to bring them together?' Finally he dwelt on the importance of the veto of the Protector and the Upper House as a safeguard against hasty legislation, and the usefulness of a second chamber to revise the laws sent up to it by the first. 'If anything inconvenient should chance to slip out at one door, must it not pass two more, before it come abroad to the detriment of the people? How exact, and of how great respect and authority, will be all your acts, laws and resolutions when as, after that they have passed the examination of that great body, which sees with the eye of the three nations, and is acquainted with the condition, and sensible of the necessities, of every individual part thereof, they shall then pass a second scrutiny, and be polished and refined by such as during life shall

[1] *Clarke Papers*, iii. 89.

CHAP. VIII 1658

make it their business either to fit themselves for, or to be exercised in, things of that nature!'[1]

The session lasted about a fortnight, and the question of the Lords occupied nearly the whole of it.[2] The long debate started from a dispute about the title of the new assembly. Was it to be called the 'Other House' or the 'House of Lords'? If the first name was employed it could claim only those powers conferred upon it by the Petition and Advice; if the second, it might claim all the powers possessed by the late House of Lords. From a dispute about this question of form the debate developed into a general discussion about the value of a second chamber. Sir Arthur Haselrig, Thomas Scot, Luke Robinson, and John Weaver, all regicides and members of the Long Parliament expelled in 1653, led the opposition. In answer to the arguments of the supporters of the government about the advantages of restoring the old constitution, they enlarged on the demerits of the late House of Lords. It was useless and pernicious; it had been legally abolished, and it was undesirable to revive it. To do so would be returning to the bondage of Egypt, or committing the sin of Jeroboam the son of Nebat. Apart from that, they objected to any restriction on the authority of the representatives of the people. No person or body of persons should possess the power to veto bills passed by the Commons. The Lords had been 'clogs upon the passing of many good laws.' The abolition of the House had 'set the people of England free from any negative.' Its revival would 'bring a negative upon them.' What had they fought for, if it was not for the power to make their own laws?

[1] *Old Parliamentary History*, xxi. 175.

[2] What follows is a summary of the reports in Burton's *Parliamentary Diary*, ii. 339–344; 375–462. A longer summary is given in *The Last Years of the Protectorate*, ii. 19–24.

The Republicans were told in reply that it was necessary to revive a second chamber as a safeguard against precipitate legislation. 'The great reason,' said one lawyer, 'was that bills passed too hastily here.' 'A check is necessary upon us,' added another.[1]

Something was said on both sides about the composition of the 'Other House.' It was urged by the opposition that the new lords had not sufficient property to counterpoise the House of Commons. 'They are not a balance as the old lords were.' The soldiers sitting in the Lower House vigorously defended the claims of their comrades in the other. 'You must have new Lords when you cannot have the old ones,' said one. Another declared that the command of a regiment of foot gave as much influence as the possession of an estate. A third said that religion, piety, and faithfulness to the Commonwealth were the best of all qualifications. If that were so, it was answered, why not restore the old Lords? 'How meanly soever the old Lords be spoken of, there are some of them of as much piety as any in this or the other House.'[2]

Cromwell put a stop to the debate by suddenly dissolving Parliament, on the ground that the wrangle about the powers of the 'Other House' endangered the State by encouraging the plots of the Royalists and the Republicans. In his speech he told the Commons that they had pledged themselves to establish a Second Chamber, and that he had undertaken the government upon that condition. 'I would not undertake it without there might be some other body that might interpose between you and me, on the behalf of the commonwealth, to prevent a tumultuary and a popular spirit.' Then, vindicating his choice of persons, he added:

[1] Burton's *Diary*, ii. 383, 390, 402, 451, 461.

[2] Ib. ii. 389, 408, 416, 456.

CHAP. VIII 1658-9

'You granted that I should name another House. And I named with integrity, I did. I named it out of men that can meet you wheresoever you go, and shake hands with you, and tell you that it is not titles, it is not lordship, it is not this nor that that they value, but a Christian and an English interest. Men of your own rank and quality, and men that I approved my heart to God in choosing; men that I hoped would not only be a balance to a Commons' House of Parliament but to themselves, having honest hearts, loving the same things that you love, whilst you love England and whilst you love religion . . . I say I did choose such a House as I thought I might answer for with my life, that they would be true to those ends and those things that were the ground and state of our war with the Cavalier party all along.'[1]

This was true, but the fact which Cromwell stated to justify his House of Lords in the eyes of Puritans condemned it in the eyes of the rest of the nation. A Second Chamber might be an advantage, but one composed entirely of partisans seemed a doubtful benefit. There was a general desire amongst independent supporters of the government for a change in the composition of that assembly. This was seen in the Parliament called by Richard Cromwell, which met in January, 1659. Its constitution marked another step in the return to the past. The 'Upper House,' as men now began to term it instead of the 'Other House,'[2] was composed of the same persons as it had been in 1658. On the other hand, the members of the Lower House were elected by the old constituencies, and the reforms of the representative system introduced in 1654 were abandoned. The result was

[1] Carlyle's *Cromwell*, Speech xviii. ed. Lomas. The version of Cromwell's speech given in the *Pell MS.* printed by Mrs. Lomas in her appendix (vol. ii. p. 505) seems to me better than the version adopted by Carlyle.

[2] So says Phillips in the continuation of *Baker's Chronicle*, ed. 1670, p. 659.

that the Republicans and the military party were weaker than they had been in the last House of Commons, while there were a large number of Presbyterians and neutrals, and many who were Royalists at heart.[1] These independent members usually supported the government against the Republicans, but they were more conservative than the military members or the official supporters of the Protector. This was plainly shown in the lengthy discussions on the question of a Second Chamber in February and March, 1659.

It was resolved, without a division, on February 19, that Parliament should consist of two Houses. Several sittings were spent in discussing 'the bounds and powers' of the 'Other House'; then came a debate on its composition. The old objections to Cromwell's nominees were reiterated. It was argued that many were persons of mean quality and small estates, and therefore not a sufficient 'balance' to the Commons. 'It is estates make men Lords and esteemed in the country,' said one member. Another praised Cromwell for choosing Lords for valour and virtue. 'The Lord Protector did not think fit to make every lump of gilded earth a Lord.' The most effective argument of the Republicans was, that the 'Other House' consisted too exclusively of officers and officials. Men receiving salaries from the government were the servants of the people, and it would be improper to make them its masters. The officers had too much power already; they had shown too great a liking for arbitrary courses in the past, and it would be dangerous to freedom to trust the civil and the military sword to the same hands.[2]

[1] The composition of the House of Commons is analysed by Masson, *Life of Milton*, v. 430.

[2] Burton's *Diary*, iii. 354; iv. 10, 11, 14, 31, 35, 48.

CHAP. VIII 1659

Yet there was a feeling that though this new Second Chamber was not a good one, it was better than none. 'I am as little pleased with these Lords as any one,' said the member for Hastings; 'yet we are but one leg, and cannot go, but hop up and down without them. Though they be not to our content I have seen a man walk very well with a wooden leg.' The best way to improve the composition of the new House was to reinforce it by the members of the old one. 'I am for the ancient constitution by two Houses,' said Mr. Stephens. 'You ought to restore the ancient House of Lords, if one may be added to the other.' Some argued that the act abolishing the old House was invalid. Others called to mind the services of the old House in the past. 'The Barons anciently were the great bulwarks in defence of the liberties of the nation. How oft did they fight for Magna Charta! There is a necessity for a House of Lords. . . . Had there not been a House of Lords, then we had not been a House of Commons neither. They always fought battles for our liberties.' [1]

'Who were they that stood up and asserted the liberties of the people? Stood they not up for Magna Charta with King John and Henry III? Did not they, in Richard II's time, contend and regain their lost liberties for the people? To come to our own times, which we are too apt to forget, when Parliaments were grown contemptible, and no man durst, under less than a capital offence, mention a Parliament to move the King to call one—we had these Lords, some twelve at least, yet living, that took courage even whilst the King was in the midst of an army; they went with a paper in one hand, and their lives in the other, to solicit the King to call a Parliament.' [2]

[1] Burton's *Diary*, iii. 354, 356, 358, iv. 57.

[2] Ib. iii. 514.

Even the bitterest Republicans, such as Sir Arthur Haselrig, protested that they would rather have the old House restored than the new one maintained. 'I from my soul honour the old Lords . . . I had rather with all my soul those noble Lords were in, to all intents and purposes, than those persons that have two swords —persons that have torn Parliaments out, and pulled your Speaker out of the chair . . . I do wish with all my soul that we might have those ancient Lords, such as depend upon themselves, so that we might be secured against the old line.' The only serious objection raised was, that the restoration of the old Lords meant the restoration of the old line too, but that was held to be sufficiently guarded against by a limitation to the 'old faithful nobility.'[1] On March 28, 1659, it was resolved by 198 to 125 votes 'That this House will transact with the persons now sitting in the Other House, as an House of Parliament, during this present Parliament. And that it is not hereby intended to exclude such peers as have been faithful to the Parliament, from their privilege of being duly summoned to serve as members of that House.'[2]

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According to Ludlow the resolution was carried by 'the Cavalierish party,' who joined the supporters of the government 'in expectation it might prove a good step towards the return of the former peerage.' According to the French Ambassador, the addition in favour of the old Lords was a concession that the government was

[1] Burton's *Diary*, iii. 534; iv. 81.

[2] Ib. iii. 86; *Commons' Journals*, vii. 621. Two pamphlets called forth by these debates deserve mention: (1) *An ancient Landmark, Screen or Bank betwixt the Prince or Supreme Magistrate and People of England*, E. 972 (9). This is a plea for the restoration of the old House of Lords. (2) *A Seasonable Speech made by a Member of Parliament in the House of Commons*, E. 974 (6). This is a fictitious speech sometimes attributed to Sir A. A. Cooper, but on no evidence whatever. It is reprinted in the *Old Parliamentary History*, xxi. 297 (3). At the end of Harrington's *Art of Lawgiving* there are a few pages entitled: *A word concerning a House of Peers*, dated February 20, 1659.

CHAP. VIII 1659

obliged to make in order to avoid a defeat, but in reality the Protector wished to maintain the 'Other House' as instituted by his father, and on this point he was in agreement with the army.[1]

To the officers of the army the maintenance of the 'Other House' was essential as a guarantee for their own influence, not merely because some form of second chamber was necessary as a check upon the Commons. This was shown by the events which followed the fall of Richard Cromwell. On April 22, 1659, he was forced by the army leaders to dissolve Parliament: a fortnight later they themselves were obliged, by the pressure of the Republicans in alliance with the inferior officers, to throw over the Protector altogether, and to recall the Long Parliament. Forty-two of the old members took their seats in the House on May 7, and their number subsequently rose to nearly ninety.[2]

By this revolution England returned to the government which had existed from 1649 to 1653. The nation was once more placed under the rule of a House of Commons, which claimed that by virtue of the Act passed in 1641 it could not be dissolved save by its own consent, which contained no representatives of the greater part of the existing constituencies, which exercised legislative, executive, and judicial functions without control. All the constitutional checks that the army had laboured to establish had been swept away; there was no written constitution, no second chamber, no independent executive.

The leaders of the army were not blind to the dangers which this restoration of an unlimited and omnipotent Parliament involved. They endeavoured to make a

[1] Guizot, *Richard Cromwell*, i. 311, 315, 317, 321, 323, 335, 345, 351; Ludlow, *Memoirs*, ii. 58–60; Bethell's *Brief Narrative*, pp. 340–345.

[2] For a list see Prynne's *Conscientious, Serious, Theological and Legal Queries*, 1659, pp. 45–48, and Masson, *Life of Milton*, v. 453.

treaty with the leaders of the Parliament, and to impose certain conditions upon it; but they failed because the representatives of Parliament steadily maintained that they had no power to bind it. However, on May 13, 1659, a week after the re-establishment of the Parliament, an address from the army was presented to the House, in which the constitutional demands of the soldiers were recapitulated. Amongst other things they demanded the establishment of a Second Chamber. CHAP. VIII 1659

'That in order to the establishing and securing the peace, welfare, and freedom of the people of these nations, for the ends before expressed, the legislative power thereof may be in a Representative of the people, consisting of a House successively chosen by the people, in such way and manner as this Parliament shall judge meet, and of a select Senate coordinate in power, of able and faithful persons, eminent for godliness, and such as continue adhering to this Cause.' [1]

It was at once pointed out by pamphleteers that this select senate the army demanded was a revival of Cromwell's 'Other House.' One writer said, it meant 'a House of Lords to have a negative on all the people of the three nations, which would be worse than the Norman yoke.' Another said, 'If by the name we may guess at the nature of the thing, it is as like the Other House as an ape is like a monkey.' [2] In the preliminary negotiations between the officers and the Republicans, Ludlow on behalf of the latter had plainly expressed their hostility. 'I thought it my duty to let them know, that if by a select senate they understood a lasting power, coordinate with the authority of the people's representative, and not chosen by the people,

[1] The address is reprinted in the *Old Parliamentary History*, xxi. 404.

[2] *A Negative Voice or a Check for your Check*, 1654, E. 1010 (10); *The Declaration of the Officers of the Army opened*, by E. D. p. 7, E. 1010 (16).

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I could not engage to promote the establishment of such a power, apprehending that it would prove a means to perpetuate our differences, and make it necessary to keep up a standing force to support it. But if they proposed to erect such an authority only for a short time, and in order to proceed with more vigour to an equal and just establishment of the Commonwealth, I presumed it might be very useful, and that the people would readily acquiesce, when it should be evident that it was designed to no other end than to prevent them from destroying themselves, and not to enslave them to any faction or party.' [1]

The members of the restored Long Parliament were willing to appoint a Committee of Safety with temporary powers for a week or two, or a Council of State to be elected annually by Parliament, but they would not hear of the establishment of any independent council or senate which might limit their own powers. However, the objection to a single-chamber Parliament of unlimited power was not felt by the officers of the army alone: it was shared by a section of the Republican party, small in numbers indeed, but consisting of able men and active writers. Of these doctrinaire Republicans James Harrington was the mouthpiece, and all through the year 1659 and during the first months of 1660 he set forth his views in a succession of pamphlets. Harrington maintained that the present form of republic was not a republic at all. 'A single council, having both the right of debate and result, never was nor can be esteemed a commonwealth, but ever was and will be known for a mere oligarchy.' [2] But though he wanted a bicameral assembly he condemned the kind of senate the army

[1] Ludlow, *Memoirs*, ii. 75 (ed. 1894).

[2] *A Discourse upon this Saying 'The Spirit of the Nation is not yet to be trusted with Liberty,'* 1659, E. 988 (12). This is dated May 16, 1659. Compare the passages from *Oceana* quoted in *The Last Years of the Protectorate*, i. 68.

wished to set up. One chamber would resolve according to the interest of the many, and the other according to the interest of the few, and thus a feud would be created between senate and people. Further, if the two chambers were coordinate, and exercised the same powers, a quarrel between them would be unavoidable. Therefore it was essential that the two chambers should have different powers and functions.

On July 6, 1659, Harrington and his followers presented a petition to Parliament embodying their ideas. They began by complaining that since the dissolution of the old government by King, Lords, and Commons, no new constitution had been established, and consequently there was no security for the peace and freedom of the nation. They then laid down six principles. One was 'that there is no security that the supreme authority shall not fall into factions, and be led by their private interest to keep themselves always in power and direct the government to their private advantages, if that supreme authority be settled in any single assembly that shall have the entire power of propounding, debating, and resolving laws.' They therefore proposed 'that a Parliament of England shall consist of two assemblies: the lesser of about 300, in whom shall reside the entire power of consulting, debating, and propounding laws; the other to consist of a far greater number, in whom shall rest the sole power of resolving all laws so propounded.' The scheme was a simplification of that set forth in a fantastic and detailed shape in the pages of 'Oceana.' [1]

[1] *The Humble Petition of Divers well-affected Persons.* See Harrington's *Works*, ed. 1771, pp. 508, 586, or p. 541 in Toland's edition. Bordeaux mentions the petition in his letters; Guizot, *Richard Cromwell*, i. 431. In *Oceana* Harrington wrote that 'a Parliament consisting of a single assembly and invested with the whole power of the government, was so new a thing that neither ancient nor modern prudence' (i.e. statecraft) 'can show any avowed example of

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Many other proposals were put forward in pamphlets or petitions, differing in details, but all seeking to limit the authority of a single chamber Parliament, either by a written constitution, or by the establishment of some kind of second chamber, or by both together. Ludlow summarises them in a passage in his memoirs.

'At this time the opinions of men were much divided concerning a form of government to be established amongst us. The great officers of the army, as I said before, were for a select standing senate to be joined to the representative of the people. Others laboured to have the supreme authority to consist of an assembly chosen by the people, and a council of state chosen by that assembly, to be vested with the executive power, and accountable to that which should next succeed, at which time the power of the said council should determine. Some were desirous to have a representative of the people constantly sitting, but changed by a perpetual rotation. Others proposed that there might be joined to the popular assembly, a select number of men in the nature of the Lacedemonian Ephori, who should have a negative in things wherein the essentials of the government should be concerned, such as the exclusion of a single person, touching liberty of conscience, alteration of the constitution, and other things of the last importance to the State. Some were of opinion that it would be most conducing to the public happiness, if there might be two councils chosen by the people, the one to consist of about three hundred, and to have the power only of debating and proposing laws; the other to be in number about one thousand, and to have the power finally to resolve and determine: every year a third

the like.' The nearest approach to it he could find was 'the oligarchy of Athens, the Thirty Tyrants of the same, and the Roman Decemvirs.' The scheme of having one assembly to propose and discuss and another to debate, resembled the French constitution of 1799.

part of each council to go out and others to be chosen in their places. For my own part, if I may be permitted to declare my opinion, I could willingly have approved either of the two latter propositions, presuming them to be most likely to preserve our just liberties, and to render us a happy people.'[1] CHAP. VIII 1659

None of these schemes pleased the sitting members of the Long Parliament and their leaders. To them a republic meant the government of a House of Commons, without King, or Lords, or written constitution. But much against their will they were obliged to yield to popular pressure. Already, to remove the suspicion that they meant to perpetuate their own power, they had passed a resolution that the existing Parliament should not sit longer than May 7, 1660. Now, after some months' fruitless discussion of constitutional problems, Parliament appointed, on September 8, a committee of twenty-nine members to 'prepare something to be offered to the House in order to the settlement of the government of this commonwealth.' This committee was to report on or before October 10.[2]

Before the Committee reported a complete breach took place between army and Parliament, and at the same time the army itself became divided. On October 13, 1659, Lambert and the regiments in London expelled the Long Parliament again, and while the forces in England approved their action, Monck and the forces in Scotland declared in favour of the Parliament. Ten weeks of military rule followed, but the officers declared that they had no intention of keeping power in their own hands, and the Committee of Safety which they established appointed persons 'to prepare such a form of government, as may best suit and comport with a

[1] Ludlow, *Memoirs*, ed. 1894, ii. 98, 99.

[2] *Commons' Journals*, vii. 775.

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free state and commonwealth, without a single person kingship, or House of Peers.' They agreed that when this form of government was drawn up it should be submitted to a general council of the army, in which each regiment in the three nations should be represented by two officers. This assembly was to meet on December 6.[1]

There is no clear or full account of the preparation of this new constitution, or of the discussions about it in the General Council, but its main features are well known.[2] There was to be a written constitution of a kind. The officers agreed upon 'seven principles and unalterable fundamentals to be perpetually kept and observed, in order to the conservation of this commonwealth.' For example there was to be no king or single person exercising the office of chief magistrate, there was to be complete toleration, and there was to be no House of Peers.[3] There was to be a Parliament consisting of two Houses, but it was expressly laid down 'that both the assemblies of the Parliament shall be elected by the people of this commonwealth duly qualified.' Who were to elect the members of the second assembly, who its members were to be, and what its powers, remains uncertain; on those points there is no definite information.[4] The originality of the constitution, however, consists not in this elected second assembly, but in the provision for the appointment of twenty-one persons to be called Conservators of

[1] See the *Declaration of the General Council of Officers*, October 27, 1659, and pp. 41, 42, 52, 62 of Redmayne's *True Narrative of the Proceedings in Parliament, &c.*, 1659.

[2] Ludlow, *Memoirs*, ed. 1894, ii. 163–169, 171–174.

[3] These fundamentals are printed in *Mercurius Politicus*, December 8–15, 1659, under the date December 13. The seventh fundamental mentions the two assemblies.

[4] 'It has been determined that the Parliament shall be composed of two Houses, one of which shall hold the place of a senate co-ordinate in power with the other; but they shall not have power to destroy the Conservators,' writes Bordeaux to Mazarin; Guizot, *Richard Cromwell*, ii. 308; see also pp. 315, 316.

Liberty. Their function was to see that the fundamentals were inviolably observed. Ludlow claims the merit of this invention. 'I proposed,' he says, 'to the Council of Officers, that the essentials of our cause might be clearly stated, and declared inviolable by any authority whatsoever; and that in case any difference should hereafter arise between the Parliament and the army touching these particulars, or any of them, a certain number of persons of known integrity might be appointed by this council finally to decide the matter.' [1] CHAP. VIII 1659

But Ludlow's scheme was not original. Harrington and his friends in their petition of July 6 had proposed the appointment of a dozen persons of undoubted fidelity and integrity, empowered to apprehend, try, and condemn any persons who moved the alteration of certain specified fundamental laws.[2] A similar proposal, based on the analogy of the Roman Tribunes and Spartan Ephors, had been set forth at length by another pamphleteer of the same school.[3]

All these elaborate devices came to nothing. They are interesting only as examples of the desire to limit the power of representative assemblies, and render the foundations of the State unassailable—attempts, in short, to invent something to discharge the functions which the House of Lords had hitherto fulfilled.

Before the officers could put their constitutional scheme into execution, or even submit it to the Parliament they had called, a new revolution took place. They were obliged on December 13, 1659, by the universal opposition to military rule, to submit to the inevitable, and to readmit the members of the

[1] Ludlow, *Memoirs*, ii. 172.

[2] *The Humble Petition of Divers well-affected Persons*, p. 11. E. 989 (11).

[3] Henry Stubbe, *A Letter to an Officer of the Army concerning a Select Senate*, pp. 3, 61. Stubbe seems to make the Conservators of Liberty and the Senate the same persons.

CHAP. VIII 1660

Long Parliament to Westminster. But the triumph of 'the Rump,' as it was now universally called, was very brief. The cry for a free Parliament, and for the readmission of the members expelled in 1648 as the first step toward it, was universal. The sitting members refused to accept either solution, and proposed to adopt the expedient of recruiting the House by issuing writs to fill up the vacant seats.[1] They had no intention of submitting themselves to the hazards of election, but intended to keep their seats, and to decide on the qualifications of the new members and the validity of their elections. It was the expedient successfully adopted in 1646, but frustrated by Cromwell in 1653. Monck frustrated it now by refusing obedience to the House, and reinstating the members expelled in 1648 (February 23, 1660). But Monck was careful to impose conditions on the 'Secluded Members,' as they were usually termed. They were to dissolve themselves within a limited time, to call a free Parliament, and to leave the issue to the nation. The dissolution took place on March 16, 1660, and the new Parliament met on April 25.

[1] A proclamation was issued declaring that a new Parliament was to meet on January 24. The *Public Intelligencer*, December 12–19, 1659. But some of the officers still clung to the idea of establishing a senate to control it, Ludlow, ii. 182.

CHAPTER IX

THE RESTORATION OF THE HOUSE OF LORDS

At the end of February, 1660, it was certain that the old constitution would be restored, but just as it was a question whether some restrictions would not be imposed upon the King, so it seemed probable that the House of Lords would not be unconditionally re-established. After the return of the Secluded Members the Presbyterian party were in a majority both in Parliament and in the Council of State. The peers who belonged, either politically or by their religious views, to that party began once more to play a part in public affairs. Even before the close of the Protectorate some of their leaders had entered into secret communication with the emissaries of Charles II. About March, 1658, for instance, Daniel O'Neill reported to Hyde the results of a conversation between Lord Bellasis, as agent of the Cavaliers, and Lord Manchester, as one of the heads of the Presbyterian party. Manchester expressed a general willingness to see the King restored. He himself, with Lord Denbigh and the moderate section of his party, asked simply for security for their lives and estates, but another section asked more. 'Lords Saye, Robartes and the more severe, did desire a confirmation of the articles of the Isle of Wight or something equivalent.'[1] Up to the moment of the Restoration the great aim of the peers who had adhered

[1] *Clarendon State Papers*, iii. 392.

CHAP. IX 1659

to the Parliament was, either the execution of the agreement they had succeeded in effecting with the late King in 1648, or some compromise on the same lines. They had maintained a neutral attitude in the dispute between Richard Cromwell and the army. When Richard tried to cajole Northumberland into sitting in the new second chamber, the Earl replied 'that till the government was such as his predecessors had served under he could not in honour do it, but that granted he should see his willingness to serve him with his life and fortune.'[1] This section of the peerage took no part in the rising of August, 1659, or the other Royalist conspiracies of that year. Those Lords who were implicated in the movement were Royalists who had already fought for the King, the sons of such peers, or peers who had changed sides in the second civil war.[2]

Even the struggle against the domination of the army in the autumn of 1659 failed to rouse the Presbyterian peers from the passive and expectant attitude they adopted. Prynne had appealed to them in November, 1659, to take the lead in demanding a free Parliament. He argued that by the Triennial Act of 1641 twelve peers might call a Parliament, if other constituted authorities failed to do it at the proper time.[3] As any attempt to put this provision in force would have been hopeless without military backing, it was evidently wiser to wait till the situation cleared up. In the meantime the King's agents were assiduous in their endeavours to gain the support of the Earl of Manchester. It was said that if he were gained the whole Presbyterian party would be at the King's service. Charles was pressed to

[1] *Clarendon State Papers*, iii. 432.

[2] See ib. iii. 524, 656, 676.

[3] See Prynne's *Short, Legal, Medicinal, Useful, Safe, Easy Prescription*, October 31, British Museum, E. 772 (1). It was answered by *A Reply to Mr. William Prynne, his unsafe Expedient*, E. 1010 (8).

promise him the post of Lord Treasurer, and replied that he would grant the Earl any personal favours he desired, but declined to give political pledges to his party.[1] It seems clear, however, that Manchester made no attempt to make a bargain for himself, and that he and his friends regarded the King's confirmation of the sales of church and crown lands as an indispensable preliminary to his recall. Their insistence on this point alarmed the King's agents. 'There is so insolent a spirit amongst some of the nobility,' wrote one of Hyde's correspondents, 'that I fear it will turn to an aristocracy, Monck inclining that way too.'[2]

The spirit of which the letter complained was due to the confidence which filled the Presbyterian party when Monck restored the Secluded Members. The readmission of the members of the House of Commons expelled by the army in 1648 seemed logically to imply the readmission of the peers sitting in the House of Lords at that date, and the restitution of that assembly to the exercise of its rights. By this step the return to the constitutional position existing in 1648 would have been completed.

This natural solution of the question was prevented by the necessity of conciliating the army. It would not have tolerated the restoration of the House of Lords, and as Monck had not yet brought it under complete control, he was obliged to temporise a little longer, and to reiterate his pledges to maintain a commonwealth without King or House of Lords. In his declaration to the Secluded Members before they resumed their places in the House, Monck set forth the points which he regarded as essential to the settlement of the nation. The republic must be maintained, a moderate, not rigid presbyterian

[1] *Clarendon State Papers*, iii. 657, 660, 685.
[2] Ib. iii. 663, 680.

CHAP. IX 1660

church system established, and sufficient liberty guaranteed to tender consciences. One of the great obstacles to this settlement was, he said, the position of the Lords who had taken part with the Secluded Members against the army in 1648, and whom those members might consequently feel pledged to restore.

'The main thing that seems to be in the way is the interest of the Lords, even of those Lords who have shewed themselves noble indeed by joining with the people, and, in defence of those just rights, have adventured their dearest blood and large estates. To that I shall only say, that though the state of these nations be such as cannot bear their sitting in a distinct House, yet certainly the wisdom of Parliament will find out such hereditary marks of honour for them, as may make them more noble in after ages.'[1]

Monck accordingly instructed Adjutant-General Miller —the officer charged to conduct the Secluded Members to their seats in the House of Commons—to oppose any attempt on the part of the peers to re-enter their own House, and his orders were punctually obeyed.[2]

This was a great disappointment to Manchester and the little group of peers who acted with him. It is said that in order to soften the blow some of them were offered places in the new Council of State which was elected on February 23, 1660, but the reply was that they could not form part of it without detriment to their

[1] *Old Parliamentary History*, xxii. 142; Kennet's *Register*, p. 63.

[2] It is stated by Dr. Price that 'some of the noble peers who had formerly agreed with the House of Commons to draw the sword against the King watched the readmittance of these Secluded Members, and would have entered their own House; but the General, having before intimation of their intents, commanded Miller to withstand them, in case any such attempt should be made. So the surly soldier obeyed his general's orders, though he was threatened that he did he knew not what.' Price, *Mystery and Method of his Majesty's Happy Restoration*, ed. Maseres, p. 773. One does not gather from other authorities that this attempt was actually made.

privileges. 'This refusal,' wrote the French ambassador, 'is founded on the hope that their House will be re-established.'[1] There was good ground for the hope. 'The Lords that are capable of session,' said a correspondent of the Marquis of Ormonde, 'are in a great indignation against the Secluded Members, who promised them before they were restored, that they would be instrumental to their re-establishment, so as they thought to have taken their places now.'[2]

It was generally felt that it was impossible for the Lords to abandon their claim without injuring the position of their order in future. As Hyde wrote to a correspondent in England: 'If the Lords do not now concur in doing some act towards the recovery of their right, or making the violence that is upon them so notorious and visible, that the people may think themselves concerned to demand it on their behalf, as a fundamental constitution of the kingdom, they will lose all respect.'[3]

The first step the Lords took was to apply to Monck. There is a trustworthy account of the negotiation extant, which runs as follows: 'Many private overtures were made to the General by some of the peers that sat in the Lords' House a little before the death of the late King, to be admitted to sit; but he thought it inconvenient and hazardous, in regard the army was already so jealous upon the sitting of the Secluded Members, that he had difficulty enough to moderate them. Yet at the request of the Earl of [Manchester] he sent Commissary-General Clarges to confer with him.

'The Earl told him the sitting of the Lords would be

[1] Bordeaux to Mazarin, February 24–March 4, 1660. Guizot, *Richard Cromwell*, ii. 365.

[2] Carte, *Original Letters*, ii. 311; Lutterell to Ormonde, March 2, 1660.

[3] *Clarendon State Papers*, iii. 701.

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very advantageous to the good of the kingdom, and to the soldiers in particular; for that they would join in an Act for the confirmation of their estates; and if it should be thought convenient for the good of the kingdom to receive the King, he could not upon any conditions with so much safety be restored as should be made by Act of Parliament.

'To this Clarges replied, that the General was very well satisfied the Parliament was dissolved by the death of the late King; and that the present sitting of the members was a constitution rather taken up upon necessity than right, which was but to make way for another Parliament; that one great argument for the admission of the Secluded Members was their consent to a quick dissolution; which could not be, if the Lords should sit; for they would then think themselves invested in that perpetuity which some fancy is of right in this Parliament still. But that which was most convincing was, that the army was not yet in temper for it.' [1]

About the time that this negotiation took place, or perhaps after its failure, Manchester seems to have sent a circular letter to the peers qualified to sit inviting them to some concerted action. It is no longer extant, but Northumberland's answer has been preserved:

'The peace and settlement of this nation (as I have formerly said to your Lordship) is of most universal concernment, and in order to it, the restoring of the peers unto their rights will be found a necessary consequence—so as, the first thing provided for, the other will follow of course; but, as businesses have been managed, I doubt neither are yet in a way of being well secured.

[1] This is from the continuation of *Baker's Chronicle* by Edward Phillips, ed. 1670, p. 714. Phillips had at his disposal the papers of Thomas Clarges, the agent employed by Monck. The peer whose name is left blank in the original was evidently Manchester.

For the Lords to go about at present asserting their rights (considering to what some of their own number have lately consented) would, I think, be ill-timed; especially seeing that no part of the nation but ourselves have as yet expressed any desire that we should return to the exercise of our duties in Parliament, and all in power or authority have, either openly or implicitly, declared against it.' [1]

This discouraging answer perhaps frustrated some attempt on the part of the Lords. Pepys noted in his 'Diary' under March 6, 1660: 'This day I hear that the Lords do intend to sit, and great store of them are now in town, and I see in the Hall to-day' [*i.e.* Westminster Hall].[2] If there was such a project it was abandoned, and the matter was left to Parliament. There Prynne spoke boldly on their behalf, declaring that the existing House 'was but a part of the House of Commons, and could do nothing without the King and the House of Lords.' [3] On March 13 he procured the appointment of a committee, which was instructed to consider 'what hath been done in this House concerning the Lords' House,' and to report the facts.[4] By his exertions, too, the engagement to be faithful to the Commonwealth, 'as the same is now established without a king or House of Lords,' was now annulled, and all orders for taking it expunged from the Journals. The proviso saving the rights of the Lords, inserted in the bill for dissolving the present Parliament and calling the new one, was perhaps due to Prynne. It ran thus: 'Provided always, and be it declared, That the single actings of this House, enforced by

[1] Dixon, *Court and Society from Elizabeth to Anne*, i. 395; cf. Guizot, ii. 139.
[2] Pepys, *Diary*, ed. Wheatley, i. 82, cf. Ludlow, *Memoirs*, ii. 246.
[3] *Clarendon State Papers*, iii. 690; cf. Wodrow's *Church History*, i. 9 (ed. 1828).
[4] *Commons' Journals*, vii. 872, 880; Guizot, *Richard Cromwell*, i. 380, 386.

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the pressing necessities of the present times, are not intended in the least to infringe, much less take away, that ancient native right, which the House of Peers, consisting of those Lords who did engage in the cause of the Parliament against the forces raised in the name of the late King, and so continued until 1648, had, and have, to be a part of the Parliament of England.' [1]

This proviso was regarded as nullifying the act for the abolition of the House of Lords. Indeed it was generally reported that Parliament had voted all that had been done against the Lords void.[2] Though that was not the case, the Lords began to bestir themselves, and arrange not only to assert their rights, but to determine the policy which they intended to pursue when they obtained them. Until Parliament should meet, all authority was in the hands of the Council of State, and in the Council the Presbyterian party possessed a majority. Its leaders were William Pierrepoint, Arthur Annesley, Denzil Holles, and others of the same way of thinking. In alliance with them Manchester and the Presbyterian peers concerted a scheme for imposing on Charles II the terms they had formerly sought to impose on his father in 1648. The letters of Hyde's friends in England are full of alarm at the development of this intrigue:

'Wednesday last Lady Bristol sent for me, and told me, that the night before, the chief of the Presbyterian party of the Council of State and others met in a junto, where many things were debated, and at last it was resolved upon, that they should immediately send propositions to the King (which they had drawn up, and were more insolent than ever they had demanded

[1] March 16, 1660. *Commons' Journals*, vii. 880; cf. *Clarendon State Papers*, iii. 725.

[2] See Pepys, *Diary*, March 13, 1660.

of the late King), and so engage his Majesty before the new Parliament meet; for (said they), if we stay till the Parliament sit, we are sure to be discarded, the King will have so many friends in it, and the whole country violent for him. Besides that, they found but little satisfaction from Monck, who, they feared, would even before the next Parliament bring in the King upon his own terms. This one of the Council that was with them at the debate came to advertise Lady Bristol of, and beseech her to use means to let the King timely know it, and to assure him that it is pure necessity makes them think of the King, not affection. She tells me that some who have made the King believe they will do great matters for him, and used Mr. Warwick in that matter, are the most violent in this design, and express great bitterness against the King's party, and say they cannot be secure if they permit so much as a kitchen boy to be about the King, of his old party, and that he must be so fettered as he should not write a letter but they must know the contents of it. Lady Bristol confessed to me that Lord Bedford, Lord Manchester, and Pierrepoint were three of them, and by her discourse I guess Popham, Waller, and St. John to be three more. The junto meets sometimes at my Lord Manchester's, and sometimes at Lord Wharton's. They have already shared the bear-skin (according to the proverb) amongst them; Lord Manchester is to be Lord Treasurer etc. His own tenants have refused to elect his son, and St. John's the same, by which you may see they can do little, either good or harm. I have it from good hands, that Monck abhors the Presbyterian impudence in their proposals to the King.'[1]

Other letters added fresh details. 'Our Presbyterian ministers,' wrote Mr. Barwick on April 16, 'apply

[1] *Clarendon State Papers*, iii. 705. Sambourne to Hyde, March 23, 1660.

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themselves to the Lords as their last refuge. Those fourteen that sat in '48 would very fain (or at least some of them) to make themselves a noble Rump, if they could find out any counsellable way to effect it.'[1] Lord Mordaunt wrote at length about this plot on April 19:

'I must now acquaint you with a cabal here which gives all honest men sad hours, the persons are Lord Northumberland, Lord Manchester, who (in Major Harley's absence) have debauched Lord Fairfax, Mr. Holles, Lewis, Mr. Pierrepoint (for all his letters), Sir Gilbert, and Sir A. Cooper; these, to prevent the General in his designs, which they suspect, meet every other night at Suffolk-house.[2] The result of the first meeting was, that the Lords who remained in 1648 should sit, and exclude not only the King's Lords, but the young Peers, who are now of age; the number they proposed are seventeen, seven Earls, one Viscount, nine Barons, of these ten will follow Northumberland; so that, the General having promised them not to obstruct their sitting, if by art they can exclude the rest, those will have a negative voice on the Commons, and render ineffectual all those good intentions they come fraught with. I have made it my business with the Earls of Oxford and Strafford to put them upon asserting their privileges, who have equal right, without exceptions, with the others, who meet not upon the King's old writ, but as *consiliarii nati*. To this [end] I have sent a letter of Mr. Warwick's, which he sent to me to peruse, to Sir J. Greenville, who gave it to Mr. Morris. This shews the incongruity of the Peers sitting, as not dissolved, and the hodge-podge of a House of Lords, called by the

[1] *Clarendon State Papers*, iii. 729, 731.

[2] Suffolk House was the Earl of Northumberland's, and was afterwards known as Northumberland House. Pepys was told on April 18 that the Lords met every day at Manchester House. Mordaunt writes to Ormonde, May 4, 1660, 'We have some lords play the devil.' Carte, ii. 325.

King's writ, and a House of Commons called by the people. I hope at least so far to defeat the old Lords as that they shall not sit, unless they admit the others, but for the King's Lords, we are not like to prevail with the General. The next meeting produced these moderate conclusions: first, that all should be nulled since the carrying away the Great Seal to Oxford; next that the Six Articles of the Isle of Wight should be sent to the King, the preface excepted, and his Majesty to sign them before he was to treat farther in person. . . . Lord Northumberland told a Lord of my alliance, all the places of trust, and those of judicature, should be disposed of as both Houses should agree, and that neither they nor the people could be safe with less conditions than these. This I know from Lord Willoughby. I doubt not you will hear of this from several hands. My Lady Carlisle lays about her too, and says no engagement will tie the King, who will break all. . . . The design of the Lords is publicly known, . . . 'twas first laid by Northumberland, St. John, Mr. Pierrepoint, and Lord Manchester; but Mr. Holles is come in for Secretary, Sir Gilbert Gerard for Treasurer of the Navy; the two Earls for Admiral and Treasurer; Mr. Pierrepoint for Privy Seal, and Lewis for President of Wales. Thus you see how we dispose of affairs here.' [1]

The success of this scheme depended on the assumption that the ordinances of the Long Parliament for the exclusion of the Royalist peers from their seats in the House were still valid, and on the power to enforce these ordinances. But these ordinances afforded no pretext for the exclusion of the young peers who had been minors during the civil wars, and had done nothing

[1] *Clarendon State Papers*, iii. 730.

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to forfeit their rights. There were enough of this class to make it doubtful whether the Presbyterian lords would be able to maintain a majority.

There was a similar question at issue with regard to the Lower House. The Act under which the elections had been made imposed a number of restrictions on the choice of the electors. Men who had been in arms for the King against the Parliament (and not only such persons, but their sons too) were disqualified from being chosen, and as about a hundred such persons had actually been elected, the enforcement or non-enforcement of the qualifications was of decisive importance. In each case all depended on the line which Monck would take up, for he had now become almost absolute master of the army.

Monck's attitude was doubtful. He had prevented the Council of State from initiating a treaty with the King, on the ground that the matter ought to be left to Parliament.[1] But questions about the composition of the Parliament, which was to meet on April 25, were more clearly within the competence of the Council and of the General.

Some reported that Monck had resolved not to interpose in the matter. On April 13 Colonel William Legge wrote to the Marquis of Ormonde for advice. 'I am desired,' he said, 'by some noblemen of his Majesty's party, who were compounders, to know whether or no they should take their places in the House of Peers upon the next convention, in case the General and Commons hinder not their so doing; and if they be allowed to sit, how the King would have them behave themselves when propositions are contriving for his Majesty. The reason why they suppose ability of

[1] *Clarendon State Papers*, iii. 726. Wodrow, i. 19, 20.

sitting is, that they find the Earls of Bedford and Clare, who were in Oxford, and so disabled from sitting in Parliament, are now resolved to sit, and encouraged by the other peers so to do; nor do they apprehend the General's opposition; for that he hath declared his not interposing in the case.'[1]

On the other hand, about a week after this letter was written, Monck, apparently in agreement with the majority of the Council, insisted not only on the exclusion of the Royalist Lords, but on that of the young Lords too. Edward Montagu told Pepys that it was Monck, who 'did put them upon standing to put out the Lords and other members that came not within the qualifications.'[2] To the same effect wrote the French ambassador. 'There has been a great contest of late,' he wrote on April 23–May 3, 'between those noblemen who have been engaged in the war since the year 1648, and the others, because the former are desirous alone to constitute the Upper House; the General supports their design, and even presents his name to authorize it, professing that he would not be able to restrain the army if those who have not been on the side of the Parliament were admitted, as most of them would advocate the recall of the King without any other limitation to his authority than that of the ancient laws. The question was discussed at Whitehall, on the day before yesterday, between the General and some of the noblemen who are to take their seats, and to-day, the others having gone to press him, they rather irritated him than persuaded him; it is even proposed now, to exclude from the House of Commons a hundred or six score members who are found not to

[1] William Legge to Lord Ormonde, April 13, 1660, *Carte MS.* ccxiv. 65; *Clarendon State Papers*, iii. 731.

[2] Pepys, *Diary*, April 29, 1660, ed. Wheatley, i. 121, 127.

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possess the qualifications fixed by the last Act of the Parliament, through fear that, if they are allowed to enter, they will be too violent for the King, and that some question will arise in the Assembly as to how the Upper House shall be constituted; which might very probably happen even if the exclusion took place, as there would remain enough other members equally opposed to all the projected limitations.'[1]

The new Parliament met on Wednesday, April 25. Only ten peers took their seats in the Upper House that morning — Northumberland, Manchester, Lincoln, Suffolk, Denbigh, Wharton, Hunsdon, Grey of Wark, Maynard, and Saye. They elected Manchester as their Speaker, and sent him and seven others to thank Monck for his prudent management of public affairs, and 'for the care and respect expressed to the peers in restoring them to their ancient and undoubted rights.' They also sent letters to six other lords to attend, namely, Nottingham, Rutland, North, de la Warr, Montagu, and Bruce. Finally they appointed Monday next to be kept as a fast day, and sent a message to the Commons for their concurrence.[2]

In the afternoon three more lords made their appearance and took their seats: Rivers, Dorset, and Middlesex;[3] none of the three had hitherto sat in the House, but other 'young Lords,' as they were popularly called, eager to take their seats too, were dissuaded from carrying out their intention.[4]

[1] Guizot, *Richard Cromwell*, ii. 412.

[2] *Lords' Journals*, xi. 1.

[3] Thomas Savage, third Earl of Rivers, who succeeded his father October 10, 1654; Lionel Cranfield, third Earl of Middlesex, who succeeded his brother, the second Earl, September 16, 1651; Richard Sackville, fifth Earl of Dorset, who succeeded his father July 17, 1652.

[4] Bordeaux says 'Some of the young Lords presented themselves at the door to enter, affecting to be ignorant of the request which the General had made to two of them, who had visited him on the previous evening, not to take their seat

On April 26 the Commons sent a message agreeing to the fast proposed by the Lords. There had been a discussion in the Lower House on the subject, because answering the message of the Upper House implied its recognition, and for that reason a member of the late Parliament opposed any answer, but the resolution to send one was passed without a division.[1]

Meanwhile Monck had made up his mind to consent to the admission of all 'the young Lords.' At the beginning of the proceedings on Friday, April 27, the Upper House was informed that 'divers lords were in the lobby ready to attend the service of this House, having never sat in parliament since the death of their ancestors.' The house resolved that they should be called in, so the Earls of Oxford, Derby, and Strafford, Viscount Conway, and Lords Cromwell, Gerrard, Teynham, and Capel took their places.[2] Others followed till the total swelled to thirty-six. The design of the Presbyterian cabal was now definitely defeated. 'The Presbyterians,' wrote Bordeaux to Mazarin, 'are losing all hope of obtaining conditions, now that they find themselves abandoned by the General upon whom all their hopes were built. After having promised them not to allow any other lords to enter the Upper House, except those who had been engaged in the war against

for a few days, assuring them that no injury should accrue to them from this delay; but they allowed themselves to be persuaded to yield to this desire and retired.' Guizot, *Richard Cromwell*, ii. 414. See also *Fifth Report of Hist. MSS. Comm.* p. 208.

[1] *Commons' Journals*, viii. 1; Guizot, *Richard Cromwell*, ii. 414. *Fifth Report of the Hist. MSS. Comm.* p. 206. In addition to the thirteen members of the Upper House present on the first day, the Earl of Pembroke and Lords de la Warr and Petre sat on the second.

[2] *Lords' Journals*, xi. 5. The other additions were Rutland, Bedford, Bridgwater, Warwick, Bolingbroke, Winchelsey, Hereford, Berkeley, Deincourt, Craven, and Howard of Escrick. See also *Fifth Report of Hist. MSS. Comm.* p. 146.

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the King, he has contented himself with excluding the young Lords for two days, and has declared to them that this was done only to satisfy the others.' [1]

The next question to be settled was the admissibility of the peers who had taken the King's side during the war. Here the change in the composition of the House made itself felt at once. Letters were ordered to be written to the Earls of Leicester, Bedford, and Clare, and to Lord Paget, requiring their attendance, and a committee was appointed to 'consider of the different cases of those lords that have come to sit in this House and those as do not.' [2] This pointed to the readmission of the 'King's Lords' in general, that is, those who had fought for the King during the war, or sat in the Parliament he had called at Oxford in 1644. Even the new lords created since 1642 thought the time come for claiming their rights, and some went to Monck, and announced their intention of doing so. Monck answered 'that he would not obstruct their sitting,' but the King himself intervened by signifying his pleasure that both classes of lords should forbear for the present, 'lest it give occasion to question the election of the unqualified members in the Lower House.' [3]

The question of the composition of the House of Lords might well be shelved for the present: the restoration of the monarchy could not be longer delayed. Hitherto Monck had held back the letters and the declaration which the King had sent him by Sir John Greenville. Now Greenville by his orders presented them to the Houses, first to the Lords, then to the Commons (May 1). The Lords promptly declared that 'according to the ancient and fundamental laws of this

[1] Guizot, *Richard Cromwell*, ii. 417.
[2] *Lords' Journals*, xi. 5.
[3] *Fifth Report Hist. MSS. Comm.* p. 149.

kingdom the government is, and ought to be, by King, Lords, and Commons.' They passed a second vote asserting that the chief occasion of all the disorders and confusion of the State was the separation of its head from its members, and requesting the Commons to consider the way to obtain the King's return to his people.[1] At a conference between the two Houses on the afternoon of the same day Manchester communicated these votes. The Lower House concurred, and both then devoted themselves to the business of drawing up answers to the King's letters,[2] electing deputations to bear them to Holland, and preparing all things for his return.

Yet the loyalty of the Commons was not too strong for their prudence. A committee was instructed to prepare bills to be offered to the King for the legalisation of the existing Parliament, and for the security of those who had purchased forfeited lands. The Lords seemed inclined to go faster than the Commons, and said nothing of any legal guarantees, but they were obliged to moderate their pace. Owing, no doubt, to private injunctions from the King through Monck, the question of the rights of those peers who had not yet taken their seats was adjourned for some weeks longer.

[1] *Lords' Journals*, xi. 8; *Commons' Journals*, viii. 8.

[2] 'We cannot,' wrote Charles to the Lords, 'have a better reason to promise ourselves an end of our common sufferings and calamities, and that our own just power and authority will be restored to us, than that we hear that you are again acknowledged to have that authority and jurisdiction which hath always belonged to you by your birth and the fundamental laws of the land. And we have thought it very fit and safe for us to call to you for your help in composing the confounding distempers and distractions of the kingdom, in which your sufferings are next to those we have undergone ourselves.' The Lords replied by expressing the sorrow which the King's sufferings had caused them, 'But the same power that usurped and profaned your sceptre divested them of their rights and privileges, and kept them under such pressures and difficulties, as they were rendered incapable of serving your Majesty.' *Old Parliamentary History*, xxii. 237, 259.

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On May 4 three votes were passed. One ordered 'that a suspension be made of issuing out of letters for attending this House to those Lords that are recusants, until the further pleasure of this House is known.' The other ordered 'that the sending letters to the Lords that were at Oxford be suspended till further order.' The third was 'that no Lords created since 1642 shall sit.' According to the French ambassador, fear of popular discontent was the pretext for not inviting the Catholic peers, but they were not refused admission if they applied.[1] In the case of the Protestant peers excluded as Royalists, the House seems to have thought it enough to remove impediments to their return. On the same day it annulled the vote of July 20, 1642, by which nine Royalist peers were suspended from sitting or voting.[2] Ten days later, on May 14, the Marquis of Hertford, the Earl of Southampton, and five other Royalist peers, were invited to resume their places in the House.[3] This last precedent was sufficient: other peers who were in the same category quietly took their seats when they chose, without definite invitations or further discussion.

The House of Lords now consisted of all the lords whose peerages had been in existence before the war began. The thorniest question, however, still remained unsettled, namely that of the peers created by Charles I between 1642 and 1648, and by Charles II since his father's death. The Long Parliament had steadily demanded the nullification of all peerages made since the day when Lord Keeper Littleton fled from Westminster

[1] *Lords' Journals*, vii. 13; Guizot, *Richard Cromwell*, ii. 422, 424.

[2] Namely, the Earls of Northampton, Devonshire, Dover, and Monmouth, Lords Howard of Charlton, Rich, Grey of Ruthyn, Coventry, and Capel. See p. 114.

[3] *Lords' Journals*, vii. 27. Hertford and Southampton were the accredited leaders of the Royalist Lords; cf. Clarendon, *Continuation*, § 22; Carte, *Original Letters*, ii. 330.

and took the Great Seal away with him. Both Houses had agreed in the importance they attached to the question; there had been no difference between Lords and Commons about it. No doubt the Lords were influenced by a dislike to the multiplication of titles, but their main motive had been the desire to maintain the independence of their House. If the King's power to create new peers was not limited in some way, he could at any moment override the deliberate judgment of the Upper House, and turn it into a machine for registering his will. Both the late King and his father had shown signs of a desire to do this, and it was natural that the Lords should seek to limit the prerogative in this respect, and rely on the assistance of the Commons to effect it. For the Commons had precisely the same grievance. If the House of Lords was to be accepted as the arbiter in constitutional disputes, it was essential that its independence should be maintained. So long as the King could reinforce the ranks of the court party in the House by as many recruits as he pleased, the popular party, when it happened to be predominant in the Commons, had no chance of obtaining a verdict in its favour.[1] Hence the two stipulations of the bill presented to Charles I in 1648, first, that all the peerages created since

[1] The limitation of the King's power to make peers remained one of the favourite ideas of the theorists of the popular party during the later part of the seventeenth century. Henry Neville, one of the links between the Republicans and the Whigs, thus sets it forth, in his proposals for the amendment of the Constitution about 1680. 'The next act I would have passed should be concerning the house of peers; that as I take it for granted, that there will be a clause in the bill concerning elections, that no new boroughs shall be enabled to send members to Parliament except they shall be capacitated thereunto by an act; so it being of the same necessity as to the liberty of Parliament, that the peers, who do and must enjoy both a negative and deliberative voice in all parliamentary transactions, (except what concern levying of money originally) be exempted from depending absolutely upon the prince; and that therefore it be declared by act, for the future, that no peer shall be made but by act of parliament, and then that it be hereditary in his male line.' *Plato Redivivus*, p. 264.

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May 20, 1642, should be nullified, and secondly, that future peers of Parliament should not be created without the consent of both Houses. Though the position had changed since 1648, it still seemed possible to maintain the first of these stipulations, even if the second had to be abandoned.

Accordingly a bill for nullifying all titles of honour made since a certain date was introduced into the House of Commons on May 19, 1660, and read a second time on May 22.[1] In the Journals of the Upper House on May 14 there is an entry referring to the same subject: 'Upon information, that several grants have been surreptitiously gotten since the year 1642, which have been prejudicial to the King and the peers of this House, it is ordered to be referred to the Committee of Privileges to consider and examine the same, and report to this House what remedy they think fit.'[2]

In the meantime some of the new peers were getting impatient for the recognition of their claims. 'The Lords created at Oxford,' says a letter to Hyde, dated May 12, 1660, 'were yesterday with the General to have leave to sit, who was earnest in dissuading them, but concluded, if the Lords in the House thought it their due, and were willing to admit them, he would oppose no man's right.' The same correspondent put the query, 'whether the taking away all grants of honours, estates, and offices, made by his Majesty or his father since 1642, would not be as considerable service to his Majesty, as it would be pleasing to the people, leaving hs Majesty free to grant *de novo* to whom he shall think fit?'[3] This was probably the argument by which it was hoped to obtain the

[1] *Commons' Journals*, viii. 38, 41.
[2] *Lords' Journals*, xi. 27.
[3] *Clarendon State Papers*, iii. 748.

consent of Charles II to the proposed Act of Parliament.

One of these new lords, Francis Newport, second Baron Newport (afterwards first Earl of Bradford) explained in a letter to a friend why he and others did not press their claims:

'There is much complaint among the Lords that they hear of many blank patents granted by the King of late years for honours, which have lain dormant a good while, and now are sold for small sums to persons unworthy of them, such as Sir Richard Minshaw and others, which, as they hear, amount to a great number, and will be to the dishonour and the pestering, if not to the destruction of the Lords' House; the consideration of which hath made many of us forbear to make claims to our right of entrance there, lest we should lead the way to all the rest, some of whom I believe we never heard of, nor the King neither; and this till the King's wisdom shall direct some moderation in the business. To this end and some other there hath been a bill brought into the House of Commons to make void all grants passed by either of the Great Seals since the first seal went from London in 1642, both of offices and honors; but there will be a proviso in it, that it shall not extend to certain persons within such a qualification, which I am assured by those that brought in a bill will not touch those in my capacity: the bill hath been twice read and committed.'[1]

For a few weeks the question remained unsettled. Meanwhile Charles II landed, and on May 29 the two Houses waited upon him at Whitehall, and Manchester in a dignified and eloquent speech tendered him the

[1] *Fifth Report Historical MSS. Comm.* p. 150. F. Newport to Sir R. Leveson, May 22, 1669. 'Minshaw,' i.e. 'Minshull.'

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congratulations and loyal wishes of the peers.[1] Two days later the burning question was determined. Charles was too sensible of his obligations to break faith with men who had faithfully served his father and himself. On May 31 he intimated his resolution to the Lords. 'The Earl of Berks,' says the Journal, 'acquainted this House that he was commanded by his Majesty, to signify his desire to the House that those Lords who have been created by patent by his late Majesty at Oxford, do sit in this House as Peers.

'And the Earl of Berks was appointed by the House to attend on his Majesty, and acquaint him that matters of honour do belong to his Majesty; and this House doth acquiesce in his Majesty's pleasure.

'Ordered, that the Order formerly passed for excluding any Lords made at Oxford from sitting in this House, shall be cancelled, nulled, and made void.'[2]

This meagre entry should be compared with the fuller account given by the French ambassador to his government: 'To-day the Dukes of York and Gloucester have taken their seats in Parliament for the first time, in virtue of the patents granted them during the reign of the deceased King, as the Princes of the blood enjoy this prerogative only by commission. They advocated the desire which the King expressed through the medium of one of the Lords, that some of those who were created Peers by the deceased King should be admitted: and although the House of Commons had projected an Act to annul all these titles, and the House of Lords was willing to ratify such a resolution, not one of them ventured to oppose the proposition, and this acquiescence opens the door to all those titles which have been created since the commencement of the war, which will render

[1] *Old Parliamentary History*, xxii. 315; *Lords' Journals*, xi. 48.

[2] *Lords' Journals*, xi. 50.

the Upper House more august in numbers than it formerly was.'[1]

The number of peers present in the House increased from day to day. On May 31 there were seventy present, including the two royal dukes; on June 1, eighty. The total number of peers entitled to sit, after the admission of those created at Oxford and during the interregnum, was 145; so that there were about twenty more peers now than there had been when the Long Parliament met. During those twenty years a certain number of peerages had become extinct, amongst which were several of those created during the civil wars.[2]

One thing only was necessary now to complete the return to the old constitution, and that was the restoration of the bishops to their places in the Lords. As they had been excluded by statute to which the King's assent had been given (February 14, 1642), a statute was necessary to restore them. The temper of the House of Commons was still so anti-episcopal that their restitution was reserved for the next Parliament. The Act for the purpose received the King's assent on July 30, 1661.

To assess the permanent results of a revolution is not easy. No restoration is complete, because it is impossible to undo the past, and the vicissitudes through which the House of Lords had passed left their traces on the character of the institution just as the experiences of particular peers had affected their characters. The English people returned to the constitution under which

[1] Guizot, ii. 438–9.

[2] These figures are from the *Journals*. A 'Catalogue of the Peers of England,' printed in 1660, is reprinted in the *Somers Tracts*, vii. 413. It contains 147 names, and is dated by Thomason, July 24. It includes two peers created since the King's return, viz., the Duke of Albemarle and the Earl of Sandwich. The list printed in the *Old Parliamentary History*, xxii. 332, though inserted under May, 1660, should properly be dated a year later, as it includes peerages created at the King's coronation. See also *Baker's Chronicle*, 734, 737.

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it had lived before the war began, but it was a somewhat different people. A peer who had left England about 1641 and come home with the King in 1660 would have perceived the difference at once. The legal and social privileges of the peerage were now the same as they had been, but they were no longer regarded as part of the natural order of things, and had not the same support from public opinion. There was less respect and more criticism, and much of the divinity that used to hedge a peer had vanished. There was also a feeling abroad that the nobility had deteriorated since the good old days of Queen Elizabeth. Some said the process began before the late revolutions, some said it was the result of them. It is curious to see the question discussed in a contemporary manual on the government of England.[1] The author decides that it is a temporary phenomenon only. 'If some of the English nobility by a long continued peace, excessive luxury in diet, want of action, etc., were before the late wars born more feeble in body than their ancestors, and by too fine and too full diet afterwards were rendered weaker in mind; and then during the late troubles by too much licentiousness and want of fit education, were so debauched that it was lately difficult to find (as some are bold to assert) the courage, wisdom, integrity, honour, sobriety, and courtesy of the ancient nobility; yet it is not to be doubted but that under a warlike enterprising prince all those virtues of their forefathers may spring afresh.'[2] Whether this degeneracy was a fact or an illusion does not greatly matter—a belief thus publicly attested and repeatedly stated must be taken into account. Another impression

[1] Chamberlayne, *Angliae Notitia, or the Present State of England*, ed. 1673, p. 308.

[2] See the Continuation of Clarendon's *Life*, sections 33, 36–38, for remarks on the moral and social results of the late revolution, and also his *Dialogue on Education*.

is worth recording: the general complaint of the haughtiness and incivility of the nobility to the rest of the world. 'The Lords,' says the imaginary French traveller in Evelyn's 'Character of England,' 'are difficult and inaccessible. . . . I observed that they kept at such a distance with the gentlemen, even of family, that methought, I never saw a ruder conversation.'[1] 'The great nobility,' says a real French traveller, 'are for the most part intolerably proud and haughty in England. It looks as if a lord took himself to be of another species than a gentleman, so imperiously he carries himself towards him.'[2]

It is improbable that the noblemen of 1660 were more exacting and more overbearing than those of the time of Elizabeth or James I; it looks rather as if the spread of the democratic spirit had undermined the moral basis of their claims, so that deference to rank had become a debt grudgingly paid rather than a due willingly tendered. In the speech to the two Houses which Clarendon as Lord Chancellor made at the close of the Parliament which had restored the King, he intimated to the peers that they had lost something intangible in the late troubles, which they must study to regain for the sake of the King as well as for the sake of their order.

'Your Lordships will easily recover that estimation and reverence that is due to your high condition, by the exercise and practice of that virtue from whence your honours first sprang; the example of your justice and piety will inflame the hearts of the people towards you, and from your practice they will make a judgment of the King himself. They know very well that you are not only admitted to his presence, but to

[1] 'A Character of England as it was lately presented in a letter to a nobleman of France,' 1659, *Somers Tracts*, ed. Scott, vii. 184.

[2] Sorbière, *Journey into England*, p. 66, ed. 1709.

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his conversation, and even in a degree to his friendship, for you are his great council; and by yours they will make a guess at the King's; therefore under that obligation, you will cause your piety, your justice, your affability, and your charity, to shine as bright as is possible before them.' Then he delivered himself of a panegyric on the English people, 'the best people in the world,' 'in the integrity of their affections the most dutiful to the King . . . in their good manners and inclinations most regardful and loving to the nobility.' 'There was,' he said, 'no nobility in Europe so entirely beloved by the people; there may be more awe and fear and terror of them, but no such respect towards them as in England. I beseech your Lordships do not undervalue this love; they have looked upon your Lordships, and will look upon you again, as the greatest example and pattern of duty to the King; as their greatest security and protection from injury and injustice, and for their enjoying whatsoever is due unto them by the law; and as the most proper mediators and interposers to the King, if by any failure of justice they should be exposed to any oppression and violence; and this exercise of your justice and kindness towards them will make them the more abhor and abominate that party upon which a commonwealth must be founded, because it would extirpate, or suppress, or deprive them of their beloved nobility, which are such a support and security to their full happiness.' [1]

In these carefully chosen phrases Clarendon conveyed a warning to the nobility: that it was only by social and political services they could retain their inherited privileges.

On the position of the House of Lords after the Restoration, some passages in Clarendon's life of himself supply illuminating comments. The constitutional rights

[1] *Old Parliamentary History*, xxi. 95.

of that House were undiminished, but its members felt that those rights rested on a more precarious basis than heretofore. Before the wars the authority of the House of Commons had steadily increased, and during them it had acquired the consciousness of power, and the prestige which comes from exercising it. The democratic spirit of the times imbued even Royalist members of Parliament with the feeling that the House elected by the people must possess the decisive voice in all national affairs. Clarendon notes that even the 'chambre introuvable,' elected in 1661, seemed, in a few years, 'solicitous to grasp as much power and authority as any of their predecessors had done.' Men who were good Royalists, if not sound constitutionalists, told the King 'that while he preserved that entire interest he had in the Lower House, he need not care what the other House did, or had a mind to do.' Charles himself was led to undervalue his House of Peers as of 'little power to do him good or harm.' Finally even the Upper House itself contributed too much by its neglect and slackness to the growth of that false doctrine. 'By not enquiring into or considering the public state of the kingdom, or providing remedies for growing evils, or indeed meddling with anything in the government, till they were invited to it by some message or overture from the House of Commons: insomuch as they sat not early in the morning, according to the former custom of Parliaments, but came not together till ten of the clock; and very often adjourned as soon as they met because nothing was brought from the House of Commons that administered cause of consultation: and upon that ground often adjourned for one or two days together, while the other House sat, and drew the eyes of the kingdom upon them, as the only vigilant people for their good.'[1]

[1] Clarendon, *Continuation of Life*, sections 960, 992.

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The initiative permanently transferred from one House to the other, the eyes of the nation permanently fixed upon the deliberations of the House of Commons instead of those of the Lords, these were the results of the civil war and the movement which led up to it. They pointed not to the subordination of one House to the other, but to the further differentiation of their functions. Hard experience had convinced Englishmen of the necessity of a second chamber, and our modern English theory of the functions of such an institution had been worked out between 1640 and 1660. Even republicans were converted by events to the bicameral theory. Henry Neville, himself a member of the Long Parliament, in the curious treatise on the government of England which he published in 1680, declared that if a House of Lords did not exist it would be necessary to invent one.

'Our government imitates the best and most perfect commonwealths that ever were: where the senate assisted in the making of laws; and by their wisdom and dexterity, polished, filed, and made ready things for the more populous assemblies; and sometimes by their gravity and moderation, reduced the people to a calmer state; and by their authority and credit stemmed the tide, and made the waters quiet, giving the people time to come to themselves. And therefore, if we had no such peerage now, upon the old constitution, yet we should be necessitated to make an artificial peerage or senate instead of it. Which may assure our present lords, though that their dependences and power are gone, yet we cannot be without them: and that they have no need to fear an annihilation by our reformation, as they suffered in the late mad times.'[1]

[1] *Plato Redivivus*, p. 129.

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