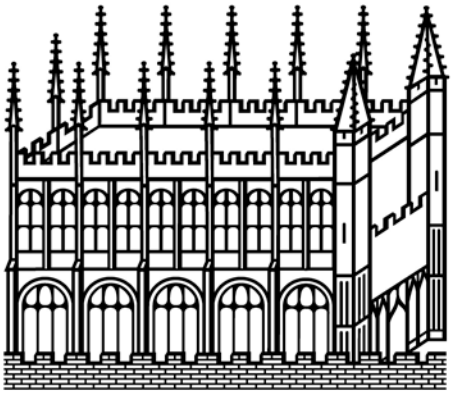

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# MEMOIRS OF

# HN SELDEN

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BY

GE W. JOHNSON

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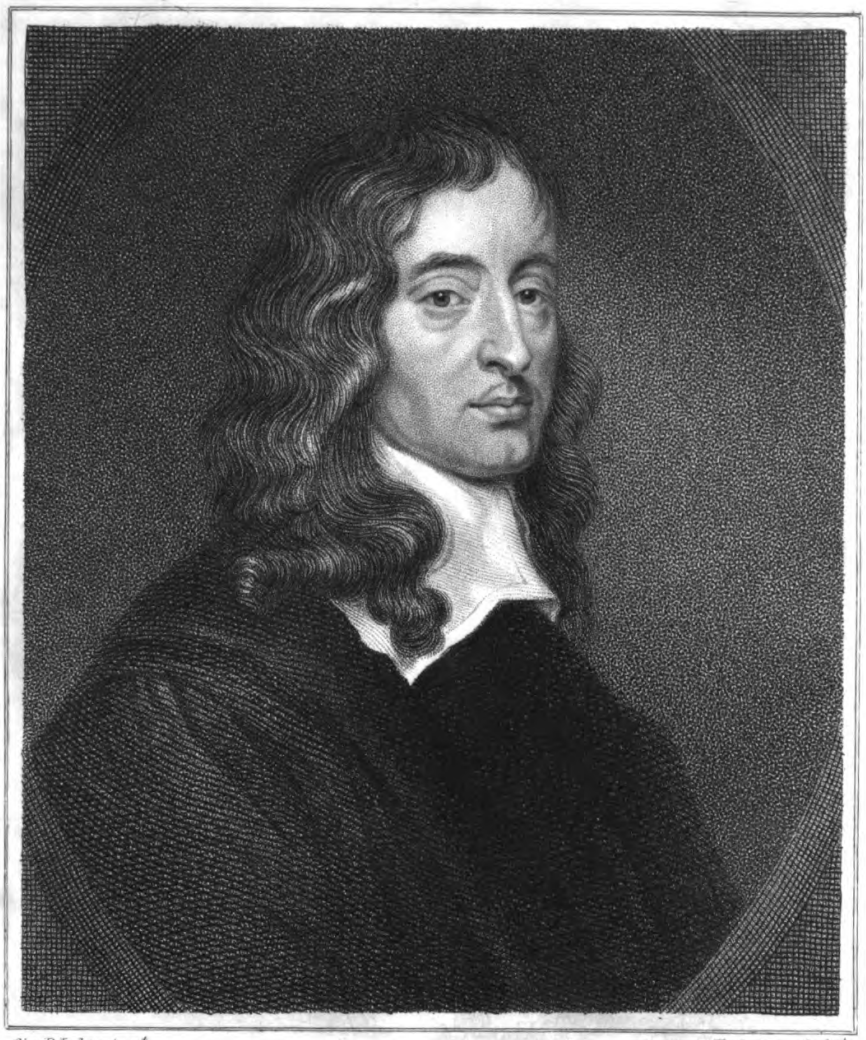

*Sir P.Lely pinx.t* *E. Scriven sculp.t*

JOHN SELDEN.

*London 1835. Published by Orr & Smith.*

# MEMOIRS OF

# JOHN SELDEN

## AND NOTICES OF THE POLITICAL CONTEST DURING HIS TIME

BY

GEORGE W. JOHNSON

SELDEN'S BIRTH-PLACE

LONDON

ORR AND SMITH

MDCCCXXXV.

569.

LONDON:
BRADBURY AND EVANS, PRINTERS, WHITEFRIARS.
(LATE T. DAVISON.)

TO THE RIGHT HONOURABLE

EDWARD GEOFFREY, LORD STANLEY,

These Memoirs

OF

A FELLOW PATRIOT,

ARE

RESPECTFULLY ADDRESSED BY ONE WHO ADMIRES HIS TALENTS,
MODERATION, AND INTEGRITY.

# PREFACE.

There is no period of our national History more crowded with interesting events, or in which more worthy characters shone forth than in the first half of the seventeenth century.

In that period came forward the struggle that determined the just limits of the Crown's prerogative and of the People's liberty:—that struggle which stained England for the last time with the bloodshed of civil war:—that struggle in which one Monarch died upon the scaffold, and another was ejected from the throne;—in which the nation escaped from one tyranny but to yield to another and then returned to its former oppression before it could attain the just equipoise of freedom.

It was a period of eventful transition.—The birthtime of discussions some of which even at the present period

continue to be agitated. Tithes—Church Government—Episcopal Legislators—the forms of the Liturgy—the privileges of the Peerage—the rights of the Universities—equitable Taxation—and many others of various degrees of importance, were then for the first time and repeatedly debated.

That period embraced the lives-time of Hampden, Strafford, Pym, Clarendon, Selden, Falkland, Charles the First, Cromwell—and many others of as varied degrees of character and worth—who with mind, and hand, and voice strove for their different creeds of political right,

All dauntless souls erect, who smiled on death.

To the history of those times, and of those characters, the author of these pages has long delighted to devote his leisure; and the Plumian library in his immediate vicinity, many private collections, and the stores of the British Museum, have been sedulously examined by him for relative information.

His reason for selecting the biography of Selden, as the centre round which to gather his information, will appear in the course of the work. At all events the

greatest scholar, and the most disinterested patriot of a period fertile in learned and noble characters, would not have been unworthy of a more able memorialist.

How the author has executed his task, is for others to determine. Whatever they may decide,—should criticism commend more than castigate his work—still he will heartily and sincerely join any one who shall say "would it were worthier"—and to that end, should it pass to another edition, a very great obligation will be conferred upon him by any one who will point out its deficiencies, or who will impart additional information.

For one endeavour, however, he will not be satisfied with restricted praise—the effort to be correct. In every possible instance, following Selden's advice not to rely upon "visual beams refracted through another's eye," he has referred to original authorities, and in attestation that he would not willingly mislead, he has as generally been particular in naming them. Some able writers, covetous of all the praise due to them for original research, have withheld this satisfactory testimony. But though he has no lack of desire for worthy fame, and would claim tribute where it is due, he thinks it much more important

for a writer to secure the confidence of his readers than to risk it in an endeavour to guard against the annoyance of seeing little minds commit petty depredations upon his literary gatherings.

Throughout he has endeavoured to be moderate and just in estimating the stirring characters and incidents he has had to notice. To declare that he is totally unbiassed would be to arrogate to himself a superhuman acquirement. However, he has been watchful in his efforts to be impartial; but fears, in spite of himself, it must have peeped out in some passages, that he would willingly find palliations for those who he is reluctant to confess often erred. Notwithstanding, he is indeed deceived if he is a partisan of extreme political opinions, and will confess himself much self-mistaken if any proof can be adduced that he does not without equivocation or reserve unite with De Foe, in the conviction that, "as there is but *one interest* in the nation," so that there ought to be "but *one party*—a party adhering to unbiassed justice."

# MEMOIRS OF JOHN SELDEN, &c.

## CHAPTER I.

DIVISIONS OF POLITICAL PARTIES.—ADVOCATES AND OPPONENTS OF CHANGE.—THE MODERATE PARTY.—THE LATTER, IN THE TIME OF CHARLES THE FIRST, ESPECIALLY NOTICED IN THIS WORK.—HIS REIGN AN ERA IN ENGLISH HISTORY.—SELDEN A LEADER OF THE MODERATE PARTY.—ITS POLITICAL CHARACTERISTICS.—NOTICES OF SOME OF HIS POLITICAL FRIENDS.—SIR JOHN ELIOT.—DENZIL HOLLIS.—SIR JOHN MAYNARD.—BULSTRODE WHITELOCKE.—JOHN PYM.—HAMPDEN.—SIR EDWARD COKE, AND OTHERS.—RISE OF THE OPPOSITION.—PUBLIC PRESS.

THE political history of every nation, during every age, informs us of the division of its people into two great parties—those who covet an alteration of its constitution and policy, and those who are opposed to such a change. These antagonist parties always have and always will exist, for no government can so happily proceed as to please every citizen; or be so generally profligate and oppressive as to have no friends. However, upon the acts of the government depends which party shall embrace the majority of the people—for no facts in history are more certain than that no agitator, however eloquent, can make a people anxious for change, if they really have

just cause for contentment; and that no partisan can render them satisfied, if the sources of their unhappiness are pressing around them. Temporary excitements may be produced—passions may be casually excited; but the common sense of a nation always ultimately prevails, and common sense can never be made to confound the characteristics of good government and misrule. The party opposed to change, and in this country they have been known as courtiers, cavaliers, tories, and conservatives, usually have fallen into the great error of being opposed too indiscriminately to all reforms.—Upon two great constitutional points, the Royal Prerogative and the Established Church, they have ever held opinions bigotedly opposed to all alterations, and our history records that they have maintained and fought for the most absurd reliques of feudal seigniory, and for the continuance of ecclesiastical immunities and pluralities, with an energy that could not be excelled if the struggle was to decide the fate of monarchy and christianity.

The party comprising the advocates of reform, known in this country by the names of Precisians, Roundheads, Levellers, Whigs, and Radicals, have similarly been prone to an extreme error, by combating for subversion when amendment alone has been necessary. They abolished monarchy and episcopacy when their corruptions only required to be removed.

The contests between these two great parties are the events which usually engage the notice of the historian.

The leaders, of these opponents are those who mostly obtain the notice of the biographer. This is no cause of wonder, for it is the collision of extreme partisans that produces the greatest displays of eloquence, the most important intrigues, and the ultimate appeal to arms. It is such that cause and are identified with the most dazzling and the most exciting achievements of life.

But such are not necessarily the most important of events; such are not necessarily the most influential of individuals. At all times, and even during the most hostile contest of the two parties, there is a third and always eventually prevailing party, who may justly be called the Moderators.—To the efforts of this party, as it existed in the time of Charles the First, the following work is especially devoted. Such a party always consists of those members of both parties who would rectify abuses without subverting the institutions to which they are incident; because they revere those institutions without a fondness that canonizes even their faults. The opinions of these men upon the great political questions of their time, in the aggregate are generally correct, and though, during the excitement of their immediate era, their sober opinions may be too often neglected for others more decidedly marked by the spirit of party; yet when the contest is over, whichever extreme may triumph, those sober opinions are acknowledged to be correct by the sure evidence—that they are invariably adopted. "In troubled water," said Selden, "you can scarce see your

face; so in troubled times you can see little truth. When they are settled and quiet then truth appears."

This class of politicians being aware that every national change is productive of some evil, are proportionately circumspect and reluctant to incur the responsibility which devolves upon all who are its voluntary inducers. If they hesitate to cause a present evil, for the securing of a present superior good, they pause still longer if that good is only prospective and far distant; for statesmen, like trustees, have no right to hazard the property of the *cestui-que use* for the uncertain chance of its improvement. Their discretion induces them occasionally to support measures that curtail the powers of the executive; and at other times to restrain the increased influence of the democratic part of the constitution; but whichever line of policy they may be pursuing, they are guided by the desire of preserving that medium which is most conducive to the happiness and safety of the whole—and no sarcasms, no taunts, no authority will convince them that, having once entered upon a political path, they ought ever to tread in any other, though to continue in their course would conduct them further from their object. They will always attend to the motives of those who propose a change, and view the measure with less suspicion, if it is urged by the remonstrances of friends, than if it is enforced by the censures of enemies: for they justly estimate that the object of the first is to amend, that of the second is to destroy; and they will not be

inconsistent if they oppose a measure supported by the latter, and advocate it when proposed by the former, if for this reason only, that they would not add strength by their countenance, even for a season, to those whose aim is known to be destruction.

The friends of rational freedom, they will ever view with suspicion the advocates of extravagant liberty; for history records that few ever aimed or arrived to be a tyrant, that did not subvert the existing government as a vehement clamourer for freedom. It is true, that the Independents in the time of Charles, and the Republicans in the later period of Louis the Sixteenth, probably had respectively no intention to establish the tyranny of Cromwell, or of Robespierre; but this affords a reason so much the more powerful why the statesman should oppose rather than promote the noisy declaimers for liberality; for if he joins them it is impossible to be secure that he can control them; and no one can say how far they will proceed who avow that they aim at extremes; for there are fanatics in politics as there are in religion.

Finally, the moderators in politics are those who act from a conviction that man in society has duties to perform, whose claims upon his attention are far greater than those of his mere will—these are his duties to God and to his fellow-creatures. These duties are taught him by his Bible, and as that authority declares that society is instituted for the general happiness of mankind, he will endeavour to establish laws that shall really be " bene-

ficence acting by a rule." He will not endeavour to doubt, but strive to be steady and immoveable in his opinions concerning these duties, knowing that they were imposed upon him as rules of conduct, not as themes for casuistical contention.

An English statesman of this class will view our constitution as it is—" the result of the thoughts of many minds in many ages; as no simple, no superficial thing, nor to be estimated by superficial understandings.—It takes in too many views, it makes too many combinations, to be so much as comprehended by shallow minds. Profound thinkers will know it in its reason and spirit. The less inquiring will recognise it in their feelings and their experience. Rational and experienced men tolerably well know, and have always known, how to distinguish between true and false liberty; and between the genuine adherence and the false pretence to what is true. But none, except those who are profoundly studied, can comprehend the elaborate contrivance of a fabric fitted to unite private and public liberty with public force, with order, with peace, with justice, and, above all, with the contrivances formed for bestowing permanence and stability through ages upon this invaluable whole*."

The reign of Charles the First, by general consent, is considered to be the most interesting period of our history; it was the period in which the just prerogative of the crown, and of the liberties of the people, were

* Burke's New Whigs to the Old Whigs, 114.

defined; it involved the determination of constitutional points—of political differences—of legal details that were of the utmost national importance, and many of which are especially interesting at the present period.

It was the misfortune of James the First and of his son to live at the period when the people were become too enlightened to require or to suffer a despotic sovereignty; and, being educated in a school that instilled into their minds the firmest conviction of the absolute power and divine right of kings, those two monarchs ruinously opposed themselves to the popular claims.

In tracing the progress of this contest, the biography of Selden has been selected as an appropriate vehicle. Selden was a scholar, a lawyer, and a philosopher; and the learning and mental discipline which his requisite studies insured, prepared him to act a temperate and thoughtful part as a legislator and a patriot.—He was a chief of the moderate party; and with him co-operated a band of true lovers of their country, who, less known than the Hampden, and Cromwell, the Buckingham and Strafford of their day, deserve a far more great renown, if moderation and consistency in virtuous principle are the best endowments of the human character.

Previously to proceeding with the Memoirs of Selden, and of the great national transactions with which he was connected, it will be neither uninteresting, nor useless, to glance over the leading features of the lives of a few of those firm and moderate statesmen with whom he co-

operated, and whose names will so frequently occur in future pages.

Sir JOHN ELIOT was descended from a family of gentle blood long resident in Devonshire, but he was born in Cornwall in 1592. His family, just previous to this event, had purchased from the Champernownes very considerable estates in his native county. Among these was the Priory of St. Germains and its demesne, which subsequently descended to Sir John, under the name, which they still retain, of Port Eliot*.

He became a gentleman commoner of Exeter College, Oxford, in 1607, but left it without a degree after a residence of three years, and addressed himself to the study of the law. Although admitted to the bar, he does not appear to have practised, but to have pursued the study rather with the view of fitting himself for the still higher office of a legislator. Previously to making an effort to obtain a seat in parliament, he passed some time in a continental tour, and here met with George Villiers, whose youthful and engaging manners then gave no indication of the after character he acquired. Alike in age, and similarly ardent in their temperament, they united in the pursuit of pleasure; and there is scarcely a reason to doubt that the knighthood and vice-admiralty of Devonshire, obtained by Eliot in 1618, were the boons conferred by Villiers, who had then begun to rise in

* The Earl of St. Germains is a lineal descendant from Sir John, and is possessed of these estates.

court favour. Buckingham, as lord high admiral, would influence the appointment of correllative officers, and a letter exists, written by Selden in November 1628, conveying his opinion whether Sir John's patent of knighthood was made void by the death of the grantor. Buckingham fell in that year.

From the time of his return from abroad until the period of his death, Sir John Eliot was the representative of Cornwall, or some one of its boroughs, in every parliament.

Every action of his life demonstrated the ardour of his temperament. He carried off the daughter of Sir Daniel Norton, then under the protection of the court of wards, for which it fined him 4000*l.*; and this sum was well spent, for it was the purchase price of a domestic happiness that was undisturbed but by death; and the two sons who were the issue of this marriage, he found the chief solace and support of his most tried and afflicted hours.

In a moment of excited wrath, kindled by the memory of old family quarrels, and by recent personal offence, he nearly killed an opponent, Mr. Moyle, with his rapier. For this he made all the atonement in his power; he lamented the infirmity of his nature, and magnanimously conquering the pride that chokes the confession of error, he sought forgiveness of his opponent, and asked and obtained his friendship publicly*.

* Mr. D'Israeli, in his Commentaries on the Life of Charles the First, has taken an imperfect view of the transaction. Full particulars are given in Miss Aikin's work relating to the same monarch, and in Lord Nugent's Memorials of Hampden.

Equals in ardour, and in firmness of purpose, Villiers and Eliot now took different paths: one became the parasite of the crown, and the distender of its arbitrary power—the other became the advocate of the people, and the defender of the supremacy of the laws.

From that period they became the most inveterate enemies. Eliot, who has been well termed "the Junius of his era," pursued Buckingham with all the powers of his mind, enforced by the most powerful and chaste eloquence. In vain did the king threaten and punish; the patriot was irrefragable. He was thrown into the very dungeon which, by a curious coincidence, became the place of confinement for Buckingham's assassin—a criminal, probably, who would have never been roused to action had his victim taken warning from the voice of Eliot.

Without conceding a single point Eliot was released from prison; but the parliament being dissolved, and he refusing to pay the loan imposed by the king without its sanction, he was again incarcerated; and again unbent was he restored to liberty, to resume his labours in parliament. Fresh efforts in the cause of national liberty were met by the court party by fresh repetitions of outrage. Eliot was committed to the King's Bench, and thence to the Tower, from which prison he never was again released. He refused to submit to the degrading and unjust terms offered by the court, and prepared, with his usual energy, to endure that confinement which he foresaw would be for the residue of his life. He had, some years

previous to his first imprisonment, assigned over all his estates, with provident forethought, in trust for the use of his children; and now, when informed that he was sentenced to pay a fine of 2000*l.* he replied, "I have two cloaks, two suits, two pair of boots and galla-shees, and a few books; that is all my present substance, and if they can pick out of that 2000*l.* much good may it do them."

In the solitude of his prison he continued to act a part consistent with his more active life. In letters still remaining among the papers of the St. Germain family, we have his own assurance that, though "faint and feeble," he did "not 'bate a jot of heart and hope." He wrote to Hampden and other friends, as well as to his sons. He warned the latter that the only overwhelming sorrow that could come upon him, would be a knowledge of their unworthiness, by which he pathetically observes, "I shall then receive that wound, which, I thank God, no enemy could give me;—sorrow and affliction of mind, and that from them from whom I expected the contrary."—He further occupied his monotonous leisure by composing a treatise upon the "Monarchy of Man," which is preserved among the Harleian manuscripts, and is an eloquent expressing of learning and religion, applicable to our conduct in life.

Imprisonment slowly completed its work of death.

His legal adviser related, that he "found him the same cheerful, healthful, undaunted man as ever;" but he was

gradually sinking. His native county petitioned for his release; he applied to the court of king's bench, but the Lord Chief Justice Richardson, coldly remarking "that though brought low in body, Sir John was as high and lofty in mind as ever," directed him to petition the king. Sir John conveyed a request for a release to Charles—and (my hand trembles whilst I write it) the king made answer—"It is not humble enough!" The petition was reworded, but still the unbroken spirit of Eliot spoke in words that were uncringing, and there came to it no reply!!

The patriot rose to meet his impending fate.—He sent for a painter, that his descendants might know the lineaments of their ancestor, who died for the legal freedom of their country—"Let it be preserved," was his desire, "as a perpetual memorial of my hatred of tyranny." It still exists at Port Eliot, and well expresses the features pale and contracted by the inroads of consumption. Some few letters of this his dying period remain, and they have the most eloquent expressions of resignation and of hope. He said he had now nothing remaining in this world, "but the contestation between an ill body and the air, that quarrel and make friends as the summer winds affect them;" but he was contented, and looked forward with fearless and enthusiastic delight to the arrival of the period of his departure to that eternal home "where the weary are at rest."

He died in the third week of November, 1632. But

Stuart hatred was not yet satiated. Let the uncommented fact be recorded, and terminate this notice. Sir John's son petitioned to be allowed to convey the body of his father into Cornwall; and the inexorable, the obeyed answer was—"Let Sir John Eliot's body be buried in the church of that parish where he died." His ashes rest in the Tower chapel*.

It has been observed, that a work by Sir John Eliot remains unpublished (Harleian MSS. 2228. 60. B.). It is entitled "The Monarchy of Man. A treatise philosophical and moral, wherein some questions of the politics are obviously discussed."

This treatise was written whilst its author suffered under the dreary certainty of an imprisonment that would have no mitigator but death. Yet viewing it as the will of God, he was content, and has recorded his resignation on the title-page of his work in this submissive motto:—"Deus nobis hæc otia."

The following extracts will serve to record his deliberate opinions of government. Having argued, both from reason and experience, that a monarchy assisted by a senate, and regulated by known laws, is the best form of government, he proceeds: "We must note that monarchy is a power of government and rule for a common good and benefit, not an institution for private interest and

* Prince's Worthies of Devon, ed. 1810, 128. Bliss's Wood's Athen. Oxon. ii. 478. D'Israeli's Curiosities of Literature. Sloane MSS. Harleian MSS. Rushworth.

advantage. Two general duties are comprehended in the kingly office, the one looking to the conservation of the whole, the other at the disposition of the parts: this reflecting on the *bene esse* and well-being, the other on the being and subsistence. For without a provision in general, moving like the spirit upon the waters, there would be nothing but darkness and confusion."

"To promote that national unity, that pure diapason and consent, and in that strength to encounter all opposition to the contrary for the public utility and good, because no single ability is sufficient, helps and advantages are provided. Laws and constitutions are enacted, which are a level and direction; and a council is ordained to be aiding and assisting, as Minerva unto Jupiter."

There is space but for one more quotation, and it is worthy of him over whose character I linger with a fondness that makes the last relative word partake of the pain that accompanies a farewell to those of one's own household. "Happiness," says this practised son of misfortune, "is not in outward fortune, or condition; to be happy depends not on greatness, honour, riches, or the like; but in any state or quality that elixir may be found,—from the most simple being of mankind, this quintessence may be drawn. It is a clear and firm habit and position of the mind; by knowledge rectifying all the actions and affections to the rule and conformity of reason. If, as Plutarch says, thou hast but learned the knowledge of this good, thou experiencest what an excel-

lence it is, whatever be thy fortune, whatever thy condition, whatever state or quality thou sustainest; though thou be poor, neglected, in disgrace, recluse, and sequested from society, yet thy imprisonment shall be sweet, thou shalt be honourable in disgrace, rich in the greatest poverty, respected in neglect, and God shall love and favour thee: thou shalt esteem that life which is in private and leisure, not less pleasant than any dignity or empire: as it is private, it is so much more thine own, and thou more master of thyself." In so regulating the mind, and combating the passions, which he considers in detail, he observes, we are sustained by religion, and, like the martyrs, enabled to view death as another way to happiness—"that eternal happiness and felicity, which is the chief object of all hopes; namely, that supernatural felicity to come—that transcendent happness hereafter, that is to be looked for in the New Jerusalem."

DENZIL HOLLIS, Baron of Isfield, in Sussex, was born in 1597. He was the bed-fellow and companion of Charles the First, when they were in their boyhood; but though he always regarded the king, and was in turn beloved by that monarch, yet the higher claims of his country made him firm in opposing his public policy. He was a leader of the moderate Presbyterian party, and Clarendon says that they viewed him with reverence. He was by turns persecuted by the royalists and by Cromwell, for he with equal firmness opposed them both in their illegal outstretches of power. In a future page we shall see that

the king came with arms to drag him from the House of Commons, and subsequently the creatures of Cromwell impeached him of high treason, and forced him into exile. He promoted the restoration of Charles the Second, but still firm to his first principles, he opposed with an integrity that was uninfluenced by court honours, every measure that he deemed an encroachment upon the liberties of his countrymen. He died in 1690.

The courage and impartial bearing of Mr. Hollis is vouched by two characteristic anecdotes. The republican Ireton having during a debate insulted him in the House of Commons, was challenged by him, but Ireton refusing to fight a duel, on a plea of its being contrary to his conscience, Hollis pulled his nose, telling him that "if his conscience kept him from giving men satisfaction, it should keep him from provoking them." And at another time being under the King's safe conduct at an inn in Oxford, some of the royalist officers cudgelled his servants, and rated both them and their master as rogues, rebels, and traitors; upon hearing which Mr. Hollis not only collared and chastised the most burly of the assailant cavaliers, but took from him his sword *.

The principles of this patriot are thus told by himself, in the work he wrote during his exile. He says his party "resolved to put their lives into their hands, and

* Clarendon's Hist. of Rebellion, iii. 44, fol. ed. Whitelocke's Memorials, 108. See more of this nobleman in Collins's Historical Collections of the House of Hollis, &c.

offer them a sacrifice to the welfare of their prince and country. I say prince as well as country, for they looked upon him as the sovereign whom nature, duty, the command of God, and the laws of men obliged them to reverence, and to love as the head of the people; whose greatness consisted in his people's, and his people's in his; and therefore neither could be great, nor happy, without the other, which made those faithful ones put them both in the same balance, and rather adventure his displeasure by promoting the public cause, than (as they thought) his ruin by deserting it*."

Sir John Maynard was a native of Devonshire, being born at Tavistock in 1602. He was successively a student of Exeter Hall, Oxford, and of the Middle Temple. He first came into parliament in 1640.

He opposed the illegal measures of the king, but he was as stern an opponent of the errors of the parliament and of Cromwell. Although a manager of the prosecutions against Strafford and Laud, he was, by particular desire, appointed with Mr. Whitelocke to a consultation with the Scotch commissioners, as to the best mode of removing Cromwell as a fomenter of disputes between the two nations; and then we find him, with Mr. Serjeant Glynn, a prisoner in the Tower, for opposing the violence of the parliamentarian army. Upon his release he was still the opponent of illegality by whoever practised, for

* Memoirs of Lord Hollis, 5.

he not only told the House that they dissolved themselves when they voted against any further addresses to the king; but, when he was excluded by their especial vote from his seat, he boldly risked the consequences of infringing that vote, and, presenting himself upon the floor of the House, poured forth such an eloquent and forcible persuasive against the execution of the king, that Cromwell thought the safest way to silence him was to bring him to its bar. Cromwell made him a serjeant, but he sent him to the Tower when he found that no favour would mitigate his opposition to his illegal measures. Charles the Second duly estimated his integrity, and not only confirmed him in the dignity of a serjeant, and conferred upon him a knighthood, but would have made him a judge, if he could have afforded to sacrifice the superior emoluments of his professional practice. In 1647, Whitelocke relates, that he is said to have realised seven hundred pounds on one circuit, which was esteemed a larger sum than had ever been taken before by a pleader upon such an occasion. He assisted in bringing about the revolution of 1688; and when nearly eighty-seven possessed his mental powers in undiminished vigour. Burnet* says, that William the Third once remarked to Sir John, that he had outlived all his contemporary lawyers, to which he replied, that, if his majesty had not come over, he might have also outlived the law. So

* Hist. of his Times, i. 803.

undisabled was his mind, that in 1689 he was made one of the lords commissioners of the great seal. He died in October 1690*.

Clarendon gives him due praise for integrity of purpose; and even the prejudiced Warburton in modern times observes of him, that he went through all periods at the same steady pace and with the same adherence to his party, adhering to presbytery for the sake of civil liberty, rather than to civil liberty for the sake of presbytery†.

MR. BULSTRODE WHITELOCKE was the son of a judge of the same name, and was born in 1605, in the house of Sir George Crooke, in London, who was his mother's uncle. He was successively at Merchant Tailors' School, and a commoner of St. John's College, Oxford. His studies subsequently at the Middle Temple were superintended by his father. In his public career he was invariably opposed to extreme measures; and though he accepted office and acted both in the senate and camp with the opponents of Charles, yet he was always in favour of his restoration, and that of his descendants to the powers of a limited monarchy. He opposed the assumption of the crown by Cromwell, and endured in consequence an embassage, but really a banishment to the court of Sweden. Charles viewed him as really friendly to the

* There is a portrait of him in Lyson's Environs, ii. 235. See further of him in Athenæ Oxoniensis, and Noble's Memoirs of the House of Cromwell.

† Warburton's Letters, 154, 4to.

cause of monarchy; and though he unquestionably occasionally erred by supporting men who were republicans, he as undoubtedly did so with the impression that it was to save the country from a worse despotism. Clarendon speaks of him as a man of great learning in his profession and general knowledge, and that he opposed the king without malice or rancour; that he was carried away by the tide which he would have directed, and when he failed, did so from infirmity, and not intentionally *.

He died at Chilton House, and was buried at Fawley in Buckinghamshire in 1675 †.

JOHN PYM was born in Bedfordshire, in 1584. His family ranked with the gentry of that county. Of his early life little more is known than that he was a student of Pembroke College, Oxford; that thence he proceeded to one of the inns of court, and was admitted to the degree of a barrister. Shrewd, decisive, and persevering, he attracted the notice of the Earl of Bedford, by whose interest he obtained a responsible situation in the exchequer, and was first introduced to parliament as the representative of Tavistock. He does not appear at this period to have been a very leading politician, "but was rather noted for extreme humanity, affability, courtesy, and cheerfulness of spirit in every condition," and as sharing a happy home, and cultivating intellectual pleasures with

* Clarendon's Autobiog. i. 60, 8vo ed.

† Wood's Athenæ Oxon. by Bliss, iii. 1046. For more particulars of his life, see his own "Memorials," and Biograph. Britannica.

his wife, who possessed "excellent accomplishments and learning rare in her sex." These pleasures, which are part of the few that can be reviewed without regret, were with him of short duration. His wife died in 1620, and Pym then advanced into more public life. The struggle against despotism had become more earnest, and therefore putting his children under the care of trustworthy guardians, he devoted himself to the public good, and it became "his meat and drink, his work, his exercise, his recreation, his pleasure, his ambition, his all."

Of the chief public transactions in which he was engaged, notices will occur in future pages, and it requires only to be observed here, that however he may have occasionally erred, yet the testimony of the impartial Rushworth, of his opponent Clarendon, and of his friend Dr. Marshall, coincide in supporting the declaration he drew up as the hour of death was approaching, in which he fervently declares himself in favour of a limited monarchy, and defends "the integrity of his intentions to God, his king, and his country." This was confirmed by his conduct in that hour when no man is a hypocrite —on his death-bed he was heard to pray for the king and his posterity, for the parliament, and the cause of the people. He died at Derby-house on the 8th of December 1643 *.

* Clarendon's Hist. of Rebellion, Franklin's Annals, Rushworth's Collections, Whitelocke's Memorials, Echard's History, Dr. Marshall's Funeral Sermon, and various contemporary memorialists, are

SIR DUDLEY DIGGES was the worthy son of a worthy parent; his father, Mr. Thomas Digges, being one of the most learned and pious public characters of the reign of Queen Elizabeth.

Sir Dudley was born in the year 1583; in 1598 he entered as a gentleman commoner of University College, Oxford; took his degree of bachelor of arts in 1601; and then, having studied for some time at one of the inns of court, and received the order of knighthood, he proceeded on a lengthened continental tour. His first public employment was as ambassador to the court of Russia in 1618; and two years subsequently he went as a commissioner to Holland, to obtain a restitution for injuries committed upon some of our countrymen in the East Indies by the Dutch. He was a member of the parliament that met in January 1621, and having opposed the illegal measures of the crown, was included by King James among "the ill-tempered spirits," whom he resolved to oppress. Together with Sir Thomas Crew, Sir Nathaniel Rich, and Sir James Perrot and others, he was compelled by a commission under the great seal, to proceed to Ireland, to inquire into various ecclesiastical and civil affairs connected with the king's interests. Sir Peter Hayman was at the same time sent into the Palatinate upon some errand that was similarly important in appearance, but which in reality was also frivolous. Their

the sources from which the above and fuller information of Pym may be obtained.

offence appears particularly to have been an opposition to the marriage of Prince Charles to the Spanish Infanta; and the employments were forced upon them in order to inflict upon them the expense. Sir Peter Hayman was sent a second time into the Palatinate, for refusing to lend money to the king, and the privy council did not attempt to conceal that such an illegal punishment was inflicted upon him for not submitting to an illegal demand. The following is a detail of the conference between himself and the council in his own words. "I have not forgotten my employment into the Palatinate. I was called before the lords of the council, for what I knew not, but I heard it was for not lending on a privy seal. I told them to take my estate if they chose; I would give it up, but lend I would not. They charged me with unwillingness to serve the king. I said I had my life and my estate to serve my country and my religion. They told me that if I did not pay I should be put upon an employment of service. I declared my willingness. After ten weeks waiting, they told me I was to go with a lord into the Palatinate, and that I should have employment there and means befitting. I told them I was a subject and desired means. They said I must go on my own purse. I told them no one goes to war at his private cost. None were ever sent out in that way. Lawyers told me I could not be so sent. Having this assurance, I demanded means, and was

resolved not to stir but upon those terms; and in silence and duty I refused. Upon this, having given me a command to go, after twelve days they told me they would not send me as a soldier, but to attend as an ambassador. I knew that stone would hit me, therefore I settled my troubled estates, and addressed myself to the service."

In 1626, Sir Dudley Digges was one of the eight members of the House of Commons, who carried up the impeachment to the peers against the Duke of Buckingham. For their conduct on this occasion the government committed him and Sir John Eliot to the Tower; his lodgings were also searched and his papers seized.

The House of Commons so highly resented this imprisonment of their members, that they resolved "not to proceed with any more public business until they were righted in their privileges." This brought on an explanation, and both the Lords and Commons agreeing that Sir Dudley did not speak anything during the opening of the impeachment, that did or might trench upon the king's honour, or that exceeded his commission, he was forthwith released.

The part of Sir Dudley's speech that had been misrepresented to the king was that in which he spoke of "an injury offered to the person of the late king (James)," but which was easily understood when its context was also quoted, which remarked upon the duke's having so

acted, that his faults were undeservedly attributed to that monarch.

Upon the subject to which the above quoted words would bear an application, namely the reported unnatural death of King James, the duke and the court were sensitively alive. For although there is no evidence to affix to Buckingham the crime of intentionally hurrying him out of life, yet he was sufficiently indiscreet, and the death of the king, in whose favour he was failing, for him was so opportune, that many rumours intimating his criminality, were circulated and extensively credited*.

* There was a curious tract published in 1642, entitled "Strange Apparitions, &c." pretending to be a conversation between the Ghosts of King James, the Duke of Buckingham, the Marquis of Hamilton, and Dr. George Eglisham, the king's physician. In this the Duke is openly charged with murdering the king, and that Dr. Eglisham had accused him with the crime to King Charles and the parliament, but was in consequence obliged to fly into Holland, and was there murdered. He charged the Duke and his mother with giving the king a white powder, and applying a plaister to his breast which caused his death. Sir A. Weldon, in his "Court and Character of King James," says that the king, on his death-bed, declared that it was the plaister and powder had injured him. Dr. Goodman, in his "Aulicus Coquinariæ," though he denies that the plaister was poisoned, mentions nothing concerning the powder, and confesses that the physicians, Dr. Lister, Dr. Chambers, and others, "were much offended that any one durst assume such boldness without their consents," as to apply a plaister, and immediately removed it. Dr. Ramsay is said to have openly accused the Duke of poisoning the king, before a committee of the House of Commons.—(Sir E. Peyton's "Divine Catastrophe of the House of Stuart.")

These were all contemporary and variously biassed authorities; as such they are none of them entitled to implicit confidence. Wilson, also

In the parliament assembled in 1628, Sir Dudley Digges was one of the representatives of the county of Kent. He continued to pursue a temperate line of politics; he seconded the motion for granting the supplies, because, as he justly maintained, they were necessary to support the king's honour, which is identified with that of the nation; but in his conference with the lords, relating to the petition of right, he firmly demonstrated that he was, as he said, resolved to maintain the fundamental laws and liberties of the kingdom, which included the just prerogative of the crown; and when the king, as will be detailed in a future part of this work, attempted to restrain the freedom of debate, Sir Dudley indignantly called upon the House to demonstrate their resentment: "Let us," were his words, "let us arise and be gone, or sit still and do nothing."

In 1630, Sir Dudley was granted the reversion of the office of master of the rolls, then held by Sir Julius Cæsar, and upon his death, he proceeded with the official duties in 1636. There is no doubt that this was intended by the government as a bribe to mitigate his opposition to their measures. How it would have succeeded, we have no means of judging, for he died in 1639, just previous to the assembling of another parliament. The acceptance of this office was no guarantee of apostacy, therefore we have

a contemporary, and more unprejudiced, did not know to which opinion to incline, and after considerable research relating to this event, I am unable to satisfy my mind.

no right to conclude, that he would have acted inconsistently with that piety and integrity for which all parties gave him credit *.

Sir Edwin Sandys deserves a particular notice, as one of the earliest constitutional opponents of the court measures, and as one of the first sufferers in the cause of freedom.

He was the second son of Dr. Edwin Sandys, Archbishop of York, and was born at Worcester about the year 1561. He was admitted a scholar of Corpus Christi College, Oxford, in 1577, under the tutorship of the celebrated "judicious" Mr. Hooker, who afforded this testimony of his judgment, that he consulted him upon the details of his great work upon "Ecclesiastical Polity." In 1579, he obtained a fellowship, and two years subsequently was collated to a prebendship of York, although he was not of the clerical profession. Giving up his fellowship, he proceeded on a very extended continental tour, and upon his return, Wood says, "he grew famous for his learning, prudence, and virtue."

In 1602, he resigned his prebendal stall, and in the following year, having received a knighthood from King James, was employed by that monarch in several affairs of great trust and consequence. As a member of parliament, he conscientiously attended his duties, and Wood says, that he was as constant in his attendance as the

* Wood's Athenæ Oxon. and Fasti. Camden's Apparatus. Parliament. History. Rushworth. Whitelocke, &c.

speaker; and was esteemed faithful to his country without any falseness to his prince.

His imprisonment in 1621, and other particulars, will be noticed in a succeeding chapter.

Subsequently, he became treasurer to the undertakers for the western plantations.

He died in 1629, and was buried at Northbourn in Kent. His seven sons, with one exception, were supporters of the cause of the parliament. His second son, Colonel Edwin Sandys, fell in a skirmish of cavalry near Worcester.

Sir Edwin was the author of "Europæ Speculum, or a View or Survey of the State of Religion in the Western Parts of the World." This he wrote at Paris in 1559. It is an exposure of the errors and fallacies of the papal religion. He bequeathed 1500*l.* to the University of Oxford, to establish a metaphysical lectureship *.

To these brief notices might be added another—of Hampden, if it had not been done so fully of late by Lord Nugent; and of Sir Edward Coke, if his biography were not in the hands of a near relative. Nor need these be all, for the Earl of Bedford, Robert Phillips †, Miles

* Wood's Athenæ Oxon. by Bliss, ii. 472.

† Sir Robert Phillips was one of three hundred and ninety-four knights, dubbed by King James, on the 23rd of July, 1603. He was several times the county representative and sheriff of Somersetshire, between the years 1623 and 1627. He was the son of Sir Edward Philips, of Montacute, in Somersetshire, who was Master of the Rolls in 1608.—(Nichols' Progresses of James the First, i. 207—213.)

Hobart*, Benjamin Rudyard†, Thomas Crew‡, Nathaniel Rich§, James Perrott, Walter Long, Benjamin Valentine, Strafford in his early career, and many others, might be included.

It was at the lodgings of Pym, in Gray's Inn Lane, and at those of Selden, that the leaders of this party met for the purpose of arranging and agreeing upon their votes in the House of Commons. The extreme advocates of change met similarly at the residences of Cromwell, Haselrigge, and Oliver St. John.

Up to this period, the opponents of the court party in parliament had carried on a desultory warfare; but

* Sir Miles Hobart was a younger son of the Chief Justice, Sir Henry Hobart. He was born at Plumsted in Kent, in 1595. He was created a Knight of the Bath at the coronation of Charles the First. For the active part he took in the opposition to the court he was thrown into prison in 1629, and died there, it is said, from the blows inflicted by his gaoler, in 1631.—(Noble's Memoirs of the House of Cromwell, ii. 128. Nichols' Progresses, iii. 888.)

† Sir Benjamin Rudyard was of West Woodhay, in Berkshire. Though a consistent advocate of freedom, yet in 1642, thinking that the king had made sufficient concessions, he strenuously supported the proposition for a peaceful agreement, and warned the House of the horrors of a civil war. He was a poet, a wit, and a critic, in all of which accomplishments Ben Jonson says he excelled. He died in 1658.—(Ashmole's Berkshire. Granger's Biog. History. Gentleman's Mag. 78, 103—79, 123, &c.)

‡ Sir Thomas Crew was of Wich Malbane, in Cheshire. He was in the legal profession, a king's sergeant, and brother to the Chief Justice of the Common Pleas of the same name. He was twice speaker of the House of Commons. He died, aged 68, in the year 1634.—(Nichols' Progresses of James, i. 267.)

§ Sir Nathaniel Rich, of London, was knighted in 1617.

experience had taught,—and increased knowledge made them confident to act up to their experience,—that a united party could only be effectually thwarted by a similarly united opposition. Such a combination was so novel, that we shall see that the king's ministers commenced a prosecution against its leaders for an illegal cabal; and to escape detection, the oppositionists resorted to the place of rendezvous with disguised faces*. Such was the beginning of that opposition party, the constant existence of which is one of our greatest safeguards against misrule. I do not place it alone in the superlative, because we benefit now also by the guardianship of the public press, that mighty enforcer of opinion, whose controlling power was duly estimated by the politician who said, "I will give the king a corrupt ministry, if he will grant me a perfect freedom of the press."

The examination of Sir Edwin Sandys before the Privy Council in 1621, aimed at discovering the parties who acted thus concertedly in opposition to the government. He was asked, "What conference he had at any time, and with whom, touching the petition to be made to the king by the parliament for the longer continuance thereof, after his majesty had signified to the Houses his purpose of dissolving thereof? and where he dined that day the message was brought? What conference he had and with

* I mention this upon the authority of a friend, who saw the statement in a contemporary letter, now in the possession of the Trevor family.

whom, either by word, message, or writing?" And many other questions of similar import *.

So conscious were they of the scrutinising eye that was kept upon their proceedings, and of the disregard of their parliamentary privileges by the government, that, to avoid any record to aid its oppressive measures, Sir Peter Hayman, in 1624, obtained an order that the clerk "should set no man's name to the motions he made †."

There is no reason why Ralph Hopton, and the Lords Falkland, Clarendon, Hertford, Capel, Dunsmore, &c., should not be added to the band of temperate statesmen enumerated above; for they certainly agreed in their love of constitutional liberty, and though they took opposite

* Harleian MSS. 161. Pl. 33, c.

† The first appearance of Selden as a speaker in the House of Commons, was in co-operation with this party, on the 19th of March, 1624, in a lengthened discussion concerning the granting of subsidies to the king. A motion was made to adjourn the debate, but Sir Henry Savill opposed it in an angry tone. He said that "he had done an ill office to the king who moved to have it questioned; for the House being divided, if the king should fail it would be a great discredit."

Sir Dudley Digges replied, "it was the old fashion of parliament, if a man spake absurdly or distastefully, not to cry him down, but for him to be answered or checked."

Mr. Selden said, "I will not speak to the great matter in hand, nor to the orders of the House, being so young a parliament man, but yet," he continued, "I have been no stranger to the journals of either House, and found that the pettiest business hath not been so precipitated."

It was eventually postponed until the following morning*.

* Journal of a member of this parliament. Harl. MSS. 1840, &c. Pl. 45 a.

sides in the appeal to the sword, yet that appeal was hurried on by other spirits than those by which they were actuated; and could the settlement of the national differences have been left to their arbitrament, there would have been no points on which they would have substantially differed; for they did not disagree upon the fundamental principles of the constitution, and therefore would have required no changes but such as are founded upon the laws and usages of which that is composed.

## CHAPTER II.

BIRTH OF SELDEN.—EDUCATION.—APPLIES TO THE STUDY OF THE LAW.—EARLY PATRONS.—LITERARY FRIENDS.—THE COLLEGE OF ANTIQUARIES.—HIS FIRST PUBLICATION.—HIS SECOND.—HIS THIRD.—ASSISTS DRAYTON.—SELDEN'S POETRY.—HIS "TITLES OF HONOUR."—EDITS FORTESCUE, AND HENGHAM'S WORKS.—HIS FIRST WORK ON THE JEWS.—POLITICAL STATE OF ENGLAND.—PUBLISHES HIS "HISTORY OF TYTHES."—PERSECUTION TO WHICH HE IS CONSEQUENTLY SUBJECTED.—BEN JONSON IS HIS ADVOCATE WITH THE KING.—SELDEN'S DECLARATION RELATING TO THE WORK.—WRITES ON THE ANNIVERSARY OF CHRISTMAS-DAY, AND ON A PASSAGE IN REVELATION.

THE birth-place of John Selden is Salvington, a hamlet of the parish of West Tarring, in the county of Sussex. Tarring is about two miles from Worthing. Its church, which is conspicuous on the left of the road leading from this watering place to Arundel, offers few objects of antiquarian interest, and its time-faded registers would be seldom perused if they did not contain the record of Selden's birth.

The cottage in which he was born still remains. It was then known as Lacies, being the residence attached to a farm of about eighty-one acres. The date of 1601, which is upon its front, testifies that it was then the same humble edifice as at present. A further testimony

that it remains unaltered is afforded by its lintel, on the inside of which is carved a latin distich, said to have been composed by Selden when only ten years old. Its rude characters of mingled capitals and small letters, may justify the conclusion, that he was the engraver as well as the versifier. The distich is this:—

Gratus, honeste, mihi, non claudar inito sede { que / bis*
Fur, abeas; non sum facta soluta tibi.

Which may be thus translated:—

Walk in and welcome, honest friend; repose.
Thief, get thee hence: to thee I'll not unclose.

One end of the cottage abuts upon the lane leading to it. Its decayed thatch, crazy inclosures, and ill-kept garden, do not accord with the wishes of those who admire the character of him whose earliest footsteps were there. The wood-work, arranged with formal design in the wall of its end that faces the lane, as shown in some drawings, is no longer to be seen. A bricklayer, some months since, considered it of more importance to exclude

* This inscription has been differently stated by those who have recorded it. The following literal copy, made at the time of a personal inspection, is submitted to the reader's judgment.

GRATVS HONESTE MIH' NO CLAVDAR INITO SEDEB'
FVR ABEAS: NO SV FACTA SOLVTA TIBI.

The last character of the first line is somewhat imperfect. It probably was intended as a contraction of "que." In this case the literal translation is,—"Honest friend thou art welcome to me, I will not be closed, enter and be seated. Thief! begone, I am not open to thee."

the rain, than to preserve the ornamental appearance, and it now presents a continuous surface of ill-applied plaister. Vines and currant trees are trained over the front and the other end. The back overlooks a farm-yard. The front door is very low, opening at once into the only sitting-room of the cottage. On the inside of the lintel of this door, partially obscured by white-wash, and partially by renewed plaisterings of the ceiling, is inscribed the verse already quoted.

When visited, in August 1834, the cottage contained no other relic of Selden, and there was nothing unusual in its spacious hearth, the songs and ill-executed drawings that were attached to its walls, or in any of the furniture of its sitting-room. Some good-natured pilgrim had pinned up a copy of the inscription; and an usher, well-meaning but incompetent, had added a laudatory distich unworthy of transcription. Without a chance of increasing our biographical store, it was gratifying to sit in this room and chat for an hour with its present kind-hearted old tenant, the Widow Kennard. She is no memorialist of Selden; but she is a worthy specimen of the contented English peasant, whose vigour has passed during seventy years of labour.

The father of Selden was a small farmer, or as Aubrey describes him, "a yeomanly man of about 40*l.* per annum*." Anthony Wood, with customary coarseness,

* There is reason to believe that he pursued the trade of a cart-wright, as well as that of a farmer; for in the parish register, I observed

says he was "a common fidler," and an entry in the parish register, perhaps, sanctions the conclusion that he did not refuse to be recompensed for his musical performances; but various facts prevent us believing that he subsisted upon that resource. "He played well upon the violin, in which he took delight," says Aubrey, "and at Christmas time, to please himself and his neighbours, he would play to them as they danced." The son of Judge Malet had heard that he taught the lute*.

Wood says, that it was his musical performances won him his wife. Hers was an extraction superior to his own. She was Margaret, heiress of Thomas Baker, who resided in the neighbouring parish of Rustington, and was descended from a knighted family of that name in Kent†.

The issue of this marriage was John, whose biography is here undertaken; two younger sons, who died infants, and a daughter, who married to a John Bernard, of

a baptism is recorded, in the year 1579, of a daughter of "John Selden, the wheller."

* Aubrey's MSS. in the Ashmolean Museum. Wood's Athenæ Oxon. by Bliss, iii. 376. Wood's MSS. by Hearne. Append. ad Lib. Nig. Scac. 594.

† Selden's Epitaph, written by himself. The father and mother of Selden lived to enjoy the exquisite pleasure of seeing their son rising to virtuous eminence. They were buried at Tarring, the latter on the 11th of October, 1610, the former on the 1st of February, 1616. The race of the Seldens seems to be extinct. I have never heard of a living representative.

Goring, in Sussex, by whom she had two sons and four daughters. They appear to have remained in humble situations. Mr. Bernard is probably alluded to by Wood, when he states, that Selden had a brother, who was a musician at Chichester, and having a large family, as well as being an invalid, he had a pension of about 25*l.* per annum, from some charitable individuals, Selden being also a contributor to his necessities*.

In the parish register of West Tarring is this entry: "1584—John, the sonne of John Selden, the minstrell, was baptized the 20th day of December:" a document substantiating the statement of Dr. Wilkins, that he was born on the 16th of that month†.

His first academical instructions were received at the free-school of Chichester, whose master then was Hugh Barker, afterwards highly distinguished as a civilian. His speedy baptism suggests that his earliest infancy was sickly; but this unhealthiness must have soon passed away, for his progress as a student was rapid, as instanced in the verse already quoted. He who could write Latin verses at ten years old, had not been much interrupted by illness. This is further proved, by his proceeding to college when only fourteen.

* Wood's MSS, by Hearne, 594.

† In 1726, Dr. Wilkins published a uniform edition of Selden's Works, with his Life, in Latin, prefixed. This is necessarily a chief authority, and is that upon which reliance is placed in the following pages, when others are not particularised.

Mr. Barker was very partial to him; and Wood says, that to him and to Dr. Juxon, Selden was indebted for his exhibition at Oxford*. He was admitted of Hart Hall, carrying with him a strong recommendation from his Chichester preceptor to his brother, who was a Fellow of New College. This brother, Mr. Anthony Barker, and another Fellow of the same College, Mr. John Young, assisted him with their instructions.

There is no record that Selden distinguished himself as a competitor for any of the honours of the University. They can be won, almost exclusively, by the Mathematician and the Poet. Among these, Selden held no prominent rank, his genius at no period of his life displaying itself either in abstract calculations, or in excursions of the imagination; although, from having written some commendatory verses which are prefixed to Drayton's "Barons' Wars," and to Browne's "Britannia's Pastorals," Suckling mentions him in his "Sessions of the Poets." In this ballad, Apollo is represented as presiding at a meeting where various poets prefer their claims to the Laureateship. Selden is not among these; but it is said, "he sat close to the chair," and Suckling, probably, intended it as a compliment, intimating that, for his scholarship and taste, Apollo selected him as a counsellor. It is certain that Selden's poetical attempts are not above mediocrity.

Selden was not among the dandies of the University;

* Wood's MSS. by Hearne, 594.

for Sir Giles Mompesson, who was his contemporary at Hart Hall, described him to Aubrey as "a long scabby-polled boy, but a good student *."

According to Dr. Wilkins, Selden resided four years at Oxford, and then removed to London, entering himself at Clifford's Inn, in 1602. Wood says, he was entered at Hart Hall, in Michaelmas Term, 1600, and that he stayed at Oxford about three years.

Having initiated himself in the study of the law, he removed for its completion, to the Inner Temple, in the May of 1604. His chamber was in an uppermost story of Paper Buildings, looking towards the garden, having a small gallery to walk in attached †.

It is certain, that even whilst a tyro, Selden was distinguished for his abilities. Lady Cotton told Sir William Dugdale, that, dining one Christmas time at Sir Thomas Alford's, in Sussex, Selden, then a young student, sat at the lower end of the table, and "was looked upon to be of parts extraordinary, and somebody asking who he was, it was replied 'his son that is playing the violin in the hall ‡.'"

Thus early in life was his introduction to the notice of the Cotton family, to whom he soon after became more intimately attached; for Mr. Fabian Phillips told Aubrey,

* Wood's Athenæ Oxon. by Bliss, iii. 378.

† Aubrey's MSS.—Wood's Athenæ Oxon. by Bliss, iii. 378.

‡ Ibid. 377.

that when young, Selden copied records for Sir Robert Cotton.

From the many known examples which attest, that in youth we readily acquire the tastes and habits of those that are around us, we are justified in surmising, that this early intercourse gave Selden a bias in favour o antiquarian studies. His mind required no stimulus; fondness and an effort for the acquirement of knowled distinguished him at this period of life, which is too of characterised by a thirst for less innocent and less endu pleasures; and it is animating to know what a co-part ship in knowledge existed between him and some ot who were in after-life companions in eminence. V students, as well as in their riper years, Henry afterwards Lord Chief Justice of the King's Benc Edward Littleton, afterwards Lord Keeper, Sir E Herbert, afterwards Attorney General, Sir Thomas diner, afterwards Recorder of London, were Se associates, and Wood says, "it was the constan almost daily course, for many years together, of great traders in learning, to bring in their a therein, as it were in a common stock, by natura munication, whereby each of them, in a great m became the participant and common possessor o others learning and knowledge *." The depth o

* Wood's Athenæ Oxon. ii. 203.

knowledge which he evinced [illegible] occasions in after-life, testifies that [illegible]

[illegible] we may believe, from the specimen [illegible] was not one of his qualifications. His memory [illegible] store-house of authorities [illegible] weight of facts and precedents. [illegible] sometimes gave character [illegible] conveyancing.

[illegible]

their meetings were [illegible] unsuccessful attempts [illegible] a period embracing [illegible] quently to his leaving [illegible] about the year 1610, [illegible] could worthily support

[illegible]

others of similar learning, were nearly all contemporaries of Selden, we may believe that England was among the most distinguished in this research after the knowledge of the olden time, and that it was among the most favoured branches of literature pursued by the intellectual energy that seemed, at this period, to have aroused the educated of Europe.

Those students of antiquities, held weekly meetings, of what they termed "The Antiquaries' College." Their first assemblies appear to have taken place under the auspices of Archbishop Parker, in 1572. Their object was to collect into one repository, manuscripts, coins, seals, and whatever else would facilitate the study of history. They met for nearly twenty years at the house of Sir Robert Cotton. In 1589, they determined to apply to Queen Elizabeth for a Charter of Incorporation, proposing, that the Society should bear her name, have a president, and be subject to the visitations of certain of the chief officers of the government. The encouragement they met with is not certain; however, they continued their meetings. At these they supped together, and delivered their opinions and dissertations upon some subject of English Antiquities that had been proposed at their previous meeting, acquiring by this approach to the freedom of domestic intercourse, a manumission from the buckram of form that is a restraint upon all our public associations.

These private meetings were again attempted to be

raised into a National Academy and Library of Antiquities, in the reign of James the First. Spelman, Camden and others, agreed to the regulations of a society. Among these, they determined, "for avoiding offence, that they should neither meddle with matters of state nor religion;" yet they were permaturely extinguished, for "before our next meeting," says Spelman, "we had notice that his Majesty took a little mislike to our society, not being informed that we had resolved to decline all matters of state. Yet, hereupon, we forbore to meet again, and so all our labour is lost *."

Selden has been mentioned, by some writers, as being one of that fraternity of Antiquarians, but his name does not appear in Fenn's list, nor in that afforded by any competent authority. Indeed, it is barely possible that he could have been one of them, for their meetings were discontinued entirely, with some unsuccessful attempts at revival, from 1604 to 1707, a period embracing nearly the whole of his life, subsequently to his leaving Oxford. A manuscript, written about the year 1619, only speaks of Selden, as one who would worthily support such an institution †.

The work that announced Selden to the public as a student of our national antiquities, was his *Analecton Anglo-Britannicon, libri duo.* This, according to the

* Spelman's Preface to his Discourse of the Four Law Terms. Archæologia i. Pref. 3, 15.

† Oldys's Life of Sir W. Rayleigh, i. cxxx.

date of the preface, was finished in the year 1607. He dedicated it to Sir Robert Cotton. Having given it to a bookseller, who might mistake the author's generosity to be founded upon a low estimate of its merits, it was not published until nine years subsequently, and then in a form so incorrect and altered, that Selden complains he could scarcely recognise it as his own composition. The more legitimate conclusion seems to be, that the bookseller considered it an inferior composition, and it would be difficult to find a competent judge who would reverse such a decision. It is true that Degory Whear, in his "Method of Reading History," is loud in its praise, but it was certainly the commendation of the friend, not of the critic. The style is, perhaps, the most pedantic that could be selected from the multitudinous specimens afforded by that age of pedantry; but a still worse fault is, that its details are very meagre. Its praise must be limited to that apology which was offered by his own maturer judgment—"ætatula non ita indignum." It is a chronological digest of records relating to the history of England previous to the Norman invasion.

In 1610, Selden printed, at his own expense, two works, entitled *England's Epinomis*, and *Jani Anglorum facies altera*, the first in English, the latter in Latin. They each consist of quotations from ancient authorities, with the compiler's remarks, illustrative of the state and progress of the English law, from the earliest times to the conclusion of the reign of John in the *Epinomis*, and

to the end of that of Henry the Second in the Latin treatise. The latter was translated into English, and notes added, by Dr. Adam Littleton, under the fictitious name of Redman Westcot. This was published in 1683.

As an industrious and faithful collection of authorities and illustrations, it deserves very great praise; and the reader's patience would merit no less, which could endure the perusal without being wearied by the intricate and inflated style. Dr. Aikin justly observed that, in the preface to the Latin Treatise, the author seems to have endeavoured to employ all the uncommon phraseology and remote allusions that he had picked up in his classical reading, whence it is an almost perpetual enigma.

In the same year Selden published an Essay on "*The Duel, or Single Combat.*" Its merit is acknowledged by its passing through two subsequent editions, one in the year 1706, and the other in 1712, at the time of the quarrel between the Duke of Hamilton and Lord Mahon *. Of such extra judicial combats, he speaks but transiently, confining his attention chiefly to the forms and ceremonies attending judicial combats since the Norman settlement. The two first sentences of the preface afford a specimen of his style, and tell the object of the work.

"Reader, I open not a fence-school, nor shall you here learn the skill of an encounter, nor advantageously in the

* Bibliothèque Anglaise, vi. 1.

lists to traverse your ground. Historical tradition of uses, and succinct description of ceremony are my ends, both deduced from the ancients, but without proselenic affectation *."

When Drayton published his *Polyolbion* in 1613, which is a description of the English and Welsh counties, in Alexandrine verse, Selden furnished notes to the first eighteen chapters, or songs. These notes abound with accurate, curious and entertaining illustrations. He thus early appreciated, and throughout his career acted up to the conviction, that accuracy is the Antiquarian's indispensible title to respect. "My thirst," he says, in his preface to these notes, "compelled me always to seek the fountains, and by that, if means grant it, judge the river's nature. Nor can any, conversant in letters, be ignorant what error is oft-times fallen into, by trusting authorities at second-hand, and rash collecting, as it were, from visual beams refracted through another's eye." This preface bears the date of 1612. The profusion of references made in these notes, as well as in almost all his other writings, are convincing testimonies of his fidelity and industry.

Selden's intimacy with Drayton, Browne, and Jonson,

* Particular attention was paid to the laws relating to duels, at the commencement of this century, probably from the horror which the king had to such contests. Among the Cotton MSS. there is a volume comprising much information relating to them, written between the years 1609—1613 Among them a treatise said to be by James the First.

the poets, is no evidence of himself being a successful flirter with the Muses *. He cultivated their friendship because they had other sympathies in common. Drayton was an antiquarian, Brown was a fellow templar, Jonson had learning, that acquired him the esteem of most of his literary contemporaries, and they all were wits, willing and capable to sparkle round a social bowl.

In 1614, Selden published his largest English, and, in the opinion of Usher, his best work. It is certainly that which affords the most copious display of his profound research into the history and antiquities of his own and other modern countries. This was his treatise on "*Titles of Honour.*"

* The following verses, which form the best, I think, of the three poetical effusions which I know as his productions, were addressed "To Mr. William Brown," and prefixed to this author's Poems.

"So much a stranger my severer muse
Is not to love-strains, or a shepherd's reed,
But that she knows some rites of Phœbus' dues,
Of Pan, of Pallas, and her sister's meed.
Read, and commend, she durst, these tun'd essays
Of him that loves her (she hath ever found
Her studies as one circle). Next she prays
His readers be with rose and myrtle crown'd!
No willow touch them! As his bays † are free
From wrong of bolts, so may their chaplets be.

† Bays (fair readers) being the materials of poets' garlands (as myrtles and roses are for enjoying lovers, and the fruitless willow for them which your inconstancy too often makes most unhappy) are supposed not to be subject to any hurt of Jove's thunderbolts as other trees are.—J. SELDEN.

It embraces all dignities, from the monarch to the gentleman, that are not officiary, and contains a treasury of historical and antiquarian information, valuable, interesting, and having this voucher of accuracy, that the work is regarded as an authority in our courts of law. He published an enlarged edition in 1631; a third appeared in 1672; and a Latin translation, by Simon John Arnold, was printed at Frankfort, in 1693 *.

Success stimulated him to fresh exertion, for it is only the unworthy that are either insensible to, or undesirous of praise. In 1616, he re-edited two ancient Law Tracts; Sir John Fortescue "De Laudibus Legum Angliæ," and the "Summæ" of Sir Ralph Hengham;—addressed "*A brief Discourse touching the office of Lord Chancellor of England,*" to Sir Francis Bacon on his promotion to the Lord Keepership; and according to Gataker, he about the same time contributed the marginal notes to the collection of voyages and travels, published as "Purchas's Pilgrimage."

In 1617, Selden contributed to the same industrious compiler a short paper, "*Of the Jews sometimes living in England.*" It is chiefly remarkable, for being his first publication relating to the people, to whose antiquities he subsequently devoted so much attention — a people certainly the most interesting of all the nations of the earth. The chosen and first favoured, yet most dis-

* Dr. Aikin's Life of Selden. 10.

obedient of all tribes; favoured with laws written by the immediate finger of God; the depositaries and guardians of his revelations, yet the most erring and the most rebellious of his creatures; the authors of the earliest authentic literature, yet the most ignorant of people; destroyed as a nation, yet preserved as individuals; scattered over the face of the earth, yet entirely national; the origin and the murderers of the Messiah; the deadly enemies of Christianity, yet affording permanent evidences of its truth; despised and oppressed, yet they flourish; cursed, "yet they thrive wherever they come; they are able to oblige the prince of the country by lending him money; none of them beg *."

It must have been an unthinking acquiescence to the statements of the Chroniclers, when Selden stated, that it was "an usual crime" of the Jews to kidnap a Christian boy at Easter, and, after circumcising, to crucify him; for although our old Chronicles contain many complaints of this union of blasphemy and murder, yet it was so evidently opposed to the interests of the Jews, and so repugnant to human nature, that it cannot but be considered as a fable invented to divert the pity that might otherwise be popularly manifested on account of the extortions and cruelties practised by the government upon these outcasts of Israel.

One cannot but be additionally surprised at Selden's

* Selden's Table Talk, s. Jews.

easy assent to such a calumny; his mind being peculiarly adapted to the extrication of truth from its amalgam with falsehood *; and he must have felt a more than common interest in a people whose antiquities he made his most particular study. In his next publication he appeared in this field of literature, the cultivation of it placing him immediately in the rank of the first scholars of the age, and introduced him to the literati of Europe. This was his celebrated work, "*De Diis Syris, Syntagmata duo* †."

The primary subject of this work, is a history of the Idol Deities, mentioned in the Old Testament; but it also includes a general inquiry concerning the Syrian Idolatry, and occasional illustrations of the ancient theology of other heathen nations. It was first published in 1617, and its merits are attested by other editions being printed, in 1627, at Leyden, and at Leipsic in 1662, and 1680. The edition of 1627 appears to have been undertaken by the Elzevirs, at the recommendation of the learned Daniel Heinsius, and they obtained the additions and corrections of Selden, through their relative, the Rev. Ludovic de Dieu, who was a pastor and professor in the Walloon College at Leyden. This learned oriental scholar and Heinsius undertook to correct the sheets as they were printed ‡.

* The motto he selected for his "De Diis Syris," is this quotation from Lactantius,—"Primus sapientiæ gradus est falsa intelligere."

† The learned Bochart styled this *libellum aureum*.

‡ Opera Omnia, ii. 212.

The application from the Elzevirs, was made in 1627, but more than a twelvemonth elapsed before Selden could devote himself to the task, for in the mean time he had been occupied as a leader in the memorable political struggles of the period.

This very erudite work commences with Prolegomena on the geography of Syria, on the Hebrew language, and on the origin and progress of Polytheism. It then, in two Syntagmata, enters upon the history of the Syrian deities.

The whole course of Selden's life is an assurance that he was no borrower from secondary authorities, if the primary were to be obtained; yet when a host of ecclesiastical enemies were gathered against him on account of his work on Tythes, one of the most rancorous of them, Dr. Richard Montague, charges him with having plagiarised the chief part of this work "*De Diis Syris*," from the "Semestria" of Peter Faber; a charge which, Selden says, needs no other refutation, than a comparison of the two works *.

It now becomes necessary to enlarge our attention from following the quiet progress of an antiquarian student to a rapid and partial recognisance of the political state

* Preface to the Leyden edition. It necessarily arises, that in a work relating to such distant antiquities, and requiring references to such a mass of Eastern literature, that many errors must occur; the sources of these have been pointed out by Le Clerc. (Biblioth. Chois. vii.)

of England at this period, for without this, it would not be quite intelligible how Selden's next publication gathered upon him the indignation and persecution of the Government both in its lay and ecclesiastical character.

The prerogative of the king, whatever checks and prunings the legislature may occasionally apply, has always a tendency to increase, and one immunity and privilege after another had gathered to the crown, until its Tudor and Stuart wearers were inclined to forget that such privileges were granted as marks of affectionate regard by the people to the monarch, and are not inherent rights, marking the sovereign as a being of an order superior to that to which his subjects belong. Henry the Eighth, Mary, and Elizabeth, were all guilty of this error. They were despotic, and though, perhaps, anxious for their people's welfare, yet they thought that welfare should proceed only in such course as the royal will might dictate. James the First was similarly wrong, and when the conduct of his immediate successor showed a still increasing disregard for the will of the people, that indignant spirit of freedom was roused to action, that no after offers of accommodation could appease.

The representative portion of the government had debased itself into a mere form, for the parliament had consented that Henry the Eighth's proclamations should have the force of acts of parliament *. Mary had

* 31 Henry VIII. c. 8 & 34, and 35, c. 23, repealed by the 1st Edward VI. c. 12, s. 5.

informations filed by her attorney-general against nearly forty members of the House of Commons, who seceded from it when they found its majority inclined to sacrifice every thing to the executive*. Elizabeth thought it no undue extension of the prerogative to dictate to the House of Commons what they should debate upon, or to imprison its members who displeased her †; and in the course of these pages we shall see that James the First and his son were still more despotic, and their despotism was rendered more apparent by the opposition which it called into activity,—an opposition that they vainly attempted to overcome, and which they could not even temporarily repress. The treatment of Selden was a part of this rising struggle between despotism and liberty, and the narrative of its progress will afford a good example whereby to estimate the merits of the combatants.

The advancement of ecclesiastical power and privileges had accompanied, though not in an equal degree, the increase of the royal prerogative, and when the Court of High Commission was created by act of parliament in the reign of Elizabeth, and to be called into activity at the will of the sovereign, there was placed at the monarch's disposal the means, and the clergy were rendered the instruments, of as perfect a tyranny as ever violated the liberties of a people. The statute

* Coke's 4 Institute, 17, &c. Strype's Memorials, 3, 165.

† Parliamentary Hist. iv. 97, 181, 215, 365, &c.

(1 Eliz. c. i.) empowered the sovereign by letters patent to appoint commissioners, and they were chiefly selected from the episcopal bench, who were "to visit, reform, redress, order, correct, and amend all such errors, heresies, schisms, abuses, offences, contempts, and enormities whatsoever," as any spiritual or ecclesiastical power might lawfully do. Under the shelter of these very general words, says Blackstone, means were found in that and the two succeeding reigns to vest in the High Commissioners extraordinary and almost despotic powers of fining and imprisoning, which they exerted much beyond the degree of the offence itself, and frequently over offences by no means of spiritual cognisance *.

These ecclesiastical judges were rendered the regulators of men's opinions. They were empowered, or at least assumed the power, to administer *ex officio* oaths to any person whom they chose to cite before them, and if the answers they thus extorted were not satisfactory, they fined and imprisoned the object of their displeasure, without any limit except such as their own will defined. Moreover those, says Sir Edward Coke, who were wrongfully fined, imprisoned and injured by colour of the High Commission, were unable to appeal to the common law courts for redress, because "the High Commissioners, knowing the weakness of their authority, kept the commission secret, and, contrary to law and

* Commentaries on the Laws of England, iii. 68.

justice suffered not the same to be inrolled in the Chancery, so that the subject lived under an unknown commission and authority*."

Thus increasing in power and privileges, which it was evident the laity in general might not acknowledge as their right, for they would hardly admit that power and infallibility in a Protestant king and clergy which they had just rejected in the Papal system, and fearing to trust their cause to the sense the community might entertain of the ability and requisite prerogatives of their respective offices, both the monarch and the clergy laid claim to an appointment *jure divino*, or, as Selden expressed it—"They run to the *jus divinum*, lest, if they should acknowledge that what they have they have by positive law, it might be as well taken from them as given to them." This, however, only increased their resemblance to the papal authorities, and brought them further in opposition to the growing knowledge of the people.

Whilst the claims of the royal and clerical prerogative were raised so high,—whilst the throne and the pulpit alike poured forth announcements of the divine rights of their occupants, Selden published his "*History of Tythes.*" We have the biography of the work from his own pen.

He says, that previously to the year 1618, pursuing an uncontrolled habit of study, full of ambition and

* 4 Institute, 332.

hope, he determined to write, among other works, a History of Tythes, a Diatribe on the Birth-day of Christ, and upon the Dominion of the Sea. The History of Tythes was printed at London, in English, being duly licensed for the press by the signature of the divinity licenser; but no sooner was it published than it excited the displeasure of the whole court and the bench of bishops, with the exception of Dr. Andrews, the bishop of Winchester. "As soon as it was printed and public," says Selden, "divers were ready, and that in much shorter time than they could possibly have read it, to publish, and that also frequently in sermons, that it was written to prove that tythes were not due *jure divino*. Many lay-hearers believed them, and were ready to believe, or at least suspect, that some such thing was proved, because they that reported it, seemed both judicious and to be so much offended with it, that they would not have it seen at all, least it should prejudice that divine right. Some also, as I can testify myself, upon the various report of it, believed confidently that it was written to prove, nay that it had proved, that no tythes at all were due: others, that I had concluded that, questionless, laymen might, with good conscience, detain impropriated churches; others, that it was expressly against the tythes of London."

Whoever has referred to the work will at once appreciate how unfounded were all these opinions respecting it; and his own statement of his motives for publishing it, and

the intention of the work, are so clear and in accordance with its execution, that he may be quoted as a faithful reviewer of his own work. He says, "The cause which first made me think of it, was, that I saw the bare, historical part of learning, and of human laws made touching tythes, and of the various practice of payment, both in this kingdom and in other states, lay wholly, or too much, neglected amongst them, who nevertheless, having, as divines and canonists, written of tythes, would (as I conceived by their works) have made use of that historical part, if they had been furnished with it. The practice of the Jews, the various interpretations among the ancients of tythes given before the law; the tythes of the Gentiles, and the multitude of examples in the practice of payment and jurisdiction exercised touching them, both in foreign states and at home, were such things as I doubted not but that every ingenuous Christian would be glad to know in this consideration of this ecclesiastic revenue—and I doubted not at all but that it would have been acceptable to the clergy, to whose disputations and determinations I resolved wholly to leave the point of divine right of tythes, and keep myself wholly to the historical part."

In this last opinion Selden was disgracefully deceived. Dr. Tillesley, Archdeacon of Rochester, Dr. Montague, afterwards Bishop of Chichester, and finally of Norwich, besides many others of less abilities, poured upon the work and its author their "Answers" and "Animad-

versions." A warning of the hostility he was rousing had been communicated to him before the printing of his work was completed, and he stopped its publication to add an appendix, strengthening his details by fresh authorities, and correcting the inaccuracies that had crept into the text. Thus fortified, he fearlessly gave it to the public, declaring he did not value "what any one might cast at it through his secure confidence only in any of those old ensigns of dissembled ignorance or gravity, the beard, the habit, and title. It is for such to learn by, not at all to censure."

I have perused the "*History of Tythes*," as well as the chief of the writings of its opponents, and I coincide with Dr. Aikin in thinking that, upon a review of this controversy, it will probably be the opinion of the enlightened clergy of the present day that their predecessors displayed both an illiberal and a needless jealousy with respect to a doctrine that can never be made so clear to the laity as to become a solid foundation for their claim to an adequate maintenance; and that Selden, whatever was his intention, has done them more service by establishing their legal right to tithes, than injury by bringing into question their divine right: and certainly, if the claims of the clergy are placed upon the same footing with the right of individuals to their estates, they can have little cause to fear, or to complain*.

* Aikin's Life of Selden, 33.

A religious establishment, says the logical Paley, is no part of Christianity; it is only the means of inculcating it. It cannot be proved that any form of church government was laid down in the Christian as it had been in the Jewish Scriptures. Now, as there is this dissimilarity between them as to the appointment of the priesthood, so do they differ in their statements concerning a provision for its maintenance. The Old Testament establishes tithes—the New Testament gives no directions concerning them; it merely states the equitable position, that they who serve the altar, should live by the altar; but the amount and regulation of the ecclesiastical dues is nowhere mentioned. A religion calculated for every nation and every age could establish no universal fiscal ordinance. Those who have endeavoured to prove that tithes are due to the Christian clergy by divine appointment, have consequently been compelled to cite their authorities from the Books of Moses, the inapplicability of which is evident, for the Jewish polity was instituted for and confined to one small tribe. It was customary, in the injudicious phraseology of the 17th century, as well as of succeeding ones, to talk of the clergy as the servants, &c. of God, as if they were more particularly a part of his household, than the congregations of which they were the ministers; and, carrying on the delusive verbiage still further, a divine right to tithes was asserted, inasmuch as that they were God's part, and therefore the clergy must be entitled to them,—a logic that would

be satisfactory as soon as it is proved that they are not equally God's when employed in the support of the laity.

Selden, when at Greenwich, probably in attendance upon King James, to explain his purpose in publishing the History of Tythes, was much pressed by the favorite, Buckingham, to declare his opinion whether the claim to them by the clergy was founded upon a Divine right. From the quiet retirement of his chambers, in the Temple, Selden wrote to the displeased marquis a letter, that must have made him feel what were the writer's convictions, yet that it was unjust, being then under a cloud and restrictions, to call upon him for such an explicit confession. "If, my lord," says Selden, in this excellent letter, "I should upon study of it chance to conclude, through my own collection, that tithes are due *jure divino*, I should, notwithstanding, much doubt of my own judgment, when I find, that not only in the churches of France, Spain, Italy, Germany, and of all other foreign Christian commonwealths, whose practice I have read of in their laws and decisions, but also in the laws and practice of this his majesty's great monarchy, that no tithes are at all, or have been for many ages since, paid or to be recovered as due *jure divino*, but only according as the secular laws made for tythes, or local customs, ordain or permit them." He then states the confounding fact that "in a book written in behalf of all the clergy, especially of the bishops, by the name of 'An Admonition to the People,' printed by public authority, and by Queen

Elizabeth's printer, it is expressly affirmed, that it is among the greatest and grossest errors of the Papists, to hold that tenths and offerings are in the church *jure divino.*

" On the other side, my lord, if I should, perhaps, after studying the question, resolve to myself that they were not due *jure divino,* but only by the positive law of the Church and State; I know my expression of so much would but add to the displeasure hitherto conceived against me. Think it not wilfulness, therefore, when I desire so to abstain from studying the question for expression of my opinion in a matter, in the resolution whereof on the one side, I should tax both the state where I live, and also all Christendom, for committing every where, by execution of their established laws, against God's laws; and in resolving (as it might happen on the other side), I could gain nothing but increase of displeasure against myself."

" But, my lord, you spoke also of the great prejudice that the clergy have suffered through the publishing of that book. I doubt not, but that both his majesty and your lordship have been moved only by information to speak of such prejudice. I would to God, your lordship would be pleased to but ask of them which give the information, for some particular example, wherein any clergyman hath been, or indeed can be barred through it of one penny profit of such tythes as his majesty's laws command; I dare venture the loss of my life if any such example can be manifested, whatsoever their information

be. For indeed also, my lord, if it had been so, that my whole treatise had been written in express terms and to no purpose but to prove that tythes had not been due *jure divino* (which is the worst that I can be charged with), and although, my lord, so much had been also proved, yet could not any man of the clergy have lost the least part of his tythes, which are paid, and ever have been recovered through England, as in all other kingdoms of Christendom, according only as the king's positive laws command or allow the demand of them. And although there had been such prejudice to them; alas! my lord, what were my opinion for a remedy? There are enough that have and do write, at their pleasure, for the affirmative opinion. All, that will, have liberty (and some use it) to write here and preach what they will against me, to abuse my name, my person, my profession, with as many falsehoods as they please; and my hands are tied: I must not so much as answer their calumnies. I am so far from writing more of it, that I scarce dare (for my own safety) so much as say they abuse me, though I know it. What prejudice thensoever there were, the expression of my opinion, I conceive, could add nothing to the remedy, especially when for so much as lies in opinion or persuasion of the people, it is wholly in their hands who so pretend their own prejudice. Take these things, I beseech your good lordship, into your consideration, and I trust they will so clear me with your lordship of all imputation of wilfulness, that your lordship shall not have cause to

lessen your most noble regard towards me, in intercession to his majesty for my standing right in his favour; to whom as I owe all the humblest and most ready service of a subject, so would I gladly ever abstain from frowardly shewing any such weakness as might justly note me for one unworthy any way to serve him*."

For this letter no one could find a reply, and his opponents had the good sense to decline a rejoinder to what was unanswerable.

There is probably now but little diversity of opinion as to the title by which the tithes of Christendom are claimed, and it must have been a gratification of honourable pride to Selden to find that, but a few years subsequently, the persecutors of his work sought and found in it the best defence of their revenues. In 1653, the House of Commons, inclining to the petitions presented to them, began to inquire why they should not abolish tithes, in order, as the Kentish petition expressed it, "that that Jewish and Antichristian bondage and burdens on the estates and consciences of the godly might cease." In reference to this, Dr. Langbaine, writing to Selden in the August of that year, said, "Upon occasion of the business of tithes now under consideration, some, whom it more nearly concerns, have been pleased to inquire of me what might be said as to the civil rights of them, to whom I was not able to

* Opera Omnia, iii. 1393—6.

give any better direction than by sending them to your 'History.' Haply it may seem strange to them, yet I am not out of hopes, but that work (like Peleus' hasta) which was looked upon as a piece that struck deepest against the divine, will afford the strongest arguments for the civil right; and if that be made the issue, I do not despair of the cause*."

Although no fault could be detected in the work, although it is, as Selden states in the preface, "a mere narrative, and the History of Tythes"—a collection of authorities by a legal antiquary—yet the king and the Court of High Commission were resolved that a lesson should be taught to the people, that truth must be suppressed if militating against their wishes.

The king, who had no knowledge of Selden but through the misrepresentations of his courtiers, summoned him by his secretary, Sir Robert Naunton, to appear, with his work, at the Palace of Theobalds. "I,"

* Leland's Collectanea, by Hearne, v. 291. Referring to this letter, Selden said, and proud must he have been of the opportunity—"One writ me word that my History of Tythes was now become like Peleus's hasta, to wound and to heal. I told him in my answer I thought I could fit him with a better instance. It was possible it might undergo the same fate that Aristotle, Avicen, and Averroes did in France, some five hundred years previously; which were excommunicated by Stephen, Bishop of Paris, because that kind of learning puzzled and troubled their divinity. But finding themselves at a loss some forty years after (which is much about the time since I writ my History) they were called in again, and so have continued ever since." Table Talk, s. Tithes.

says Selden, "being then entirely a stranger to the court, and known personally there to a very few, was unwilling to go thither unaccompanied," and consequently he obtained the attendance of his old friend and fellow-templar, Edward Heyward, of Reepham, in Norfolk, and of Ben Jonson, "princeps poetarum," to introduce him to the king *.

Selden could not have made a more judicious choice than he did when he selected Jonson to introduce him to the offended James, for this monarch was very much attached to the poet, who could adapt himself to so many of his tastes. Jonson was a master of literature, and could humour his pedantry; he was a poet, and could offer grateful incense; he was a convivialist, and could add to the pleasures of his carousals †. Jonson also employed

* Opera Omnia, ii. 1422. Jonson thus speaks of his two friends:—

"O how do I count
Among my comings in, and see it mount,
The gain of two such friendships, *Heyward*
And Selden! Two names that so much understand."

† It was probably at the Mermaid, in Friday-street, celebrated for being the rendezvous of wits, that Selden and Jonson became acquainted; and, once acquainted, they would naturally be more than usually attracted to each other, for besides the sympathy of genius, they would feel mutually for each other, as having similarly won their way from indigence to distinction. Jonson had another cause for sympathising with Selden, for he had likewise suffered from James's displeasure, for some supposed satire upon the Scots, in the play of "Eastward Hoe." Having united with Marston and Chapman to produce this drama, when they were committed to prison on its account, he voluntarily accompanied them. At first a report was circulated, as he himself tells us, that they

his interest in favour of Selden with the favourite, Buckingham; who moreover was his advocate with his enemies the bishops.

would have their ears and noses cut. This rumour reached his mother, and at an entertainment which he gave upon his deliverance, at which entertainment Camden and Selden, among others, were present, "she drank to him, and shewed him a paper which she designed, if the sentence had taken effect, to have mixed with his drink, and it was strong and lusty poison. To shew that she was no churl," adds Jonson, "she designed first to have drank of it herself."—(Jonson's Works by Gifford, 1. lxxv.)

At the Mermaid Tavern, Sir W. Raleigh, in 1603, had established a club, which exhibits in its sparkling list of members, Shakspeare, Jonson, Beaumont, Fletcher, Cotton, Carew, Martin, Donne, and Selden, "whose names, even at this distant period, call up a mingled feeling of reverence and respect. There, in full flow and confidence of friendship, the lively and interesting 'wit-combats' took place between Shakspeare and Jonson; and hither, in probable allusion to them, Beaumont fondly lets his thoughts wander, in his letter to Jonson from the country.

'What things have we seen
Done at the Mermaid! Heard words that have been
So nimble, and so full of subtle flame,
As if that every one from whom they came
Had meant to put his whole wit in a jest.'"

(Jonson's works, l. lxvi.)

The intimacy and affection that existed between Selden and Jonson, are shewn by many passages in their works. Jonson addressed to him a long series of laudatory verses, in which he speaks of him with fondness as a man, and with admiration as a "monarch of letters *." James created Jonson Poet Laureate, with the still more useful appendage of one hundred marks' salary. Jonson, anxious to obtain all possible

* Selden repaid Jonson with his own merchandize, for he addressed him in some Latin verses, entitled "Ad V. Cl. Ben Jonsonium, Carmen Protrepticon." (Opera Omnia, ii. 1716.)

When admitted to a conference with the king, his majesty, as Selden reports, repeatedly descanted, sometimes learnedly, sometimes humorously, and at other times angrily, upon various quotations from the work, but chiefly upon the apostolic appointment of the anniversary of Christ's nativity, the king telling him that he suspected that he agreed with those contentious Scots, who refused to celebrate the festival upon any particular day. Selden replied, that so far from that being his opinion, he considered the 25th of December might be demonstrated by calculation to be the correct day. Upon which the king commanded him to compose a treatise upon the subject, a command which we shall see he promptly obeyed *.

Selden had two conferences with King James at Theobald's, and one at Whitehall, and bears testimony in

information relating to his title, applied to Selden, the result of which application was, a long chapter, the 43rd, of his "Titles of Honour," "On the custom of giving Crowns of Laurel to Poets." This information we have from the chapter itself, whose conclusion is—"Thus have I, by no unseasonable digression, performed a promise to you, my beloved Ben Jonson,—your curious learning and judgment may correct where I have erred, and add where my notes and memory have left me short. You are—

Omnia carmina doctus
Et calles mython plasmata et historiam."

Selden was a contributor to an unfinished History of Henry the Fifth, written by Jonson, and destroyed by an accidental fire, which consumed that poet's library. This we learn from the poet, who, lamenting his loss in "An Execration on Vulcan," says of the History—

"Therein was oil, besides the succours spent,
Which noble Carew, Cotton, Selden sent."

* Vindiciæ Maris Clausi, 19.

several parts of his after-writings to the ability and courtesy of his majesty. These conferences were in the December of 1618, and Selden had reason to believe, from his favourable reception by the monarch, that the storm of persecution was passed aside. In this he was mistaken, for, on the 28th of the following month*, he was called before some members of the High Commission Court, being Abbot, Archbishop of Canterbury, the Bishops of London, Winchester, and Rochester, and three laymen. He had been examined previously by the Privy Council. In the presence of those prelates, he signed the following declaration :—

"My good Lords—I most humbly acknowledge the error which I have committed in publishing the History of Tithes; and especially in that I have at all, by shewing any interpretations of Holy Scriptures, by meddling with councils, fathers, or canons, or by what else soever occurs in it, offered any occasion of argument against any right of maintenance, *jure divino*, of the ministers of the gospel; beseeching your lordships to receive this ingenuous and humble acknowledgment, together with the

* Camden thought it of sufficient importance to deserve a note in his Annals, that Selden's "trouble" concerning his History of Tithes, began on the 22nd o fDecember, 1618. (Camden's Ann. Apparatus, Jac. I. p. 397.) Another authority, Dr. Tillesley, states that Selden was before the High Commissioners on the 28th of the previous October. I have not been able to ascertain which date is correct, and indeed it matters but little whether, in this exercise of tyranny, the king or the commissioners had precedence.

unfeigned protestation of my grief, for that through it I have so incurred both his majesty's and your lordships' displeasure conceived against me in behalf of the Church of England."

Selden's enemies did not fail to trumpet this forth as a confession of delinquency, and a recantation of error; but whoever considers the document attentively, will appreciate that it was drawn up by some friendly hand as a middle course that would prevent any collision, and yet entitle neither party to a claim of victory. Selden's own estimate of the transaction is open to no censure. He says, "I confess that I did most willingly acknowledge, not only before some lords of the High Commission (not in the High Commission Court), but also to the lords of his majesty's Privy Council, that I was most sorry for the publishing of that history, because it had offended; and his majesty's most gracious favour towards me received that for satisfaction of the fault in so untimely printing it. And I profess still to all the world that I am sorry for it, and so should I have been, if I had published a most orthodox catechism that had offended. But is there a syllable in it of less truth because I am sorry for the publishing of it?" He then states that the declaration he signed was drawn up purposely through the favour of some of the lords of the High Commission, in order that he might not suffer from the misrepresentation of any verbal acknowledgment he might utter, and he concludes by declaring of the work to which it related, that "there

is not a passage in it, but that I did ever think, and now do think to be most constant truth, as I have there delivered it*."

The most tyrannical of the proceedings against Selden, were the suppression of his work by the Court of High Commission †, and that whilst any one was at liberty to assail it, he was strictly forbidden to write in its defence; "If," said King James to him, "you or your friends write anything against Dr. Montague's confutation, I will throw you into prison‡!" So that Selden could only write his replies secretly, and circulate them among his friends. Even this imperfect justice was earned with no small danger. These prohibitions failed, as they always have failed, and always will fail, to suppress the dissemination of truth. The work remains one of the monuments of the accuracy and learning that characterised the author, whilst the records of James's despotism survive only as a warning of the imbecility of misdirected power.

In his History of Tythes, Selden had spoken of "the unlimited liberty" and "confident daring" of contemporary writers, in interpreting that passage of St. John's Revelation, which assigns 666 as the number of "the beast;" and he farther praised the judgment and modesty of Calvin, who had declared that he could not understand so obscure a writing as that book of the Holy Scriptures.

* Opera Omnia, iii. 1371. † Opera Omnia, iii. 1451.

‡ Vindiciæ Maris Clausi, ibid. ii. 1423.

Now it unfortunately happened, that King James had written a bulky interpretation of this part of the New Testament, and had taken upon himself to declare the probable meaning of the mystic number. The monarch called upon Selden to explain more fully what he intended by his observations upon these subjects, and Selden adroitly replied, that he did not say, or intend, that *all* were guilty of unlimited liberty and trifling boldness in their interpretations; and that, in saying Calvin was modest and judicious in declining the task, he did not intend that others, more competent, were impudent and without judgment to attempt it. So far, Selden obeyed the rules of courtesy blamelessly, but there are unnecessary compliments and expressions of admiration included in these two short explanations, that "cannot be read without a very painful sense of the degradation incurred by literature, when brought in collision with power, unless supported by a proper sense of its own dignity *." When Selden spoke of the monarch's composition as being "the clearest sun among the lesser lights," and as a performance "most divine and kingly," he condescended to a self-degradation of his own judgment that was totally unworthy.

We have seen, that the king suspected from a passage in the History of Tythes, that Selden doubted, whether the 25th day of December was really the natal day of our

* Aikin's Life of Selden, 37.

Saviour. This excited his majesty's especial displeasure, because a similar disbelief was entertained by the Puritans,—a sect, above all others, the objects of his dislike; and he was unwilling that they should profit by the authority of Selden.

The passage to which the king referred, is in the Appendix or Review of the 4th chapter of the History. It is very far from implicating Selden in the opinion; but in accordance with the direction of the king, he wrote a treatise "*Of the Birth-day of our Saviour.*" It is an elaborate work, equally convincing in its authorities and reasoning, and it is satisfactory to know, that such a man as Selden considered that our correct observance of the anniversary is proved "by rational inference, by express testimony of the ancients, and by common and continual practice of several churches:"—"by authorities derived from the eldest of the Christian times and apostolical tradition, received even from the practice of the disciples *." It is satisfactory, inasmuch as that accuracy is always desirable, otherwise, if we gratefully celebrate the event, it is of very minor importance whether we commemorate it on the correct anniversary.

* Opera Omnia, iii. 1409—1450.

## CHAPTER III.

EFFECT OF PERSECUTION UPON SELDEN.—INTELLECTUAL CHARACTER OF THE TIMES.—STILL SUPERSTITIOUS.—SCIENCE OF GOVERNMENT YET IMPERFECT.—HOUSE OF COMMONS ROUSE IN THE REIGN OF JAMES.—COMMENCEMENT AND COURSE OF ITS STRUGGLE WITH THAT MONARCH.—JAMES'S CONSEQUENT DISLIKE OF PARLIAMENTS.—MODES OF RAISING SUPPLIES.—PERSEVERANCE OF THE HOUSE OF COMMONS IN ITS REFORMS.—VICES OF THE TIMES.—LORD BACON.—SELDEN HIS ADVISER.—CHARACTER OF JAMES THE FIRST.—SPANISH MATCH.—PETITION OF GRIEVANCES.—PROTESTATION.—THE KING'S INDIGNATION.—PARLIAMENT DISSOLVED.

SELDEN is an instance, among many others, that persecution usually defeats its own object. The intention of the court party, in visiting him with an outstretch of its power, was to check the tide of inquiry and reformation, that was now setting in strong against all the illegal and unreasonable aggressions of the executive, both in its civil and ecclesiastical regime. If Selden had been allowed to record his opinions unnoticed, his habits and temperament were too retired for it to be probable, that he would ever have pressed himself forward into the turmoil of political opposition. However, the man that was considered important enough to be oppressed by the court, was necessarily presented to its opponents as worthy of

their encouraging attention, and they found in Selden a supporter, who ever after ranked among the *balistæ* of their party.

Whoever has studied modern history, must have noticed the intellectual energy that began to inspire, generally, the inhabitants of Europe, in the fifteenth and sixteenth centuries. The revival of the Aristotelian Philosophy, of Mathematical Science, and the newly-created pursuit of natural and experimental research, were results, perhaps, as much as they subsequently became the promoters, of the mental vigour of the age. The mind of man can never be subjugated; knowledge may be withheld from the majority of a nation, and for a series of centuries; it may be effected that it shall be deficient in information, and ignorant of its rights, but no tyranny can prevent some gatherer of knowledge being secretly at work, or conquer the courage that will urge the acquirer to reveal his acquisitions to mankind. Such was the case in the two centuries to which I have alluded, and it soon appeared that the human mind, though long deprived of knowledge, was still desirous of its acquirement, and correct in its estimate of that which is to be preferred. Cardinal Casa, who lived in a part of those periods, observed "that in all things there was a desire to be in a better state, than the condition in which they were existing *." The newly discovered art of printing aided the

* Docta Ignor. 1.

rapid satisfaction of this desire; the centres from which knowledge emanated were numerous, and as if roused and guided by some invisible agency which everywhere operated, mankind emerged to a superior condition, felt that they were actuated by a superior impulse, and could not and did not continue what they had been *.

However, the human mind had not, even in the seventeenth century, escaped from all its grosser weaknesses; and though it delighted more than formerly in acquiring real knowledge, yet the prevalence of superstition confesses it was yet greatly deficient, and the taste for learning was still too immature, not to delight in some of the puerilities of wit. That source of inquietude, an attention to omens, infected all classes. Archbishop Laud registered his dreams, and a grave annalist of that time records that a wing of the dove on the sceptre was broken off, and was "a maim on the emblem of peace." Another historian considered the coronation dress being of an unusual colour, and the chaplain's unlucky text (Rev. ii. 10) as premonitions of Charles being deprived of the regal office, and of his premature death. That monarch consulted astrologers as guides to his times of action, and his cousin and conqueror Cromwell had faith in lucky days. Selden, in his first prefaces, has frequent allusions to the science of the stars, and even ascribed his recovery from a dangerous illness to the skill of Dr. Robert Floyd,

* Turner's Hist. of Edward VI. &c. iii. 27.

who, better known by the names of Fludd and de Fluctibus, was a distinguished Rosicrucian philosopher, and insured the efficacy of his nostrums by the mystical incantations which he muttered over his patients. In the literature of the period the same imbecility is apparent, among other symptoms, in the prevalence of anagrams. When such men as Roger Bacon, Huygens, Galileo, and Newton, condescended to conceal their discoveries from the world by giving them an anagrammatic form, we may more readily excuse that affectation of modesty which appeared in such *Scriptores minores*, as gave their names transposed in the title-pages of their ephemeræ — a pretence of concealment that showed a willingness to be known. This love of anagram was linked with the superstition of the age; for passing by the thousands of names of which no rational transposition could be made, if one occurred that bore any relation to the bearer's fortunes, it was viewed as a species of prophetic revelation. Lady Davies, widow of the Irish Attorney-General, in the reign of James the First, laid a claim to the gift of prophecy, and supported her pretensions by observing, that her name, Eleanor Davies, formed the anagram "*Reveal O Daniel.*" She was brought before the Court of High Commission, but still persisted in her claims to the prophetic spirit. At length, Dr. Lamb overcame her with "an arrow borrowed from her own quiver," for he shewed her that a more correct anagram of her name was "*Never so mad a Ladie*," and ridicule effected that

in which reason failed; "for," says Heylin, "she afterwards grew wiser, or was less regarded *." The acute and elegant James Howell remarks, when noticing the Attorney-General, William Noye, "I never heard a more pertinent anagram than was made of his name *I moyle in law* †." Dr. Tillesley, in the course of his animadversions upon Selden's History of Tythes, remarked in this spirit of anagrammatic trifling that his name transposed signified nothing—quasi *needless*. Selden retorted, "By virtue of a like way of wit (that I confess I will never make an example to mine), some take it for *needles* that have pricked the Doctor. I remember the schoolboys had this trick when I was a child, and we commonly so called each other with turning our names backwards, and so the boys then called me. Would the Doctor but allow me such a piece of boy's play, I could give him a significant anagram of his own name; *I tell lies* makes it exactly ‡."

In the science of government, in the reciprocal duties and rights of the ruler and the governed, up to this period there alone seems to have been no commensurate improvement. This is no cause for astonishment or for censure; for though the difficulties attending alterations in the system of government are imaginary rather than real, yet these

* Life of Laud, 266.

† What would he have thought of that of Horatio Nelson—*Honor est a Nilo!*

‡ Opera Omnia, iii. 1386.

anticipated difficulties arise from some of the best feelings of our nature. We are attached to the legislature and executive under which we have long enjoyed domestic happiness; and even when we feel that our property and liberty have been invaded unnecessarily, yet religion, habit, and respect for constituted authorities, combine to make us patient, and active to hope for a change of measures, rather than prompt in the effort to alter the cause. Even when the tyranny of an evil government has rendered vexations and sorrows as abundant as the pleasures of life, still a discontented people usually continue to suffer, until some accident, like a pebble falling into the Geyser, rouses its excited though slumbering energy into activity. England had participated in the general improvement of Europe; and, like other countries of this division of the globe, it suffered silently beneath the despotism of its government, until it was roused from its apathy, in the 17th century, by its unkinglike monarch James; and in vindicating its liberty set a noble example, which no other country has imitated, except in its most melancholy proceedings.

The peers willingly, and the commons pusillanimously, submitted to the absolute sway which was coveted and employed by the house of Tudor; and so accustomed had the latter become to the infringement of their liberties, that when Queen Elizabeth imprisoned four of their members for speaking of a topic with which she had forbidden them to interfere, when she ordered "that the

House of Commons should not deal or meddle with any matters touching her person, or estate, or church-government," that the house agreed not to petition for their release, fearing they should " make their case the worse*."

Submission to such thraldom was a tacit sacrifice of their power to that of the sovereign; and it requires no argument to show, that the king who dictates to a parliament what shall be the subjects of their deliberations, and imprisons those of its members who depart from the rule he prescribes, may occasionally benefit by its advice, but is totally uncontrolled by its power.

At the very commencement of the reign of James the First, the House of Commons showed a resolution to be less submissive than in the previous reign. To form a just estimate of the merits of the two great contending parties, in the conflict between whom Selden became intimately involved, it will be requisite to trace the struggle from its opening.

In the first parliament that James summoned, the Commons rejected an attempt of the crown and of the House of Lords to interfere in their determination of a disputed return for Buckinghamshire. They were sufficiently moderate to listen and to reply to the arguments of the judges, who maintained that the decision of such causes appertain to the Court of Chancery; and although a yielding on either side was rendered unnecessary by one

* Parliamentary History, iv. 236—365.

of the candidates resigning, yet it was a novelty for the Commons, in opposition to the crown, to take even the first step to conquest—the resolution to oppose. Moderation attended the dispute to its close, but the moderation did not degenerate into pusillanimity.

The house passed several acts for the improvement of ecclesiastical government; and Sir Edwin Sandys succeeded in a motion to petition the king to part with homage, tenures in capite, and other feudal prerogatives of the crown. It is true this petition was abandoned after a conference with the Lords, but it is memorable as the first effort of the Commons to diminish the oppressive privileges of the kingly office *.

James, ruled by his favourites, extravagant in his expenses, and lavish in his bounties, was continually in want of money; and the House of Commons evinced its sense of his ruinous weakness, by resolving that the bill which granted him a liberal subsidy should not be presented until the Petition of Grievances could accompany it. The examination and search into these national oppressions were so diligent and particular, that the king complained that "they had sent an *Oyes* through the nation to find them †."

The above were transactions of the year 1605. Four years subsequently the same anxiety of the House of Commons to remove the oppressive prerogatives of the

* Parliamentary Hist. v. 85—103. † Ibid. 154

crown is similarly apparent, and whoever will dispassionately read their address to the king, must admit, that there is in it no request or expression militating against the spirit of true loyalty. It justly asserts that their privileges and liberties are their right and due inheritance, as fully as their lands and goods; and that they cannot be withheld or impaired without wrong being done proportionably to the whole realm*. This was no unnecessary, or uncalled for declaration, for James had more than once expressed his conviction of his own absolute power, and this doctrine of despotism was still farther propagated by one of the court civilians, Dr. Cowell, who in a work called "The Interpreter," maintained the king's superiority to the law. This was too bold a declaration for even the king to sanction; but, though he ordered the work to be suppressed, he took the author under his protection; and though both the Houses of Parliament severely censured its author, his majesty screened him from further punishment†. Altogether the proceedings of the parliament were much too uncompromising of the liberty of the subject to be agreeable to the king, and his displeasure is apparent in the abruptness of its dissolution, which he said in the proclamation was "for many good considerations known to himself‡."

The subsequent expedients for raising money adopted

* Petyt's Jus Parliament. 227, contains it at large.

† Petyt's Miscellanea Parliamentaria, 64. Parliament. Hist. v. 225.

‡ Ibid. 269.

by James and his ministers were various. He took *an aid* of his subjects, to which the feudal right of the crown entitled him, upon the marriage of his daughter. A new dignity was created, entitled *a Baronetcy*, and two hundred of these satires upon honorary distinction were sold for 1000*l.* each* These resources, as well as the more iniquitous one of raising the value of the gold coin, and the impolitic institution of a state lottery, the first in England, all failed in affording a sufficient revenue, and consequently in 1614, another parliament was reluctantly summoned.

The whole tenor of James's treatment of his parliament justifies the remark of Wilson, who was a contemporary and dispassionate historian, "that the king required none of their advice, he wanted only their money†." Archbishop Usher affords similar testimony; for, when he was selected by the House of Commons to preach before them, the king told him "he had an unruly flock to look unto next Sunday," and concluded some good hints as to the subjects the bishop might enforce in his

* James was lavish of honours as well as of money, and the former were dispensed so plentifully as gifts as well as bargains, that a pasquinade was exhibited at St. Paul's Cross, announcing that a system of mnemonics had been discovered, which would assist the memory "to a competent knowledge of the *names* of the nobility." This prostitution of noble distinctions was deprecated in a more serious remonstrance, addressed to the king by thirty-three English peers.—(Wilson's James the First, 7—187.

† Ibid. 177.

discourse, by telling him to remind them *Bis dat qui cito dat**. Waller also related a curious conversation, that occurred in his presence, which is illustrative of the court feeling upon the point. James was at dinner, whilst Dr. Neale, the Bishop of Durham, and Selden's friend Dr. Andrews, the Bishop of Winchester, stood behind his chair. "My lords," said the king, "cannot I take my subjects' money when I want it, without all this formality in parliament?" The sycophantic Neale replied, "God forbid, Sir, but you should; you are the breath of our nostrils." Upon which the king turned to Dr. Andrews, with, "Well, my lord, what say you?" "Sir," replied the bishop, "I have no skill to judge of parliamentary cases." "No puts off, my lord," retorted the king, "answer me presently." "Then, Sir," said the bishop, "I think it lawful for you to take my brother Neale's money, for he offers it†." The king's idea of the office proper to a parliament is further illustrated by his treatment of the one he had just summoned. Having delayed for some time to vote him any money, he sent them word by their Speaker, "that unless they forthwith proceeded to treat of his supply, he would dissolve them;"—a threat that was executed immediately afterwards‡. The king

* Parr's Life of Usher, 18.

† Biog. Britan., in vitâ Andrews.

‡ Wilson says, that such members as had rendered themselves obnoxious to the court, were committed to the Tower, and otherwise punished, (Life of James the First, 78,) but Camden does not mention this instance of oppression.

now endeavoured to replenish his exchequer by *a benevolence*. A proclamation directed to the sheriff of each county, commanded them to obtain from the inhabitants such sums as they chose to give; but as the significant order was inserted, that the names of those who refused to contribute were to be made known to the king, it was well observed, that this "*free* gift was urged against their wills *."

The dislike James acquired towards the parliament was deep and enduring. He was indignant at their attempts to regulate the prerogative of the crown, as well as at their tardy grant to him of money. His feelings towards the representatives of the people were truly expressed, when he told his courtiers—"I am but one king, but there are five hundred in the House of Commons†." However, trusting that the people's anxiety to recover the palatinate for his daughter would induce them to open to him their purses, he again assembled a parliament in 1620‡; but it was as uncompromising as its predecessors, and at length, yielding to the united desires of both houses, he gave his assent to the correction of the obnoxious grievances. A supply was immediately granted to him§.

The Commons effectually pursued the patentees and

* Wilson and Camden, in anno 1617.

† R. Coke's Detection of the Court, &c. 100.

‡ Rushworth's Collection, i. 20.

§ Ibid. 24. Parliament. Hist. v. 334—349.

monopolists to whom had been illegally sold permission to grow wealthy at the expense of their fellow-subjects. The most prominent of these were Sir Francis Mitchell, and Sir Giles Mompesson, the supposed type of Massinger's character of *Overreach*. These were not the worst of the public delinquents. Corruption had tainted the administration of justice, and the remainder of the session was occupied by the impeachment of the highest offender, Lord Bacon. This princely merchant in knowledge, but bankrupt in firmness and principle, was one of the friends of Selden, and as there will be no other occasion in these pages to refer to this illustrious delinquent, the few records of their intimacy that remain may be here accumulated.

It is universally true that the majority of courtiers are parasites: they attach themselves to the monarch with the intention of abstracting from him all the benefits they can, and one reign differs in this respect from another only in the profuseness with which the monarch ministers to their insatiable demands. The reign of James the First stands prominent among those that are infamous for this lavish expenditure, and the corrupt modes that were unblushingly adopted to supply the requisite means. Profligate expenditure was the prevailing vice, and such unregulated waste usually induces a profligate supply; for the integrity that does not check extravagance seldom shrinks from corruption. Monopolies enriched the individuals who enjoyed them, but oppressed the people in

general: patents of privileges preserved the patentee from expenditure, if they did not directly increase his funds, and in every instance they impeded the administration of justice. Bribery was notorious; the administrators of the laws were not beyond the reach of corruption; and this canker infected the highest as well as the lowest officers of the state.

To escape the seductions of vice is at all times difficult, and that, perhaps, is the hardest to avoid which we see yielded to by others without compunction and without punishment. "I may be frail," said Lord Bacon, pleading to the king, "*and partake of the abuses of the times*," and surrounded as he was by a system of extravagance, corruption, and bribery, this is the only plea that can be allowed to mitigate our reprehension of this otherwise great man. It is the only one that can be urged in defence of Selden, for accepting the price for which he was enabled to sell the registrarship of Westminster College, a place given to him by Lord Keeper Williams solely for the purpose of sale *.

* Hacket's Memoir of L. K. Williams, 69. Wilson states the following examples of the emulation in extravagance, and of the prevalence of corruption even in the disposal of the highest offices. When the Earl of Northumberland heard that the favourite Buckingham, rode in a coach drawn by six horses, he immediately employed eight for a similar purpose. "In the late queen's reign," adds the historian, "there were no coaches, and the first had but two horses." Afterwards, when Buckingham introduced sedan chairs, "the people would rail on him in the street, loathing that men should be brought to as servile a condition as horses."

Bacon, pursuing the observations from which an extract has been just made, adds, "I am resolved, when I come to my answer, not to trick up my innocence by cavillations or voidances, but to speak the language that my heart speaketh to me in excusing, extenuating, or ingenuously confessing." When the period for his reply arrived, in conformance with this resolution, he pleaded guilty to all the facts stated in the charges against him, and sought refuge in the mercy of his judges. The true penitent pouring out a confession of error, urged only by conviction, and resolving to tread an onward path of rectitude, must command our pity, and even a kinder feeling; but the confessions of Bacon are abject rather than ingenuous, and savour more of the hope of pardon than of repentance of error. Making every allowance for the adulatory language so common to the period, still the style of his confession, and of his subsequent letters to the king, is grovelling and whining; betraying a desire of restoration to power and office, that would prevent any meanness being considered too degrading if it were the purchase-price of that advancement. Our contempt is not mitigated by finding that though he confessed his guilt, he had serious thoughts and a desire to avoid the judgment against him by a mere technical objection;

Sir Henry Montague was said to have given twenty thousand pounds for the office of Lord Treasurer, and he probably was expected to make the most he could of his bargain. —(Wilson's James the First, 130—148.)

tempting us to conclude that the penalty was more severely felt, than the consciousness of the crimes that merited it.

Lord Bacon asked Selden whether the judgment against him was good, as the proclamation that summoned the parliament styled it *a convention*, and not *a session*, as is usual; but Selden gave no countenance to such an idea. "Admitting," he said, "that it was no session, but only a convention, yet the judgments given in the Upper House, if no other reason be against them, are good; for they are given by virtue of that ordinary authority which they have as the supreme Court of Judicature." He suggested that the judgment might be of no force because it was not recorded*.

It has been stated that Lord Bacon testified his esteem for Selden's learning and judgment in his last will, by directing that his advice should be taken concerning the publishing or suppression of his manuscript treatises. There is no such direction in the copy of the will extracted from the registry of the Prerogative Court of Canterbury, given in Bacon's Works†.

In the year 1621 the House of Commons commenced the session by again preparing a detail of the national grievances. Their reasons for so doing, were now even

* Selden's Letter, dated February the 14th, 1621, with some notes indorsed upon it by Lord Bacon, is in Bacon's Works, vi. 308. Edition, 1824.

† Ibid. 411.

more urgent than before. The claims of the king were more lavish than previously, and there were increased reasons for fearing the establishment of the Papal religion.

The king possessed none of those brilliant qualities that dazzle a people, and make them willing to excuse an extravagance that arises from the more generous emotions of our nature. He was neither young, courteous, open-hearted, or brave; but on the contrary old, unwilling to be seen by his people, hypocritical, and cowardly. The man of common reason knows that exterior deformity and deficiency of grace are of very trivial consideration in forming an estimate of mankind, but he also knows that it has great influence with the majority of individuals, and there is no doubt that the personal appearance of James did much in increasing the disgust his misrule produced. He neither acted nor looked like a king: he was awkward and rickety in his movements, bulky in person, and with a tongue too large for his mouth, he slobbered out his words, which were additionally mutilated by a broad Scotch accent. Education had not improved him: learned, but deficient in useful endowments, he was a pedantic, blustering poltroon. He was ridiculed at home and abroad for that weakness, which made him conceive that he could deceive his people by proclamations, and foreign nations by his ambassadors. The first, says Wilson, were current coins a great while, till the multitude of them lessened their valuation; and the estimate,

on the continent, of his foreign policy, is evinced by a satirical speech in a contemporary Spanish comedy. A messenger is represented as arriving in great haste with the news that a formidable army would soon march to the relief of the Palatinate, for the king of Denmark was about to furnish it with 100,000 pickle herrings; the Dutch with 100,000 butter boxes; and England would send 100,000 ambassadors*.

Proclamations were such favourite compositions of this monarch, that the same author tells us it was intended to publish them in a volume, for the more full information of his subjects. However, he wished, like Henry the Eighth, to endue them with more authority than they possessed, by obtaining to them the obedience paid to legislative enactments. In 1610, Sir Edward Coke was summoned before the privy council, and asked, whether the king by his proclamation could prohibit the erection of buildings in and near London, and the making of starch from wheat. In favour of such an increase of power to proclamations, Lord Chancellor Ellesmere observed, that every precedent had a first commencement; and all the council, considering that at that time it was necessary to strengthen the king's prerogative, advised Coke and his brother judges to give a favourable opinion. The great author of the Institutes, with unwavering firmness, replied, "The king cannot change, without

* Wilson's James the First, 11—192.

parliament, any part of the common law, nor create any offence by his proclamation which was not an offence before*." This disclosure of the secret history of the period, shows that the jealousy entertained of the despotic intentions and desires of James by the parliament was no unjust suspicion of popular faction, for could he have obtained his wish, he would have been the most absolute of kings. No monarch can be more absolute than the one whose proclamations are laws; and a parliament would never be needed when a mere regal prescript could create crimes, command supplies, and embody troops. The private manners of the court, and the public crimes of the courtiers, increased the discontent, contempt, and hatred of the people. The very ladies of the palace were licentious and intemperate. The king was disgustingly, if not criminally, fond of his male favourites, whom he even pardoned for the murders they had plotted within his palace; whilst their guilt was rendered more apparent by the trials and executions that were permitted of their less criminal accomplices. To his favourites he was lavishly extravagant of gifts, for he gave away without any check of reason to the impulse of the moment. "What says he?—What says he?" said this monarch to one of the grooms of the bedchamber, to whom Sir Henry Rich was whispering. Upon being informed that the latter wished

* 12 Coke's Reports, 74, 2nd edition.

he had the 3000*l.* which some porters had just brought for the king's use, he immediately gave it to him, saying, "I am more delighted to think how much I have pleasured you in giving this money, than you can be in receiving it." This was a generous sentiment, and probably was the issue of a generous impulse, but the king should have remembered that his income came from his people, and that what he lavished would have to be resupplied at their expense. That it was a thoughtless impulse we may the more readily believe, because when he had as recklessly directed 5000*l.* to be given to Viscount Rochester, his trusty and wise treasurer the Earl of Salisbury, had that sum in silver coin heaped upon the table by which the king necessarily passed. James paused before the glittering heaps, and inquired for whom they were provided; being informed, he said that it was too much for one man, and reduced his gift more than one half *. Another instance of his extravagance is furnished in the following extract, from one of his own letters to his Lord Treasurer Cranfield, in 1622. "I fynde Buckinghame, muste paye twentie thousandie powndis for his lande at Burghlie; and the provisions for his wyfe's lying in and meubling are lyke to coste tenne thousande; besydes three thousande for his own newe house. Doe

* Wilson's James the First, 76—61.

quicklie thairfore quhat ye are to doe for him, and remember that a thing done in tyme is twice done*."

The king was now intent with immoveable earnestness upon marrying his son Charles to the Spanish Infanta. Between the government of Spain and James there had long previously passed mutual declarations and instances of good-will†. Sir Walter Raleigh had been sacrificed to auspiciate the same court; the Palatinate had been lost by machinations springing from the same source; a proclamation had been issued permitting sports and pastimes on Sundays; and the increase of the number and boldness of avowed Papists, was a subject of very marked notoriety. These facts justified and confirmed a very prevalent opinion, that James secretly favoured the Roman Catholics, and that in the next reign the papal religion would be re-established.

Before the House of Commons could despatch their messengers with their Petition of Grievances, in which their fear of the Papists, and the complaints of extravagance were prominent features, the king was made acquainted with its contents; and he immediately wrote to the speaker of the House forbidding its presentation. Notwithstanding this command, the Commons persisted in sending it, together with a remonstrance, by the hands of twelve of their members, for whom, when James heard of

* Harleian MSS. 6987, art. 1.

† Watson's Philip the Third, i. 153.

their approach, he is said to have ordered twelve chairs, "for there were twelve kings coming*."

The king refused to receive the petition, and to the remonstrance he returned a harsh reply. Eventually, finding the House resolved not to grant him any supplies unless their complaints were attended to, he adjourned and finally dissolved the parliament, accompanying the dissolution with a lengthy proclamation of his reasons.

Previous to the adjournment, the House of Commons inserted the following protest in their journals.

"The Commons now assembled in parliament being justly occasioned thereunto, concerning sundry liberties, franchises, and privileges of parliament, amongst others here mentioned, do make this protestation following:— "That the liberties, franchises, privileges, and jurisdictions of parliament are the ancient and undoubted birth-right and inheritance of the subjects of England; and that the arduous and urgent affairs concerning the king, state, and defence of the realm, and of the church of England, and the maintenance and making of laws and redress of mischiefs and grievances which daily happen within this realm, are proper subjects and matter of debate and counsel in parliament; and that in the handling and

* Another contemporary says, "The king retired not long since, to Newmarket, not very well pleased, and this week there went thither twelve from the House of Commons, to whom Sir Richard Weston was the mouth; the king not liking the message they brought, called them his *ambassadors*."—(Howell's Letters, sect. 3, p. 52. Edit. 1645.)

proceeding of those businesses, every member of the House of Parliament hath, and of right ought to have, freedom of speech, to propound, treat, reason, and bring to conclusion the same. And that the Commons in parliament have like liberty and freedom to treat of these matters, in such order as in their judgments shall seem fittest; and that every member of the said House, hath like freedom from all impeachment, imprisonment, and molestation (other than by censure of the House itself) for or concerning any speaking, reasoning, or declaring any matter or matters touching the parliament, or parliament business; and that if any of the said members be complained of, and questioned for any thing done or said in parliament, the same is to be showed to the king, by the advice and consent of all the Commons assembled in parliament, before the king give credence to any private information *."

This protestation was entered in the journals on the 18th of December, and was evidently called forth by a letter addressed to the House by the king on the previous day, in which he stated, "The plain truth is, that we cannot with patience endure our subjects to use such antimonarchical words to us, concerning their liberties, except they subjoined, that they were granted unto them by grace and favour of our predecessors †."

* Rushworth, i. 53.

† Journ. of the House of Commons, 19 James I. Petyt's Jus Parliament., 305.

Previously to drawing up their protest, Selden had been consulted by the House of Commons, concerning the authorities by which their rights and privileges were supported. Being introduced before the house, he spoke very fully upon these topics, and with patriotic ardour digressed to express his opinions upon the prospect of popery being re-established; concluding by anathematising those courtiers who endeavoured to alienate the affections of the king from the parliament. If Selden did not draw up the protestation, he certainly advised its composition. It was agreed to, upon the motion of Mr. Crew, supported by Mr. Alford, Sir John Hilliard, Sir George Moore, Mr. Finch, Mr. Noy, and Sir Edward Coke.

Of the privileges claimed by the commons in the above protest, no one will now entertain an opposing doubt. They have been admitted and sanctioned since by all true patriots, such as Selden declared himself proud to associate with; namely, those who are "lovers equally of the royal prerogative, and of the just liberty of their country." James formed of it a different estimate, and at a council held at Whitehall, on the 30th of the month in which the protest was agreed to, he tore it with his own hands from the Journals of the House*.

* Rushworth, i. 54. In a memorial concerning this protest, the king mentions as an aggravation of the Commons' offence, that their protest was agreed upon at so late an hour as "six o'clock at night," and "by candlelight!" The usual custom of the parliament was, to

Although the Register of Council Cases relates that the judges and privy council were present at this inroad upon the records of parliament; and although the king caused to be inserted in the above-mentioned Register, that the protest was "invalid, annulled, void, and of no effect," yet the true nature of this erasure cannot be disguised. It betrays the impotent petulance of a despotic mind, vented upon the record of opinions which it could not overcome; opinions which in succeeding years have been admitted as correct, whilst the erasure that would have swept them away, only serves to chronicle another proof that the struggle of despotism against the liberties of an united people is eventually vain.

meet in the morning, and to rise at twelve, that the committees, upon whom lay the chief business, might have the afternoon uninterrupted. It afterwards became a custom to continue debating until four.—(Clarendon's Hist. of the Rebellion, i. 105—107. Fol. ed.)

## CHAPTER IV.

SELDEN IMPRISONED FOR HIS ADVICE UPON THE PROTESTATION.—OBTAINS HIS RELEASE.—WRITES ON THE JUDICATURE OF PARLIAMENT, AND ON THE PRIVILEGES OF THE BARONAGE.—EDITS EADMER.—BENEVOLENCES RAISED.—EARL OF CARLISLE'S ADVICE TO THE KING.—SUMMONS A PARLIAMENT.—SELDEN A MEMBER.—CELEBRATED ELECTION COMMITTEE.—REFUSES THE READERSHIP AT LYONS INN.—CONSEQUENCES.—CHARLES COMES TO THE THRONE.—CHARACTER.—ILL POLICY.—PARLIAMENT SUMMONED AND DISSOLVED.—SELDEN A MEMBER.—ILLEGAL MODES OF RAISING SUPPLIES.—ANOTHER PARLIAMENT.—COURT EFFORTS TO EXCLUDE SOME MEMBERS.—SELDEN A MEMBER.—UNPOPULARITY OF THE DUKE OF BUCKINGHAM.—DR. TURNER COMMENCES HIS IMPEACHMENT.—SELDEN'S ARGUMENTS.—KING INTERFERES.—CHARGES AGAINST THE DUKE.—SELDEN A MANAGER.—SIR JOHN ELIOT'S CONCLUDING SPEECH.—PARLIAMENT DISSOLVED.

IN the proclamation which dissolved the Parliament, the king spoke of certain "evil-affected and discontented persons," and of "some ill-tempered spirits," who "took such inordinate liberty, not only to treat of his high prerogative, and of sundry things, that, without his special direction, were no fit subjects to be treated of in parliament; but also, to speak with a less respect of foreign princes, his allies, than was fit for any subject to do of any anointed king*."

* Rymer's Fœdera, xvii. 344.

In the same spirit of tyranny, and disregard for the privileges of Parliament, that had previously been manifested by James and his ministers, some of the evil-affected persons, and ill-tempered spirits above alluded to, were arrested upon warrants issued by the Privy Council. Sir Edward Coke and Sir Robert Philips were committed to the Tower; and Mr. Pym, Mr. Mallory, the Earl of Southampton, Sir Edwin Sandys, and Selden, to other places of confinement *.

The warrant for Selden's imprisonment was signed by five of the Privy Council. It directed his committal to the Tower "for certain reasons of state known unto his majesty," and prohibited his having communication with any body but the sheriff, the executor of the warrant (Cuthbert Lamplugh), or the necessary attendant, unless in the presence of the above named officer †.

Instead of being confined in the Tower, Selden was

* Rushworth, i. 55. Harleian MSS. 161, pl. 33 e. p. 35. One authority erroneously says that Selden was a member of Parliament at this time. This is Mr. Hacket, who states, "Mr. J. Selden (my great friend while he lived) was clapt up, because, being a member of the House of Commons, he had preferred the danger of telling truth, before the safety of silence."—(Memoir of L. K. Williams, 69.) Selden himself is a better authority upon this point. He says—"I was committed to custody for certain parliamentary matters, with some leading statesmen who were lovers of the prerogative of the sovereign, as well as of the true liberty of their country, not because I had acted rashly, but because I had mingled with them as a counseller (for as yet I was not one among the members of parliament)."—(Vindiciæ Maris Clausi, 28.)

† Harl. MSS. 2217. pl. 61. h.

retained in the custody of the Sheriff of London (Mr. Robert Ducie, afterwards a baronet), who lodged him in his own house, and Selden acknowledges his treatment by that gentleman to have been friendly and liberal. However, he was for a time restrained from the society of his friends, and the unnecessary punishment was superadded of denying him the free enjoyment of his books; but his keeper ventured, at his particular request, to indulge him with the use of two works; the *Alexiad* of Anna Comnena, and Eadmer's *History*, which last then existed only in manuscript. Of the first named, he translated a part into Latin; the latter work he afterwards published with copious notes.

Immediately after he was arrested, Selden wrote the following letter to Sir George Calvert, Principal Secretary of State.

"Most honoured Sir,

"This most unlooked for imprisonment which I now suffer (but why, on my soul I cannot guess), falls in a time, when I have divers businesses of private men in my hands and under my direction. The warrant of my commitment is somewhat rigorous.

"My humble suit to your honour is, that through your favour, I may have granted me so much liberty here, as that I may have speech with my friends upon such kinds of business, openly, in the hearing of those gentlemen who are trusted with me. And I profess it on the hope of

my salvation, that there is not a secret (that hath, or can possibly have any reference to the public) touching which I desire either to hear or tell anything from or to any person living. So clear is my breast. And, I beseech your honour, let me be dispatched in the making it appear. So I humbly beseech you also, that my papers (which are the labours of many hours, and a great part of the furniture of my study in my profession, among which there is nothing that was written for secret) may be safe. Let me obtain these suits now, and my liberty once had, (which I know I never deserved to lose) shall express me,

"Humbly at your honour's service,

"J. SELDEN."

"June 18, 1621.

"From Mr. Sheriff Ducie, his house*."

The Lord Keeper Williams pleaded for the favourite Buckingham's interest in behalf of Selden. Having asked a similar favour for the Earl of Southampton, who had been committed to his custody, he added, in the same letter,

"Poor Mr. Selden flies to the same Altar of Mercy, and humbly petitioneth your Lordship's mediation and furtherance. He and the world, take knowledge of that favour your Lordship hath ever afforded my motions and myself without the motion of any, and so draweth me along to entreat for him. The which I more boldly do,

* Harl. MSS. 286, pl. 67 e.

because by his letter enclosed, he hath utterly denied, that ever he gave the least approbation of that power of judicature lately usurped by the House of Commons. My Lord, the man hath excellent parts, which may be diverted from an affectation of applause of idle people, to do some good and useful service to his majesty *."

Either the interest made in his favour prevailed, or it was found there was not a cause of detention sufficient, even to satisfy the Court, though willing to punish, and consequently Selden's confinement was of no very long duration. He was committed to the Sheriff's custody on the 16th of June, and was liberated on the 18th of July †.

Previously to his liberation, he was, together with the Earl of Southampton, the Earl of Oxford, and Sir Edwin Sandys, examined before the Privy Council. There is a narrative of this examination among the Harleian Manuscripts. Only one question is stated as being put to Selden, and to that no reply is mentioned. It was, "Do you not wish that the House of Commons had power of Judicature ‡?" Another question proposed to him was, "What power has the Parliament without the King §?" To these queries, it appears, he was prevented replying by his friend Bishop Andrews, who justly regarded them as captious questions.

* Hacket's Memoir of L. K. Williams, 69.

† Camden's Annal. Appar. Jacobi I. 72, 73.

‡ Harl. MSS. 161, pl. 33 e. p. 35.

§ Opera Omnia, ii. 443.

The usurpation of the power of judicature by the House of Commons, alluded to in the above examination, and in the Lord Keeper's letter, was in the case of a Mr. Edward Lloyde, who had spoken disrespectfully of the Princess Palatine. They had examined witnesses against him, imprisoned, and finally sentenced him to the pillory, and a fine of one thousand pounds. To these proceedings the House of Lords objected, as an infringement of their privileges; correctly and effectually insisting, "that the House of Commons have no power of judicature, and no coercion against any, but in matters concerning their own house *."

Whatever may have been the colourable plea urged by King James and his Ministers, for infringing upon the liberty, and marking their displeasure of Selden, it is very certain that the gravamen of his offence with them was his advocating the cause of the people, and his firmly expressed opinions in opposition to their grievances and the infringement of their liberties.

With regard to the charges which are implied by the queries addressed to him, even supposing them to be supported by truth, they inculpated him of no more than the entertaining of an erroneous opinion; to punish for which, is a parallel specimen to that other absurd effort of tyranny, of which the fitting parent was Henry the Eighth, commanding, that no one should presume *to*

* Parliament Hist. v. 427—435.

*think* that his marriage with Anne of Cleves was valid. Selden, as the Lord Keeper stated, in his letter to Buckingham, condemned the assumption of judicature by the House of Commons, and in an Essay on *The Judicature of Parliament*, which he wrote about this time, though it was not published until 1681, he expressly states that the Commons have no judicial voice over the subject generally.

The Lord Keeper hints, in the same letter, that Selden might be "diverted" from the popular party; a suggestion that is degrading only to its author. Selden had given no cause for a surmise that he was venal, and in the course of a long political life, he showed by his consistent course, though courted by the opposite extremes of party, that neither dignities or emoluments could tempt him to become a partisan; for he rejected all such offers, and died as he had lived, the friend of moderate liberty as insured by a restricted monarchy.

The high estimation which was entertained of Selden's legal and antiquarian knowledge is attested by the fact, that the House of Peers, by special application in 1621, induced him to compose a work, in which was collected the authorities relating to *The Privileges of the Baronage of England**. This other example of his learning and industry was not published until 1642. It contains a great body of precedents, relating to them collectively as a branch of the legislature, and as individual barons.

* Opera Omnia, iii. 1474.

Selden had now retired to his most cherished mode of life,—the quiet inquiry after the knowledge and customs of preceding ages, upon any particular point of which, no man was so capable of concentrating information, for none had such a general yet deep knowledge of the authorities in which it is contained. In 1623, he published Eadmer's *Historiæ Novorum, sive sui seculi, libr sex.* Upon this previously unprinted chronicle, we have seen that Selden was engaged whilst in the custody of the Sheriff; and although various other works, requiring varied and voluminous references, had engaged his attention during the intervening two years, yet his notes to this History show no mark of neglect, or of hasty editorship. They are replete with curious legal and historical information, especially relative to the period concerning which Eadmer wrote. Bale and Pits had confounded this author with the Abbot of St. Albans, who bore a similar name; but Selden, in his preface, shows that they were distinct persons.

The History embraces the public transactions from the Norman Invasion to the twenty-second year of the reign of Henry the First (1066—1122).

The literary retirement of Selden was soon disturbed, for in the struggle between the people and their government, he was again called upon to be active.

In the absence of a Parliament, James had recourse for raising money to another *Benevolence,* or, as it was more aptly termed at the time, another *Malevolence.* In the

order to each Sheriff, for raising it, there was again the very significant sentence, significant in that era of High Commission and Star Chamber citations, "if any person shall, out of obstinacy or disaffection, refuse to contribute herein, proportionably to their estates and means, you are to certify their names to this the Council Board."

This extortion failed to replenish effectually the Royal Exchequer, and the Committee of Peers, who sat once a week at Whitehall to receive the petitions of the people, was equally inefficient in satisfying the nation that its grievances were noticed as attentively as they would be by its representatives in Parliament *.

The people of England were not to be thus deceived, and their discontent was so general and determined, that as the Earl of Carlisle informed the king, some of the members of the late parliament had been actually proceeded against, after its dissolution, for having voted subsidies without a redress of grievances being previously obtained. In the same letter of advice, this nobleman recommended his majesty to summon a parliament; to strengthen his interest with the Protestant powers of the continent; and to "cast off and remove all jealousies" that he entertained of his people. "Your majesty," he eloquently and wisely concludes, "must begin with the last; for upon that foundation you may afterwards set what frame of building you please. And when should

* Rushworth, i. 61. Rymer's Public Acts, xvii. 452.

you begin, Sir, but at this overture of your parliament, by a gracious, clear, and confident discovery of your intentions to your people? Fear them not, Sir; never was there a better king that had better subjects, if your majesty would trust them. Let them but see that you love them, and constantly rely upon their humble advice and ready assistance, and your majesty will see, how they will give you their hearts; and, having them, your majesty is sure of their hands and purses. Cast but away some crumbs of your crown amongst them, and your majesty will see those crumbs will work a miracle;—they will satisfy thousands. Give them assurance that your heart was always at home, though your eyes were abroad; invite them to look forward, and not backward; and constantly maintain what with confidence you undertake, and your majesty will find admirable effects of this harmonious concord *."

James was at length compelled by his necessities again to summon a parliament. In this, which met in February, 1624, Selden sat as one of the representatives of the borough of Lancaster. It does not appear whether it was through some particular interest, by his own active canvas, or owing to reputation for talents and independent politics, that he obtained this national honour. Dr. Aikin was probably right in concluding that "his being known as an able supporter of popular rights, and as a sufferer

* Cabala, 198. Rushworth, i. 115.

in the cause, pointed him out to the electors at a time when the House of Commons was regarded as the great barrier against the claims of regal prerogative, and members were chosen rather for their public principles than for their private connections."

The King's Speech at the opening of Parliament was conformable to the advice given by the Earl of Carlisle, and the conduct of both houses seems to have met with his majesty's entire approbation, for he told them that "this parliament would be crowned with the greatest happiness that ever was held by a king*." Yet to this parliament the king voluntarily allowed the previously almost unthought of privilege of appointing the treasurers and commissioners for managing the disbursement of the money they had voted for the relief of the palatinate†. They had also successfully impeached the lord treasurer; brought charges against the Bishop of Norwich; and laid restrictions upon impeachments and monopolies. These, and other facts unnecessary to be here detailed, lead to the conclusion, that now James was freed from the influence of the Spanish court, and that Buckingham was not so over-ruling a favourite as in former years, he would have assumed less despotic measures, and have been, as in private life, though impetuous and liable to sudden impulse, eventually moderate and kind. However, these

* Parliament. Hist. vi. 4—339. † Rushworth, i. 139.

can be but speculations, for James died on the 27th of March, 1625.

Selden took no prominent part in the debates of this session. It was one of unusual concord between all the branches of the legislature, and therefore there were no exciting subjects of debate, when even the apathetic are roused to energy, and the inexperienced forget their timidity. But one question was mooted, in which his particular services as an authority were required.

This was the memorable election committee, of which its chairman, Serjeant Glanville, published the Reports. No committee was ever constituted of more distinguished individuals than this. Besides Selden and Glanville, among its members were Sir Edward Coke, Noy, Pym, and Finch.

It was an opinion defended by James and others, who desired to maintain the influence that such authority afforded to the monarch, that as the writs for the summoning a parliament issue from, and are returned into the Court of Chancery, so the determination of the validity of the returns to those writs is, and ought to be, part of the jurisdiction of that court.

In those days the Lord Chancellor was invariably an instrument of the court; and the House of Commons duly appreciated that if he had to decide the legal qualification of the elected, he would be dangerously liable to lend his opinion in favour of the claimant who was supported by the court influence. This committee therefore laboured,

and succeeded in the effort, to establish the right of the House of Commons, to determine all disputes relative to the return of its own members. This is now the undisputed practice, ratified by enactments of the legislature; but until this committee successfully terminated its labours, and gained this bulwark of the independence of the House of Commons, it was an undecided point of contested jurisdiction.

The reports of this committee are luminous upon the subject submitted to its consideration. The law of elections was then entangled by contradictory decisions; and had never been submitted to a general rational examination. There was a host of prejudices against infringing upon the power of the king and his judges to be removed. Yet this committee surmounted every difficulty; and established not only the jurisdiction of the house over the elections of its members, but also upon the basis of the common law, that the right of election in boroughs is in those who possess property within their precincts, and is not founded upon the royal grant.

Selden's name occurs as being a member of several other committees, and these duties, added to his literary pursuits, appear to have fully occupied his time; for he refused to engage in the duties of reader of Lyon's Inn, to which he was chosen by the benchers of the Inner Temple. His refusal, and the consequent displeasure of the benchers, is thus recorded in their Register:

"Whereas an order was made at the Bench Table this

term, since the last parliament*, and entered into the Buttery-Book in these words:—Jovis, 21 Die Octobris, 1624. Memorandum, That whereas John Selden, Esq. one of the utter barristers of this house, was, in Trinity term last, chosen Reader of Lyon's Inn, by the gentlemen of the same house, according to the order of their house, which he then refused to take upon him and perform the same, without some sufficient cause or good reason, notwithstanding many courteous and fair persuasions and admonitions by the masters of the bench made to him; for which cause he having been twice convented before the masters of the bench, it was then ordered, that there should be a *ne recipiatur* entered upon his name, which was done accordingly; and in respect the bench was not then full the further proceedings concerning him were respited until this term. Now this day, being called again to the table, he doth absolutely refuse to read. The masters of the bench, taking into consideration his contempt and offence, and for that it is without precedent that any man elected to read in chancery has been discharged in the like case, much less has with such wilfulness refused to read the same, have ordered that he shall presently pay to the use of this house the sum of twenty pounds for his fine, and that he stand and be disabled ever to be called to the bench, or to be Reader of this house. Now at this parliament the said order is confirmed: and

* The sittings of the Masters of the Bench are so denominated.

it is further ordered, that if any of this house which hereafter shall be chosen to read in chancery, shall refuse to read, every such offender shall be fined, and be disabled to be called to the bench, or to be a Reader of this house."

I am unwilling to consider that Selden looked upon it as derogatory to one of his literary and legal distinction to lecture to students upon the elements of his profession, because other men, his equals in mental powers, and public estimation, have delighted to afford such an amiable and beneficial aid to those who look up to them as examples, and who will succeed them in the advance to knowledge. I would rather believe the reason to be that he found the quality of his mind unfitted for the task of instruction; and it admits of little doubt, if we may judge from his writings, that no man was less qualified to render the path to knowledge easy or inviting. He did not succeed in selecting the alluring, and would have considered any lecture incomplete, unless it exhausted all the learning of the subject. It is still more certain that he had abundant employment in parliament, in his profession, and in his study; the first of which had greater claims upon his care, and all of them were more congenial to his taste. Pecuniary considerations also may have influenced his determination, for to the person who held it the office of Reader was then very expensive*.

* Dodsley's Old Plays, ix. 364. Six hundred pounds in less than a fortnight. Herbert's Antiq. of the Inns of Court, 237.

When Selden became a still more eminent and influential agent in the political struggle of the time, and as literary and legal fame continued to increase, the benchers of the Inner Temple considered it expedient to mitigate the first determination of their wounded pride and indignation. In 1632 they rescinded the order that he should be incapable of becoming a bencher of their Inn, and raised him to the dignity in the Michaelmas Term of that year.

It required a character more conciliating, more temperate, and more firm than Charles the First, to dispel the political clouds that his father's misrule had engendered, and to remove the unfavourable impressions which circumstances attendant upon himself created in the public mind. Charles had all the endowments requisite to adorn, but was deficient in the absolutely necessary qualifications of a monarch. He was dignified, elegant, accomplished, and moral, but he never promised faithfully, he never yielded graciously, and he never held firmly. He was too entirely a Stuart to disregard the dictates of his own will, and to anticipate the wishes of his people: he was too obstinate to learn from daily experience that resistance to the nation's opinion is vain; he invariably opposed and as invariably yielded, but he never yielded until he had forfeited all merit for the concession. His firmness and his pliancy were alike misplaced. The first measures of his reign aggravated rather than allayed the popular discontent. He retained as his most influential

advisers the Duke of Buckingham and Archbishop Laud, who both supported extreme opinions in favour of an absolute monarchy, and were alike suspected of being friendly to the Papal religion: he married a Roman Catholic princess, and the injudicious committal to her care of the direction of the education of their issue, were measures more than ever offensive to Protestant England. An inquisitorial communication was made to the government by the Archbishop of a list of the beneficed clergy, with an O or a P attached to each name accordingly as *he* considered them orthodox or puritanical *. Part of the British fleet were lent to the King of France for the purpose of acting against his Protestant subjects, though the seamen mutinied rather than go upon the service; and a heavy demand for supplies was made upon the country. We need not therefore be surprised that the parliament which was assembled at the opening of the new reign was not all smiles and congratulations. In this parliament Selden sat as one of the representatives of Great Bedwin.

It commenced its proceedings with an examination of the national grievances; and by voting the bill granting tonnage and poundage † only for one year, though it had usually been granted to the king, upon his accession, for

* Rushworth, i. 167.

† *Tonnage* was an impost granted to the crown upon every ton of merchandize exported or imported. *Poundage* was a similar impost, upon all exports and imports, of twelve-pence out of every pound of their value.

life. To this proceeding James, according to Sir Philip Warwick, had warned the Commons by raising, besides such customs as were granted by parliament, others without its consent. Their rising murmurs intimated that they considered the Duke of Buckingham as the primary cause of all the present misrule, and the king, resolving to protect his favourite, dissolved the parliament*. The Commons gave Charles a premonition of their firmness by delaying his messenger, sent to summon them to their dissolution, until they had framed a protestation to his majesty †.

The act granting subsidies had not been passed, consequently money had to be raised upon loan, and it was effected by a process that was as compulsory as a benevolence, and rendered still more annoying by having the inquisitorial accompaniments of an income tax. The lieutenants of the counties were directed to inquire, "*by any means or instruments they liked best*," of the sums of money that persons within their jurisdictions, *excluding noblemen*, were able to contribute, and upon the report of such inquiry, a letter under the Privy Seal was directed to each person, ordering him to pay into the hands of an appointed receiver, a promise of repayment being added, the sum at which he was assessed. The sums so levied

* Rushworth, i. 191. Franklyn's Annals, 113. May's Hist. of the Long Parliament, &c.

† Sir P. Warwick's Memoirs, 13.

varied, according to the published accounts, from ten to thirty pounds *.

Although the king dissolved the parliament with such a determined aspect, and the Lord Keeper Williams was displaced for his opposition to the dissolution, yet the necessities of the state compelled its reassembly in the February following. This early recal prevented the members forgetting the anger that had been vented upon them, at the same time that it was a confession of their aid being necessary;—a remembrance and conviction that could not tend to propitiate their feelings towards the court party; and when it was announced that to exclude from the House some of the leading members of the opposition, they had been elected sheriffs, for no one can be a representative in parliament of any part of the county over which his shrievalty extends, this must have made them sterner still in the political contest that approached.

Sir Edward Coke was one of those who it was thus attempted to exclude, but he was more than a match for the court tacticians. As soon as he was pricked Sheriff of Buckinghamshire, he objected to the customary oath, because, as he justly observed, it bound him "to destroy all heresies commonly called *Lollardies*," and as, when that oath was first prescribed, Protestants were intended by that designation, he should have to swear to eradicate the established religion. The oath was immediately

* Rushworth, i. 193.

altered, and Coke submitted to take it in its amended form. He was thus precluded sitting for the county in which he resided, but he was too good a lawyer not to be aware that he was not prevented by his office being the representative of any other, and he had interest sufficient to be elected for the County of Norfolk; against which election the government vainly protested *.

The unpopularity of the Duke of Buckingham has been noticed already, and the contemporary historians of all parties agree that the public hatred continued to increase with the thinking part of the community as well as the merely clamorous. At length a member of the House of Commons, Dr. Turner †, brought forward six explicit questions tending to inculpate the royal favourite. They were founded upon general report, and it was, therefore, first debated whether an accusation so sustained could be entertained by the House. Mr. Littleton, Sir Thomas Wentworth, afterwards Earl of Strafford, Selden ‡, and others, argued in the affirmative. The reasoning employed

* Parliament. Hist. vi. 422.

† Sir Philip Warwick says rather bitterly; "he (Dr. Turner, a physician) was an inconsiderate, as well as an inconsiderable courtier dependant, and one familiar with and usually divertizing the Court Lords." (Warwick's Memoirs, 16.) He represented the borough of Shrewsbury. Wotton describes him as "a travelled doctor of physic, of bold spirit, and of able elocution."

‡ I am not aware of what place Selden was the representative in this Parliament.

by Selden is a fair representation of what they urged in support of their opinions. They were not debating, he observed, whether they could impeach before the House of Lords upon common fame, but whether it was a justification for inquiry; and surely it was, otherwise no great man would be accused, for fear of danger. He reminded the House that mythology felicitously tells us that the faults of the deities were untold until the goddess Fame was born: that in every court of justice accusations are brought upon report; and even in indictments for murder are the words *de eo male creditur*. Evidence has to substantiate the accusation subsequently. He concluded by observing that, after all, these cases are to be decided by the usage of parliament, and not either by the common or the civil law, citing the cases of the Dukes of Suffolk and Somerset, who were complained of and removed from their offices upon charges founded on general rumour.

It is remarkable that not one state officer spoke in opposition to this motion against Buckingham, the Chancellor of the Duchy alone expressing a negative opinion, and that not until he was asked. It was carried by a large majority *.

The king exerted himself in defence of his favourite. He summoned the House to his presence, and commanded its members to desist proceeding against the duke, who, he declared, he knew better than they did. "Any attack

* Parliament. Hist. vi. 438.

upon him, added the king, I shall consider injurious to my own honour."

The House passed by this effort to divert the course of justice, and firmly pursued its duty. It proceeded in preparing the impeachment, which in the Journal is called "The Cause of Causes;" and having appointed Sir Dudley Digges, Sir John Eliot, Mr. Herbert, Mr. Glanville, Mr. Whitby, Mr. Pym, Mr. Wandesford, and Selden, chief managers of the charges it contained, with sixteen others as assistants, the House on the 8th of May, 1626, informed the peers they were ready to proceed with the impeachment *.

The charges against the duke were thirteen in number. Of these the fourth and fifth were assigned to the management of Selden, probably, on account of the attention he was known to have paid to the maritime laws of this country, for he had presented his work entitled "Mare Clausum" to King James, although it had not then been published. Selden's speech in support of these charges, is for the most part composed of quotations of authorities, demonstrating the duties which devolved upon the duke, when, in the words of the patent, he was created "Grand Admiral of England, Ireland, Wales, Normandy, Aquitain, the town of Calais, and its Marches, and Commander-in-Chief of the Fleets and Seas of the said Kingdoms:"—in demonstrating the evils which arose from

* Rushworth, i. 302.

inattention to those duties, and the capital punishments that in former reigns had been inflicted upon those who had neglected the care of similar offices.

The fifth article, particularly charged the duke with the detention of a French Merchantman, and that in defiance of an order of the Court of Admiralty, he not only had detained part of her cargo, consisting of gold, precious stones, &c., of the value of twenty thousand pounds, but had seized the vessel a second time. Selden concluded his address with a descant upon the evil consequences such oppression insured to our commerce, and by citing the records of punishments that had been inflicted upon similar offenders *.

Sir John Eliot, when all the charges had been enforced seriatim by his associate managers, summed up the impeachment in a speech that will bear comparison with the most eloquent displays of invective that occurred upon the somewhat similar impeachment of Mr. Warren Hastings. The speech is given fully in the Journal of the House of Lords, by Rushworth, and in the Parliamentary History, but I must add an interest to these pages, by giving an extract from this eloquent peroration.

"Your lordships have an idea of the man: what he is in himself, what in his affections; you have seen his power, and some, I fear, have felt it. You have known

* Parliament. Hist. vii. 60—71. This work gives a much fuller report of the proceedings, and from authentic sources, than either Wilkins, or Rushworth.

his practice, and have heard the effects. It rests then to be considered, what, being such, he is in reference to the king and state; how compatible or incompatible with either.

"In reference to the king, he must be styled the canker in his treasure; in reference to the state, the moth of all goodness. What future hopes are to be expected, your lordships may draw out of his actions and affections.

"I will now see, by comparison with others, to what we may find him likened. I can hardly find him a match or parallel in all precedents. None is so like him as Sejanus, who is thus described by Tacitus:—'Audax, sui obtegens, in alios criminator, juxta adulator et superbus.' To say nothing of his veneries, if you please to compare them, you shall easily discern wherein they vary; such boldness of the one, hath lately been presented before you, as very seldom, or never hath been seen. For his secret intentions and calumniations, I wish this parliament had not felt them, nor the other before. For his pride and flattery, it is noted of Sejanus, that he did 'clientes suos provinciis adornare.' Doth not this man the like? Ask England, Scotland and Ireland, and they will tell you. Sejanus's pride was so excessive, as Tacitus says, that he neglected all counsel, mixed his business and service with the prince, seeming to confound their actions, and was often styled 'Imperatoris laborum socius.' How lately and how often hath this man commixed his actions, in discourses, with the actions of the king?

"My lords, I have done. You see the man! Only this which was conceived by the knights, citizens, and burgesses should be boldly by me spoken. That by him came all those evils; in him we find the cause; and on him we expect the remedies; and to this end we met your lordships in conference; to which, as your wisdom invites us, so we cannot doubt, but in your lordship's justice, greatness and power, we shall, in due time, find judgment as he deserves.

"I conclude by presenting to your lordships the particular censure of the Bishop of Ely, reported in the eleventh of Richard the Second, and by giving you a short view of his faults. He was first of all noted to be luxurious. He married his own kindred to personages of the highest rank and places. No man's business was done without his help. He would not suffer the king's council to advise in matters of state. He grew to such a height of pride, that no man was thought worthy to speak to him. And, lastly, he delivered his castles and forts of trust to obscure and unworthy men. His doom was this:—'Per totam insulam publicè proclametur: Periat qui perdere cuncta festinat; opprimatur, ne omnes opprimat.'"

Sir John Eliot's comparison of the duke to Sejanus particularly annoyed the king, for we learn from a private letter of the period that he observed, "by comparing Buckingham to Sejanus, implicitly, he must intend *me* for Tiberius *."

* D'Israeli's Curiosities of Literature, 2nd Series, iii. 371.

Whether the evidence against the duke was sufficient to substantiate the charges in the impeachment cannot now be determined, for the king dissolved the parliament before the day of trial was appointed. This extended shelter afforded by the prerogative, induces the belief that the guilt was capable of satisfactory proof, for no one will be willing to entertain the only other admissible inference, that the peers of England were too prejudiced against the culprit to deliver an unbiassed judgment.

At the conclusion of the impeachment, before Sir John Eliot and Sir Dudley Digges had left the House of Lords, they were beckoned out, and committed to the Tower, upon warrants from the Privy Council*. But the opinion of the judges being declared against this illegal and despotic act, and the House of Commons having voted that neither they, nor any of the other managers of the impeachment had exceeded their commission, the two prisoners were released, though to gratify the petty resentment of the court, and revealing its impotent desire of revenge, Sir John Eliot was detained some days the longest in prison†.

* Sanderson's Life of Charles the First, 45.

† The anger of the court, and its warfare against those who afterwards became the leaders of the opposition, began very early. There is an order from the Lord Keeper Coventry, dated the 8th of July, 1626, directing the clerk of the crown to strike from the commission of the peace, Oliver St. John, William Coriton, Sir John Eliot, Sir Dudley Digges, Sir Thomas Wentworth, Sir John Strangeways, Edward Alford, &c. (Harleian MSS. 286. Pl. 6, e.)

Against the dissolution of the parliament, the House of Commons remonstrated; and the court, we are assured, could neither refute its arguments, nor subdue the spirit that dictated it, because a proclamation commanded all copies of the remonstrance to be burned *.

* Rushworth, i. 412.

## CHAPTER V.

ARBITRARY TAXATION RESORTED TO.—THE CLERGY ADVOCATE ARBITRARY POWER.—IMPORTANCE OF A CHURCH ESTABLISHMENT.—DR. SIBTHORPE'S SERMON.—SELDEN'S OPINION.—FIVE GENTLEMEN CONTEST THE INFLICTION OF THE LOAN.—SELDEN ONE OF THEIR ADVOCATES.—ASPECT OF AFFAIRS.—SIR R. COTTON'S ADVICE.—DREAD OF THE PAPAL RELIGION.—POLITICAL PARTIES.—PARLIAMENT ASSEMBLED.—SELDEN A MEMBER.—THE CASE OF THE LOAN DEBATED.—PETITION OF RIGHT.—SELDEN'S PART IN ITS COMPOSITION.—UNJUSTLY CHARGED WITH ERASING RECORDS.—KING'S ANSWERS TO THE PETITION.—THE SPEAKER'S MESSAGE FROM THE KING.—EFFECT OF IT ON THE HOUSE.—VOTE AND REMONSTRANCE.

THE only legitimate means of raising money for the service of the state, being again removed by this dissolution of the parliament, recourse was had to a loan, a benevolence, arbitrary duties upon merchandise, and other modes of extortion. To these the spirit of the people still elastically revolted, and the clergy were applied to by the misguided court to mitigate the opposition, by urging from the pulpit the necessity of that obedience to the royal will, which would have been rendered cheerfully to the acts of the legislature. In many instances, it is to be regretted, the clergy were obsequious to the dictates of the court, for as the abuse of a system is too usually confounded with its radical deficiencies, it served then as

it has served since, to aggravate the dislike of those, whose mistaken love of liberty objects to any direct support being given to an ecclesiastical establishment by the government. This must have been deplored by every well-wisher of his country, for the benefit of an establishment so supported, which is the only rational meaning of the too-little understood husting-cry of "Church and State," seems to be too demonstrable to be opposed by any who have examined the subject attentively. The argument does not embrace the question, which form of church government is the best; but whether the form most approved of by the people ought to be maintained and encouraged by the legislature? The arguments by which an affirmative answer to this question might be maintained, are many and invincible;—the authorities that might be quoted are above appeal; and when we remember that many parts of republican America are, and republican France was, the most licentious and irreligious of states, they afford impressive illustrations of the result in countries without a national establishment for religious instruction.

The advantages of a well-regulated church establishment are apparent without any such appeals to the testimony of experience. It cannot but benefit the morals and manners of the people, to have in every parish a religious and well-educated clergyman.—It cannot but aid the diffusion of wealth, and the employment of the people, to have the incomes of the clergy so equally

expended among them. It cannot but encourage an attention to religion, to have a professor of it regularly and unsubjugated to his flock, reading the tidings of the gospel, and advocating opinions that are the reasoned wisdom of ages, and not the mere dictates of individual caprice. It must be a benefit and a comfort to have such a teacher ready, at the summons of every one confided to his charge, to unite them in marriage, to christen their offspring, and to advise with in a dying hour. A well-regulated church establishment provides all this, and though some of its teachers may be deceivers, and totally insufficient and unworthy, yet such exceptions are no proofs of the badness of the system. No human institution would endure the application of so rigid a test. Perfection is incident to none of them. Such an establishment is a fixed centre; it may not be mathematically perfect, but it is a fixture—a standard—opposed to and constantly tending to check sectarianism, to which man is far too prone. A still worse tendency of our nature is to a neglect and carelessness about the things of eternity, and this negligence can in no way be effectually opposed but by an establishment that provides mentors and guides independent of the recklessness of the people.

An established church does not require that the clergy are to be subservient to the government; ready at its command to advocate its measures, and enforce its principles. Politics are not themes fitting to be descanted upon in the pulpit. A clergyman, as Selden observed,

should go no further in his addresses to his congregation than a general recommendation of obedience to the government; how to obey is information afforded by another profession. "The parson of the Tower," he further remarked, "who was a good, discreet man, told Dr. Moseley (who was sent to me, and the rest of the gentlemen committed the third of Charles, to persuade us to submit to the king) that he found no such words as parliament, habeas corpus, return, tower, &c., neither in the fathers, nor the schoolmen, nor in the text; and therefore for his part he believed he understood nothing of the business. A satire upon all those clergymen that meddle with matters they do not understand *."

One of the clergy who rendered himself liable to this reproof was Dr. Sibthorpe. In a sermon, preached before the judges of assizes at Northampton, he ventured to maintain that "the king might make the laws, and do what he pleased." He applied to the Archbishop of Canterbury for a licence to print this sermon, but Dr. Abbot was too firm a friend to the constitution of his country to sanction, by such permission, a work that advocated doctrines which supported its direct violation †. Dr. Sibthorpe then applied to Laud, the Bishop of London, whose chaplain, Dr. Worral, signed its *imprimatur*. After reflection made him dissatisfied with this

* Selden's Table Talk, s. Clergy.

† For this refusal, the Archbishop was suspended. (Rushworth, i. 439.

acquiescence, and he subsequently sent the sermon to Selden, requesting his opinion of the contents. Selden discreetly avoided committing his sentiments to writing, but in a private interview he told Dr. Worral "he had given his sanction to a work full of erroneous principles, which, if they were true, would abolish all ideas of *meum et tuum*, and leave no man in England possessed of property. When the times shall change," he added, "and the late transactions shall be scrutinized, you will gain a halter, instead of promotion for this book." Poor Worral, who was not the firmest of mortals, immediately erased with great care his subscription to the licence; but it was afterwards signed by Laud himself, and published under the title of "*Apostolical obedience, &c.* *."

This combination of the church and crown against the constitutional liberty of the people involved them in one and the same ruin; for when oppression goaded the latter to an active determination for relief, they directed their efforts, primarily, against those who had been the advocates of the misrule; and it is one of the examples of the Stuart characteristic abandonment of friends, that before Charles fell, he consented to measures which weakened the power and aided in the overthrow of the hierarchy, that had been the most persevering of his supporters in the struggle for unlimited power.

The inquisitorial loan, already alluded to, was the chief

* Rushworth, 444.

source of revenue, and, consequently, was exacted with rigour. The number of the gentry who refused to contribute was very considerable; and in committing them to prison for this refusal, for the court dared thus to violate their chartered liberty, the superlative of annoyance was brought upon them by selecting for them gaols that were distant from their homes. The voice of the nation was raised against this oppression, but opposition was checked by additional aggressions. Sir Randolph Crew was displaced from the chief justiceship for objecting to the loan; soldiers were billeted upon the people, and martial law predominated. Resistance was thus checked, but it gathered strength during its suppression, and when it eventually burst forth, these aggravations gave a sterner spirit to those who struggled for freedom.

It was not the amount of the loan so much as the illegal mode of its being levied that was objected to; and Sir John Eliot spoke the language of his fellow prisoners, and of all England, when, in his petition to the king, he declared that his conscience would not allow him to submit to an exaction that was unsanctioned by parliament.

Five of the imprisoned patriots were brought by writs of habeas corpus into the Court of King's Bench, where Noy, Bramston, Calthorpe, and Selden pleaded for their discharge*.

* Whitelock's Memorials, 8.

Sir Edward Hampden was one of those five prisoners; and on the 22d of September, 1627, Selden thus argued his case.

After taking some technical objections to discrepancies between the writ for his client's committal, and that for his detention, he proceeded—

"Now, my lords, I will speak a word or two to the matter of the return, and that is touching an imprisonment by the king's special command, and by the lords of the council, without any cause being expressed.

"Admitting either, or both of these to be the return, I think that by the settled and constant laws of this kingdom, without which we have nothing, no man can be imprisoned by either of them, without a cause of commitment expressed in the return.

"My lords, the statute of Magna Charta, caput 29;—that statute, which, if it were in this respect observed as it ought to be, every man would enjoy his liberty better than he doth, that law expressly says—No freeman shall be imprisoned without due course of the law. Out of the very body of this Act of Parliament, besides the explanation of other statutes, it appears—Nullus liber homo capiatur vel imprisonetur, nisi per legem terræ.

"My lords, I know the words (per legem terræ) leave the question where it was, if the interpretation of the statute were not. But, I think, under your lordships' favour, that in this statute they must have intended by due course of law, either by presentment or indictment.

"My lords, if the meaning of these words (per legem terræ) were but as we use to say, according to the law, which leaves the matter very uncertain, and, by a special command of the king, be within the meaning of those words (according to law), then this act hath done nothing. The act declares—No freeman shall be imprisoned but by the law of the land; now, if you will understand these words 'per legem terræ' in the first sense, this statute shall descend to villeins as well as freemen; for in that sense if I imprison another man's villein, the villein may have an action of false imprisonment against me by the law of the land. But in those days lords and the king, for then they had villeins, might imprison them, and the villeins had no remedy. Therefore, those words in the statute (per legem terræ) were to help freemen who ought not to be imprisoned but by due course of the law. Unless the interpretation be thus, no man shall have any privilege above the villein.

"Then I conceive, my lords, these words—per legem terræ—must be here so interpreted, as they were in the forty-second year of the reign of Edward the Third. The bill is worthy the observing. It recites, That whereas divers persons were, without any writ or presentment, cast into prison, it might be enacted that it should not be so done hereafter. The (king's) answer there is—That because there is an article of the Great Charter, therefore this shall be granted. So that it seems this statute is not taken to be an explanation of, but the very words of Magna Charta.

"I will conclude with an observation upon these words of the statute of Magna Charta—'Neither will *we* come upon him'—which words of themselves signify not much now, as a man cannot find any fit sense for them. But, my lords, in the seventeenth year of King John, there was a great charter made, by which the statute in the ninth of Henry the Third, whereby we are now regulated, was framed, and there the words were—Neither will *we* put him into prison; that is, the king himself will not: and to illustrate this, there is a story of that time in Matthew Paris. In that book this charter of King John is set down at large; which book is very authentic, and there it is entered—'And in the ninth of Henry the Third this statute was renewed *in the same words* with that charter of King John'—and, my lords, he might know it better than any other, for he was the king's chronologer in those times.

"Therefore, my lords, since there are so many reasons, so many precedents, and so many statutes which declare that no freeman whatsoever ought to be imprisoned but according to the law of the land; and that the liberty of the subject is the highest inheritance that he hath, my humble request is that according to the ancient laws and privileges of this realm, this gentleman, my client, may be bailed *."

* Harleian MSS. 252. Pl. 72, f. Opera Omnia, iii. 1933. The first named authority is most accurate.

Selden maintained his actual opinion when he thus argued for Sir

Heath, the Attorney-General, argued against the discharge of the prisoners. His arguments were neither powerful nor convincing; but this was of no importance, for the predetermination of the judges was with him, and the Chief Justice, Hyde, having declared the opinion of the court against the release of the prisoners, they were remanded to their places of confinement *.

The supplies that were thus illegally raised were as unfortunately expended in a disastrous expedition against the Isle of Rhée. Our foreign relations were most unpromising of good; the Palatinate was nearly subdued; our Protestant allies were generally defeated; and through the evil policy of Buckingham, we had now both France and Spain to contend against as enemies. At home affairs were in no degree more consolatory. We have seen that some of the chief commoners of England were imprisoned, and, as Sir Robert Cotton informed the Privy Council when they desired his opinion, there was "amongst the better sort of the multitude," deep distrusts of the Government favouring the Papal religion;

Edward Hampden's release, and later decisions have shown that his opinion was correct. Subsequently in the House of Commons, he observed, "I profess, though once I was counsel, and then spoke for my fee for the gentlemen in their habeas corpus, yet now I speak according to my knowledge and conscience. The question is, whether any subject or freeman that is committed to prison, and the cause not shewn in the warrant, ought to be bailed or delivered? I think, confidently, it belongs to every subject that is not a villein, that he ought to be bailed or delivered."

* Whitelock's Memorials, 8. Rushworth, i. 450.

complaints of ill-management; jealousies of a standing insubordinate army; and a dislike of the Duke of Buckingham. To remove these he advised the assembling of parliament, and "a gracious yielding to their just petitions *."

Sir Robert Cotton, justly placed as the most prominent cause of the people's dissatisfaction, their jealousy of the Papal religion being favoured by the court, for it undoubtedly was the one that most alienated from the king the affections of his people. The existence of this jealousy has already been noticed as existing in the last, and at the opening of the present reign, and whether it was by accident, or whether the truth peeped out, need not be here inquired, it is certain that the conduct of the government was such as sanctioned the suspicion that it favoured this object of the people's detestation. Whoever reads the historical authorities of the period must have the conviction forced upon him that this was a very operative cause in bringing about the subversion of the government. The people were chiefly Protestants, too lately escaped from the persecutions of Catholic Mary, and from the struggle against the invading power of jesuitical Spain; and too much grieved by seeing their brethren suffering in France, not to make the intolerant religion that occasioned those sufferings the object of their greatest fear and hatred.

The queen and courtiers, many of whom, like her, were

* Cotton's Posthumous Works, by Howell. Rushworth, i. 467.

Papists, favoured every description of pageantry in the exercises of devotion, as well as in their every day pleasures. They were not contented even with six days of frivolity, but proclamations were issued almost commanding, and positively encouraging the pursuit of jollity and amusements on the Sunday. Extravagance, the mere forms of religion, and incessant dissipation, were the characteristics of the court.

The people, in accordance with that characteristic of our nature which inclines us to avoid the tastes and practices of those we dislike, and to loath them in proportion as we are urged to imitate them, became less liberal, less social, and more inclined to sobriety and simplicity, both in their public and private habits.

The mutual disgust that thus gradually grew up between the court party and the majority of the people was soon loudly expressed, and, as neither party was willing to yield, the population of England speedily classed itself in two great parties *.

When King James died, the nation was divided into four parties †. The two great political parties were *the Royalists*, who maintained a prerogative of the crown to be, that its wearer's will is superior to the law, and *the Country*, or *Legal* party, who supported the superiority

* A very full and interesting detail of the discontent and insurrectionary spirit that was now prevalent is given from private letters, &c. by Mr. D'Israeli, in his excellent "Curiosities of Literature." Second Series, iii. 379.

† Coke's Detection of Court and State, 206.

of the laws, and the maintenance of the constitution. The majority of the people then interfered but little with politics, but were chiefly distinguished by the difference of their religous tenets. These were *the Puritans* and *the Papists*, for all sects were merged in these two, accordingly as they favoured the popular or courtly mode in their religious observances. The latter party gradually coalescing with the court, and advocating its measures; the Puritans by a simultaneous movement united with the legal party, and the contest between them became the more inveterate as it thus involved the most exciting of all principles—those of politics and religion.

As far as assembling a parliament, Sir Robert Cotton's advice was adopted by the king. Previously to its being summoned, by an order of the Privy Council, those who had refused to contribute to the loan were released from confinement. In that order, their names, amounting to seventy-six, are given *; and we thence learn that they embraced some of those who had been, and who continued to be, the most distinguished of the opposition members, for they were again returned by their former constituents almost by acclamation. Their release was necessarily looked upon as a tardy confession of error, rather than as an exercise of clemency; so difficult is it to escape from the consequences of perpetrated evil. The sufferers came into the political arena stimulated to aim at the overthrow of the authors of those arbitrary measures by which

* Rushworth, i. 473.

they had been oppressed, but the almost unanimous feeling which the House of Commons evinced for a redress of grievances was a genuine representation of the indignation and wishes of the community. A contemporary historian, by no means friendly to their proceedings, confesses that it was no vulgar party casually predominating, when he states that the members of the House of Commons possessed wealth far exceeding that of the members of the Upper House *, and we know that they were not its inferiors in talent.

Selden, according to his own statement, was again returned for the town of Lancaster †, which is probably correct, rather than that of Dr. Wilkins, who notices him as one of the representatives of Ludgershall.

The parliament assembled in March, 1628, and the Commons immediately proceeded to a consideration of the grievances under which the country suffered. Numerous committees were appointed for this purpose; and Selden appears to have been chairman, for he delivered the report of one that was directed to consider all the proceedings that had been adopted respecting the writs of habeas corpus, moved for in the case of those who refused to contribute to the loan‡. From this report, it appears that Sir Robert Heath, the attorney-general, made the

* Sanderson's Life of Charles the First, 106.

† Selden's Vindiciæ, 30.

‡ Parliament. Hist. vii. 385. Ephemeris Parliamentaria. Sir J. Napier's MSS.

draught of a judgment which he wished the clerk of the court to enter as if it had been passed by the judges, but he faithfully refused to do so without their order, which they declined giving. The attorney-general continued, though vainly, to importune him to make the entry, and finally, about a week before the parliament assembled, he fetched away the copy.

Conduct so illegal scarcely needs a comment. The government evidently wished meanly to find a shelter for its conduct behind a strongly expressed judgment, apparently coming from the judges; but it is certain that it was an attempt to sap the liberty of the subject, tending to weaken the bonds of society, by rendering the people suspicious of the guardians of justice, which, being discovered, must have more keenly edged the indignation of those who were closing with the authors of such nefarious practices.

When the cause of those who had been imprisoned came to be fully debated, the defenders of the government attempted to extenuate its conduct upon very untenable grounds. They urged that those who refused to contribute to the loan were not *imprisoned*, they were only *confined!*

Selden passed by the technical distinction without a difference contained in this argument, and met them upon their own ground. "I will admit," said Selden, "confinement is different from imprisonment; and it is against the law that any should be confined, either to his house or

elsewhere. I know of nothing that is called a punishment, but there is some ground of it, or mention thereof, either in Acts of Parliament, Law Books, or Records; but for this of confinement I find none*."

In other debates relative to this subject, Selden took a very prominent and efficient part. He incontrovertibly argued against committals, without the cause of imprisonment being expressed; against levying money upon the people, without the consent of parliament; and in favour of a habeas corpus being granted when applied for in every case of imprisonment.

On the 3d of April, four memorable resolutions, embodying these opinions, were passed by the House of Commons; and a committee was appointed to hold a conference with the Upper House, to request its concurrence in an address to the king, declaring that such are the legitimate liberties of the subject. This terminated in the production of the celebrated Petition of Right.

Sir Edward Coke, Sir Dudley Digges, Mr. Littleton, and Selden, were appointed by the Commons to be speakers at this conference. The lord president, when he made a report of it to the Peers, mentioned Selden as "a great antiquarian and pregnant man," whose task it was to produce precedents, and state the laws relating to the various parts of the petition†.

* Parliament. Hist. vii. 403. From some manuscript notes of Sir John Goodriche, a member of this Parliament. Rushworth, i. 522.

† Journal of the House of Lords in temp.

The speech of Selden upon this occasion, so important and so interesting to Englishmen, has been preserved, and the following is a copy, amended by the comparing of various authorities :—

"Your lordships have heard from the gentleman who spoke last (Mr. Littleton), a great part of the grounds upon which the House of Commons, after mature deliberation, proceeded to that clear resolution touching the right of the liberty of their persons. The many Acts of Parliament, which are the written laws of the land, and are expressly to the point, have been read and opened; and such objections as have by some been made unto them, and objections also made out of other Acts of Parliament, have been cleared and answered.

"It may seem now, perhaps, my lords, that little remains needful to be further added for the enforcement and maintenance of so fundamental and established a right and liberty belonging to every freeman of the kingdom. But the House of Commons, taking into consideration that in this question (being of so high a nature that never any exceeded it in any court of justice) all the several ways of just examination of the truth should be used, have most carefully informed themselves of all former judgments or precedents concerning this great point, and have been no less careful to the due preservation of his majesty's prerogative than of their own rights. The precedents here are of two kinds, either

merely matter of record, or else the formal resolutions of the judges after solemn debate on the point.

"These precedents the House of Commons has commanded me to present to your lordships; which I shall, as briefly as I may, so I do it faithfully and perspicuously. To that end, my lords, before I come to the particulars of any of those precedents, I shall first remember to your lordships that which seems a general key for the opening and true apprehension of all those on record; without which key, no man, unless he be versed in the entries and practice of the King's Bench, can possibly understand.

"My lords, in all cases where any right or liberty belongs to the subject by any positive law, written or unwritten, if there was not also a remedy by law for the enjoying or regaining of this right or liberty when it is violated or taken from him, the positive law would be most vain and to no purpose.

"Therefore I shall first observe the remedy that every freeman is to use for the regaining of his liberty when he is against law imprisoned. That remedy is by a writ of de odio et atra, or de homine replegiando, or habeas corpus, and corpus cum causâ.

"The writ of habeas corpus, or corpus cum causâ, is the highest remedy in law for any man that is imprisoned by the especial command of the king, or of the lords of the privy council, without showing the cause of the commitment. Neither is there in the law any such thing, nor

ever was there mention of any such thing in the laws of this land, as a Petition of Right to be used in such cases for liberty of the person; nor is there any legal course to be taken for enlargement in such cases, however the contrary has upon new ground or colour of law been contended.

"Now, my lords, if any man be so imprisoned by any such command, or otherwise, in any prison whatsoever through England, and desire either by himself or any other in his behalf, this writ of habeas corpus, in the Court of King's Bench, the writ is to be granted to him, and ought not to be denied him any more than an original writ in the chancery, or other common process of law may be denied.

"The writ is to be directed to the keeper of the prison in whose custody the prisoner remains, commanding him that at a certain day he bring in the body of the prisoner, together with the cause of his being seized and detained; and oftentimes the cause of detention only is expressed, that of caption being omitted. The keeper of the prison, therefore, returns by what warrant he detains the prisoner, and with his return filed to his writ, he brings the prisoner to the bar at the time appointed. When the return is thus made, the court judges of its sufficiency or insufficiency only out of the body of it, without having respect to any other circumstance. That is, they are to suppose the return to be true; for if the gaoler makes it falsely,

the party may have his remedy by an action on the case against him.

"Now, my lords, when the prisoner comes thus to the bar, if he desires to be bailed, and the court, upon view of the return, thinks him in law to be bailable, then he is always first taken from the keeper of the prison that brings him, and committed to the charge of the marshal of the King's Bench, and afterwards bailed; for the court is supposed never to bail any man that is not their own prisoner, by being in the custody of the marshal of the court. But if, upon the return of the habeas corpus, it appears to the court, that the prisoner ought not to be bailed, nor discharged from the prison whence he is brought, then he is remanded, there to continue until by due course of law he may be delivered, and is the highest award or judgment that ever was or can be given upon a habeas corpus.

"If the judges doubt only whether in law they ought to take him from the prison whence he came, or give a day to the sheriff to amend his return (as they often do), then they remand him only during the time of their doubt, or until the sheriff has amended his return.

"Your lordships have heard the resolution of the House of Commons, touching the enlargement of a man committed by command of the king or privy council, or any other, without cause being shown of such commitment; which resolution, as it is grounded upon acts of

parliament already shown (the reason of the law of the land being committed to the charge of another to open to you), so it is strengthened by many precedents and records."

Selden then quoted a chronological series of cases, in which the judges had invariably admitted to bail, or discharged all persons committed to prisons upon causes so undefined; and to animadvert upon such as had been cited in support of a contrary practice. A more distinct, lucid, and ably supported argument, perhaps, cannot be found in our legal annals. In conclusion, he said, "Having thus gone through the charge committed to me, lest your lordships should be put to much trouble and expense of time, in finding and getting copies at large, of those things which I have cited, we offer unto your lordships authentic copies of them all; and so I leave them, and whatsoever else I have said, to your lordships' further consideration *."

When the attorney general intimated his dissent to the arguments and authorities produced by Sir Edward Coke and Selden, Coke pledged his credit as a lawyer, that "it lay not under Mr. Attorney's cap to answer any one of them." Selden added, that, with his own hand, he had copied the authorities as preserved in the records of the Tower, the Exchequer, and the King's Bench, and

* Lansdowne MSS. in the British Museum, 173. pl. 77, c. Opera Omnia, iii. 1958. Rushworth, i. 530. Parliament. Hist. vii. 415.

would be difficult to find any series of legal arguments more logical, or better supported by authorities, than those which he delivered on this occasion *.

After a series of tedious conferences and debates, the two Houses agreed as to the wording of this celebrated petition. It expresses a desire, that, in conformity with long sanctioned statutes, the people may not be taxed in any form without the consent of Parliament; that no one shall be imprisoned upon warrants that do not specify the offence with which he is charged: that soldiers may not be billeted upon the people against the will of the latter; and that martial law may not be enforced, nor any person be punished, but according to the law of the land.

At the present day we may be inclined to feel surprise that such requests should be made the subjects of so formal a petition, for we live at a happy period in which their denial or infringement is unknown. It was not so during the days of which we are now sketching the events, for the Petition of Right contained a statement of examples of the invasion of all those rights. It requires then no apology; and on other occasions in this anxious and critical struggle, which was to decide the termination or establishment of an absolute monarchy, the parliament may be excused, if they occasionally asked for what was superfluous or even wrong; and we ought to lament that

* Journal of the House of Commons, i. 883. Parliament. Hist. vi. and vii., contain a full report of them.

we have at all to blame those who strove and suffered to maintain the liberties we enjoy, and of which we are so justly and so jealously proud.

The answer of the king to this petition was favourable, but the House of Commons was not satisfied until the king in full parliament gave his assent in the usual form. To this, after some delay, Charles consented, and having directed the clerk of parliament to cut out his first answer, the petition was again read, and the customary affirmation, *Soit droit fait comme il est desiré*, was given *. The parliament was right in requiring conformance to the regular form; for the court evidently intended to take advantage of its defect. The king objected to adopt it, and subsequently an endeavour was made to conceal its performance.

In the interval between the first and second assent of the king to the Petition of Right, a scene occurred in the House of Commons, that ought not to be passed over without notice. It fully demonstrates the sincerity of its members, and the deep desire that animated them to perform their duty: it informs us how firmly public opinion set against the Duke of Buckingham; and to what extent the king was willing to proceed in support of his favourite.

Sir John Eliot, in the course of one of his speeches, approaching to some reflection upon the duke, the speaker (Sir John Finch) rose from his chair and announced with

* Parliament. Hist. viii. 146—202.

emotion, "There is a command laid upon me to interrupt any that shall go about to lay an aspersion on the ministers of state." The effect of this announcement on the members was electric. Sir John Eliot resumed his seat; and though one or two others attempted to address the House, their pained feelings would not allow them to proceed. Among these was Sir Edward Coke; but even he, who had faced unmoved the opposition of courts, nor melted for the sorrows of those who smarted beneath his invectives, confessed by his faultering voice, and the tears upon his aged cheeks, the mental agitation that compelled him to desist. The speaker of the House pretended to share in the general feeling, and declaring that he could no longer endure the spectacle of such sorrow in the Commons of England, he obtained leave to pass from the chair, and hastened to the king; from whom, after an absence of three hours, he returned with a message desiring them to adjourn until the following morning.

During the absence of the speaker, in a committee of the whole House, they voted the Duke of Buckingham to be the principal cause of the evils of which they complained. A remonstrance to this effect, eloquently expressed, in the promotion of which Selden was very active, was presented to the king.

They subsequently prepared another remonstrance, declaring that the impost of tonnage and poundage was no prerogative of the crown, but was always granted to the king by parliament. In support of this, Selden, as usual

argued most satisfactorily from precedents. In this consisted his strength as a debater. He was a living Bibliotheca of authorities,—a literary Ajax, ready to hurl a mass of facts upon his opponents *.

Sir Edward Coke moved, that the remonstrance which implicated the duke of Buckingham should be presented by the House in a body; and Selden, in seconding this motion, proposed a declaration against him, with the addition of a request that he might be removed from authority, from personal attendance upon the king, and that judgment be required against him upon the impeachment in the last Parliament †. The remonstrance was drawn up and digested by Sir Henry Martin, Sir Nathaniel Rich, Sir Thomas Wentworth, Sir John Eliot, Mr. Prynn, Mr. Littleton, and Selden ‡.

* Rushworth, i. 609—628. Parliament. Hist. viii. 191—236.

† Whitelock's Memorials, 10, &c.

‡ Harleian MSS. 2217. pl. 61, h.

## CHAPTER VI.

HIS CHARACTER.—PARLIAMENT DISSOLVED.—THE FAVOURITE BUCKINGHAM.—SELDEN'S CONNECTION WITH THE KENT FAMILY.—PUBLICATIONS.—"MARMORA ARUNDELLIANA," &c.—PUBLIC EVENTS.—PARLIAMENT ASSEMBLES.—PETITION OF RIGHT.—COMPLAINT OF GRIEVANCES.—SELDEN BECOMES INDIGNANT.—THE KING ATTEMPTS TO CONTROL THE FREEDOM OF THE HOUSE.—EXTRAORDINARY SCENE.—THE SPEAKER REFUSING TO DO HIS DUTY.—FIRST SYSTEMATIC OPPOSITION.—SELDEN AND OTHER MEMBERS ARRESTED.—THEIR FATE.—SELDEN VAINLY PROSECUTED ON ANOTHER CHARGE.—FINALLY DISCHARGED.

It is too often the case that a people attribute their adversities to some unpopular leader; and history affords many examples where their complaints have been by their government diverted and concentrated upon one unhappy scape-goat, whose blood has been poured out to appease the wrath that should have visited many and greater culprits. Such however was not the case of the Duke of Buckingham, the prime favourite of the monarch, and the most influential member of his ministry. Contemporaries of every political grade and hue acknowledge him to have been a selfish and despotic politician. This opinion was entertained by his friends, as well as by the nation generally, and the knowledge of his offences was whispered to him by his well-wishers, and was forced upon his

attention by the outcries of the multitude. Mr. Howel warned him of his danger in a calm and disinterested letter, and that "it were not amiss if he would be pleased to part with some of the places he held," and to conduct himself with less haughtiness, and more attention to the wishes of the people *. The opinion of these is told in one sentence of Lord Clarendon's Autobiography: he says the death of the duke "produced a due observation of and obedience to the laws †." He fell by the hand of Felton on the 23rd of August, 1628, another warning of the untimely end, that, in some form or other, has usually fallen upon the favourite courtiers of the kings of England.

It is a fact, though not a surprising one, that scarcely one of those favourites has been worthy of such distinction. It is not surprising, because none but a weak monarch singles out an individual on whom he may lavish his favours; and he who renders himself particularly agreeable to the imbecile, cannot be expected to be very wise, very undesigning, or very virtuous.

George Villiers was not an exception. He was one of those thoroughly base characters in whom no historian, contemporary or subsequent, has been able to discover a redeeming quality. To advance his own fortunes was his chief object of action, and to the hindrance of this no friendship, no tie of kindred, no regard for his country's

* Howel's Letters, sect. iv. p. 25. Ed. 1645.

† Octavo edition, i. 10.

welfare, was allowed to interfere. Honourable ambition was degraded in him into the most engrossing selfishness; and having no scruple as to the means he adopted for its gratification, he was continually acting criminally by design. These are hard words, but they are justified by the facts recorded by contemporary annalists. But one of the least known of these need be quoted.

His intention to overturn Episcopacy in order to secure the support of the Presbyterians, when he considered himself declining in the favour of King James, is recorded by Hacket, and is mentioned by Hume. Dr. Preston was then at the head of the anti-episcopal party, and to his friends the doctor acknowledged that, although he used the duke as a tool, he found him to be as vile and profligate as any man could be *.

The occasion of the duke first obtaining the notice of King James, was worthy of them both. "The king," says Roger Coke, "about the beginning of March, 1612, according to his usual methods, went to take his hunting pleasures at Newmarket, and the scholars (as they termed them) at Cambridge, who knew the king's humour, invited him to a play called "Ignoramus" (written by Ruggles), to ridicule the practice of the common law. Never did anything so hit the king's humour as this play did; so that he would have it acted and acted again; and

* Hacket's Life of Lord Keeper Williams, 205. Lansdowne MSS. 932—88. D'Israeli's Curiosities of Literature. Second Series, iii. 347, &c.

it was increased with several additions, which yet more pleased the king. At this play it was so contrived, that George Villiers should appear with all the advantages his mother could set him forth; and the king, so soon as he had seen him, fell into admiration of him *." James made him his cup-bearer; and finally, when this capricious monarch became weary of his then favourite, the Earl of Somerset, he selected Villiers to be his successor.

"It was now observed," says Archbishop Abbot, "that the king began to cast his eye upon George Villiers, who was then his cup-bearer, and seemed a modest and courteous youth. But King James had a fashion that he would not admit any to nearness about himself but such a one as the queen commended unto him, and made some suit on his behalf; that if the queen afterwards, being ill-intreated, should complain—'Dear one,' he might answer, 'it is 'long of yourself, for you were the party that commended him unto me.'" The queen could never be induced to interest herself in favour of Villiers, and when the archbishop spoke to her in his favour, she replied, "My lord, you and the rest of your friends, know not what you do. I know your master better than you all, and if this young man be once brought in, the first persons that he will plague must be you that labour for him; yea, I shall have my part also. The king will teach him to despise and hardly intreat us all, that he may seem to be beholden to none but himself." "Noble

* Coke's Detection of the Court and State, 75.

queen," concludes the prelate, "how like a prophetess did you speak *."

Wilson gives a spirited sketch of Buckingham's subsequent promotion. "To speak of his advancement by *degrees*," says this merry, unprejudiced historian of his own times, "were to lessen the king's love; for titles were heaped upon him; they came rather like showers than drops. As soon as Somerset declined, he mounted. Such is the court motion. He now reigns sole monarch in the king's affection; every thing he doth is admired for the doer's sake. No man dances better; no man runs or jumps better; and indeed he jumped *higher* than ever Englishman did in so short a time †." This last stroke of satire was certainly not groundless, for in 1617 he was only cupbearer, and in 1621, when he was impeached by the House of Commons, his titles are thus enumerated.

"George, Duke, Marquis, and Earl of Buckingham, Earl of Coventry, Viscount Villiers, Baron of Whaddon, Great Admiral of the kingdoms of England and Ireland, and of the principality of Wales, and of the dominions and islands of the same, of the town of Calais, and of the marches of the same, and of Normandy, Gascoign, and Guienne; General, Governor of the Seas and Ships of the said kingdom; Lieutenant-General, Admiral, Captain-General and Governor of his Majesty's Royal Fleet and Army lately set forth; Master of the Horse of our Sovereign Lord the King; Lord Warden, Chancellor, and

* Rushworth, i. 456. † Wilson's James the First, 105.

Admiral of the Cinque Ports, and of the members thereof; Constable of Dover Castle; Justice in Eyre of the Forests and Chases on this side the Trent; Constable of the Castle of Windsor; Gentleman of his Majesty's Bedchamber; one of his Majesty's most honorable Privy Council in England, Scotland, and Ireland; and Knight of the most honorable Order of the Garter *."

If Buckingham had lived, it is certain that he still would have obtained the shelter of the royal prerogative, for the remonstrances of the Commons were received by the king with marked impatience, and after passing the Bill of Subsidies, he prorogued the parliament.

Being thus discharged from his parliamentary duties, Selden now retired to those literary occupations which were so much more in unison with his taste than the excitement of political life. The place of his repose was at the seat of the Earl of Kent, at Wrest, in Bedfordshire. Aubrey has informed us, that this nobleman was a very early patron of Selden, and that previously to this period he had appointed him his solicitor and steward †." Such appointments were not unusual at that period by those who had much landed property, and the salary at that time of his life must have been with Selden a worthy consideration. It is true, that, intimate as they were, it would seem more generous if the earl had allowed him an

* Rushworth, i. 303.

† Aubrey MSS. in the Ashmolean Museum. Wood's Athenæ Oxon. by Bliss, iii. 378.

annuity, without the exaction of services; but Selden would then have had to endure the distasteful feeling that will always come upon the generous spirited who suffer an eleemosynary benefit.

The following characteristic letter to Sir Robert Cotton, is a further attestation of Selden's early connection with the Kent family. The earl, whose "*office*" is mentioned, was probably Charles, the seventh earl, who died the previous year*. The Bishop of Lincoln spoken of was his friend Dr. Williams, the lord keeper; and the Bishop of Winchester, whose death he mentions, was Dr. Andrews.

"Noble Sir,

"Had I not thought with assurance to have seen you again long ere this, you had long since heard from me; that so my service might have been presented to you, and I might also have received the comfort of your being well.

"Till Saturday we despatched not my Lord of Kent's office. Now that is done I shall soon come up again.

"My Lord of Lincoln remembered you especially when

* *An Inquisition of Office* was an inquiry made by the sheriff or other king's officer, &c., concerning any matter that entitles the king to the possession of lands, or tenements, or goods. Thus, when one of his tenants died, an inquest of this kind was held, called an *inquisitio post mortem*, to inquire whether he was entitled to any of those oppressive advantages which accrued to the crown under the feudal system. They were not abolished until the restoration of Charles the Second. Blackstone's Comment. iii. 258.

I was with him the last week at Bugden, where he lives finely within doors and without, and deserves the love and honour of good men.

" My Lady of Kent presents you with a red deer pie by this bearer. For she gave it me to send you; and with it you have the entire affection of

" Your most acknowledging servant,

" J. SELDEN.

" Sept, 25, 1626. Wrest, in Beds.

" Since I wrote this, I hear of the loss of my Lord of Winchester. His lingering sickness hath, together with his age, made his best friends the easier take it, I doubt not. It was rather nature than death that took him away, if they might be divided in him. I heartily wish his library may be kept together, at least till we may see it. Something I have in it that I value much, and something else of slighter moment. That which I would take care of for myself is an Armenian Dictionary. I never saw another copy, and my lord borrowed it of me some two years since. A Cedrinus also he hath of mine, which I must render to Mr. Boswell. These two I would not willingly lose. What else his library hath of mine is of no great moment; but I shall know when I come into mine own, where I have something also that was his. I shall soon see you I hope now, though, if it please you to write, I shall receive it before I shall see you*."

* Cotton MSS. Vespasian. F. xiii. 165, b.

The literary subjects which now occupied Selden's attention, may be learned from the three works which he published about this period.

The two first, "Of the Original of Ecclesiastical Jurisdiction of Testaments," and "Of the Disposition or Administration of Intestates' Goods," are composed of authorities and deductions relative to the ancient practice in those branches of the law, and are supposed to have been suggested to him by debates in the House of Commons, concerning the king's right to the goods of bastards who die intestate.

His other publication, entitled "Marmora Arundelliana, sive Saxa Græca incisa," was of more popular interest.

The Arundelian Marbles were so called from having been obtained for the Earl of Arundel, by Mr. William Petty, whom the earl employed in the year 1624 to procure for him antiquarian remains in various countries of the East. They are also known as the Oxford Marbles, because they are in the possession of that University by the gift of the grandson of the first importer. They have the third designation of the Parian Chronicle, because they declare themselves to have been engraved in the Isle of Paros, 264 years before the Christian era.

They reached England about 1627, and being seen in the gardens of Arundel House by Sir Robert Cotton, he engaged Selden to examine them during the ensuing morning. He obtained permission to associate with

himself in this examination Mr. Patrick Young and Mr. Richard James, two of the best scholars of the age.

Their delight and ardour in the pursuit is told by Selden in one sentence: "At the first dawn of day we triumvirs came to the Arundelian Gardens." The marbles were broken in many fragments, disfigured with dirt, and imperfect—the deficiencies and erasures were many—but they continued in the mutual labour of cleansing, washing, and adapting with the natural unweariedness of antiquaries. They first discovered the decrees of the Smyrneans, and their treaty with the Magnesians for the safety of King Seleucus Callinicus.

The intelligence of this discovery was soon diffused, for, as Selden observed, every one loves to impart information, and numerous applications were the consequence for more explanatory particulars. Selden declined giving any copies of the inscriptions, even to his most intimate friends, fearing the publication of errors in such frequent transcriptions, but promising to publish the whole collectively.

Successive visits discovered other Greek inscriptions, of which the most valuable were some containing the dates of facts, which, though unfortunately imperfect, afforded a number of fixed points in the early history of Greece, that are of the greatest use in chronology.

The work in which they were published occupied Selden's time during the parliamentary recess, and he acknowledges, with the genuine emphasis of gratitude, that he owed to the Earl and Countess of Kent, that

peaceful retirement at their country house, which enabled him to pursue the work free from the disturbances of the metropolis*. However faulty in some respects, it is another monument of the varied and deep learning of its author, whose relaxation was an employment that would have been a labour to most minds. It was published in 1629, dedicated to his coadjutor Mr. Young, whose valuable assistance he liberally acknowledges. The inscriptions, to which are added some preserved in ancient Latium, are accompanied by a preface, an apparatus, a canon chronologicus, and by historical notes.

In their perfect state these marbles bore a chronological record of the principal events in Grecian history, from the commencement of the reign of Cecrops, 1582 years before the nativity of Christ, to the termination of the archonate of Diogenetus, in the year 264 preceding that era. That part which recorded the history of the last ninety years is lost, and the whole is so defaced and mutilated, that in many places it is rendered intelligible only by the learning and perspicacity of its annotators. Where there is so much room for conjecture, there is necessarily ample opportunity for dispute, and there has been no deficiency of learned dust-shedding upon this theme.

The dates of nearly all the events between the destruction of Troy and the acquirement of an annual magistracy

* Opera Omnia, ii. 1439.

by the Athenians, are twenty-six years earlier than those given by Eusebius and other approved chronologists. Though often usefully employed, this disagreement has much depreciated their authority. Some antiquarians have even doubted their authenticity. Those who are interested in the contest will find the conflicting arguments ably enforced in the writings of Mr. Hewlett and Mr. Robinson.

The subsequent history of these marbles may be succinctly told. During the civil wars they were much injured, some being appropriated to the commonest uses, and others were irrevocably lost. In 1667 they were given to the University of Oxford, when a new edition of Selden's work relating to them was published, with additional notes by Dr. Prideaux. Mr. Mittaire and Dr. Chandler have subsequently written more largely and successfully upon their statements. They have shown that many errors were committed by Selden in his work; but were they even more numerous and of greater magnitude, they might readily be excused in a first attempt to edit such imperfect and defaced inscriptions.

In the interval that had elapsed since the last prorogation and the reassembly of parliament, if the government had purposely adopted such measures as were calculated to irritate the House of Commons, and to efface the little esteem in which it was yet retained by that assembly, it could not have been more successful.

Dr. Laud, whom the House had charged with being a

schismatic, and who was universally allowed to be inclined to arbitrary measures, was promoted to the Bishopric of London, and admitted to be the king's most influential adviser.

Dr. Montague and Dr. Mainwaring, each of whom had been censured by the House for publishing sermons advocating the cause of despotism, were advanced by the court party. The first was raised to the bishopric of Chichester, and the second was presented to two valuable livings. It is true that a proclamation had been issued for suppressing Dr. Montague's work entitled "Apello Cæsarem," but the reward was more likely to encourage, than the punishment was calculated to deter; and, as one of the members observed, "calling in the appeals to Cæsar was of little avail, for if they can get bishoprics for writing such books, we shall have many more that will write books in that kind*."

The Commons had protested against tonnage and poundage, or any other customs, being levied without they were first granted by parliament; yet the goods of Mr. Vassals, of Mr. Chambers, and of Mr. Rolls, one of their own members, had been seized for refusing to pay this unsanctioned impost.

The ill-will of the House would not be at all mollified by the defection of Sir Thomas Wentworth. He had been one of the most forward of the advocates of the people, but had now been seduced over to the court party,

* Parliament. Hist. viii. 261.

and raised to the peerage as Baron Wentworth. He was afterwards more unhappily known as the Earl of Strafford.

Irritated by all these causes of dissatisfaction, the parliament met on the 20th of January, 1629.

Selden again appeared in it as one of the most active of its members. A mind constituted like his is weary only when it is without employment. He seems to have addressed himself to his parliamentary duties with the same ardour and with as much mastery as to the deciphering of inscriptions, the accumulation of authorities, or the details of legal practice. So true is it that whichever way genius is directed it will succeed, and if sustained by perseverance, succeed eminently.

He was appointed to examine whether the Petition of Right had been properly enrolled, and to inquire why it had been printed with his majesty's *first* answer appended. His report, which contained information showing the determination of the government to suppress the copies to which the king's second assent was added, though no proceedings upon it were taken, could not but heighten the jealousy and excite the ill-will of the House towards the executive*.

When the imposition of tonnage and poundage became the subject of debate, the king, at a personal conference with both Houses, told them that he considered those sources of revenue to be no part of his prerogative, but the gift of the people, and that he had enforced it under

* Parliament. Hist. viii. 245.

the persuasion that the parliament would ultimately grant it to him. The speech was conciliatory, though this excuse was sufficiently unsatisfactory; for no one has a right to take property merely because he thinks the owner intends to give it to him. In those jealous times it would have been more wise to wait until the gift was presented.

The Commons, unpacified by several messages from the king, continued to pour out a series of complaints respecting the religious and political grievances which oppressed the people. They evidently mistrusted the king's advisers, for one despotic minister had fallen only to be succeeded by another equally favourable to absolute monarchy; words therefore could not now mollify the indignation that acts of oppression had roused. The time had been when hope lent a willing ear to the condescending words and promises of our monarchs, for there had been a time when they promised faithfully. The kingly word had ceased to be inviolable, and hope had ceased to be credulous. Charles had always promised liberally; he did so still. Yet now, as formerly, he continued to act in defiance of the laws—he granted the Petition of Right, and violated it the next week.

There is no reason, therefore, for us to be surprised that there is a sternness to be observed in the language of the several speakers, very different from that which is apparent in preceding sessions.

Selden had always spoken with moderation of the

court measures, and had chiefly confined himself, when speaking, to the authorities and precedents that related to the subject under debate; but the spirit of the man was now roused: even his temperate nature acknowledged that the period of silent endurance was passed, and he spurned the wrong which was evidently designedly inflicted.

When the chancellor of the duchy could only plead in defence of the seizure of the goods of Mr. Rolls, and of serving him with a subpœna whilst upon a committee, that it was a mistake, Selden warmly retorted, "This is not to be reckoned as an error, but questionless this is done purposely to affront us, and of this our own lenity is the cause*."

The officer, or customer, who made the seizure, did not mollify the irritation of the members by the evidence he rendered them, for he said "he knew Mr. Rolls was a parliament man, and that he told Mr. Rolls he did not find any parliament man exempted in his commission, and that if all the body of the House of Commons were in him, he would not deliver the goods." It was injudiciously suggested, that the advisers of the king were more in fault than these officers, and this again roused the ire of the members. "If there be any near the king," said Selden, "that misinterpret our actions, let the curse light on them, and not on us. I believe it is high time to right ourselves; and until we vindicate ourselves in this it will be in vain for us to sit here†."

* Parliament. Hist. viii. 286. † Parliament. Hist. viii. 310—315.

Bodies of men, as well as individuals, are undoubtedly liable to commit mistakes, for they are still human beings, but as, during the whole of this sessions, the court party were in various forms aggressors, it is too much to require a belief that in every instance it erred without intention: more especially as every aggression was in accordance with their own principles. The concluding transaction of the session was consistent with these convenient errors. It was a mistaken attempt to control the freedom of the House of Commons.

A message from the king was announced to the House by the speaker, commanding him to adjourn it. Several members immediately objected, "that it is not the office of the speaker to deliver any such command to them; for the adjournment of the House did properly belong to themselves," and without further attention the House endeavoured to proceed with its debates.

Upon this occasion, Sir John Eliot appeared for the last time in parliament; the privy council thence consigned him to that imprisonment, from which he never came forth but upon his bier.

Sir John, knowing that the king had determined to dissolve the parliament, resolved upon this day to pass a resolution against tonnage and poundage. When prayers were concluded he arose, amid the cheers of the House, and not only incontestibly showed the ruinous consequences of such illegal taxation, but warned the House not to slumber over its duty. "Buckingham is dead,"

were the warning words of this patriot, "but he lives in Neil and my Lord Treasurer Weston. I have traced them in all their actions, and I find them building on the foundation laid by their master, the Duke. Out of fear, they go about to break parliaments, lest parliaments should break them."

He concluded by moving for the adoption of a remonstrance to the king, with a refusal to grant the impost at present. But when the speaker was requested to put the question that it be adopted, he refused, saying, "He was commanded otherwise by the king."

Selden then rose and thus addressed him: "Mr. Speaker, dare you not put the question when we command you? If you will not, we must sit still, and so we shall do nothing, for they that come after you may plead a similar excuse. We sit here by command from the king, under the Great Seal; and as for you, you are, by his majesty's command, sitting on his throne before both Houses, appointed our speaker;—Do you now refuse to be our speaker?"

This rational appeal could not alter his determination; he replied, "he had an express command from the king, so soon as he had delivered his message, to rise," and so saying, he attempted to leave the chair, but was retained in it by Mr. Hollis (son of the Earl of Clare), Mr Valentine, and other members. Sir Thomas Edmonds and others of the privy council endeavoured to release

the speaker, but Mr. Hollis swore "by God's wounds, he should sit still until it pleased the House to rise."

The tumult in the House was great and disgraceful; disgraceful because the opinion against the speaker should have been unanimous. The court party vociferously opposed the question's being put; and the friends of the House's privileges supported it by counter acclamations. Even blows were exchanged, and many laid their hands upon their sword-hilts. In the lobbies it was believed that swords were drawn, for in a manuscript letter of the period it is stated that a Welsh servant came in great haste, and endeavoured to gain admittance at the door, saying, "I pray you let hur in; let hur in to give hur master his sword *."

The speaker wept bitterly whilst he declared that he dared not put the question, but his tears were not for the trampled liberties of his country. They were the abject confession of fear for his own interests. He was the creature of the court, and instead of daring to disregard its frowns whilst he performed his duty to his country, he implored the House not to force him to his ruin; reminded it that he had been a faithful servant; and concluded by saying, what his conduct belied, that he was willing to die for his country, but, which was more true he dared not offend against the commands of his sovereign.

* D'Israeli's Curiosities of Literature, Sec. Ser. iii. 426.

Selden felt that this pusillanimity was more worthy of contempt than pity, and told him "that he had ever loved his person well, but he could not choose but blame him now, being the servant of the House, that he should refuse their command under any colour. His obstinacy would be a precedent to posterity if it went unpunished, for hereafter if they should meet with a dishonest speaker, and they could not promise themselves to the contrary, he might, under pretence of the king's command, refuse to propose the business and intendment of the House."

Sir Peter Hayman was still more severe in his reproval. He told him, "he was sorry he was his kinsman, for that he was a disgrace to his country, and a blot upon a noble family; that all the inconveniences, or even destruction, that should follow, would come upon posterity as the issue of his baseness, and that he would be remembered with scorn and disdain." He concluded with declaring his opinion that the refractory speaker ought to be called to the bar, and a new speaker chosen.

All these arguments, reproaches, and threats were vain; the recreant speaker returned only tears and poltroon entreaties. Finally Mr. Hollis was called upon to read three protestations, stating that whoever caused an innovation of religion, advised the imposition of tonnage and poundage without the assent of parliament, or whoever voluntarily paid it, if levied without such sanction, would be a capital enemy of this kingdom, and a betrayer of its liberty. The House having agreed to these declarations, adjourned.

During these exciting proceedings, the king, hearing that the House persisted in sitting, sent a messenger to command the serjeant to bring away the mace, but the House would not permit this formal suspension of its proceedings. His Majesty then sent a summons to them by the Usher of the Black Rod, but he was denied admittance. Enraged at this opposition, Charles sent for a guard to force the door; but fortunately the House had risen before it arrived.

Eight days subsequently, March the 10th, 1629, the king dissolved the parliament. In his address, he only spoke to the Lords; but, alluding to the Lower House, he said they had "some vipers" and "evil affected persons" among them, "who must look for their reward *."

The kindling spirit of the people of England must have been more and more apparent to the king. It was evident that the speeches of his father, and his own, could not persuade them to be contented under their grievances, and in proportion as violent measures, and repetitions of oppression were resorted to, the opposition to them was firm and elastic. On the contrary, whenever the king had shown a willingness to attend to the complaints of the people, and to acknowledge their liberties, so proportionately had they manifested their joy, and shown by their representatives, that "those who have their hearts may command their purses also."

These were eloquent facts, yet, unhappily, they had no

* Parliament. Hist. viii. 310—349.

monitory influence upon those by whose counsel Charles was guided. The queen, Strafford and Laud, seemed to think it unworthy of a king to rule by any other than "high measures," and they pursued that lofty course, fatally regardless of the wishes and affection of the people.

In previous reigns, those in parliament who objected to the measures of government, spoke and acted without union, and without any previous agreement; but the systematic and continued oppression of the court party, had now taught its opponents to consult and act together in their resistance. It was speedily observed that this union was strength, and the Star Chamber informations soon after brought forward, were parts of an effort by the government to break down that *opposition*, which then began and has ever since continued, as a party, to be an efficient conservative of our liberties.

Even before the parliament was dissolved, warrants were directed from the Privy Council to Sir John Eliot, Sir Miles Hobart, and Sir Peter Hayman, and to Denzil Hollis, William Coriton, Walter Long, William Strode, Benjamin Valentine, and John Selden, Esquires, commanding their appearance on the following day.

The four first named obeyed the summons.

The Privy Council inquired of Mr. Hollis, why, on the day of the tumult in the House of Commons, he had placed himself, contrary to custom, above the privy councillors, and next to the speaker's chair? To which

he replied, "That at some other times as well as then, he seated himself in the same place; and as for sitting above the privy councillors, he considered he was entitled to do so in any place, unless at the council board. He went to the House with a zeal to do the king service equal to that of any of its members, but finding his majesty was offended with what he had done," he humbly desired that he might rather be the subject of his mercy than of his power."

"You mean," said the Lord Treasurer Weston, "of his majesty's mercy rather than of his justice." But Mr. Hollis disavowed this acknowledgment of guilt by replying, "I say of his majesty's power, my lord."

Sir John Eliot was questioned concerning certain speeches he had uttered, and the papers he had read in the House; but in his reply he was quite as free from pusillanimity as Mr. Hollis. "Whatever was said or done by me in that place and at that time," he rejoined, "was performed by me as a public man, and as a member of that House; and I am, and always shall be, ready to give an account of my sayings and doings there, whenever I shall be called unto it by that House; where, as I take it, it is only to be questioned. In the mean time, being now but a private individual, I will not trouble myself to remember what I have either spoken or done in that place as a public man."

Sir Miles Hobart was as uncompromising. He desired to know by what warrant he could be called upon to ac-

count for his conduct in parliament; and insisted that, for anything done there, parliament itself could alone inquire. He acknowledged that he shut the door of the House on the day in question, and that, having locked it, he put the key into his pocket, because the House so directed him.

Sir Peter Hayman, in reply to the council, said, that he reproved the speaker *, because the speaker, as the servant of the House, ought to have obeyed its command. If the king had directed him, being in the speaker's chair, to deliver such a message, he should have requested his majesty to select some other person to communicate it to the House.

In conclusion, these four gentlemen were committed close prisoners to the Tower, where Selden and the others, with the exception of Mr. Strode and Mr. Long, soon joined them. The studies of Sir John Eliot, of Mr. Hollis, and of Selden were sealed up; and a proclamation being issued for the apprehension of the two who had not appeared, they were soon after taken and committed to the King's Bench Prison †.

* Sir John Finch, the speaker, whose pusillanimous conduct the House, both at this and other times, had cause to reprehend, was a tool of the court party. He was subsequently made Lord Keeper of the Great Seal, and created Lord Fordwich; but when the Parliament became predominant, he was accused of high treason, and fled from its authority into Holland.

† In 1641, the House of Commons voted that all these proceedings were breaches of privilege. (Parliament. Hist. ix. 465.)

After Selden and his fellow-prisoners had been about two weeks in confinement, they were subjected to a very strict examination before the Earls of Arundel, Dorset and Manchester, who came to the Tower with others of the privy council. Sir Robert Heath, the attorney-general, examined them upon questions which had been previously prepared. Selden says, that he was chiefly interrogated as to his opinion concerning ship-money being part of the royal prerogative, and that to the questions he answered so ingenuously, that he hoped to obtain a speedy liberation. But that hope altogether deceived him *.

Conduct so inquisitorial, and so repugnant to the usual rules of English justice, was the common routine of Star Chamber practice, and the next step in this course of oppression and breach of privilege, which in our times would at once be rightly branded as an attempt to prejudice the administration of the laws, was passed by in those days of accustomed wrong as not particularly blameworthy. This step was the summoning the judges before the Privy Council to obtain their opinions upon certain questions which were considered to be involved in the cases of these gentlemen. As they agreed that a member of parliament could be punished for uniting himself with other members in parliamentary resolutions tending to bring hatred and contempt upon the government, the attorney general

* Vindiciæ Maris Clausi, 31.

exhibited an information in the Star Chamber against the nine members *.

The information specified that they had entered into an unlawful confederacy to disturb the government and interrupt the trade of the realm; and that, in furtherance of their design, they had written false and scandalous assertions against several of the Privy Council. Also, that when the speaker of the House of Commons announced to its members, his majesty's pleasure was that they should adjourn, Sir John Eliot rose several times to speak, and when the speaker endeavoured to leave the chair, Denzil Hollis and Benjamin Valentine, being one on each side of the speaker, held him in against his will, and upon his struggling to rise, again thrust him back. That Sir John Eliot produced a paper which he desired to have read, that thereupon was a confusion, and the contest became so hot, that William Coriton actually assaulted another member named Winterton, and many members wishing to leave, Sir Miles Hobart, at his own suggestion, locked the door of the House: that they then endeavoured to persuade the speaker to read the paper, and as he pertinaciously refused, Selden moved that the clerk of the House should read it. For these proceedings, for several speeches, and other supposed offences, the attorney general prayed his majesty that they might be subpœnaed to appear in the court of Star Chamber.

To this information, Selden demurred, and pleaded that

* Parliament. Hist. viii. 354—368. Rushworth, i. 661—670.

he was not responsible for his speeches in parliament; and that there was no proof of a confederacy. He then pointed out, that many parts of the pretended offences did not affect him, and observed in conclusion, "No sufficient cause is set forth in the information to put this defendant to make answer to the matters therein contained. And whereas, in the said information, there is a charge, or pretence of a charge, laid against this defendant, for conspiring and confederating with the other defendants; this defendant saith, not acknowledging any charge either of that kind, or any other kind in the said information contained, to be true, that as he conceives he is not bound to make any answer not only for the reasons before expressed, concerning the rights and liberties of every member of the House of Commons, but also for that he conceives it is lawful for any members of the same House for the time being, freely, according to their judgments and opinions, to join together, or agree in preparing to deliver, or in delivering into the said House, either by speech or writing any matter that may be communed or treated of in the same House, of which nature all the particulars supposed to have been prepared or delivered in the information are; and having free liberty to consult, advise and agree together concerning the weighty affairs of the church and kingdom is not, nor ought to be called or named a confederacy, nor questioned by information thus exhibited." He then prayed to have the information dismissed and his reasonable costs paid.

It is not uninteresting to know Selden's opinion of the forcible detention of the speaker. He thus expresses himself. "It is supposed in the information, that the speaker, according to his majesty's command, endeavouring to go out of the chair, was there retained against his will. This defendant conceiveth it to be so far both in form and matter from a charge to be answered to by this defendant, that out of the very words and matter of the information, the said speaker ought to have been so stayed at that time; for besides that, it is a right belonging to that House, that its speaker by commandment of its members is to do whatsoever belongeth to his duty in the said House; and it appeareth, from the words of the information, that the greatest number of the House had assented, before the pretended time of keeping the speaker in the chair, to the adjournment of the House, according to the signification of his majesty, it was then the speaker's duty, according to the custom of the House, to have declared the adjournment itself, and it was his bounden duty to stay in the chair, until he had pronounced the adjournment so assented to. And it is ordained by authority of parliament in the 6th year of Henry the Eighth, that no member of the House of Commons for the time being may depart or absent himself from the parliament until it is fully ended, finished, or prorogued, except he have licence of the speaker and commons of the House *."

* Harleian MSS. 2217. Pl. 61, h.

However doubtful it may be whether the ordinance of the 6th of Henry the Eighth applies to an adjournment, as it does to a prorogation of parliament, it is not at all uncertain, that it is the duty of the speaker to remain in the chair until the House has agreed to adjourn. Selden could not plead that this was not done, because in that case, he would have admitted the occurrence of an event that chiefly implicated his friends. Whether they were right in holding the speaker in his chair, is a question which an information could not impugn: if it were a breach of parliamentary privilege, the House of Commons was the guardian and vindicator of its own rights perfectly unconnected with the Star Chamber; as it was an assault the speaker had his private remedy. That the king has no right to command the House to adjourn, is perfectly clear, though it is his undoubted prerogative to prorogue or dissolve the whole parliament.

The court party was too conscious of the badness of their case to show any alacrity in bringing it to an issue; consequently, Selden and his fellow prisoners were brought up on their motion by writs of habeas corpus to the bar of the king's bench prison, on the first day of Trinity Term, 1629.

The declaratory part of the warrant for the imprisonment of Selden, to Sir Allen Apsley, the lieutenant of the Tower, as returned by that officer, stated "that this commitment was for notable contempts by him committed against ourself and our government, and for stirring up

sedition against us." Upon this Mr. Littleton pleaded for his client's release.

He acknowledged the king's power to commit, but, at the same time, he showed that the court of king's bench had power to bail any one that was so committed. The question therefore to be resolved was, whether the offences specified in the warrant were such as allowed the prisoner to be bailed. Having demonstrated that in this case they neither amounted to treason or felony; and that they were not provided for by any express statute, he concluded with an incontrovertible appeal to the common law, and the lately enacted Petition of Right, that Selden might be admitted to bail*.

In reply, the attorney general argued for Selden and his fellow prisoners being remanded, for Hobart, Hollis, and Valentine agreed to have their cases concluded by the determination upon Selden's case. Sir Robert Heath evidently felt that the law was against him, and relied upon convincing the judges that it was their duty to recommit them if they thought it for the good of the commonweal. He concluded with an admonition, which the event proved was a confession that the court party had prejudged the cases of the prisoners. He used these remarkable words: "I am confident that you will not bail them if any danger may ensue; *but first you are to consult with the king*, and he will show you where the danger rests."

* Rushworth, i. Appendix, 28—39.

The consultation of English judges with the king as to the judgment they should give, needs no invective of the historian, the common sense and the heart of every reader will supply the just comment. The present instance affords an example of the legitimate consequences. The judges informed the king, that, by their oaths, they were bound to bail the prisoners. So far they were uncorrupted, but they were base enough to request his directions for them to perform their duty. However, Charles was resolved that the law should not be superior to his will, and he dared in the face of his people to set them an example of contempt for the institutions and laws of the country.

When the judges were prepared to deliver their judgment upon this question, which so much involved the liberty of the subject, no prisoners appeared according to the rule of the court—the bar was vacant. Proclamation was consequently made calling upon the keepers of the several prisons to produce the prisoners. The marshal of the king's bench alone appeared; and he informed the court that, upon "the king's own warrant," his prisoners had been removed to other places of confinement.

The counsel for the prisoners prayed the court to declare its opinion of the law of the case, but this was declined by the judges, because, as the prisoners were absent, they could be neither bailed, delivered, or remanded. Their lordships had been prepared for this conclusion, because the evening previously the king wrote to inform

them that the prisoners would not be allowed to come before them, in consequence of his hearing "how most of them awhile since did carry themselves insolently and unmannerly," both towards himself and their lordships. "Nevertheless," continued this contemptible apology for injustice, "the respect we bear to the proceedings of the court hath caused us to give way that Selden and Valentine should attend you to-morrow." Upon more mature deliberation, about three hours afterwards, even this was altered, the king informing the judges in a second letter, "that all the prisoners would receive the same treatment*."

Thus did the infatuated court urge on towards ruin. Sir Robert Cotton had warned it of the increasing dissatisfaction of the people; and Lord Carlisle had long previously urged upon its attention the great political truth, that to gain their good opinion is to obtain power. Yet these admonitions were disregarded, and if we trace the public transactions of the government step by step; if we notice the series of violations that were offered to the national institutions and liberties, the conviction is forced upon us, that no conduct could be pursued better calculated to precipitate the governed and the government into that lamentable collision which invariably is fatal to the latter. The parliament also had warned the court that submissive endurance was at an end, and that no

* Rushworth, i. 679—681.

government would be obeyed without resistance that did not guide its proceedings by the established laws. The policy dictated by common sense, and common sense is the best political as well as the best domestic mentor, was to adopt such a guide, and to relax rather than outstretch the prerogative of the crown. Had the opposition been a petty faction, an illegal effort of government might have crushed it; but no oppression by that power, however determined, could beat down the united resolve of the nation. Every fresh injustice acted but as a stimulus to those who had already been roused to resistance.

The course that was thus unwisely and illegally adopted was pursued with severity. Solitary confinement, that is, imprisonment without any intercourse with friends, or personal occupation, is the most severe punishment, short of a lingering death, that can be inflicted upon our nature. To this species of imprisonment; to the worst of weariness, the weariness of lengthened inactivity; Selden, and his fellow prisoners, were at first condemned. During the first three months, the tedious monotony of this imprisonment was without the happy companionship of a book, and of course writing materials were strictly forbidden. With books they could not have conspired treason, therefore their denial was an unnecessary deprivation, the severity of which they will duly estimate, who, like Selden, are blessed with a taste for literary pursuits. "After the lapse of about three months," says Selden, "permission was obtained for me

to make use of such books as by writing for I procured from my friends and the booksellers, for my own library then, and long subsequently, remained under seal." The books he obtained were the Bible, both Talmuds*, some later Talmudic writers, and Lucian. He says, "also I extorted by entreaty from the governor (Sir Allan Apsley†) the use of pens, ink and paper; but of paper only nineteen sheets, which were at hand, were allowed each of which were to be signed with the initials of the governor, that it might be ascertained easily how much and what I wrote: nor did I dare to use any other. On these, during my prison leisure, I copied many extracts, from the above-named books, which extracts I have now in my possession thus signed and bound together‡."

Towards the close of the vacation, the judges of the king's bench, being all in the country, were summoned to meet at Serjeant's Inn, on Michaelmas Day; and on

* Sir Robert Cotton appears to have been his agent in obtaining books. He probably obtained "The Talmuds of Babylon, in sundry great volumes," of the Bishop of Lincoln.—(Cotton MSS. Julius. C. 3, 18 d.

† Selden always spoke gratefully of the kindness of this gentleman. Sir Allan died in May, 1630, of a fever, which he caught during Buckingham's unfortunate attack upon the Isle of Rhee. His daughter, Mrs. Hutchinson, speaking of him, when Governor of the Tower, says, "he was a father to all his prisoners, sweetening with such compassionate kindness their restraint, that the affliction of a prison was not felt in his days." She adds, that he had a singular kindness for all persons that were eminent in learning.—(Memoirs of Col. Hutchinson, 12.)

‡ Opera Omnia, ii. 1428.

the following morning, the Chief Justice (Sir Nicholas Hyde) and Mr. Justice Whitelock had a conference with the king at Hampton. His majesty then told them he was willing the members in the Tower should be bailed, although they were so obstinate that they would not even petition him and confess "that they were sorry he was offended with them*." He then told the judges that he should abandon the proceedings against the members in the Star Chamber, and indict them in the court of king's bench. The judges told him "the offences were not capital, and that by law the prisoners ought to be bailed, giving security for their good behaviour."

On the first day of Michaelmas Term the judgment of the court being again moved for, it was pronounced to the intent they had previously informed the king; Selden, answering for himself and his brother prisoners, replied that they had their sureties ready for the bail, but not for the good behaviour, and desired that the first might be accepted, and the latter not urged†. He reminded the court that they had been imprisoned thirty weeks; that in all the arguments the only question had been, whether

* The court party finding that it had erred without attaining its object, would willingly have sneaked out of any further proceeding. It employed Dr. Mosely (see p. 100) to persuade the imprisoned members to submit, but they would not sue for an acquittal as a boon, which they knew they were entitled to obtain as a right.

† The sureties ready to bail Selden, he tells us, were Henry, afterwards Earl of Bath, Robert, Earl of Essex, Sir Robert Cotton, and his son, Thomas Cotton.

they were or were not bailable: and that finding sureties for their good behaviour was admitting by implication that they were guilty. In conclusion, said Selden, "we demand to be bailed in point of right; and if of right it be not grantable we do not demand it. The finding of sureties for good behaviour is merely a point of discretion, and we cannot assent to it without great offence to the parliament where these matters, which are surmised by the return, were acted *."

These just objections to finding sureties for their good behaviour were not all that could have been urged, for there was this other that was very sufficient. They would have been held in thraldom to the amount of the security by their persecutors; for, as the judicature of England was then unfortunately constituted, it would have interpreted any conduct to be a breach of good behaviour, that the Stuart party with any colourable reason might suggest. We have already seen it consented not to do right when that party dictated, and without any other appeal to the history of the period, we must be conscious that there is no wide interval between passive and active injustice.

Selden remarks in his last published work, and the subsequent reversal of the judgment justifies his assertion, that the judges themselves were conscious that he and his fellow prisoners had done nothing that required them to find sureties for their good behaviour; and their counsel

* Rushworth, i. 682.

as well as their own experience assured them, that they were only usually required of criminals; they, therefore, refused to enter into these recognisances, not only because it would be conduct unworthy of themselves, but because they were determined that the privileges of parliament, and consequently the just liberty of the English people should not be infringed by their acquiescence *.

Consequently they were remanded to the Tower, and their persecution was now changed in form, as the king had announced, to an information against them in the court of king's bench. Selden, Hollis, Valentine, and Eliot were made the subjects of this proceeding. They excepted to the jurisdiction of the court, as their offences were alleged to have been committed in parliament, and therefore by parliament alone were punishable. This exception was overruled, and judgment was finally given against them, upon the plea *nihil dixit*, "that they should be imprisoned, and not delivered until they had given security for their good behaviour, and made a submission and acknowledgment of their offences."

In submitting to this sacrifice of inclination to duty, Selden had to overcome many temptations besides our natural repugnance to captivity. Far more than the requisite number of friends were ready to be his sureties; they urged him to comply, and represented that the time of his imprisonment was of an entirely indefinite duration. The chief justice declared that there was no other pur-

* Opera Omnia, ii. 1129.

chase price for his liberty, and when it was remarked that he had been already eight months in prison, that judge, who, as Selden remarks, ought to be "the legal vindicator of every personal liberty," observed they might be lengthened into eight years, unless he submitted. Entreaties and threats were alike unavailing, and he remained firm even with the knowledge that those, who had hitherto suffered firmly by his side, faltered in their endurance, and at length compromised with their common oppressors.

Mr. Hollis paid one thousand marks; Mr. Long two thousand marks; Mr. Valentine five hundred pounds, and were, with Mr. Hobart and others, released after various terms of imprisonment, upon entering into bonds of two thousand pounds each, not to come nearer the court than ten miles*.

Sir John Eliot fell a martyr to the cause, dying in prison rather than submit to pay a fine of two thousand pounds. He was warned that the confinement was killing him, but he suffered and died with magnanimity. He thought, and wrote, and wept with anxiety, for the welfare of his orphan boys, but he resolved to leave them his example as well as his precepts to excite them to live worthily. This seems a case in which even the most

* Parliament. Hist. viii. 388. Mr. Long yielded to the entreaties of his wife and mother; but when he understood that his fellow-prisoners had refused to find sureties for their good behaviour, "he had no rest till he had made his sureties to desist from their suretyship, and so was again returned into prison." (Sloane MSS.)

tyrannical might have relented; it was a father and a citizen sacrificing himself for the interests of his children and his country. But the prison was allowed to complete its tardy yet certain work of death, and when the last great day of recompense arrives, there surely will be more than one trembler for the unpardoning part he took in the destruction of the patriot Eliot*.

Selden was not dismissed without further persecution, for he was attacked upon another charge, though yet unfreed from the sentence already stated.

The attorney general filed an information in the Star Chamber against him, Sir Robert Cotton, and Gilbert Barrell, for "intending to raise false, scandalous, and seditious rumours" against the king and his government, as appeared in "a false, seditious and pestilent discourse," which they had "seditiously framed, contrived, and written."

This discourse was entitled, "A proposition for his majesty's service, to bridle the impertinency of parliament," and upon their trial was incontestibly proved to

* In 1641, the parliament voted the treatment of these gentlemen to be a breach of the privilege of parliament, and gave to them, or their heirs, (accordingly as they had, or had not, survived,) 5000*l.* each, as some recompense for the expense and loss they had suffered. In 1667, when the decision of the legislature may be esteemed more dispassionate, both houses of parliament agreed in resolving that the judgment of the court of king's bench upon these sufferers in the cause of freedom, "was an illegal judgment, and against the freedom and privileges of parliament." (Croke's Reports, iii. 609.)

have been written by Sir Robert Dudley, commonly called Earl of Warwick and Duke of Northumberland, in the reign of James the First. The manuscript was in the library of Sir Robert Cotton, and copies of it being traced to the possession of Selden, Barrell, and the Earls of Bedford, Somerset, and Clare, they were all implicated in its dissemination until the decision of the court determined its true origin.

It appears to have been a satire upon the spirit of the Stuart government; and the ministers of Charles must have so thought, otherwise they would have never prosecuted such men as Sir Robert Cotton and Selden, who had been the unflinching advocates of constitutional liberty, for a composition of which every sentence recommends the most absurd system of despotic misrule. A few short extracts will best show its character.

It recommends the king to have a fort in every town, well supplied with men and the necessaries of war, for "it is a greater tie of the people by force and necessity than merely by love and affection, for by the one the government resteth always secure, but by the other no longer than the people are well contented. Secondly, it forceth obstinate subjects to be no more presumptuous than it pleaseth your majesty to permit them. Your majesty's government is more secure by the people's more subjection, and by their subjection your parliament must be forced consequently to alter their style, and to be conformable to your will and pleasure; for their words and

opposition import nothing when the power is in your majesty's hands to do with them what you please." The second part of the discourse relates to his majesty's revenues, and advises that if "subjects have not wit or will to consider their own interest, your majesty's wisdom must repair their defects, and force them to it by compulsion *."

At length, weary of this contest with men who would

* There is a complete copy of this discourse among the Harleian MSS. To it are appended some particulars relating to this extraordinary prosecution. Still more, full information is contained in Sir Symonds D'Ewe's Journal, preserved among the same MSS. See also the Gentleman's Magazine, xxxvii. 335.

A manuscript note of Chief Justice Hyde's says, that the information exhibited on this occasion by the attorney general included the Earls of Bedford, Clare, and Somerset. Instead of giving an honest acquittal to all the defendants, the Lord Keeper Coventry signified to the court, that the king, out of his grace and joy of the birth of a prince, (Charles, born the May before,) would pardon them, and not proceed to demand sentence. But on motion by the attorney general, that Sir Robert Cotton had in his library, records, evidences, ledger-books, original letters, and instruments of state belonging to the king (and to prove it the attorney general shewed a copy of a pardon which Sir Robert had obtained from King James, for embezzling records, and other offences,) it therefore was thought lawful, and ordered that commissioners should be appointed who might search his library, and withdraw from it all the king's papers. (Lansdowne MSS. 841, fo. 79.) This was the death-blow to Sir Robert; from that day he declined in health, frequently declaring to his friends, "that they had broken his heart who had locked up his library from him;" and just previous to his death, he had the privy council informed, "that their so long detaining his books from him, without rendering any reason for the same, had been the cause of his mortal malady." He died in May, 1631.

yield nothing of their rights, and over whom no advantage could be gained, the court mitigated the suggestions of its anger, and an order was sent by the privy council to the lieutenant of the Tower, to release such as remained in his custody from close confinement, to allow them such freedom as could be enjoyed within the walls, and for them to have a free intercourse with their friends. The government took care that they should pay for this indulgence, since Selden informs us, that whereas they had, according to custom, been liberally dieted at the expense of the crown, whilst closely imprisoned, they were now left to provide for themselves *.

This relaxation encouraged them to request a still more diminished restraint, for, considering that it would be more difficult to obtain permission to go occasionally abroad in the Tower than in any other prison, Selden and Mr. Strode two or three weeks subsequently obtained their removal by habeas corpus to the marshalsea. They and their fellow prisoners were removed to this prison upon a committal similar to the original, directing their detention until they found security for their good behaviour.

Selden was detained in the marshalsea until May, 1630, but his imprisonment was scarcely more than nominal; for, upon submitting to certain rules, he was allowed to go without the walls wherever and as often as

* Opera Omnia, ii. 1430.

he wished. During all its periods he appears to have borne his confinement with much equanimity. Even whilst in the Tower, his letters contained no weak lamentations, for he had that truly philosophical habit, which all would do well to cultivate, of availing himself of as much happiness as circumstances placed in his power, rather than of decreasing that which he could enjoy by lamenting that it was not more. Thus he quietly remarks in a letter to Sir Robert Cotton, that he shall pursue certain extended literary occupations, "for," he adds, "I have much time here before me*."

When his imprisonment was so relaxed, that he could pursue his studies without hindrance, a chief bitterness of the punishment was removed. Among other works of which his prison-leisure was the birth-time, was his learned dissertation, "De Successionibus in Bona Defuncti ad Leges Ebræorum," to which he prefixed this motto from Prudentius.

Et sordes arcta inter vincla recusat.

Which was understood, as he intended, to allude to the disgraceful condition on which liberty was offered him †.

The plague raging in the neighbourhood of the marshalsea, Selden, through his friend Sir Toby Matthews, obtained permission from the Lord Treasurer, the Earl of Portland, to be removed to a still more commodious

* Cotton MSS. Julius. C. 3. pl. 18.

† Opera Omnia, ii. 1431.

place of imprisonment, the Gate-house in Westminster; and soon after, the still greater indulgence of being allowed to proceed on a visit to the Earl of Kent at Wrest. A circumstance which Grotius, who had himself suffered in the cause of liberty, declared to be the only satisfactory news he had lately received from England. His words are, "From Great Britain, I have nothing good since the Arundelian Marbles, except this one thing, that that most excellent man, and most intrepid citizen, Selden, is released to enjoy the open air; to the gratification of all good men *."

In this country retirement among those whom he regarded, and who returned his affection, he soon acquired a healthy elasticity of spirit, as appears in one of the only familiar letters unconnected with literature, that we know proceeded from his pen.

"To Dr. Samuel Turner.

"If I knew any title bad enough for one that hath so promised to come hither and fails, I would put it in the front of these; neither can you redeem yourself from the danger of having it hereafter, when it is invented, unless you come quickly and excuse yourself.

I cannot give you any other account of my lord's health (which you desired) than that I found him, I think and hope, very well—his eyes a little blood-shot; but his

* Epistolæ ad Gallos, 110. Opera Omnia, ii. 1431.

journey the next morning early to Burbage, in Leicestershire, prevented my further intelligence from him to you. My lady wonders that you keep not your word in coming hither, and I think she will tell you so herself. I will not be so uncharitable as to suggest, that you will not furnish us with the news of the present, if you bring it not.

"I beseech you remember my service to my good friends whom we last enjoyed together at dinner; I am both theirs and your humble servant,

"J. SELDEN."

"Sept. 3, Wrest*."

Selden's retirement did not remain long undisturbed. Serjeant Maynard argued, but in vain, for his entire release when the judges returned to London at the commencement of the Michaelmas Term; and they subsequently complained to the Lord Treasurer of his irregular removal without their concurrence; imputing its suggestion to Selden's contempt for the courts of law, and his delight in opposing the judges. There is no doubt that Selden, and he had ample reason, considered the judges to be base panders to the wishes of the court, and consequently worthy of contempt and detestation. So entirely did he deem them unworthy of respect, that he had refused to unite with Hobart, Strode, and Valentine in a petition to them for removal, which had been attended

* Harleian MSS. 7003. Select.

with success, but waited until they had proceeded on their circuits; and then, as already stated, applied to the Lord Treasurer. This nobleman assured the judges that Selden had solemnly declared, that a removal by his authority was legal. Ultimately, Selden was removed to his previous place of imprisonment *.

His confinement continued until the following May, 1631, when, owing to the occurrence of some law-suits between the Earls of Arundel, Pembroke, Kent, and Shrewsbury, the two first named successfully employed their influence with the king to obtain his liberation, Selden being accurately acquainted with the subject in dispute. He was only required to give bail for his appearance within a certain period at the bar of the court, or before one of the judges; and finally upon his petition, early in 1634, he was entirely exonerated from bail †.

* Rushworth, ii. 73.

† His lodging, in 1631, appears to have been at "William Lee's, stationer, Fleet-street," for the notice for his appearance at any time, was to be left there.—(Opera Omnia, ii. 1431.)

## CHAPTER VII.

SELDEN EMPLOYED IN TWO IMPORTANT CAUSES.—HIS WORK, "DE SUCCESSIONIBUS AD LEGES EBRÆORUM."—EPISCOPALIANS AND PRESBYTERIANS.—MASQUE PERFORMED BY THE INNS OF COURT BEFORE THE KING AND QUEEN.—SELDEN'S SHARE IN THE ARRANGEMENT.—HIS WORK, "DE MARE CLAUSUM."—STATE OF THE COUNTRY.—CAUSES OF DISCONTENT.—PERSECUTION OF ARCHBISHOP WILLIAMS.—ATTEMPT TO FORCE EPISCOPACY UPON SCOTLAND.—DEFECTION OF SOME OF THE OPPOSITION MEMBERS.—SHIP MONEY AND OTHER IMPOSTS.—PARLIAMENT ASSEMBLED AND DISSOLVED.

THE dispute in which the above noble families were either immediately, or collaterally interested, was concerning some estates, and the baronies of Grey and Ruthen.

With relation to the dignities, the question was, the title being created to one and his heirs, and he having a son and daughter by his first wife, and a son by his second wife, whether, after his decease and the subsequent decease of his eldest son, the sister of the latter, or his half brother should succeed to the title.

Selden argued strenuously and learnedly in favour of the sister, who in this case, had that relationship to his late friend, the Earl of Kent. Of her son, Sir Michael Longueville, he was the advocate. The judges decided

in favour of the half brother, who was Anthony Grey, Earl of Kent *.

In the same year, 1631, Selden was retained as counsel for Donald, Earl Rhea, in his charge of treason against David Ramsay. The circumstances were succinctly these :—

The Marquis of Hamilton, having engaged to assist the King of Sweden in an expedition against Germany, employed David Ramsay a gentleman of the Privy-Chamber, in 1630, to arrange with the Earl of Rhea and others, to assist him. Ramsay was an intemperate, garrulous character, and Lord Rhea coming to England, charged him with saying, that the marquis had a design upon England rather than Germany. These words being denied by Ramsay, the matter was referred to a judicial examination, but after much recrimination, the cause was removed from Selden's management, and from the jurisdiction of the common law courts, for both parties desired to decide the cause according to the rules of the Earl Marshal's Court, namely by duel. The day was appointed for the combat, but the king, with some severe reprehensions on Ramsay's character, forbade the encounter †.

It has been noticed that whilst confined in the marshalsea, Selden occupied his time by composing a

* Croke's Reports, iii. 601. Opera Omnia, iii. 1712—1727.

† Burnet's Memoirs of the Dukes of Hamilton, 12—15, and more fully in Sanderson's Life of Charles.

work "De Successionibus in Bona Defuncti ad Leges Ebræorum." This was first printed in 1631, but a more enlarged and more correct edition was published in 1636, together with a treatise relative to the ecclesiastical polity of the same people, entitled "De successione in Pontificátum Ebræorum."

To the first named work, are prefixed Prolegomena, relating to the utility of inquiries into this part of the Hebrew law; to the oath *per Anchialum*, mentioned by Martial; to the two Talmuds; and to the schools of law at Jerusalem before its destruction under Vespasian. The work itself contains twenty-seven chapters, in which all the particulars respecting the laws of succession by inheritance to property among the Jews are discussed.

The other treatise, said by the author in his preface, of to have been composed at Wrest in the summer of 1634, is divided into two books, of which the first contains historical notices of the succession of high priests, from Aaron to the destruction of the second Temple; and the second book comprehends the laws of pontifical succession, and of admission to the sacerdotal office, with descriptions of their vestments, the ceremony of institution, &c.

Both works were re-edited at Leyden, in 1638, with additions by the author; and at Frankfort in 1673 *.

Selden dedicated these works to Dr. Laud, then become Archbishop of Canterbury, and his biographer just quoted,

* Aikin's Life of Selden, 84.

has suggested that his so doing "will undoubtedly injure his character for consistency, in the opinions of many;" but they can only be such persons as have never read that dedication. In it there is not one expression, that can be construed into approbation of the primate's conduct as a politician, or as a divine, but Selden expressly declares, that it is a token of gratitude, a slight return for the assistance he had afforded in obtaining materials for composing the work. Laud had allowed Selden the free use of the Lambeth library, and otherwise conferred on him considerable favours. To the archbishop, then, as his benefactor, and as a friend of literature, Selden dedicated his work, and I have yet to learn the ethics, that teach we should not be grateful to those who do us good, because we are their adversaries in politics. Every scholar will acknowledge, that Laud is to be admired, not only for his literary attainments, but as the benefactor of Oxford; surely then it is to the credit, rather than to the dispraise of Selden, that he willingly acknowledged the favour and merits of one, against whom through life he waged on principle a political warfare.

It has been observed in a previous page, that the people at this period were divided into two religious parties; one favouring Episcopacy, and chiefly supporters of an unrestricted monarchy; the other Presbyterian, and generally belonging to the party who opposed the government. The former, like the court, whose measures they supported, were excessively fond of every species of

splendour and pageantry, and amongst these they liberally patronised the numerous varieties of public and private theatricals.

In the reign of James, the court is described by Wilson, as a continued maskarado, in which "the queen and her ladies like so many sea nymphs, or Nereides, appeared often in various dresses, to the ravishment of the beholder: the king himself being not a little delighted with such fluent elegancies, as made the nights more glorious than the days." In the reign of Charles, there is ample testimony, that this taste was not at all on the wane.

Flying to the extreme of opposition, the puritanical party universally and totally objected to theatrical performances; and Prynne, one of their most learned, most enthusiastic, and therefore most erring leaders, hurled a ponderous quarto of learning and virulence at this object of their strenuous hate. He pointed out such blasphemy and licentiousness in the stage literature of the day, as no one can refuse to join in deprecating; but illogically condemning generals from particulars, every composition for the stage, and all its accompaniments were included by his dismal fanaticism, in one general condemnation, and reprobated as "undoubtedly sinful, yea, utterly unlawful unto Christians *."

* Although Prynne carried his condemnation of theatricals to an erroneous excess, yet, none but Stuart tyranny would have inflicted upon him, for publishing it in his "Histriomastix," such a disproportionate and cruel punishment, as the cutting off his ears whilst exposed

It was to testify their loyalty to the reigning monarch, and perhaps to evince, that they did not coincide with the stern puritanism of their member Mr. Prynne, that the four inns of court, about Allhallowtide, in 1633, resolved to unite in performing a royal masque before their majesties.

Selden once observed, " that few men make themselves masters of the things of which they write and speak* ;" and the justness of this observation is exemplified by the ignorant criticism which some of the most judicious of our writers have bestowed upon our masques of which the above was a specimen. Warburton terms them " fooleries." Malone describes them as " bungling shows ;" and Granger calls them " wretched performances." Yet these critics must have known that the preparation of these masques cost thousands of pounds ; that they were performed upon the occurrence of the most joyous events, by the most distinguished of the nobility ; and above all, that only the most celebrated poets were accustomed to compose the dialogues and songs ; and the most distinguished architects, painters, and mechanists were employed in the preparation of the scenery. If the vituperative criticism had been confined to the costly masquerading that prevailed in the reign of Henry the Eighth, and to the mythological mummeries that were exhibited before Queen

on the pillory, imprisonment for life, a fine of 5,000*l.*, and expulsion from Oxford and Lincoln's Inn.

* Table Talk, s. Learning.

Elizabeth at London, Norwich, and elsewhere, there would be no reason to dissent from the condemnation; but it is not deserved by the masques exhibited in the reign of Charles the First, for which Jonson and Milton wrote, and for which Inigo Jones designed. The works of Sir William Davenant afford us the description of the scenery of a masque, called "The Temple of Love;" of the poetry of these exhibitions we need no other example than Milton's "Comus;" and from those it is evident that they closely resembled the operas of the present day; generally far excelling them as literary compositions, and equalling them in the gorgeousness and intricacy of scenery and devices.

For the preparation and regulation of the masque determined upon by the inns of court, the last that was performed before the unfortunate Charles, two members of each inn were chosen to form a committee, and one cannot but smile to find such grave characters as those of which it was composed, arranging so pantomimic a work, with an ardour and earnestness, similar to that with which they strove for the liberties of their country.

Mr. Edward Hyde (afterwards Earl of Clarendon), Mr. Whitelocke (soon afterwards a Commissioner of the Great Seal to Cromwell), were the deputies of the Middle Temple; Mr. Noy (attorney general), and Mr. Gerling, represented Lincoln's Inn. Sir John Finch (Speaker of the House of Commons, and subsequently Lord Chancellor), and another gentleman were for Gray's Inn; and

Sir Edward Herbert (afterwards attorney general), and Selden, were the delegates of the Inner Temple.

This committee appointed several sub-committees, one to prepare the poetry; another, to which Selden belonged, for the dresses of the masquers and anti-masquers; and to Whitelocke in particular was confided the arrangement of the music. This memorialist observes, with some complacency, that it was so performed, that it excelled any previously heard in England. Ben Jonson wrote the poetry; Inigo Jones designed the architectural scenes and the machinery; and Lord Bacon assisted Selden in arranging the dresses and devices.

The masque was performed at Whitehall, on Candlemas night as a suitable conclusion for Christmas. The rehearsals were numerous. Everything was splendid. It was preceded by a procession, for the performers assembled at Ely House, Holborn, and proceeded down Chancery Lane, to Whitehall. This was magnificent and fantastic. In it there was mingled some political satire, for there were representers of patentees and monopolists, one of whom carried a pattern of a large bridle bit, and begged a patent that none in the kingdom might use any but such bits as they bought of him.

There was some danger of a schism occurring among the great arrangers of this splendid folly, for pride, inopportunely suggested that some one of the inns must have its benchers ride in the *last* of the four chariots that formed part of the procession, and "consequently," says

Whitelocke, "there grew a difference about the order of their going, which of the inns should have the *first* chariot, so of the rest in their order; also how the several grand masquers should sit in the *first* place." To obviate this last difficulty, the chariots were so contructed as to have no place of superiority; and the order of precedence for the inns was decided by casts of the dice! Fortune gave the place of honour to Gray's Inn. So contemptible, oftentimes, are great men in little things.

The procession, and "the dances, figures, properties, voices, instruments, songs, airs, composures, and actions," passed without any failure; "and the scenes were most curious and costly;" but, adds their recorder, as if he lamented they would live only in description, "this earthly pomp and glory, if not vanity, was soon passed and gone as if it had never been*!"

In the year 1609, Grotius published a work entitled "Mare Liberum," of which the ostensible object was to maintain as a principle, that the sea is a territory open and free to the use of all nations, but really written in defence of the right which was claimed by his countrymen, the Dutch, to have a maritime intercourse with the East Indies; a right that was claimed as a monopoly by the Portuguese. A few years subsequently, Selden engaged in the refutation of the principle maintained by

* Whitelocke's Memorials.

Grotius, and arranged his authorities and arguments in a work, which in manifest contrast to the other, he denominated "Mare Clausum."

It may be remembered, that at the time Selden was in disgrace for the publication of his "History of Tythes," the Duke of Buckingham was applied to, to be the author's mediator with the king; and it is not at all improbable, that the duke mentioned this work upon our maritime rights, which Selden then contemplated, as a subject likely to propitiate James, who would readily approve of any work that maintained the power and extent of his dominion. That monarch ordered Selden to prepare it for the press, and in obedience to that command, in the summer of 1618, he forwarded a manuscript copy to his majesty. Having cursorily perused it, he gave it to the duke for the purpose of its being revised by Sir Henry Martin, who was a very incompetent judge of its merits, if the number of his judgments as president of the Admiralty Court that were reversed by the House of Lords, is a proof of incapacity. Sir Henry having approved of the work, making but one amendment and that a verbal one, the duke sent for Selden to his room, and after a short conversation concerning the work, was on the point of writing the permission to have it printed, when suddenly laying down the pen, he said, "The king shall do this with his own hand in honour of the work;" and he immediately proceeded with Selden to the royal chamber. James was about to sign

the *imprimatur*, when he remarked, " I recollect something is said here concerning the North Sea which may displease my brother of Denmark, whom I would not now offend, because I owe him a large sum of money, and intend shortly to borrow a larger." This Selden was accordingly ordered to alter. The alteration was soon completed, and Selden returned with his manuscript; but after waiting upon the duke longer and more often than he thought there was need, and after all without obtaining an audience, he refrained from attending. Subsequently the Earl of Pembroke obtained its perusal. With him it remained for a considerable period, and eventually was neglected until the year 1635. About this time the Dutch having nearly monopolised the Northern Fishery, and their right to take herrings upon our shores being disputed, the Elzevirs republished the work of Grotius and several other publications, which they considered favourable to the Dutch claim. Selden's work was now remembered, and being mentioned to King Charles, probably by Dr. Laud, he commanded that it should be published, and after a revisal not only by the author, but by the king and some of his council, it was printed at the close of the last named year*."

* We have this narrative, and many other particulars of Selden's life from his " Vindiciæ Maris Clausi," a pamphlet which he published in 1653, to refute a calumny propagated by Theodore Graswinckel, a Dutch civilian, which asserted that Selden had written his " Mare Clausum," to propitiate the king, and had effectually made it his occupation to write fabulous statements for that purpose.

The intention of Selden's work may be understood from this translation of its title page. "The closed Sea; or Two Books concerning the Dominion of the Sea. In the first, it is demonstrated that the sea, by the law of nature and of nations, is not common to mankind, but is capable of private dominion, or property, equally with the land. In the second, it is maintained that the King of Great Britain is lord of the circumfluent sea, as an inseparable and perpetual appendage of the British Empire."

So satisfactory, and so important was the work considered by the government, that the following entry, dated March the 26th, 1636, was made in the minutes of the privy council. "His majesty, this day in council, taking into consideration a book lately published by John Selden, Esq. entitled 'Mare Clausum, seu de Dominio Maris,' written by the king's command, which he hath done with great industry, learning, and judgment, and hath asserted the right of the crown of England to the dominion of the British Seas; the king requires one of the said books to be kept in the Council chest, another in the Court of Exchequer, and a third in the Court of Admiralty, as faithful and strong evidence to the dominion of the British Seas*."

Although the arguments of Selden were considered so satisfactory in this country, the continental nations were

* In compliance with this order, it is related that Sir William Beecher, one of the clerks of the council, delivered a copy to the Barons of the Exchequer, in open court.—(Heylin's Life of Laud, 322.)

of a totally different opinion; but as both were directly interested parties, they justly may be appealed from as being liable to give prejudiced judgments. Puffendorff seems to utter the dictates of equity upon this subject, when he says, that every maritime people at all acquainted with navigation, are lords of the sea, where it toucheth their own shore, so far as it may be counted a defence, especially in ports and other places where there is a convenience of landing; and that, with regard to the ocean, it is clear, that to sail upon it in a peaceful manner both is, and ought to be, the free privilege of all nations. *It is*, because no one people have attained such a right over the ocean, as will justify them in shutting out all others from the same benefit, *and it ought to be*, because, the law of general humanity and kindness requires it*.

Against these principles Selden does not argue, but demonstrates that all history proves that treaties, alliances, and the dictates of power have perpetually modified and regulated them, as the safety or the interest of particular nations have dictated.

The "Mare Clausum," was translated into English by Marchmont Needham, in 1652; the period when the war occurred between this country, under the parliament, and the Dutch. This translator substituted a dedication, "to the Supreme Authority of the Nation, the Parliament," for Selden's similar address to the king. He also

* Law of Nature and Nations, b. iv, c. 5, s. 8 & 10.

added an appendix containing some additional documents, contributed by President Bradshaw. An improved translation by J. H. was published in 1663.

The next four years are nearly a total blank in the biography of Selden. This period certainly was not passed in idleness, for at its termination he published his work, "De Jure Naturale et Gentium juxta Disciplinam Ebræorum." We are therefore assured that he was engaged in his favourite study of legal antiquities. It is also probable that he was holding communion with that party of moderate politicians with whom he had consistently co-operated, and who would naturally consult together, and arrange their plans for rescuing their country from that tyranny, of which the recital even now cannot be perused unmoved. The period of effective exertion arrived in 1640, but previously to entering into that fresh era of Selden's life, some notice must be taken of the principal public events that occurred during the years that had elapsed without a parliament.

Lord Clarendon says that in this space of time "the king was resolved to try if he could not give his people a taste of happiness, and let them see the equity of his government in a single state." The experiment was a signal failure, for the opponents of absolute monarchy need not quote a period better illustrating its evils than the eleven years over which we will take a Parthian glance.

The reader may refer to Clarendon, Whitelocke, Rushworth, and Franklyn, writers tinctured with widely

differing prejudices, yet he will find they concur in acknowledging the facts, although they occasionally attribute to them different characteristics.

They agree that during this period the agricultural and commercial interests were particularly flourishing. From this it has been deduced that an arbitrary monarchy is not opposed to the welfare of the people, and if our view is confined to its effect upon their wealth, we might, except in its worst possible extreme in some eastern nations, assent to the induction. But every reader who has one ray of generous feeling in his nature will at once acknowledge that there are other securities necessary to him, and much more essential to his happiness; the security that the money he contributes to the state is justly demanded, and duly expended in its service; the security that he may maintain his innocent opinions without any danger of being fined for them to a ruinous amount, or of being tortured and perpetually imprisoned for their maintenance. These securities did not exist in the unparliamentary times of Charles; even Clarendon acknowledges that the Council Board and Star Chamber struck at the very foundations of the national liberties, and consequently, though peace was maintained abroad, and riches accumulated at home, the nation could not have been contented and happy. That it was not, is maintained by the fact that the people subverted the government, and strove to replace it by one that promised to be less despotic.

It is the impolicy of the aristocracy of all ages to conduct themselves for the most part as if they considered themselves a distinct race to the rest of their fellow-subjects, and this conduct became so marked at this period—they were so overbearing in their demeanour—there was such a diversity in the law that was measured out to the nobility and to the commons—the appropriately named Star Chamber had such respect for those who wore that badge—that the spirit of the nation revolted against those who instead of being its honour and ornament, were in too many instances its oppressors and disgrace. Finally the feeling against them became too soured to allow them as a body any acknowledgment of superiority; and Secretary Nicholas informed Charles the First, in a private letter, that "the committees of both Houses had met at a conference, and both Lords and Commons were bare-headed at it, a private intimation being given that if the Lords should have put on their hats, the Commons were resolved to have done so likewise *."

It will be sufficient to quote two of the most prominent instances of individual oppression that marked this period. Prynne, for the second time, with Burton and Bastwick, were publicly mutilated and consigned to solitary and distant prisons. Let a reference be made to the statement of their mock, iniquitous trial; to the insults offered them by their judges; and to the cruel cuttings and

* Evelyn's Diary, by Bray, ii. 32.

burnings they endured *, and then let the reader ask his heart and his reason if there is any cause to wonder that the people resolved to shake off the government that permitted such tyranny. Many were willing to escape from it rather than to witness the horrors of a civil strife, and many were the emigrants who desired to seek a home without oppression in the wilds of Connecticut. Eight ships laden with these exiles lay in the Thames. John Hampden and his cousin Oliver Cromwell were among them, having actually embarked, when an order of Council prohibited the emigration, and Charles thus unconsciously retained the chiefest instruments of his overthrow.

The persecution of Dr. Williams, Bishop of Lincoln, and at one time Lord Keeper, was another blot upon this decade without a parliament. He had been the supporter of Buckingham, and the patron of Laud; but having too wisely opposed their plans, they resolved upon his ruin. He was accused in the court of Star Chamber of betraying the king's counsels, and the course of iniquity that was pursued by his accusers, from the tampering with his witnesses to the secret advising with his judges, may be read in the prolix, learned pages of his biographer †.

Years elapsed in the pursuit of his condemnation; charges, against every rule of justice, were abandoned to institute others that seemed to arise from the evidence;

* State Trials, i. 459—482.

† Hacket's Life of Williams, 112—126.

and finally, not satisfied with inflicting a fine of ten thousand pounds, and committing him to an imprisonment that was to last during the king's pleasure, Laud and others, who were his enemies and his judges, lamented that they could not add to his sufferings by some personal degradation.

Though so much time was occupied in the concoction of his trial, yet when the final period arrived, there was as little lenity shown in allowing time for the defence, as there had been in shortening the period of suspense, when activity would have been a mercy. The following letter to Selden from the bishop will afford some new light upon the subject.

" My very worthy friend,

" It is not a voluntary resolution, but pure and (in a manner) last necessity which makes this unreasonable motion unto you. My causes are both to be heard, and the last first. And that with such a precipitancy of the hearing, as, though all men speak loud against, yet cannot be prevented. Upon Friday next they will begin. And although my counsel have certified the impossibility of running over 3,500 sheets of paper, examining and breviating the same; yet upon the king's strict resolution not to change the day, they are so kind as to strive to undertake the defence. To wit—Mr. Gardiner, Mr. Fountain, and Mr. Vaughan. They only desire your company by way of advice, for three days and no more. My house is now private, and one end thereof empty, which would be

at your service. And if your health, occasions, and other respects, will permit you to put upon an old friend this great obligation, you shall never again encounter an opportunity that will more honour you with good and merciful people, and more bind unto you in eternal chains of new affections

" Your somewhat troubled, but innocent and hopeful friend,

" J. LINCOLN."

" Westminster Coll.
this 9th of June, 1637*."

The despotism of the government was not confined to acts of individual tyranny, it extended its oppressions to active endeavours to subjugate the religious opinions of the people; as well as to general invasions of their property and freedom. The Scotch nation dared to differ with our government upon ecclesiastical affairs, and our national arms were resorted to and disgraced in the vain endeavour to bring about an opposite conviction.

The attempt to controul by force the religious opinions of the subject also extended to England. Although there was no parliament sitting, the convocation was allowed to continue in assembly, and in 1640, by " the king's majesty's licence," its resolutions, under the title of " constitutions and canons ecclesiastical," were published.

* Harleian MSS. 7001, lxvii. f.

They maintained the divine right of kings, and the absolute unlawfulness, under any circumstances, of resisting his commands. By them popish recusants, and all sectarians, were ordered to attend upon the services of the established church, or to suffer excommunication; and in case of continued adherence to their opinions, the judges of assize were solemnly and profanely adjured, in the name of the Almighty, to punish them. In a similar persecuting spirit, all schoolmasters, lawyers, physicians, and clergymen were required to swear that they approved of, and would preserve the doctrines and policy of the established church *.

Corruption as well as oppression, was successfully busy, and we are powerfully tempted to believe with Lord Walpole, that "every man has his price," when we read that Mr. Noy, and Mr. Littleton, were bought to the government interest, by being promoted to the offices of the attorney and solicitor-generalships. These men had been

* Sparrow's Collection of Articles, &c. 345. Ed. 1684. It is a melancholy fact, that every religious sect, when allowed to have political power, seems to acquire a persecuting spirit. It is needless to more than mention the Roman Catholics. Even the Presbyterians and Independents are not exempt. When ascendant during the interregnum, their assembly of divines were equally intolerant. "They taught," says Milton, "compulsion without conviction, which not long before they complained of as executed unchristianly against themselves." —(Milton's Prose Works, iv. 84. Ed. 1806.) The parliament went to the extreme of religious persecution, by even adjudging various sectaries to be guilty of felony, and worthy of capital punishment.—(Scobell's Collection, part I. p. 149. Ed. 1658.)

prominent defenders of the people's rights, and though we do not assent to Walpole's axiom, yet these apostates warn us of a degrading result of experience, that profession and principle are not inseparable.

Proclamations during this period, of course, were equivalent to laws, and Rushworth enumerates an abundance, regulating and altering the commerce and internal policy of the nation.

The obtaining supplies was of first importance, and these were procured by means of tonnage and poundage, and other still more burdensome levies upon the shipping interest, and by selling the grants of innumerable patents and monopolies. "These," said Sir John Culpepper, "like the frogs of Egypt, have gotten possession of our dwellings, and we have scarcely a room free from them. They sip in our cup; they dip in our dish; they sit by our fire; we find them in the dye-vat, washing-bowl, and powdering-tub. They share with the butler in his box. They have marked and sealed us from head to foot. They will not bate us a pin *."

* These were allusions to the unparliamentary duties upon wines, tavern licences to dress meat, an imposition upon coals, a monopoly of soap, a duty upon salt, and the patents for cards and dice, for beaver hats, lace, pins, &c.—(Rushworth, ii. 917.)

"The odious and crying project of soap," so emphatically denounced by Clarendon, was a suggestion of the new attorney-general, Noy. It was pursued by him with all the acrimony of a new convert. The use of any soap, but such as was made by the king's patentee, was prohibited, though that was so vile a compound as to be injurious to the articles upon which it was employed as a detergent.

Another oppressive source of supply, was levying fines upon such individuals, as, having a certain amount of property, refused to accept knighthood, to which they were entitled by the obsolete feudal law. The fines now levied under the old forest laws were similarly obnoxious and oppressive. Lord Clarendon states, that these, and many other projects for raising money, "some ridiculous, and some scandalous, but all very grievous," originated with the privy council.

The impost of ship money, if it were not the most irritating exaction, is the one most connected in our memories with these times because it gave the people the first opportunity of legally opposing the unjust demands of the court, and first introduced to public notice the individual whose name, and that of patriot have become almost synonymous. It was a tax rendered still more unpopular by its being the occasion of demonstrating that the judges betrayed the sacred charge with which they were intrusted. Neither was it less obnoxious by being suggested by Mr. Noy, who the people could not but view as a traitor to their cause.

It was first proposed to be levied upon the maritime towns, for the ostensible purpose of maintaining the navy, but as Selden observed, that was like putting in a little auger, that afterwards a larger might be inserted, for the tax was extended over the inland counties.

In common with others of the county of Buckingham, John Hampden, Esq., of Stoke Mandeville, was assessed

to pay twenty shillings. He refused to comply with the demand upon the ground that it was illegal, not being sanctioned by parliament. The cause was very ably argued before the twelve judges, of whom Sir Richard Hutton, and Sir George Croke alone, had courage sufficient to give their opinion against the king. Before the case was thus argued, their judgment in writing had been privately obtained, and to this, which was in favour of the prosecution, even Hutton and Croke had subscribed.

Rebuked by his conscience, Croke nobly dared to confess his error, and in his public judgment, he unanswerably showed his reasons for pronouncing against the king's levy of the tax. In a statement of these reasons laid before his majesty, he candidly acknowledged that he had suffered himself to be overruled in the first instance, by his brethren of the coif, but, he continued, "if I had been of the same opinion that was subscribed, yet upon better advisement being absolutely settled in my judgment and conscience in a contrary opinion, I think it no shame to retract that opinion, for *humanum est errare*, rather than to argue against my conscience." Judge Hutton spoke in words nearly similar *.

* State Trials, fol. Ed. i. 624. The Lord Keeper Finch, confirmed these statements in his defence before the House of Commons.—(Parliament. Hist. ix. 172.) This worthy once openly declared in court, that no man need dispute before him an order of the privy council, for it "should always be ground enough for him to make a decree in Chancery."

It deserves again to be recorded that in his wife, Croke found a sustainer and guardian of his innocence*. He hesitated to tread the path of duty, when she urged him from his suspense, and bade him without any fear to dare to do right. This is woman's own dominion—it is here that she is a helpmate for man,—and he degrades her and weakens himself, if he does not teach her to be more than his plaything. Let our daughters as well as our sons have impressed upon them, that public virtue is to the full as important as private morality, and we shall add a mighty strength to the buttresses of our integrity, for we shall have on its side the deep though quiet influences of home. Let it not be argued for a moment, that woman should be taught to neglect one domestic care, or that she should join in the turmoil of politics; but the education that formed the wives of Sir George Croke, of Sir John Bankes, of the Earl of Derby, and of George Canning, did not take away one grace, or one quality, which should have had its abiding place in their bosoms.

That the decision of the majority of the judges was iniquitous has long since been determined. Even Clarendon says, that the cause was adjudged "upon such grounds and reasons as every by-stander was able to swear were not law."

Selden, in common with every patriot, applauded those who refused to pay the imposition until it was legally approved, but as justly condemns those who factiously

* Whitelocke's Memorials.

continued to resist its payment after the judicial decision in its favour. "They that at first would not pay ship money," he said, "till it was decided, did like brave men (though perhaps they did no good by the trial) but they that stand out since and suffer themselves to be distrained, never questioning those that do it, do pitifully, for they only pay twice as much as they need*." An observation to which many extravagant politicians of the present day would be wiser in attending.

Selden evidently doubted whether Hampden's contest against the payment of ship money, though praiseworthy and correct, was of any benefit to the country, and we may consider that his doubt was founded upon a just fear that it would aggravate the growing enmity between the people and the sovereign, and would involve in one feeling of dislike all the constituted branches of the executive.

All the arbitrary measures for enriching the exchequer having failed; crippled in resources, and defeated in measures, the king, hoping that it would be less untractable to his wishes than its predecessors, summoned a parliament. It met in the April of 1640. Of this Selden was not a member.

Though ardent in the pursuit of grievances, yet its desires were expressed moderately, and Clarendon says it was "exceedingly disposed to please the king and to do him service." Notwithstanding, Charles dissolved it after a transient session of three weeks. The same historian

* Table Talk, s. Ship Money.

remarked that, " it could never be hoped that more sober and dispassionate men would ever meet together in that place, or fewer who brought ill-purposes with them; nor could any man imagine what offence they had given which put the king upon that resolution*." This was no subsequent conclusion of the earl's, for previous to the dissolution he urged his persuasion upon the attention of Laud in a private conference†. He is equally clear in expressing his opinion of the effect produced by these frequent and abrupt dissolutions of the parliament. Such measures were unreasonable, unskilful, and precipitate. The king and his people parted at these seasons with no other respect and charity one towards the other, than persons who never meant to meet but in their own defence; and he laments that there should then have been traitorous counsellors about his majesty who fomented this mutual mistrust. He acknowledges the people were liberally and well-inclined towards the government, if it had not by its indiscretions confirmed and enlarged their jealousies of some of its members. Of these jealousies the king was aware, for at the opening of the next parliament he requested the Commons to unite with him in laying aside " all suspicion one of another,"

* Mrs. Hutchinson says, the reason of this abrupt dissolution was, that the king feared the parliament intended to vote against the war with Scotland, upon which he was violently determined.—Mem. of Colonel Hutchinson, 71.

† Clarendon's Autobiography, fol. Ed. 38.

but, unfortunately, he was not wise or not firm enough to act candidly in accordance with that advice. The leaders of the ultra opposition party rejoiced at the dissolution of this parliament, as they did at all the other violent and short-sighted measures of the court, for they knew that by strengthening and increasing the national dissatisfaction, the resolution for reform was rendered proportionately firm and uncompromising. Within an hour after the dismissal of the parliament, Clarendon met Oliver St. John, who usually taciturn and melancholy, was now smiling and communicative, for he said, "he foresaw that the progress of events was all well; that affairs must be worse before they were better, and that the parliament just terminated would never have done what was necessary *."

* Clarendon's Hist. of the Rebellion, i. 110 fol.

## CHAPTER VIII.

MEETING OF THE LONG PARLIAMENT.—SELDEN'S OPINION OF THE BISHOPS SITTING IN PARLIAMENT.—COMMITTEES OF GRIEVANCES.—SELDEN AND THE EARL OF CLARENDON CLOSE THEIR FRIENDSHIP.—CHARGES AGAINST THE EARL OF STRAFFORD.—HIS TRIAL.—BILL OF ATTAINDER.—SELDEN'S VOTE IN HIS FAVOUR.—CHARLES CONSENTS TO HIS EXECUTION.—FUTILITY OF CRIMINAL MEASURES OF EXPEDIENCY.—KING CONSENTS TO THE PERMANENT EXISTENCE OF THE PARLIAMENT.—SELDEN'S LINE OF CONDUCT.—CONVOCATION OF THE CLERGY CALLED IN QUESTION.—SELDEN OPPOSES THE ABOLITION OF EPISCOPACY.—PUBLISHES ANOTHER WORK CONCERNING THE JEWS.

THE parliament that had been so rashly dissolved in May, had to be re-assembled in November, and its members must have come with feelings additionally irritated, for they had witnessed a continuance of the national misrule, and repeated experience convinced them that every attempt at reformation brought upon them the displeasure of the government, contumely, inconvenience, and expense.

In the intervening six months, ship money had been levied with severity, and the mayor and sheriffs of London prosecuted for too much leniency. Arbitrary loans exacted, especially in those counties where the soldiers were quartered, and the government condescended to the swindling practice of purchasing merchandise upon long

credit, and selling it for ready money. It was even proposed to debase the currency. These profligate attempts to supply the exchequer, were still more odious, because they were made to support the Scottish war of persecution. Disgrace again fell upon the English army. It would not face the enemy. It mutinied rather than be employed upon such a service. Defeated—beggared—the king was willing to adopt any resource rather than the legitimate one of a parliament. He summoned a council of peers, but even this failed, and all subterfuges being exhausted, he reluctantly ordered the usual writs to be issued.

This parliament, which, it was remarked, many thought would never have had a beginning, and afterwards that it would never have had an end, is well known as *the Long Parliament*, and finally, as *the Rump*. It well merited the first designation by lasting thirteen years, and the latter from being gradually reduced in numbers, until, as Clement Walker, a hostile contemporary observed, it became "a fag-end, *a rump* of a parliament, with corrupt maggots in it*."

The high reputation which Selden had gained by his mental exertions, added to his well-known detestation of violent political measures, may have recommended him to the University of Oxford at this crisis, for he was returned by it unanimously as one of its representatives in this

* History of Independency, ii. 32.

parliament: but it is not improbable that his moderation had been mistaken by the court party for an inclination to support their measures, and that they had recommended him to their partisan university. It is certain that Laud had declared that he would bring him over.

However, they were mistaken, and as we shall see presently, expressed their surprise at his conduct, for they could not understand the merit of one who conscientiously gave or withheld his vote according to the dictates of his own reason. They had successfully tampered with Noy, Wentworth, and others, and from this experience concluded that there was a bribe to be found sufficiently tempting to subdue the virtue of one who had been their companion. It is consolatory to know that they judged erroneously, and that the annalist can record a noble band of public characters, of whom Eliot, Whitelocke, and Selden were a portion at this era, who did not consider, like a political agitator now on the wane, that public principle is a farce

The parliament began with as good an aspect as could be desired, for though the redress of abuses, the removal of grievances, and the prosecution of their suggestors, had precedence, yet supplies were voted, and at the close of January, when the king addressed both Houses, he expressed himself satisfied in general with their proceedings, and that he was ready to concur in reforming "all innovations in the church and commonwealth." There was one point upon which they were at issue. A resolution had passed

the House of Commons, and a bill founded upon it, declaring that no bishop or other clergyman, ought to be a privy councillor, in the commission of the peace, or to have any judicial power in a civil court, it being a hindrance to his spiritual functions, and injurious to the commonwealth. Alluding to this, the king observed, "I make a great difference betwixt *reformation* and *alteration* of government; though I am for the first, I cannot give way to the latter. I will not say that bishops may not have overstretched their power, or encroached upon the temporal, which if you find, correct and reform the abuse. Yet you must understand that I cannot consent to the taking away their voice in parliament, which they have anciently enjoyed under so many of my predecessors, even before the Conquest, and ever since, and which, I conceive, I am bound to maintain as one of the fundamental institutions of this kingdom *."

In this opinion Selden coincided; "bishops," he said, "have the same right to sit in parliament as the best earls and barons; that is those that were made by writ. If you ask one of these why they sit in the House, they can only say that their fathers and grandfathers, &c. sat there before them. And so say the bishops, he that was a bishop of this place before me, sat in the House, and he

* Parliamentary History, ix. 95—210. In this, as in many other of his opinions and resolutions, Charles was lamentably infirm. Shortly after this speech was delivered, he consented to the exclusion of the bishops from parliament.

that was a bishop before him, &c. It is true the titles of the first are inheritable, whilst those of the second are not, yet that takes not away the bishops' right. The bishops were not barons because they had baronies annexed to their bishoprics, for few of them had: besides few of the temporal lords had baronies; but they are barons because they are called by writ to the parliament, and bishops were in the parliament ever since there was any mention or sign of a parliament in England. You would not have bishops meddle with temporal affairs—think who you are that say it.—If a papist, they do in your church; if an English protestant, they do among you; if a presbyterian, you allow your lay-elders should meddle with temporal affairs as well as spiritual. Besides, all jurisdiction is temporal, and in no church but they have some jurisdiction or another. The question then will be reduced to majus and minus; they meddle more in one church than in another. To take away the bishops' vote, is but the beginning to take them away; for then they can no longer be useful to the king or state*." If to these considerations are added the facts that from education, experience, and profession, they must be among the best informed, and probably among the most virtuous of the nation; that they are less likely to be slavish admirers of the king, because they are elected for life, and their children are not heirs to the dignities they may

* Table Talk, s. Bishops in Parliament.

acquire; and that if they did not sit in parliament they might in convocation; the most ingenious may be puzzled for an excuse to justify their exclusion from among the councillors of the nation. Some who object to their admission among those councillors seem to forget that bishops are particularly appointed to superintend the discipline of the church; that its temporal welfare is another of their appropriated cares. Others seem to expect that they should be exclusively careful in spiritual affairs; and to think that a man, dedicated to God, may not so much as, when he is required, cast a glance of his eye, or some minutes of time, or some motions of his tongue, upon the public business of his king and country. "Those," said good Bishop Hall, who for his virtues and eloquence has been called the English Seneca "those that expect this from us, may as well, and upon the same reason, hold that a minister must have no family, or, if he have one, must not care for it; yea, that he must have no body to tend, but be all spirit. My lords, we are men of the same composition with others, and our breeding hath been accordingly. We cannot have lived in the world, but we must have seen it, and observed it too; and our long experience and conversation, both with men and books, cannot but have put something into us for the good of others*."

* The excellent address to the House of Lords from which the above is extracted, is given in the folio edition of the Bishop's Works, and in the Parliament History, ix. 283.

The petitions to the House of Commons complaining of grievances were so numerous, that the whole House was divided and sub-divided into more than forty committees for their examination. Each committee attended to the petitions relating to a particular cause of complaint. They all might be reduced to these classes; religion, popery, ecclesiastical courts and encroachments; public affairs, especially concerning Ireland and Scotland, judges and courts of justice, &c. This is very sufficient testimony that the whole country felt and resented the misrule under which it suffered, and that the parliament was not an association of turbulent agitators, and exciters of sedition, but that its members were the faithful declarers of the nation's oppressions and desires of reform.

Among all these causes of complaint that arising from a fear that the national religion was in danger still continued the foremost and most prevalent. Sir Edward Nicholas writing privately to the king in September, 1641, informs him "how it is insinuated upon all occasions that popery (which is generally exceeding distasteful to your subjects of this kingdom) is too much favoured by your clergy here, and in your own court, and that this opinion hath and doth (more than anything) prejudice to your majesty in the esteem and affection of your people *." From this source arose another committee, of which Selden, Cromwell, Lord Falkland, Mr. Hyde, Mr. Hollis, and others were members, to which was referred "a bill

* Evelyn's Diary, by Bray, ii. 21.

for abolishing superstition and idolatry, and for advancing the worship and service of God."

On the day the session commenced, Selden was nominated one of a committee to attend to the petitions which were presented against the Earl Marshal's Court of Honour. Its arbitrary proceedings were so reprobated in the report of this committee, that the House of Commons voted it was a grievance, and consequently it was abolished *.

In addition to these, and others of less importance, Selden was one of the committee of twenty-four, appointed, upon the motion of Lord Digby, to draw up a faithful declaration of the state of the nation as apparent from the petitions that had been presented. The declaration or remonstrance which they prepared, afforded Mr. Hyde, afterwards Earl of Clarendon, a pretext upon which to announce his desertion to the court party. It was a very copious and unmitigating relation of grievances, and Mr. Hyde considered its tendency so inflammatory, that he published to it a reply, His own autobiography tells us of his long secret intercourse with the government, but this was the era of Selden and his friend separating also in their public path of politics. Their friendship remained unaltered, and it affords testimony in favour of both, that Mr. Hyde on every occasion stood forth in defence of his friend's conscientious conduct.

* Rushworth, ii. 1056.

The long series of misgovernment that has required notice in these pages, demonstrates that much, very much, required to be altered and redressed; and though the House of Commons, urged by its long-repressed eagerness for reform, sought for changes that were not amendments, and demanded punishments upon offenders exceeding their demerits; yet if these remedial excesses had been corrected with moderate firmness; if error had not been clung to pertinaciously; if the yieldings had not been base; and if the aggressions had been less rash: above all, if in accordance with the hope Lord Clarendon expressed to Lord Digby, the king had firmly resolved never to depart from his own virtue, there would have been a thorough reform without the destruction that followed. Unfortunately all these wiser courses were neglected. Every amendment was opposed until acquiescence was without merit; and it was soon discovered that what was yielded was intended to be opportunely resumed. Moreover, Charles forsook himself, and sacrificed his friends, and from that time he had no right to expect constancy in any of his followers. Many actually withdrew ther support, and he thus weakened his power to restrain at the very time when that power was most needed.

On the 11th of November, Mr. Pym began to unfold the charges against the Earl of Strafford. This nobleman, as noticed in a previous page, was a strenuous supporter of the rights of the people, when he bore no other title than his family name of Wentworth, but he had been

seduced to the government party*. He had been the intimate friend of Pym, and when he was making his peace with the court, he sent for him to a private conference to Greenwich. Here by allusions and hints he began to sound whether there was any chance of gaining him to the same party, but Pym stopped him abruptly by saying "you need not use all this art to tell me that you have a mind to leave us; but remember what I tell you —you are going to be undone: remember also that though you leave us, I will never leave you while your head is upon your shoulders." He kept his word†.

Lord Clarendon mentions Selden as one of those who were "*designed* by the House of Commons to be Strafford's accusers," and his name occurs in all the committees appointed to search for precedents of attainders, preparing articles of accusation, holding conferences with the lords, and other preliminary ar-

* "Sir Thomas Wentworth and Mr. Wandsworth," says Howell, "are grown great courtiers lately, and come from Westminster Hall to White Hall, (Sir John Saville their countryman having shown them the way with his *White Staff*.) The Lord Weston tampered with the one, and my Lord Cottington took pains with the other, to bring them about from their violence against the prerogative." (Howell's Letters, sect. 5. p. 25. ed 1645.)

† Wellwood's Memorial, 53. Mr. Pym was the most influential of all the opponents of the court. His influence arose from his thorough knowledge and habits of business, his mental penetration, powers of debate, and private worth. Mr. Baillie gives this instance of the popularity of Mr. Pym in 1643. "On Wednesday Mr. Pym was carried from his house to Westminster, on the shoulders, as the fashion is, of the chief men in the Lower House, all the House going in procession before him." (Baillie's Letters and Journals, i. 409.)

rangements. However he was not one of those who eventually were appointed to conduct the prosecution, from which, and from his subsequent vote there is reason to believe that to his judgment the evidence against the earl was never satisfactory. The last time Rushworth mentions Selden in connection with the preparations for the trial of this unfortunate nobleman, is as one of the committee of free conference with the lords, after the earl had put in his answer. This was on the 6th of March, 1641. On the 18th of the same month, Mr. Glyn, was added to the committee of twelve who managed the prosecution, and in all after proceedings seems to have occupied the station that was intended for Selden *.

In this work it is unnecesary to detail the evidence produced upon this memorable trial, an event which, a contemporary well observed, " we can hardly call the trial of the earl of Strafford only: the king's affections towards his people and parliament; and the hopes of three kingdoms depending on it, were all tried when Strafford was arraigned †." Whoever reads the evidence in these days, when the spirit of partisanship has no influence upon the judgment, must conclude that although it proved him to be an apostate from the cause of liberty, and a despot in his public acts and councils, yet it failed to convict him as a traitor. Yet these legislators who

* Rushworth's Trial of Strafford, 33—38.

† May's History of the Parliament, 87.

voted for his condemnation upon the charge of treason, are not without an extenuating plea, for in the statute under which he was arraigned (25 Edw. 3, st. 5, cap. 2.) there is a clause empowering the parliament to declare whether any particular offence "*ought* to be judged treason." The injustice and danger of such a clause is demonstrated by this example, for the power was entrusted to men, many of whom unquestionably had not moral courage sufficient to maintain the dictates of their consciences.

The earl's replies to the charges were eloquent expressions of able arguments. His judgment throughout was prudent and skilful; he maintained firm denials where he considered his cause strong, and submitted to judicious yieldings where he felt himself to have been in error. His bearing was uniformly dignified and calm; he was bold without being audacious, and courteous without being servile*.

Denham, who was probably an eye-witness, has left this memorial of the effect produced by his pleading

> Such was his force of eloquence, to make
> The hearers more concern'd than he that spake
> Each seem'd to act that part he came to see,
> And none was more a looker-on than he;
> So did he move our passions, some were known
> To wish, for the defence, the crime their own.
> Now private pity strove with public hate,
> Reason with rage, and eloquence with fate.

* See Rushworth's "Tryal of Thomas Earl of Strafford," passim.

This trial, which an eye-witness and its reporter remarks, was, "the most solemn, deliberate, and every way the greatest trial, whereof we have any account in our English Story *," requires more than a brief notice. The preparations for the trial were made with unusual solemnity, under the directions of a committee of both Houses of Parliament.

The usual courts of justice were too small and inconvenient for the assemblage that it was known would attend its progress; the flooring of the painted chamber was considered unsafe; other rooms were similarly objected to; and consequently Westminster Hall, was fitted up for their accommodation.

A closet was provided for the king, the queen, the prince and their attendants, close behind the benches occupied by the peers; and its front was so inclosed by arras or curtains, that the royal party could hear and see the whole of the proceedings without being recognised. Charles however was too deeply interested, and too desirous to influence the court by the open acknowledgment of his presence, to remain even partially concealed, and an eye-witness relates, that the king, who was present every day, with his own hands drew back, during the first morning, the tirlie or curtain, and exposed the royal party "full in the eyes of all †."

* Rushworth's Tryal of Thomas, Earl of Strafford, in Pref.

† Robert Baillie's Letters and Journals, i. 256—297. Baillie was one of the Scotch commissioners present at the trial. To him and

Seats were prepared for the lord high steward, who then was the Earl of Arundel and Surrey, and for the rest of the House of Peers, who sat as the arbiters of the earl's fate. Woolsacks were placed for the judges, as their law counsellors: seats also were provided for the members of the House of Commons, who came, not with their speaker and the mace as a branch of the legislature, but as a committee of the whole House; other seats were prepared for the commissioners of Scotland and Ireland, and it thus became, says Rushworth, an assembly of the three kingdoms.

At the lower end of this temporary court was erected an inclosure for the thirteen managers of the impeachment appointed by the House of Commons; and close to them stood the prisoner, with a table and desk before him, and a chair to rest in when weary. Adjoining the earl sat Rushworth, clerk of the House of Commons, "to take in characters whatsoever should be said either against or for him,"—and his very lengthy and able report of this trial, attests to the truth of his assurance, that "he hath not wittingly or willingly omitted the least particle said in the prisoner's defence, either by himself or others;" and he adds that "he hath not varied the form or manner of his expressions, being full of eloquence, and pleasing rhetoric, and excellently adapted to move compassion both in his judges, and the numerous auditors."

to Rushworth I almost exclusively refer. Rushworth states that only the prince made his appearance.

As already observed, it was on the 11th of November, 1640, that Mr. Pym moved the House, after the lobby had been cleared, and the key laid upon the table, that the Earl of Strafford might be impeached; and, the house having assented, Mr. Pym the same day went up and arraigned him at the bar of the House of Lords.

The arrangement of the charges; the collecting of witnesses, and other preparatory measures could not be completed with similar promptitude; and it was not until the 22nd of the following March, that the trial was opened in Westminster Hall.

About seven o'clock on the morning of the trial's commencement, the earl came from the Tower, accompanied by one hundred soldiers, armed with partizans, in six barges, with fifty pair of oars. When he landed at Westminster, he was received by two hundred of the London trained band, who guarded him into the Hall; but there was no tumult in the crowd through which he passed; the bystanders generally saluted him, and he returned their salutations courteously. When the earl entered the Hall, the attendant porter inquired whether the axe should be carried before him; but this ceremony was dispensed with, not only at the command of the king, but because it was not customary to do so except when the party accused is tried by a jury.

The first day was occupied with reading twenty-eight articles of the impeachment, and the earl's reply to them,

and the trial subsequently proceeded with intervals of various duration until the 12th of April. It would be tedious, and it is unnecessary, to follow its diurnal progress; but I shall give an abstract of such of the proceedings as were most important and interesting.

Mr. Pym commenced with this preamble. "This, my lords, is a great cause, and we might sink under its weight, and be astonished with the lustre of this noble assembly, if there were not in the cause strength and vigour to support itself, and to encourage us. It is the cause of the king; it concerns his majesty in the honour of his government, in the safety of his person, and in the stability of his crown. It is the cause of the kingdom; it concerns not only its peace and prosperity, but its very being. We have also that piercing eloquence, the cries and tears, and prayers of three kingdoms assisting us." He then proceeded to descant upon the answer of the earl to the charges of the impeachment; and to examine witnesses, to show that certain acts of his government as lord lieutenant of Ireland were unconstitutional.

The earl by his cross examinations and reply, elicited that they were not his acts but those of the Irish Privy Council. Though refused his request of a day's delay to answer the evidence adduced, but obliged to a prompt reply, he argued ably, unconfused, and with dignity, judiciously striving, as in the following passage, to mollify the asperity of his prosecutors, and to gain over to his

cause the good wishes of his judges and auditors. "I desire leave to say," said the earl, "in the presence of Almighty God, that I shall desire to be delivered from the afflictions which He hath laid upon me for my sins, no other way than as in the intention of my heart, and endeavour of my mind, I have been most faithful and true to his majesty and the commonwealth; and I well trust and hope that by the time all these things come to conclusion, and have been fully heard, I shall recover in great measure, the favour and good opinion of the honorable House of Commons; in which House I have spent a great part of my time. I doubt not but it is known to many who sit here, what my conduct hath been there. I never was yet impeached of untruth in my private conversation, and I hope they will think of me charitably until they have heard the whole business; and then I doubt not that I shall take off in great part their hard opinion, and procure to myself their compassion and favour, and that leaving all public employments I shall go in peace and quietness to my grave."

On the third day one observation made by Serjeant Maynard affords a true statement of what really was the state of the impeachment. "It is," said Mr. Maynard, "a charge of high treason—a treason not ending and expiring in one single act of a discontented heart, but a habit of treason exercised by this great lord, ever since the king's favour was bestowed on him." There really was no one specific act of treason established in any of the charges,

but a series of tyrannical conduct, and to this the earl applied an unanswerable observation, when he inquired "since one thousand misdemeanours will not make one felony, shall twenty-eight misdemeanours* heighten it to treason?"

The anxiety of the managers on the part of the Commons occasionally betrayed them into inopportune interruptions of the earl's defence; but the earl always met them with a reproof of mingled dignity and gentleness that as often recalled them to a sense of their duty. On one such occasion he observed, "Let no hasty words be misinterpreted, remembrance being had that I am speaking for my life and my children. Gentlemen will do well not to put me out of my way, but to let me speak the poor few things I can for myself, and then leave them to your lordships' judgment."

The most weighty accusation against the earl, was spread through the 21st, 22nd, 23rd and 24th articles of the impeachment, amounting to his advising the king in conversation at the council table, that in case he could not manage the parliament and people of England by legal means, that he should subjugate them by force of arms. The proof of this rested chiefly upon the evidence of Sir Henry Vane, treasurer of the king's household, and principal secretary of state. Such a witness was perhaps never before or since exposed in a court of justice. It

* Twenty-eight were the number of the charges against him.

was well observed of a man who was continually weeping when there was no rational cause, that he was either a fool or a hypocrite; and it is an observation as much founded upon experience, that the man who is constantly assuring us of his veracity, is conscious that it is very open to doubt. Such a man was Sir Henry Vane. Let one question and its answer suffice.

"Did you hear my Lord of Strafford, tell the king, that having tried the affections of his people, he was absolved from all rules of government?" He answered, "that to the general question he doth not remember—but to these words which have been read, he shall, as near as he can, ingenuously deliver what he did formerly depose; ever reserving to himself words to the same effect. That he considers very well where he is, and the presence before whom he speaks; that he hath never in the whole course of his life loved to tell an untruth, much less in this honourable assembly. That he shall, as near as he can, in this case, tell their lordships plainly and truly the matter," and then proceeds to give his answer, interweaving it with sundry "if he do not very much mistake,"—"to the best that he can remember,"—"as he conceives," and concluding with "he must be ingenuous, —he must say all he hath deposed, or is required," and that "if it were the last hour he is to speak, it is the truth to his best remembrance."

If Sir Henry spoke the truth, never did any one so completely succeed in making it appear like falsehood—

Never did any one ever appear more like a perjurer afraid of the consequences of his attested perfidy *.

Against this charge the earl observed that it was maintained by one doubtful witness, which could not establish a debt, much less a treason; and eloquently argued against the betrayal of private intercourse. "If words," said the earl, "spoken to friends in familiar discourse, spoken in one's chamber, spoken at one's table, spoken in one's sick bed, spoken, perhaps, to gain better reason, to obtain more clear light and judgment by reasoning; if these things shall be brought against a man as treason, this, under favour, takes away the comfort of all human society. By this means we shall be debarred of speaking with wise and good men, the principal joy and comfort of society, in order to become wiser and better ourselves. If these things be strained to take away life and honour and all that is desirable, it will be a silent world; a city will become a hermitage, and sheep will be found amongst a press of people. No man shall dare to impart his solitary thoughts or opinion to his friend and neighbour, but thereby be debarred consulting with wiser men than himself, whereby he may understand the law wherewith he ought to be governed."

* The earl, in his final address, did not fail to remark upon Sir Henry's evidence. These professions of his speaking clearly and plainly, said his Lordship, and of his consideration before whom he was, which are something unusual clauses to men that come to give evidence upon oath, make me conceive him but a dubious and uncertain witness."

He then argued convincingly, that the words attributed to him were at the worst of doubtful import, and rising in spirit as he won his way, he concluded by saying, " those words charged upon me were not wantonly or unnecessarily spoken, or whispered in a corner, but were uttered in full council, where I was by the duty of my oath, obliged to speak according to my heart and conscience in all things concerning the king's service. So that if I had forborne to speak what I conceived for the benefit and advantage of the king and the people, as I conceived this to be, I had been perjured towards God; and yet it seems that by the utterance of them I am in danger of being adjudged a traitor. If that necessity is put upon me, I thank God that by his blessing I have learned not to stand in fear of him that can kill the body; but I must stand in fear of him that can cast body and soul into eternal torment. If that be the question, that I must be a traitor to man, or perjured to God, I will be faithful to my creator; and whatsoever shall befal me from popular rage, or my own weakness, I must leave it to the Almighty, and to your lordships' honour and justice."

On the 12th of April he was called upon to sum up his defence. Upon that day he excelled all his former efforts, and his children, who were that day in court, might remember to their dying hour with pride, the talents, the dignity, and pathetic eloquence that their father on that day exhibited in their and his own behalf. That speech occupies nearly thirty folio pages of Rushworth's work,

and is an admirable example of condensed reasoning, of analysis of evidence, and of appeal to the feelings. A few extracts from it must be all that can be here related.

He commenced with this appeal to his judges, "My lords, my memory is weak, my health hath been impaired and I have not had such quiet thoughts as I desired to have had in a business of so great and weighty importance to me. Therefore I shall most humbly beseech your lordships, that by your wisdom, your justice and goodness, I may be so much bound to you, as to have my infirmities supplied by your better abilities, better judgments, and better memories."

Having proceeded then to discuss, compare, and rebut the various evidences against him with admirable perspicuity, and argued that at the most the whole amounted but to constructive treason, he thus concluded :—

" My lords, 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, when the law is not clear nor known. If there must be a trial of wits, I do most humbly beseech your lordships to consider that the subject should be of something else than of your lives and of your honours.

" My lords, we find that in the primitive time, on the sound and plain doctrine of the blessed apostles, they brought in their books of curious arts and burnt them. My lords, it will be likewise, under favour, wisdom and

providence in your lordships, for yourselves and posterities, and for the whole kingdom, to cast from you into the fire, those bloody and mysterious volumes of constructive and arbitrary treasons, and to betake yourselves to the plain letter of the statute, that tells you where the crime is, that so you may avoid it; and let us not, my lords, be ambitions to be more learned in those killing arts than our forefathers were before us."

"My lords, I beseech you that you will be pleased to consider, and let my particular case be so looked upon, as that you do not, through me, wound the interest of the *commonwealth*. For howsoever those gentlemen at the bar say they speak for the commonwealth, and they believe so; yet, under favour, in this particular, I believe I speak for the commonwealth too; and that the inconveniences and miseries that will follow upon this will be such as that it will come, within a few years, to that which is expressed in the statute of Henry the Fourth, it will be of such a condition that no man shall know what to do, or what to say.

"Do not, my lords, put greater difficulty upon the ministers of state, than that with cheerfulness they may serve the king and the nation; for if you will examine them by every grain, it will be so heavy that the public affairs of the kingdom will be left waste, and no man will meddle with them that hath wisdom, and honour, and fortune to lose.

"My lords," he concluded pointing to his children, "I have now troubled your lordships a great deal longer than

I should have done were it not for the interest of those *pledges* that a saint in heaven has left me. I should be loath, my lords ———" but his feelings would not allow him to complete the sentence. A pause for a short space having restored his self command, he proceeded, "What I forfeit for myself is nothing, but I confess that my indiscretion should forfeit for them wounds me very deeply. You will be pleased to pardon my infirmity;—something more I should have said; but I see I shall not be able, and therefore I will leave it.

"And now, my lords, for myself, I thank God I have been taught by his good blessing towards me, that the afflictions of this present life are not to be compared with that eternal weight of glory that shall be revealed for us hereafter: and so, my lords, even so with all humility, and with all tranquillity of mind, I do submit myself clearly and freely to your judgments; and whether that righteous judgment shall be to life, or to death, *Te Deum laudamus, Te Dominum confitemur.*"

On Mr. Pym devolved the arduous task of recovering to the cause of the parliament the calm attention of the judges, which must have been hurried away by the mingled feelings of admiration and pity which the earl's address engendered in the heart of every auditor. Than Pym no man knew how to succeed better in this task; he was fully conscious that it was for him to allay the excitement, and with sober and didactic eloquence he assayed to assuage the agitated element around him.

He commenced by reminding the peers that he stood there to advocate the safety of the people, the object of all laws. "It is the law," he continued, "that puts a difference between good and evil, between just and unjust; if you take away the law all things will fall into confusion, every man will become a law to himself, which, in the depraved condition of human nature, must needs produce many great enormities; lust will become a law; and envy will become a law; covetousness and ambition will become laws, and what dictates such laws will produce may easily be discerned in the late government of Ireland.'

Mr. Pym proceeded much further in this, which has always been considered an admirable eulogium upon the advantages of a just code of laws; and after expatiating upon the earl's offences, and recurring to the punishment they merited, he thus proceeded. "His *death* will not be a new way of blood,"— at that moment his eye involuntarily met the earnest gaze of the earl; and he faltered beneath the indignant glance of an eye that beaming with all its accustomed fire, spoke more rebukingly when compared with the otherwise wasted frame of his early friend. Pym rallied and attempted to go on, but "to humble the man," observed Baillie, "God let his memory fail him. He looked on his papers, but they could not help him." He hurried to close his address, and left Mr. Glynn to reply more fully to the earl's summary; and to Mr. St. John to argue the points of law.

The House of Commons did not press for judgment

upon this impeachment, but two days previous to its close introduced a Bill of Attainder against the earl. This they professed was their intention from the beginning;—they wished to establish the facts in open court, and then to found upon it a Bill of Attainder.

The reason for adopting such an irregular course seems inexplicable—it could not be because they feared a majority of the peers were in favour of the earl, because the Bill of Attainder must come before the same judges. It, perhaps, was a course adopted to give time for the work of intimidation which might be necessary to obtain the requisite assents—and if so, full advantage was taken of the intervening time to bring that means into operation. Rumours of plots, some real and others imaginary, were circulated; multitudes of people surrounded the houses clamouring for "justice" upon the Earl of Strafford. Intimidation effected what reason, honour, and christianity would not permit, and the earl died upon the scaffold on the 12th of May, 1641.

Mr. Whitelocke, who was chairman of the committee that prepared the charges against the earl, says of him, "certainly never any man acted such a part, on such a theatre, with more wisdom, constancy, and eloquence; with greater reason, judgment, and temper; and with a better grace in all his words and gestures, than this great and excellent person did; and he moved the hearts of all his auditors, some few excepted, to remorse and pity." Lord Digby, who had been one of the same

committee, nobly stood forward to oppose the earl's condemnation for treason. He said, " I believe his acts in themselves as high, as tyrannical, as any subject ever ventured on; I do not say but others may represent him as a man as worthy to die, and perhaps worthier, than many a traitor; I do not say but they may justly direct us to enact that such acts shall be treason for the future; but God keep me from giving judgment of death upon any man, and of ruin to his innocent offspring, upon a law made *a posteriori*."

The vote, however, was carried against the earl by a majority of 204 opposed by 59.

Franklyn, expressly says, that Lord Digby and Selden were convinced by the defence, and left the prosecution when the Bill of Attainder was introduced*. They were in the glorious minority above enumerated, and their names were unintentionally honoured by the rabble, when it posted them up in Palace Yard and other places, as being " Straffordians, and betrayers of their country†."

The merit of those who opposed the wishes of the prevailing majority is more enhanced by the fact, that all who so opposed them were liable to the violent and brutal disapprobation of the populace, who the leaders of the majority were weak and base enough to incite to violence

* Franklyn's Annals, 892.

† Parliament. History, ix. 257—288. Warwick's Memoirs, 161. Rushworth's Trial of Strafford, 59, &c.

against those persons and measures of which they disapproved. In the instance before us, Sir John Strangeways declared in a petition, that although he was at his house in Dorsetshire, during the voting of Strafford's attainder yet his name had been inserted among the Straffordians," and consequently his person had been rendered odious and his life endangered*. Many of the peers, apprehensive of incurring popular displeasure, disgracefully shrunk from their duty, for when the last great question involving the earl's life was decided, only forty-five of them were in the House of the eighty who had attended his trial. Of these nineteen voted in his favour, and twenty-six against him †.

The greatest known delinquent in this tragedy was the king. The others who sat in judgment upon the earl can never be ascertained to have acted against their consciences, until the day when the secrets of all hearts will be made manifest; but Charles the First has registered to all posterity that he sacrificed his friend with the hope of thereby benefiting himself. In the presence of all his parliament, after every proof had been gone through, the king declared , " in my conscience I cannot condemn him of high treason. To satisfy my people I would do great

* Rushworth's Collections, iv. 279. Warwick's Memoirs of Charles the First, 6.

† Journal of the House of Lords. Whitelocke's Memorials. Nalson's Collections, &c.

matters; but in this of conscience, no fear, no respect whatsoever shall ever make me go against it*." Yet in eight days after the king consented to his execution!

If a reference is made to what his best apologists have written upon this criminal consent, we shall find with regret that all the palliating circumstances they adduce, amount to no more than that Charles permitted death to be inflicted on one who he was convinced was innocent, because that death might benefit himself and his family. When we reflect that the sufferer was his friend, and remember the noble yet pathetic letter the earl wrote to him, whilst he yet balanced the decision of his fate; and that he was not without a mentor at the time, for Dr. Juxon to the last warned him, "that if he were not satisfied in his conscience he ought not to do it whatsoever happened†," we must feel that Charles had left none but the tyrant's plea, that he did it from policy; a plea of which he must have observed the universal applicability when some few years subsequently he bowed down himself before the headsman. Charles was bitterly punished for this and all his errors, and in further mitigation of our indignant feeling towards him, it should be remembered that the struggle of his heart against consenting was long

* Journal of the House of Lords. Parliament. Hist., ix. 287.

† Charles from experience ought to have confided in the advice of the irreproachable Dr. Juxon, for he told Sir Philip Warwick, "I never got his opinion freely in my life, but when I had it, I was ever the better for it." (Warwick's Memoirs, 96.)

and anguishing; that the hope to appease the clamour against those most dear to him was a powerful temptation; that the advice of some of his council was most base; and that his repentance was sincere and permanent.

No event in history more powerfully demonstrates the futility of that policy, which has recourse to criminal measures for support, than this consenting of Charles to the execution of the Earl of Strafford. The effects were totally the reverse of those intended to be produced.

Its first marked result was that it destroyed the confidence of the king's friends; for when they saw that there was no faith to be founded upon his promises, and that his word and his conscience were disregarded when his interests required, they naturally concluded that there was no assured safety to themselves. Consequently Lord Cottington resigned the mastership of the wards; Bishop Juxon his post of lord treasurer: the Earl of Newcastle declined the preceptorship of the prince, and the Earl of Pembroke retired from the lord chamberlainship *."

Instead of conciliating the people it undoubtedly drew upon the king their contempt; and we may be proud to know, that there never yet was an individual who shrank from the suffering necessary to preserve his innocence that obtained the approbation of Englishmen. "That the king should be induced to consent to the execution of the earl," says Whitelocke, "was admired by most of his subjects, as well as by foreigners."

* Whitelocke's Memorial, &c.

From the moment Charles consented to sign the warrant of death, he must have lost his self respect, and stung by the "still small voice," that would be ever whispering his self-condemnation, have viewed with distaste, not to say hatred, the parliament which had urged him to the deed. Charles also speedily found by a woeful experience that to acquiesce to an unreasonable demand will never satisfy the demander. By asking it he incurs a degree of guilt; each addition of guilt brings its addition of fear, and every such fear is restless until the injured person is deprived of the power either to recover his right or to revenge his injury*.

The parliament continued to require greater measures of reform, and greater securities against the recurrence of misrule: these, whether reasonable or supererogatory were usually obstinately opposed and then weakly assented to. One false step followed close upon the heels of another, and Charles very early renounced the possibility of retrocession, and laid the foundation of his own ruin by passing the act that made the parliament undissolvable without its own consent. This consent blindly weakened his power, as well as basely subverted the constitution he had sworn to preserve †.

* Warwick's Memoirs, 163.

† "It is impossible to think," says Sir Philip Warwick, who was Charles's secretary, "how so intelligent a person as this king was, should, by any persuasions, which were certainly great on the queen's side, or treachery, which certainly was great on the side of many of his great courtiers, be induced thus to divest himself of all majesty

From this time the spirit of the court party was broken, and consequently less check being offered to the advances of the parliament, it proceeded in its career of political change with increased speed. It is impossible to commend the policy of some of their enactments, yet the king enumerated a curious list of the past sources of oppression, when he thus reminded the parliament of some of the bills to which he had assented: "Are the bills for triennial parliaments; for relinquishing our title of imposing upon merchandise, and power of pressing soldiers; for taking away the star-chamber, and high-commission courts; and for regulating the council-table, but words? Are the bills for the forests, the stannary courts, the clerk of the market, and the taking away the votes of the bishops out of the House of Lords, but words? Lastly, what greater earnest of our trust and reliance on our parliament could, or can, we give than the passing of the bill for the continuance of this present parliament *?"

If, as in the above instances, the parliament had restrained itself to its appropriate office of legislation, the king could have had little cause for complaint, but it mistrusted him too much not to desire for its own safety to take from him the execution as well as the enactment

and power; or to be so overseen, as to think, he should avoid danger by running into the greatest hazards imaginable. But wisdom often quits a man, when misfortune hath led him into extremities."—(Warwick's Memoirs, &c. 182.)

* Parliament. Hist. x. 383.

of the laws. They were fatally jealous of each other, and as he had at first opposed himself to all reformation, now that he had been compelled to yield, the parliament placed no confidence in the sincerity of his compliances. It justly looked upon him as a receding enemy, that only waited for a favourable opportunity again to advance, and it consequently feared to stay its progress in the restrictions of his prerogative, whilst there remained with him the power of an effectual regression.

One point is most clear; the parliament greatly erred in destroying the monarchy, but when a view is taken of the whole of the rash, duplex conduct subsequently pursued by Charles, it is perhaps impossible to determine where it could have stopped in restricting his power with a perfect security, that the oppressions of an absolute monarchy could not recur.

The conduct of the king naturally afforded grounds for the suspicions of the parliament, many instances have already been noticed, and others will hereafter be mentioned, but here one fact only need be stated, which is, that being obnoxious to the parliament was always a recommendation to court favour. No sooner did Lord Digby, Sir Philip Warwick, and Mr. Hyde become opposed to the measures of the parliament, than they immediately ranked among the king's favourites. Thus the branches of the legislature practically declared they were no longer acting in union for the public good, and the enmity increased until they agreed but on one point,

and that unfortunately an error, namely that the prerogative of the crown and the liberty of the people could not be co-existent.

The part which Selden took during this exciting period is not fully known. His name is found as one of various committees, particularly that appointed to hold a conference with the lords upon the disgraceful treaty which the king had entered upon at Ripon with the Scotch; of another appointed to examine into the illegal proceedings in the exchequer-chamber, respecting ship money; and of a third upon the appointment of a *Custos Regni* during the king's absence in Scotland *. In these he acted as a pioneer to prepare the ground for future operations, but when the state of the established church was brought before the legislature, he stood forward and occupied a more prominent station in the contest.

The clergy of the period were men of extensive literary acquirements; "all confess," says Selden, "there never was a more learned clergy: no man taxes them with ignorance:—but they have worse faults." They were especially notorious for being, in general, too inattentive to their religious duties, and too interfering with political affairs. Their enemies therefore consisted of those who condemned them as inactive teachers; those who objected to their theological opinions; and those who opposed their state power: and all unfortunately united to subvert

* Parliament. Hist., ix. 503.

rather than to correct them. It has already been remarked, that in the declarations of grievances, those relating to religion and ecclesiastical affairs, had always occupied a primary position, and now that the work of reformation was actively proceeding these met with an early attention.

It has been noticed that during the long suspension of parliament a convocation of the clergy had drawn up new canons and ordinances. This deserved the attention of the legislature, and previous to its consideration by the whole House, a committee, of which Selden was a member, proceeded to search for convocation warrants and other preliminary information. To assure us that the clergy had been wrong in their proceedings, we need no other authority than Clarendon, who says, "The convocation made canons, which it was thought it might do; and gave subsidies out of parliament, and enjoined oaths, which certainly it might not do: in a word, did many things which in the best of times might have been questioned, and therefore were sure to be condemned in the worst, and drew the same prejudice upon the whole body of the clergy, to which before only some few clergymen were exposed *."

The members of that convocation, therefore were justly alarmed when they became acquainted with the proposed parliamentary inquiry. The following letter to Selden

* Hist. of the Rebellion, i. 116. Fol. Ed.

from Archbishop Laud, is at once a confession of error and of fear.

"To my much honoured friend, Mr. John Selden,

"These, Sal. in Christo.

"Worthy Sir,

"I understand that the business about the late canons will be handled again in your House to-morrow. I shall never ask any unworthy thing of you, but give me leave to say as follows: If we have erred in any point of legality unknown to us, we shall be heartily sorry for it, and hope that error shall not be made a crime. We hear that ship money is laid aside as a thing that will die of itself, and I am glad that it will have so quiet a death. May not these unfortunate canons be suffered to die as quietly without blemishing the church, which hath so many enemies both at home and abroad? If this may be, I here promise you, I will presently humbly beseech his majesty for a licence to review the canons, and abrogate them; assuring myself that all my brethren will join with me to preserve the public peace, rather than any act of ours shall be thought a public grievance. And upon my credit with you I should have moved for this licence at the very first meeting of this parliament, but that both myself and others did fear the House of Commons would take offence at it (as they did at the last), and said we did it on purpose to prevent them. I understand you mean to speak of this business in the House to-morrow

and that hath made me write these lines to you, to let you know our meaning and desires. And I shall take it for a great kindness to me, and a great service to the church, if by your means the House will be satisfied with this, which is here offered of abrogating the canons.

"To God's blessed protection, I leave you, and rest

"Your loving poor friend,

"W. CANT."

"Lambeth, Nov. 29, 1640."

"I mean to move the king this day for a licence, as is within mentioned *."

Such an application was not likely to meet with compliance in an assembly the majority of whose members were inimical to the church establishment, anxious to avail themselves of every opportunity to attack it, and strenuous in their exertions to effect its overthrow. They were sustained by the prejudices of the people, for the tide of public opinion set strongly against the episcopal form of church government. Mr. Bagshaw, who was reader of the Middle Temple, lecturing during the Lent vacation of 1640, upon the statute passed in the 25th of Edward the Third, inferred from its enactments, that bishops as spiritual lords have no right to sit in parliament. It is true, that he was silenced by the government, but the support he met with, and the very

* Biographia Britan., from the Harding MSS.

fact of his lecturing on the topic before such an audience, is testimony of that opinion not being unpalatable or unfavoured*.

Selden consistently adopted the moderate and wise course of improvement rather than of destruction, and declaring himself an enemy of the church's usurped powers, threw himself directly in opposition to those who wished to subvert its doctrines and discipline.

Many preliminary skirmishes occurred before the fate of the establishment was finally determined. Upon the occasion of a remonstrance being presented from some sectarian ministers against the government of the church, Selden protested against the discussion of religious topics in the House of Commons, and the debate then proceeded upon the right of bishops to suspend the inferior clergy from the performance of their ministerial duties. In opposition to this right Sir Harbottle Grimston employed the following extraordinary logic. "That bishops are *jure divino* is a question; that archbishops are not *jure divino* is out of question. Now that bishops, who are questioned whether *jure divino*, or archbishops, who out of question are not *jure divino*, should suspend ministers that are *jure divino*, I leave to you to be considered."

To this, in a happy vein of ridicule, Selden thus replied. "That the convocation is *jure divino* is a question; that parliaments are not *jure divino* is out of question; that

* Heylin's Life of Laud, 381. Whitelocke's Memorials, 31.

religion is *jure divino* there is no question. Now, sir, that the convocation, which is questionable whether *jure divino*, and parliaments which out of question are not *jure divino*, should meddle with religion, which, questionless is *jure divino*, I leave to your consideration!"

Sir Harbottle, pursuing his argument, observed, "that archbishops are not bishops." To which Selden rejoined, "that is no otherwise true than that judges are no lawyers, and aldermen no citizens*!"

On the 31st of January 1641, a declaration was read in the House of Commons against episcopacy. Selden used all his learning and reason to defeat it, by endeavouring to establish that it is not a subject properly within the authority of parliament. His opposition was in vain, for the bishops were deprived of their seats in parliament, and the clergy generally proscribed from holding any civil office, early in the following month. As Selden had foretold, this was but a prelude to the abolition of episcopacy, which was finally voted by the same parliament in September, 1642.

A man's favourite pursuit will obtain his attention even when he is engaged in the most dissimilar occupations, and this predominating influence, which made Newton work problems amid the bustle of a market day, and Korner write poetry amid the awful preparations of battle, impelled Selden to pursue his antiquarian litera-

* Franklyn's Annals, 836. Rushworth, &c.

ture through the excitement, and turmoil of this revolutionary crisis.

In 1640 he published one of his most erudite works, entitled "De Jure Naturali et Gentium juxta disciplinam Ebræorum, libri septem." Its design is supposed to have been suggested to him by Grotius's celebrated treatise "De Jure Belli et Pacis," yet its method is totally different, and its motto from Lucretius, claims for its subject the merit of absolute novelty. It is without a dedication; an observable circumstance, indicative of the dubious complexion of the time in which it appeared, but it is ushered in by a preface, containing an analysis of the work, which the variety of its matter and intricacy of its arrangement renders very necessary.

Speaking first of the title, he explains the *Jus Naturale* to mean the law of the world, or universal law; and the *Jus Gentium* to be the peculiar law of different nations. He quotes Lucan's similar definition in the apposite lines:—

> Sed neque jus mundi valuit, neque fœdera sancta
> Gentium.

Selden limits this natural or universal law to those precepts which the Jewish books and traditions lay down as delivered by Noah to his posterity, and as supposed to have been derived by him from Adam, to whom they were given by God. Of these seven heads are enumerated, namely, 1. Idolatry. 2. Blasphemy. 3. Homicide. 4.

Illicit concubinage. 5. Theft. 6. Eating flesh severed from a living animal. 7. Judicial proceedings and civil obedience.

Under these heads is given a digest of all the laws embracing the civil and religious polity of the Jews, distinguishing that part of it which belongs to the universal law, from that which is national or municipal. In an introductory book he details the Hebrew philosophy, and the sources of natural law, according to the Jewish writers, particularly considering the supposed origin and authority of the Noachide precepts.

It is evident from this outline, that the work is to be regarded as historical rather than philosophical, and therefore, although Le Clerc's opinion of it may be well founded, it does not follow that Selden is censurable for not having performed what he did not attempt. That critic says, "Selden only copies the Rabbins, and scarcely ever reasons. His rabbinical principles are founded upon an uncertain supposition of the Jewish tradition, that God gave to Noah seven precepts, which all the human race was to observe. If this were denied the Jews would be much at a loss to prove it. Moreover his ideas are very imperfect and embarrassed." In answer to this it may be observed, that as it was Selden's professed object to exhibit Jewish law as laid down by the Jewish writers themselves, he was in some measure constrained to follow their method, and certainly to deliver faithfully their laws and opinions. Besides no one can deny that Selden has made

his work a valuable repertory of all that history or tradition informs us concerning the Hebrew institutions before and after the Mosaic dispensation. On which account it has been much commended by learned men both at home and abroad, and it made a large addition to the reputation he already possessed for indefatigable industry and profound erudition. An abridgment of this work was published by J. F. Buddœus, professor of philosophy at Halle in 1695*.

* Aikin's Life of Selden, 108.

## CHAPTER IX.

THE MODERATE PARTY.—KING RASH IN HIS CONDUCT.—PARLIAMENT ACT ILLEGALLY.—KING ATTEMPTS TO SEIZE FIVE OF THE MEMBERS IN THE HOUSE.—STRENGTHENS THE OPPOSITION.—SELDEN REFUSES THE LORD KEEPERSHIP.—BREACH BETWEEN THE KING AND THE PARLIAMENT WIDENS.—CIVIL WAR COMMENCES.—SELDEN'S STRENUOUS OPPOSITION TO AN APPEAL TO ARMS.—EPISCOPACY AND PRESBYTERIAL CHURCH GOVERNMENT.—SELDEN'S TRANSLATION FROM EUTYCHIUS.—NOT OPPOSED TO EPISCOPACY.

THE moderate party in the parliament, which in this country always eventually prevails, was unfortunately weak in numbers, but was gradually increasing. Their just fundamental principle was well expressed by a barrister named Smith, who was one of their number, when he warned the House of Commons that "prerogative and liberty are both necessary to the kingdom, and, like the sun and moon, give a lustre to the nation so long as they walk at their equal distances, but when one of them ventures within the other's orbit, like those planets in conjunction they then cause a deeper eclipse."

To this band of genuine patriots Selden belonged, and it is gratifying to observe, that even in the hostile collision that was proceeding between the extreme parties, he was enabled occasionally to secure respect to the rules

of justice and to legal authorities. Thus, when it was debated whether the pay of certain officers, suspected of plotting against the parliament, should cease, Selden successfully reminded the House, that there was no judgment, or even charge passed against them, therefore they could not have incurred a forfeiture*.

This influence of the moderate party, and the natural results of a continued progress in a course of reformation, gradually reduced the strength of the partisans of extreme change. The predominance of political reformers in general, must be of temporary duration. Time always reduces their numbers, until their party becomes a minority. Some will desert them because they act too rashly; others will withdraw their support because they

* Sir Edward Nicholas, Secretary of State to Charles the First, in a private letter to this monarch, dated August, 1641, speaks more particularly of this transaction. He says, "Yesterday the Commons ordered that the pay of Colonels Wilmot, Ashburnham, and the rest of the soldiers that are questioned in parliament, shall be sequestered until their business shall be heard and adjudged. And upon the discourse of that business, Mr. Selden did then deliver his opinion with much confidence, that by the act of oblivion, Mr. Percy and Mr. Jermyn, and all the rest that are questioned with them, are freed and pardoned, which he argued so strongly out of the words of that act, as the sages of the House who oppugned his opinion did not give any reasonable answer to. The House was not well pleased with him who delivered this opinion. Some said it was not the intention of the House to pardon them, but it was replied that laws are to be understood according to the words of the acts, not according to the intention of the makers, further than the words will bear."—(Bray's Memoirs, &c. of Evelyn, ii. 7. Parliament. Hist. ix., 531.)

proceed with too little vigour; others will grow weary of the constant efforts to improve; and differences will divide them both in determining what is faulty and what is remedial. Thus unagreeing among themselves, they fail before a less numerous, yet more united party, until the deficiencies, which time will render apparent in all human institutions, or some violent outrage of the executive, again unites them to effect changes which must be unanimously desirable.

At this period one rash proceeding of the king, goaded by the constant vigilance and aggressions of the parliament, or acting upon the advice of incompetent counsellors, completely deprived him of the advantage he was gaining, united the declining party of the parliament, and rendered him more than ever an object of distrust and dislike *.

Both these causes may have united in making Charles adopt this measure, for the parliament had proceeded in its course without any attention to the king's feelings, and Clarendon says he acted upon the sole advice of Lord Digby.

The House of Commons had especially directed its attention against those who it considered the instruments and advisers of the national misrule. The Lord Keeper Finch, and Secretary Windebank fled from the prosecution that was commenced against them. Many minor offenders met with various degrees of punishment, and the king's

* Clarendon's Hist. of the Rebellion, i. 279.

chief minister, Archbishop Laud, was committed to custody*. They sent commissioners to watch the king, whilst executing the Scotch treaty; they appointed standing committees, during the recess, to attend to various internal regulations of the country; they ordered the governor of Hull not to attend to the king's commands unless signified to him by themselves; and they resolved to put the kingdom in a posture of defence without consulting the king. These were excessive outstretches of their power, and inroads upon the king's prerogative, but they descended even to paltry interferences with the management of the royal establishment that could produce scarcely any other effect than an exasperation of those whom it annoyed.

Whatever may have prompted the measure, on the 3rd of January 1642, the attorney general, Sir Edward Herbert, exhibited articles of impeachment before the House of Lords, against Lord Kimbolton, Sir Arthur Haselrigge, and Messrs. Hollis, Pym, Hampden and Strode. It charged them with endeavouring to deprive the king of his regal power, and to exalt that of the

* Selden was nominated one of the committee to prepare his articles of impeachment, but there is no reason to believe that he engaged in that painful task. There were a sufficient number of talented and professional men in the House, to prevent a necessity for him to sacrifice the inclinations of friendship to his public duty. Neither the Archbishop in his very particular diary, or any other authority mentions Selden as being employed in his impeachment.

people; with attempting to render the army disaffected; inviting a foreign invasion (that of the Scots); subverting the rights of parliaments; and encouraging tumults against it and the king. The lords attended to the impeachment. The studies and trunks of some of the accused were placed under seal, and on the same day, but previously, the king sent a serjeant at arms, to the speaker of the House of Commons requiring him to deliver up the five impeached members.

The whole of this proceeding was a tissue of error. It was ill-judged to proceed at all; it was illegal if the offences were committed by the accused in parliament; it was illegal to proceed against the five commoners, otherwise than by a trial by jury; and the peers acted illegally by at all entertaining the impeachment.

With becoming resolution the House refused to deliver up its members so accused, but they were ordered to attend daily, and his majesty was informed that his message should be considered, as it was of great consequence and concerned the privileges of parliament. Charles, however, did not require their advice; he had resolved to adopt the suggestions of his own will. "Accordingly," says Rushworth, who was clerk of the House, and an eye-witness, "when the five accused members came this day (4th of January 1641), after dinner into the House, they were no sooner seated in their places, but the House was informed by one Captain Langrish, lately an officer in arms in France, that he came from among the

officers and soldiers at Whitehall; and understanding from them that his majesty was coming with a guard of military men, commanders and soldiers, to the House of Commons, he passed by them with some difficulty to get to the House before them, and sent in word how near they were come. Whereupon, a certain member of the House having also private intimations from the Countess of Carlisle, sister to the Earl of Northumberland *, that endeavours would be used this day to apprehend the five members, the House required them to depart forthwith, to the end that a combustion in the House might be avoided, if the said soldiers should use violence to pull any of them out. To this request four of them yielded ready obedience, but Mr. Strode was obstinate, until Sir Walter Earl, his ancient acquaintance, pulled him out by force, the king at that time entering into the New Palace Yard, in Westminster. As his majesty came through Westminster Hall, the commanders, reformadoes †, &c. who attended him, made a lane on both sides of the Hall, through which his majesty passed, and came up the stairs

* This lady was a complete political intriguer, for secretary Nicholas mentions her bringing information to the court party.—(Evelyn's Diary, &c. by Bray, ii. 24.) However, in heart she was attached to the opposition. Sir Philip Warwick says that she was a busy stateswoman, at first attached to Wentworth, but at this period to Mr. Pym. He adds, that "she was become such a she-saint, that she frequented their sermons and took notes!"—(Sir P. Warwick's Memoirs, &c. of Charles the First, 204.)

† Reformado. An officer retained in a regiment after his company is disbanded.—(Ben Jonson, in Todd's Johnson's Dict.)

to the House of Commons, and stood before the guard of pensioners and halberteers, who also attended the king's person *. The door of the House being thrown open, his majesty entered the House, and as he passed up towards the chair, he cast his eye on the right hand, near the bar of the House, where Mr. Pym used to sit, but his majesty not seeing him there, for he knew him well, went up to the chair and said,

"By your leave, Mr. Speaker †, I must borrow your chair awhile."

Whereupon the speaker came out of the chair, and his majesty stepped up into it. After he had stood in the chair awhile, and cast his eye upon the members as they stood up uncovered, not discerning any of the five members to be there, his majesty spoke as follows:—

"Gentlemen,

"I am sorry for this occasion of coming unto you. Yesterday I sent a serjeant-at-arms upon a very important occasion, to apprehend some that, by my command, were accused of high treason, whereunto I did expect obedience, and not a message: And I must declare unto you here, that, albeit, no king that ever was in England shall be more careful of your privileges to main-

* Mrs. Hutchinson says, that the guard which came with Charles to seize the five members consisted of about 400 gentlemen and soldiers, armed with swords and pistols.—(Mem. of Col. Hutchinson, 76.)

† Mr. Lenthall.

tain them to the uttermost of his power than I shall be; yet you must know, that, in cases of treason, no person hath a privilege; and therefore I am come to know if any of these persons that were accused are here; for I must tell you, Gentlemen, that so long as these persons that I have accused for no slight crime but for treason, are here, I cannot expect that this House will be in the right way that I do heartily wish it; therefore I am come to tell you that I must have them wheresoever I find them."

The king then inquired of the speaker, who was standing below by the chair, "whether any of those persons were in the House? Whether he saw any of them, and where they were?" To which inquiries the speaker, falling on his knee, answered,

"May it please your majesty, I have neither eyes to see, nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here; and I humbly beg your majesty's pardon that I cannot give any other answer than this to what your majesty is pleased to demand of me."

"Well," continued the king, again addressing the House, "since I see all the birds are flown, I do expect from you, that you will send them unto me as soon as they return hither. I assure you, on the word of a king, I never did intend any force, but shall proceed against them in a legal and fair way, for I never meant any other.

"And now, since I see I cannot do what I came for, I

think this is no unfit occasion to repeat what I have said formerly; that whatsoever I have done in favour, and to the good of my subjects, I do mean to maintain it. I will trouble you no more, but tell you I do expect as soon as they come to the House, you will send them to me; otherwise, I must take my own course to find them."

The king having concluded his speech retired from the House, which was in great disorder; and many members cried out aloud, so as he might hear them, "Privilege! Privilege! The House forthwith adjourned until the next day at one o'clock *."

In consequence of this violent and illegal procedure, the opposition party gained an ascendancy superior to that from which they had been declining. The city was re-aroused to declare and even arm in their defence, and this rekindled feeling was communicated to and expressed by the country. Four thousand of the Buckinghamshire freeholders, Hampden's neighbours, rode to London, and expressed their readiness to die in defence of the parliament.

The commons appointed a committee to sit within the precincts of London, protected by a strong guard of citizens, to decide finally upon the remonstrances and reports prepared by other sub-committees. To one of these Selden was nominated, to whose care was consigned an examination of the violation of parliamentary privi-

* Rushworth's Collections, . Parliament. Hist., x. 166. Clarendon's Hist. of the Rebellion, i. 281. Autobiography, 46.

leges, and the framing of a petition to the king on the subject.

Charles, however, persisted in the course upon which he had entered, and on the following day a proclamation was drawn up, directing the apprehension of the five members. The lord keeper, Sir Edward Littleton *, refused to seal this proclamation, consequently it was pasted up at Whitehall-gate, but went no further, being a few days after suppressed by order of the parliament, upon pain of death †.

This, and other conduct of the lord keeper, which showed that he disapproved, or was afraid to support the measures of the government, determined the king to remove him from his office. Charles had now removed to York, and he thence "sent an order to the Lord Falkland, to require the seal from the lord keeper, in which the king was very positive, though he was not resolved to what hand to commit it. His majesty wished them (for he always included Sir John Colepepper and Mr. Hyde in such references) to consider 'whether he

* Lord Clarendon gives him a very high character for professional learning and personal bravery, but there are recorded too many instances of his vacillation, duplicity, and positive falsehood, to allow us to esteem him. Clarendon says, "he had taken great pains in the hardest and most knotty part of the law, as well as that which is most customary, and was not only very ready and expert in the books, but exceedingly versed in the records, in studying and examining whereof he had kept Mr. Selden company, with whom he had great friendship, and who had much assisted him."—(Hist. of Rebellion, i. 443.)

† Harleian MSS. 4931, 67 d.

should give it to the Lord Chief Justice Banks (against whom he made some objection himself), or into the hands of Mr. Selden,' and to send their opinions to him. The order was positive for requiring it of the present officer, but they knew not who to advise for a successor. The Lord Chief Justice Banks appeared to be as much afraid as the other, and was not thought equal to the charge in a time of so much disorder, though otherwise he was a man of great abilities, and unblemished integrity; they did not doubt of Mr. Selden's affection to the king, but they knew him so well, that they concluded he would absolutely refuse the place if it was offered to him. He was in years and of a tender constitution; he had for many years enjoyed his ease, which he loved; was rich, and would not have made a journey to York, or have lain out of his own bed for any preferment, which he had never affected *."

This reasoning evidently was correct, for although it is not certain that the offer of the lord keepership was made to Selden, and, eventually, Littleton continued to hold the seals, yet the following letter fully confirms Lord Clarendon's opinion.

"Mr. Selden to the Marquis of Hertford.

"My Lord,

"I received from his most excellent majesty a command for my waiting on him at York, and he is most

* Clarendon's Hist. of the Rebellion, i. 445.

graciously pleased to say, that I should make as much haste as my health will permit. I have been for many weeks, my lord, very ill, and am still so infirm that I have not so much as any hope of being able to endure any kind of travel, much less such a journey. Yet, if that were all, I should willingly venture any loss of myself rather than not perform my duty to his majesty. But, if I were able to come, I call God to witness, I have no apprehension of any possibility of doing his majesty service there. On the other side it is most probable, or rather apparent, that a member of the House of Commons, and of my condition, by coming thither, might thereby soon be a cause of some very unseasonable disturbance; by this name I call whatsoever will at this time (as this would) doubtless occasion some further or other difference betwixt his majesty and that House *. My legal and humble affections to his majesty and his service are, and shall be, as great and as hearty as any man's, and therefore, when I am able, I shall really express them. But, I beseech your lordship, be pleased, upon what I have represented, to preserve me from his majesty's displeasure, which I hope too from his

* Selden was always opposed to the policy that reduced the number of the king's friends in the parliament at Westminster. He observed upon another occasion, "the king calling his friends from the parliament, because he had use of them at Oxford, is, as if a man should require a little piece of wood, and run down into the cellar, and took the spiggot; in the meantime all the beer runs about the house. When his friends are absent the king will be lost."—(Table Talk, s. The King.)

most excellent goodness towards me. Your lordship's great and continued favours to me embolden me to make this suit, which granted will be a singular happiness to

"Your lordship's &c. *"

This transaction seems not to have escaped the knowledge of the parliament. The best check to desertion would be to insist upon a regular attendance in the House, and on the 4th of February there was issued a peremptory order for Mr. Selden and others to attend within three days at furthest, and to continue their service at the House †.

This and other attempts made by the king to obtain councillors of moderate principles was now too late. He had clung to despotic power too ardently not to evince, or, what produced the same effects, not to raise the fear that it was coveted by his heart. What was extorted from him, therefore, was likely to be returned to with avidity, and even if he had appointed Hollis secretary of state; Pym, chancellor of the exchequer; St. John, solicitor general; Selden, lord keeper; and Hampden, preceptor to the Prince of Wales, as was once proposed and partially effected, still the confidence of the parliament would hardly have been gained to their administration. Charles had been the deceiver too often and too long.

* Harding MSS. in Biographia Britannica.

† Journal of the House of Commons, ii. 955.

Every day added to the width of the breach between the king and the parliament. The paper-warfare between them became more decisive in its tone, for "the pen-*militant* had as many sharp encounters as the sword," and the chance of agreement was proportionately and daily less. It soon became apparent that the contest must be decided by an appeal to the ultimate of human decisions —that of arms, and consequently it was of the utmost importance to secure an advantage in levying men and providing the requisite stores. Fully aware of this, the parliament passed a bill, enacting, that the lieutenants of the various counties were to be guided in that duty of their office by such directions as might be signified to them by the parliament. It never could have expected that at this crisis the king would give his assent to this measure, yet it was foreseen that his refusal would give additional colour to the charge that he contemplated making war against them. The king rejected the bill, and the parliament then informed him, that it should be carried into execution without his concurrence. This accordingly was done, accompanied by a declaration which was communicated to the king by a committee of both Houses. The Earl of Pembroke, who was one of this deputation, asked the king whether the regulation of the militia might not be granted as was desired by the parliament for awhile? but Charles energetically replied, "By God, not for an hour; you have asked that of me which was never

asked of a king, and with which I will not trust my wife and my children *."

The parliament then issued an ordinance, naming lieutenants for all the counties, and conferring upon them the command of the militia within their respective districts. To this the king had previously issued a commission of Array, empowering certain noblemen, upon whom he could depend, to raise soldiers for his service.

It has been disputed who first commenced the active preparation for hostilities, but when both parties had resolved to appeal to the sword, it seems of little consequence to inquire who was most prompt in executing the resolution. There is no doubt, however, that Charles first unsheathed his arms, for in April, 1642, when Hull was refused to be surrendered to his summons, he gathered forces together for its reduction. Hacket, who was a contemporary, and wrote strenuously against the parliament, says decidedly, "the king opened the Temple of Janus, that was close shut before, and let out war†." Selden's opinion of the non-importance of this inquiry appears in this passage. "The king and the parliament now falling out are just as when there is foul play offered amongst gamesters, one snatches the other's stake,—they seize what they can of one another's. It is not to be asked whether it belongs not to the king to do this or that; before, when there was fair play, it did; but now

* Parliament. Hist., x. 353. † Life of L. K. Williams, 188.

they will do what is most convenient for their own safety*."

Selden was equally opposed to either party raising troops, for he always argued for obedience to existing laws; and in this instance they clearly enacted that the consent of *all* the branches of the legislature were necessary to be given before this very important power of the executive should be exercised. Both parties, therefore, acted illegally. Even Judge Blackstone *doubted* whether the commission of Array issued by the king was legal, and therefore we may conclude, that there is authority to *convince* any one who is more moderate in his ideas of monarchical rights.

The judges, and others who advised the king to issue this commission, founded its justification upon a statute passed in the fifth year of the reign of Henry the Fourth; but the parliament voted it to be contrary to the laws, and to the liberty of the subject. "Selden in the debate upon this subject declared himself very positively, and with much sharpness against it, as a thing expressly without any legal authority: the statute upon which it was grounded being, as he said, repealed; and he discoursed very much of the ill consequences which might result from submitting to it. He answered the arguments which had been used to support it; and easily prevailed with the House not to like a proceeding which they knew was intended to do

* Table Talk, s. The King.

them hurt. But his authority and reputation prevailed much further than the House, and begot a prejudice against it in many well-affected men without doors. When the king was informed of it he was much troubled, having looked upon Mr. Selden as well-disposed to his service; and the Lord Falkland, with his majesty's leave, wrote a friendly letter to him, 'to know his reason, why, in such a conjuncture, whatever his opinions were, he would oppose the submission to the commission of Array, which nobody could deny to have its original from law, and which many learned men still believed to be very legal, to make way for the establishment of an ordinance which had no manner of pretence to right*?'"

To this inquiry Selden frankly replied in a letter to Lord Falkland; of which this is an extract:—

"That of the vote your lordship speaks is true, as I presume you by this see in print. But in what degree it was grounded upon my authority (which doubtless goes here for little or nothing), you may guess by this that I was not in the House at that voting, or any other time when any agitation or mention of it was there, till yesterday, when there was a declaration passed there to show the reasons of that vote. But it is true, that I was of the committee of Lords and Commons, to whom some days since it was referred, and amongst the rest my opinion, upon the best consideration I could give, was,

* Clarendon's Hist. of the Rebellion, i. 517.

that it is against law; and so is my opinion still, which shall change, as in all other things, when I shall be taught the contrary*."

In this, or in some other letter written at the same time, Selden, according to Clarendon, "did as frankly inveigh against the ordinance for the militia," which he said, "was without any shadow of law, or pretence of precedent, and most destructive to the government of the kingdom; and he acknowledged that he had been the more inclined to make that discourse in the House against the commission, that he might with the more freedom argue against the ordinance, which was to be considered upon a day then appointed, and he was confident that he should likewise overthrow the ordinance, which he confessed could be less supported; and he did believe that it would be much better if both were rejected than that either of them should stand and remain uncontrolled †."

In his opinion that he should be able to prevent the passing of the ordinance, Selden was deceived, for at the conclusion of the debate which decided upon it, he was one of the tellers of a minority of forty-five, who were defeated by a majority of nearly three times that number ‡.

A statement made by Whitelocke has been thought to involve Selden's claim to the merit of consistency in his conduct relative to this transaction. He says that

* Biographia Britan. from the Harding MSS.

† Clarendon's Hist. of the Rebellion, i. 517.

‡ Parliament. Hist., xi. 281.

"Maynard, Glyn, Grimston, St. John, Selden, and divers other gentlemen of great parts and interest, accepted commissions of deputy lieutenancy, and continued in their service in parliament*." Dr. Aikin inclines to think that the name of Selden was erroneously inserted in this list, not only because it is scarcely credible that he should so grossly have violated his consistency, but because his habits of life and state of health rendered him very unlikely to undertake a military commission, for the furtherance of which he had no family or local influence†. In this reasoning there is not much weight, for we have seen that Clarendon acknowledges that the authority of Selden's name was very influential with the people; a deputy lieutenant is seldom a military officer; and he had the influence of the Kent family at command.

If Selden did accept a deputy lieutenancy, he was not personally active in the office, for the debates upon the ordinance did not terminate until the beginning of May, and his name appears on the 23rd of that month as one of a committee to consider of an order for raising volunteers for an expedition to Ireland; on June the 2nd, in a

* Whitelocke's Memorials, 56. Wood says that Selden is affirmed to have written "An Answer to his Majesty's Declaration about the Commission of Array," supporting the legality of the people's opposition to the crown. As much more copious, and more accurate biographers of Selden do not mention this, we are not obliged to admit as a fact what is doubted by an author so liable to error as Wood.—(Athenæ Oxon. 182.)

† Aikin's Lives of Selden and Usher, 121.

committee to frame an ordinance for augmenting the naval forces; and we shall see that other occupations must have permanently detained him in London. But granting that Selden accepted the appointment, and if he did, as regards turpitude, it signifies little whether he was an active or passive officer; it does not affix any conviction of inconsistency upon his character. However resolutely he opposed the proceedings of the parliament which he considered erroneous, yet it is certain that he considered its cause fundamentally just—it was the party with which he generally acted. Therefore, although he equally objected to the issuing of the commission and of the ordinance for raising troops, yet when he saw the king persistent in his purpose, he would have been unreasonable then to have maintained that his own friends ought still to remain passive. He had opposed an appeal to arms, yet when one party prepared an army, he must have acknowledged that self-defence called upon the other to follow the example; and when it obeyed the call there could be neither inconsistency nor error in aiding its exertions.

About this period the comparative merits and authorities in support of the opponent forms of episcopal and presbyterian church government were disputed, with much acrimony, by Petau, Saumaise, and other learned writers of continental Europe. The political state of England rendered it here a peculiarly interesting controversy, for, as already noticed, episcopalians and

presbyterians were almost synonymes of royalists and parliamentarians. The friends of episcopacy were not without advocates in this country. Of these it will be sufficient to mention Dr. Hall, whose "Episcopacy by Divine Right asserted," published in 1640, is considered a bulwark of that form of church government. This work, which benefited by the correction of Laud, was written to confute the assertions of the Scotch, that episcopacy is unchristian, and therefore unlawful *.

One particular point in this controversy was, whether in the early ages of the church, the episcopal and presbyterial orders were of equal or different powers. A celebrated passage in the works of Jerome mentions, that in the Church of Alexandria, from its first foundation to nearly the close of the second century, the presbyters always elected a bishop from among themselves by their own authority. Of this fact, a remarkable confirmation exists in the account of the Alexandrian church, contained in the Annals of the Patriarch Eutychius, or Said Ibn Batrik, who flourished in the early part of the tenth century. Of these annals which were written in the Arabic language, and then untranslated, Selden procured two manuscripts, from which he published a work thus entitled: "Eutychii Ægyptii, Patriarchæ orthodoxorum Alexandrini, Scriptoris, ut in Oriente admodum vetusti et illustris, ita in Occidente tum paucissimis visi, tum per raro

* Heylin's Life of Laud, 375, &c.

auditi, Ecclesiæ suæ Origenes." The part relating to the before-mentioned controversy, is a statement that the Evangelist Mark, having converted and baptized one Hananias, a shoemaker of Alexandria, and having constituted him a patriarch of that city, appointed eleven other persons to be presbyters, with the injunction that when the patriarchate became vacant, they should choose one of their number and consecrate him patriarch by the imposition of hands, at the same time electing a person to fill his place in the presbytery: so that there should always be twelve presbyters, the patriarch being reckoned as one; and that this mode continued in practice to the time of the Patriarch Alexander, who directed that thenceforth, on the decease of a patriarch, a new one should be ordained by an assembly of bishops.

Selden's production of this passage, with his accompanying criticisms, involved him in hostilities with the zealous advocates of episcopacy, both protestant and papal. Petau animadverted upon the work with moderation; but Abraham Ecchelensis, a Maronite priest in the pay of the Roman pontiff, employed so much personal abuse in an attempt to refute Selden's notes, that he injured his own reputation more than that of him whom he attacked. John Morin and Eusebius Renaudot engaged in the same cause. The latter expresses far too much and too general contempt for Selden's oriental learning *.

* Aikin's Lives of Selden and Usher, 122.

Selden had imbibed a great opinion of Eutychius as an author, from Erpenius, who, as he says, gave him a copy of this work when in London. Selden in the same year persuaded Dr. Pococke to undertake its translation, and to print this with the original Arabic at Oxford, engaging himself to be at the whole expense of publishing the edition. It appeared in 1656 *.

It would be erroneous to conclude that, by publishing this work, Selden intended to declare his enmity to the episcopal form of church government, for in many parts of his other works he expressly declares himself in its favour †. He undoubtedly published it, prompted by his general love of truth, and because it favoured his own opinion that the government of the church, as much as

* Dr. Langbaine, who at the desire of Selden, assisted in the translation, writing to Dr. Pococke soon after Selden's decease, says that he saw him the day previous to his death, and that he told him, in the hearing of one of his executors, Mr. Hayward, how he had disposed of his impression of Eutychius to the two translators, by a codicil made to his will in June, 1653. "I mentioned to him," adds Dr. Langbaine, "that he had often spoken of intended notes, upon which he gave orders, that all letters or notes concerning that author should be delivered to us."—(Twell's Life of Dr. Pococke, i. 189, &c. Ed. 1816.

† Upon this point we have the unimpeachable testimony of Mr. Baillie, who at that very period exultingly informed the presbytery of Irvine, that "the House of Commons had given the bishops the first wound, by taking away their votes in parliament, and one of these days they will cast down their cathedrals, deaneries, and prebendaries, and also spoil them of their usurped ordination and jurisdiction, to erect presbyteries in all the land, let Selden and some few others gnash their teeth as they will."—(Baillie's Letters and Journals, i. 251.)

the government of the rest of the state, is subject to the will of the legislature *.

The outcry that lately arose against the bishops has its parallel in the time of Selden, and now, as then, the multitude extravagantly conceive that mal-administration arises from the nature of the office, rather than from the disposition and qualifications of its holder. No one who gives an unbiassed opinion, can argue that there have not been bishops unworthy of their stations, but there have been a far greater number distinguished for their exemplary piety and learning. It would occupy more space than can be permitted in these pages to detail the conflicting arguments that have been urged in favour and in reprehension of an episcopal form of church government, but it is certain and satisfactory to those who would maintain our establishment, that a politician, temperate and learned as Selden, thought it the form most consonant with a monarchy. At the same time he firmly maintained his opinion that they are subject to the regulating power of the nation. "They are equally mad," he said, "who maintain that bishops are so *jure divino* that they must be continued; and they who say they are so unchristian,

* Those who consider the discipline of the church to be properly a part of the civil polity of a state, have been named *Erastians*, after Erastus, who, in the 16th century, publicly maintained this opinion. Baillie calls Selden "the head of the Erastians."—(Ibid. ii. 96.) Baxter, another contemporary, speaks of him similarly.

that they must be put away: all is as the state pleases *." However justly the general form of our church government is maintained, it is vain to argue that some of its details do not need amendment, or that some of its excrescences might not be advantageously removed. It is injudicious to allow the fear that innovation will become uncontrollable to render us indisposed to the application of rational remedies; for it is a truth without any exceptions, that errors pertinaciously clung to, will sooner or later bring to ruin that system to which they are chained, yet to strengthen these shackles is the effort of those unfortunate minds that cannot distinguish between the attempt to improve and the attempt to subvert; which see in every change a revolution, and in every reformer a destroyer.

* Table Talk, s. Bishops out of Parliament.

## CHAPTER X.

CIVIL WAR PROCEEDS.—QUEEN'S IMPEACHMENT.—WALLER'S PLOT.—SELDEN NOT IMPLICATED.—ASSEMBLY OF DIVINES.—SELDEN A MEMBER.—ITS PROCEEDINGS.—SELDEN'S OPINION OF OUR TRANSLATION OF THE BIBLE.—INCORRECT EDITIONS.—BISHOP USHER HIS FRIEND.—THE SOLEMN LEAGUE AND COVENANT.—SELDEN'S SIGNATURE EXPLAINED.—ATTAINDER OF ARCHBISHOP LAUD.—SELDEN NOT CONCERNED.—HIS EFFORTS TO RESTORE THE ARABIC PROFESSORSHIP.—A COMMISSIONER OF THE NAVY.—THE SELF-DENYING ORDINANCE.—SELDEN VOTED A SUM OF MONEY BY THE PARLIAMENT.—ECCLESIASTICAL ENCROACHMENTS.—ABOLITION OF THE COURT OF WARDS.—REFUSES THE MASTERSHIP OF TRINITY COLLEGE.—HIS EXERTIONS FOR THE UNIVERSITIES.—EMPLOYED TO REGULATE THE HERALDS' OFFICE.—PUBLISHES ANOTHER WORK ON THE JEWS.—EDITS "FLETA."

THE opponent parties in the state had now proceeded in their dissentions to the ultimate extreme, and England saw, it is to be hoped for the last time, those worst of martial conflicts in which the victor knew, that, in every fallen antagonist, there was the occasion of sorrow and deficiency of power to the land for whose welfare he fought.

It is not within the purpose of this work to detail the unnatural battles that occurred during this contest; such a narrative is to be found in the works of the general historians of the period, and in the biographers of those

who mingled in the various encounters, from the fight at Edge-hill to the battle of Naseby-field *. Selden was too entirely of a pacific habit to afford an occasion for his biographer to tell again the stirring incidents of even a skirmish of outposts, but he was sufficiently identified with other transactions of this period to render it necessary to introduce further mention of other interesting occurrences in this most important era of our national history.

The warfare was waged in other arenas than the camp, and many of the civil events of the time indicate the implacable spirit of partisanship, as fully as when it was enforced by the musket and sabre. It was apparent in the impeachment of the queen for high treason.

With the energy and faithfulness of a wife, this high-spirited woman had obtained supplies in Holland, and other places, and, just previous to the battle of Edge-hill, had joined her husband with three thousand foot and thirty troops of cavalry. For these acts, which claim our admiration, however we may disapprove the cause for which she was so strenuous, Mr. Pym, by an unanimous vote of the House of Commons, in May 1643 impeached her before the Lords, for having "levied war against the parliament and kingdom." This proceeding, evidently intended to terrorise the royalists, was alluded to by

* These, which were the first and last decisive battles in the civil war, occurred on the 23rd of October, 1642, and on the 14th of June, 1645.

the queen in a letter which she addressed to the Duke of Hamilton. "You will give a share of this good news to all our friends, *if any dare own themselves such, since the House of Commons have declared me a traitor.*—I know not yet what the House of Lords have done upon it. God forgive them for their rebellion, as, I assure you, I forgive them from my heart for what they do against me."

The House of Lords did not proceed with the impeachment until the following January, when, having appointed a committee to consider the subject, they requested the other House to allow them the occasional assistance of the solicitor general, Mr. Glyn, Selden, and others of their members, to search for precedents and records *.

Clarendon says, that this impeachment was resolved upon as a declaration of uncompromising hostility by the violent members of the popular party, who found that by temporising and endeavouring to come to terms with the royalists, they were gradually losing ground. Such is usually the fate of reformers, who, if they pause before their object is attained, are weakened by the tendency of the public opinion to gravitate back to the old system:—to stand still is to begin to recede. The existence of Waller's plot, and one or two other circumstances, are strong evidence that the popular feeling was known not very much to preponderate in favour of the parliament. The number of peers and members of the House

* Parliament. Hist. xii. 266, xiii. 15.

of Commons who attended the king at Oxford, and the armies which he was enabled to raise, are very conclusive on this point. A private letter of this date from Colonel Wilmot to Mr. Crofts in Holland, says, "The king, that very lately appeared almost abandoned by all his subjects, is now become the favourite of the kingdom *." Then, again, libels, pasquinades, and caricatures began to appear so notoriously against the parliament, that an ordinance was actually passed to repress them, for the liberty of the subject was found to be not sacred when it annoyed those who were usually its most noisy advocates. The existence of those libels proves that the feeling of the people was largely against the parliament, for, as Selden said, "you may see by them how the wind sits. As take a straw and throw it up into the air, you shall see by that which way the wind blows, which you will not do by casting up a stone. More solid things do not show the complexion of the times so well as ballads and libels †."

The royalist conspiracy, which, from the poet of this name being its chief promoter, is known as Waller's Plot, purposed to introduce troops into London at the time the citizens favourable to Charles were to rise, and, by seizing the most obnoxious of the parliament members, thus create a powerful diversion in his behalf ‡.

* Parliament. Hist. xi. 261.

† Table Talk, s. Libels.

‡ Clarendon's Hist. of Rebellion, ii. 191, &c. Parliament. Hist. xii. 279. 295.

The king's known regard for Selden, and the moderation of his political career, gave occasion to the suspicion entertained by some of the most anti-monarchial of the parliament, that he might be an accessory, or have some knowledge of this plot. The pusillanimous Waller, who "preserved his dear-bought life" by the most circumstantial betrayal of his friends, was asked whether Selden, Whitelocke, Pierpoint and others, were acquainted with the design? The reply of Waller is an honourable testimony to the character of those patriots; he said, "that they were not, but that he did come one evening to Selden's study, where Pierpoint and Whitelocke then were with Selden, on purpose to impart it to them all; and speaking of such a thing in general terms, these gentlemen did so inveigh against any such thing as treachery and baseness, and that which might be the occasion of shedding much blood, that he durst not, for the respect he had for Selden and the rest, communicate any of the particulars to them, but was almost disheartened himself to proceed in it*."

It is an interesting employment of the imagination to pause and "contemplate such men as Selden and Whitelocke, in the privacy of confidential friendship, conferring on the awful prospect presented by their country. Not actuated by enthusiasm, religious or political, habituated to venerate established institutions, and

* Whitelock's Memorials, 66.

to look for redress of grievances from the remedies provided by the law and constitution, yet, strongly impressed with the wrongs and abuses which had attended the late arbitrary administration, they must have viewed with jealousy the rise of another power, which, wielded by violent men, and equally uncontrolled, might proceed still greater lengths in overthrowing the barriers of right and liberty. They saw the nation rent into opposite and irreconcileable parties*, between which the sword was the sole umpire; and finding daily more cause to despair of the success of healing measures, they must have been occupied in preparing their minds for the part they were, by principle, called upon to act in the crisis. Under similar impressions men were to be found in the opposite parties, who probably differed from each other in political sentiments only just so much as to give a final preponderance towards the cause of the king or of the parliament. Their mutual object was conciliation, and each was disposed to make some concessions for effecting it. They disagreed on the question, "Quis justius induit

* Selden foresaw that the conflict must terminate in the total overthrow of one or the other of the two contending parties—there was no alternative towards which they could mutually recede. "It is hard," he observed, "to make an accommodation between the king and the parliament. If you and I fell out about money, you saying I owed you twenty pounds; I saying, I owed you but ten pounds; it might be a third party allowing me twenty marks might make us friends. But if I said I owed you twenty pounds in silver, and you said that I owed you twenty pounds of diamonds, it is impossible we should ever agree: —*this is the case.*"—(Table Talk, s. The King.)

arma?"—but concurred in still keeping peace in view, as the only desirable termination. If we suppose the virtuous Falkland added to the party, conferring in Selden's study, how little diversity of opinions and wishes would he have brought*!" Pierpoint ought not to be omitted in our imagining of this council of worthies, for until he became disgusted, late in the contest, with the weak and treacherous conduct of the court party, Clarendon assures us that he was a man of the greatest moderation in his counsels, and most solicitous upon every opportunity for peace. Such men are the best friends of their country. They are those who, gifted with sound discretion and judgment, take, in obedience to those guides, their parts in the disputations of the day, without degenerating into partisanship. They maintain opinions because they consider them correct, but never because they are advocated by a party. They detest the bigotry that will not see wisdom in an opponent, or error in a friend. Selden never asked before he concluded his judgment which of the disputants wore the pale purple badge of the royalists, or the orange favour of the parliamentarians†; and in the

* Dr. Aikin's Lives of Selden and Usher, 127.

† Many of the regiments of the parliament army, being raised by the unaided influence of various of the nobility and gentry in their several neighbourhoods of residence, adopted for the colour of their uniform that of the livery of their commanders. Thus, Hampden's men were in green, Lord Say's and Lord Mandeville's in blue, Lord Brook's in purple, and Denzel Hollis's in red. The livery of Lord Essex was orange, and, in compliment to the commander-in-chief, that colour was adopted as the general badge of the party for their scarfs and favours.

the next public duty which engaged his attention there is no doubt that he paid as little regard to the peculiar tenets of the divines with whom he was associated, but opposed or supported their propositions according to the dictates of his own reason, without inquiring whether they emanated from an episcopalian, an independent, or a presbyterian.

After a twelvemonth's dilatory consideration, an ordinance passed both houses of parliament, in June 1643, for assembling a synod of divines and laymen "to settle the government and liturgy of the Church of England." Among them were Whitelocke and Selden. The number of individuals named to constitute this synod was much exceeding that which actually assembled. These amounted to sixty-nine *.

Mr. Baillie, principal of the University of Glasgow, who was one of the Scotch deputies to this assembly, thus describes it. "The like of that assembly I did never see, and, as we hear say, the like was never in England, nor anywhere is shortly like to be. They did sit in Henry the Seventh's Chapel, in the place of the convocation, but since the weather grew cold, they did go to the Jerusalem Chamber, a fair room in the Abbey of Westminster. The house is all well hung, and has a good fire, which is some dainty at London. We meet every

* Rushworth, v. 333. Husband, 208.

day in the week but Saturday, sitting commonly from nine to two or three after noon. The prolocutor at the beginning and end has a short prayer. Ordinarily there will be about sixty of their divines present. These are divided into three committees, in one whereof every man is a member, but no man is secluded who chooses to come to any of the three. Every committee, according to the parliament order, takes a subject of consideration, and in their afternoon meeting prepare matters for the assembly, setting down their opinions and the texts which support them." He adds, " those who speak, harangue long and learnedly: I do marvel at the very accurate and extemporal replies that many of them usually make *."

A sermon, at their first meeting, was preached by their prolocutor, Dr. Twisse, to them and the two houses of parliament; and a day or two subsequently they kept a public fast †. The following statement, by Mr. Baillie, of what they endured on such occasions, demonstrates that this was not merely a nominal affliction. " After Dr. Twisse had begun with a short prayer, Mr. Marshall prayed large two hours. After, Mr. Arrowsmith preached an hour, then a psalm; thereafter Mr. Vines prayed near two hours, and Mr. Palmer preached an hour, and Mr. Seaman prayed near two hours, then a psalm; after, Mr. Henderson preached, and Dr. Twisse closed with a

* Baillie's Letters and Journals, i. 396. † Parliament. Hist. xi. 279.

short prayer and blessing." Our author calls this "spending from nine to five very graciously *."

These well-meaning men as they excelled us in the patient endurance of protracted devotions were our equals in the enjoyment of conviviality. The same author describes some of the incidents of an entertainment given to the two houses of parliament and the assembly, at Taylors' Hall, by the Corporation of London, in January 1644. "The feast," he says, "was very great, valued at four thousand pounds sterling, yet we had no dessert, nor music, but drums and trumpets. All was concluded with a psalm, whereof Dr. Burgess read the line! There was no excess in any we heard of. The speaker of the House of Commons drank to the Lords in the name of all the Commons in England. The Lords stood up every one with his glass, for they represent none but themselves, and drank to the Commons†."

This mingling of psalms with their feasting, and fasting with the despatch of business, for the parliament had monthly days of abstinence, are characteristics of that religious enthusiasm that was so generally prevalent in the reigns of Charles and his successor Cromwell. In the latter period it had increased and displayed itself in the most fantastic forms, having rendered many insane, and a still greater number hypocrites. The partisans of Charles

* Baillie's Letters, ii. 19. † Ibid. i. 425.

were called *cavaliers* and *malignants* by their opponents, and in return they designated the parliamentarians *puritans* and *round-heads.* The title of puritan sarcastically alluded to that superlative innocency and spirituality which the chief of them professed, and was a name which Selden said "he trusted he was not either mad enough or foolish enough to deserve." It was the fashion of the time to wear the hair in flowing locks, but the puritans "cut their hair so close that it would scarcely cover their ears; many cut it quite close round their heads, with so many little peaks, as was something ridiculous to behold," and acquired them the name of roundheads. Mrs. Hutchinson says, "that though her husband acted with the puritan party, they would not allow him to be religious, because his hair was not in their cut *."

Selden was certainly no friend to the synod. He complained severely against the rashness with which they came to their conclusions, and had little respect for their learning. "It is not unusual in the assembly, he observed, to revoke their votes, by reason that they make so much haste: it is that will make them scorned. It is not enough to say the House of Commons revoke their votes, for theirs are but civil truths which they by agreement create and uncreate as they please. But the truths the synod deals in are divine; and when they have voted a

* Memoirs of Col. Hutchinson, 100.

thing, if it be then true, it was true before, not true because they voted it, nor does it cease to be true because they vote otherwise."

Whitelocke says, that, in their debates, Selden spoke admirably, and confuted them in their own learning. Sometimes, when they had quoted a text of scripture to prove their assertion, he would silence them by saying, "Perhaps in your little pocket Bibles with gilt leaves," which they would often produce as authorities, "the translation may be thus, but the Greek or Hebrew signifies otherwise *."

We have ample reason to know that the objections made by Selden to the text of the bibles produced by the synod divines were not captious. He was no pedant, and the copies we have of the translations of the Bible then in common use, are evidence that there were abundance of errors to afford matter for the most lengthened and repeated indulgence of his objections, without his being chargeable with hypercritical nicety.

It must be evident to every reflecting mind, that the bible, as the sole source from which our knowledge of pure religion can be derived, should be published in a form scrupulously correct. In this age of ignorant fanaticism such correctness was neglected; it was made an all-important object to have *cheap* Bibles to distribute among the poorer classes; and Fuller informs us of the result, when he quibblingly says, "the small price of the bible

* Whitelocke's Memorials., 68.

hath caused the small prizing of the Bible." The struggle among the booksellers was to produce copies at the lowest charge, which insured a closer attention to all requisites rather than correctness. This culpable neglect obtained the notice of the government in the early part of the reign of Charles the First, owing to the following circumstance:—Archbishop Usher, on his way to perform service at St. Paul's Cross, entered a bookseller's shop and purchased a London edition of the bible, in which, to his astonishment and dismay, he found the text he had selected was omitted. This was the occasion of the first complaint upon the subject *, and, inducing further attention, the king's printers in 1632 were justly fined 3000*l.* for omitting the word "not" in the seventh commandment †. During the reign of the parliament a large impression of the Bible was suppressed on account of its errors and corruptions; and we have more than one authority attesting that these were the results of design as well as of negligence. Butler is the historian, at the same time that he is the satirist of the time, when he says,

> Ere the storm of war broke out,
> Religion spawn'd a various rout
> Of petulant, capricious sects,
> The maggots of *corrupted* texts.
>
> *Hudibras*, Pt. 3, Canto 2, l. 7.

* Harleian MSS. 6395. D'Israeli's Curiosities of Literature, Second Series, iii. 315.

† Selden's Table Talk, s. Bible.

The errors detected in two of the editions, actually amounted respectively to 3600 and 6000 *.

It may be inquired by the reader, what had become during this time, of the translation of the Bible completed during the reign of James the First, which is the one now in use, and is usually known by his name? Such inquirer will hear with surprise, that the manuscript copy was in the possession of two of the king's printers, who from cowardice and connivance suppressed the publication, and consequently an uncorrupted edition of the English Bible did not appear until 1660 †. Of this edition it is gratifying to have the approbation of a judge so competent as Selden. "The English translation of the Bible," he said, "is the best translation in the world, and renders best the sense of the original, taking in for the English translation the bishops' Bible, as well as King James's. The translators in King James's time, took an excellent way. That part of the Bible was given to him who was most excellent in such a tongue—as the Apocrypha to Andrew Downes (Greek professor at Cambridge)—then they met together, and one read the translation, the rest holding in their hands some Bible either of the learned tongues, or French, Spanish, Italian, &c. If they found any fault they spoke; if not, he read on.

"There is no book so translated as the Bible for the

* G. Garrard's Letter to the Earl of Strafford, i. 208.

† Harleian Collect. iii. 280. D'Israeli, ut supra.

purpose. If I translate a French book into English, I turn it into English phrase, not into French-English. For *Il fait froid*, I say *It is cold;* not *It makes cold;* but the Bible is rather translated into English words than into English phrase. The Hebraisms are kept, and the phrase of that language is kept. This it is which renders its notes and illustrations useful *."

As there was ample justification and opportunity for Selden's serious criticism at the assembly or synod, of which he was a member, so, upon the same occasion, he found numerous objects for his raillery. Though many in that assembly were learned men, yet too many of them were far otherwise. As an example, we are told by a contemporary, that some of them, who were ignorant of ancient geography, were disputing what was the actual distance in miles between Jerusalem and Jericho, and they variously surmised that it was twenty, ten, or seven; the last number being preferred, because fish was brought from the latter town to the market of the other. However, Selden again unsettled the question by observing that "possibly the fish in question were salted!"

Archbishop Usher had been nominated a member of this synod, but, although he was as liberal in his political and religious opinions as Selden, with whom he was very intimate, he consistently declined to take a part in its proceedings. He did not rest contented with a passive

* Table Talk, s. Bible.

dissent, but firmly maintained the reasonableness of the ecclesiastical polity to which he had subscribed, and publicly preached against the authority and intentions of the synod. This was highly resented by the parliament, and refusing to him the liberty of opinion which they claimed for themselves, they passed an ordinance confiscating his library, then in Chelsea College, and it would have been lost to its learned and excellent owner, if Selden had not exerted his influence and obtained permission for Dr. Featly, one of the synod, to purchase it for a trivial sum, as if the books were for his own use.

The intimacy of Selden with Usher commenced in 1609, in which year the latter, then Professor of Divinity at Trinity College, Dublin, was in London purchasing books for its library. Their mutual delight in the same branch of literature promoted an intercourse between these two antiquaries, and strengthened the friendship that was founded upon their similarity of mind and temperament. In June 1646, Selden was enabled to perform another act of kindness to his friend, who, being summoned before a board of examiners at Westminster, and captiously questioned, was finally tendered the negative oath, required to be taken by all who had been adherents of the king, or had come from any of his garrisons. Usher desired time to consider it, and being dismissed from before the committee, he escaped the necessity of a second appearance, for by the exertions of Selden and other friends in the parliament he was

permitted to retire into the country without further molestation *.

Selden's political career was now almost concluded; he still continued his attendance in parliament, and raised his voice to warn it against the committal of errors that would endanger the national happiness, but he was almost left alone as a moderator. Some of his party, disgusted with the duplicity of the king, had joined the staunchest supporters of the parliament; and others, weary of its sway, had joined the royalist forces. Selden still remained independent, the consistent objurgator of the mistakes of both parties. Upon great occasions, he was always at his post; but the mind will relax in making efforts that prove invariably ineffectual—disease and age aided in subduing his energy, and yielding more to his love of studious quietude, the remainder of his life was devoted chiefly to literary pursuits.

On the 6th of November, 1643, he was, by a vote of the House of Commons, appointed keeper of the records in the Tower †. He probably retained this office until deprived of it by the sweeping enactment of the self-denying ordinance, which in 1645, forbade the members to hold any office, civil or military. It is certain he did not retain it in August, 1651, for in that month Whitelocke, being one of the lords commissioners of the great seal, reported from the council of state, that the abolition of

* Parr's Life of Usher. † Whitelocke's Memorials.

the court of wards had taken away the profits attached to the office of the keeper of the Tower records; and being consequently in danger of neglect, the House of Commons resolved that the Master of the Rolls for the time being should have the care of them *.

In February 1644, a subscription to the solemn league and covenant was imposed by the parliament upon all who were within its influence. This celebrated compact pledged its subscribers to strive for the preservation of the reformed religion, and for the union of the churches of the three kingdoms; "to endeavour to extirpate popery, prelacy (that is church government by archbishops, bishops, their chancellors and commissaries, deans, deans and chapters, archdeacons, and all other ecclesiastical officers depending on the hierarchy), superstition, heresy, schism, and profaneness;" to preserve the rights of parliament, the liberties of the kingdom, and the king's person and authority, that it might be manifest they had "no thoughts or intentions to diminish his majesty's just power and greatness;" that they would strive to discover the disaffected, and to preserve peace; that they would be active in supporting this engagement, and that they would endeavour to be more truly religious†. To none of these pledges, but that relating to episcopacy, could any rational objection be raised. It is certain, from the opinions related at p. 289, that Selden,

* Parliament. Hist., xix. 499. † Ibid. xii. 396.

was then friendly to that form of church government, yet he subscribed to the covenant, which engaged him to strive for its abolition. This compels us to adopt one of two conclusions, namely, that, in accordance with Clarendon's character of him, this was an instance of his sufficient indulgence of his own safety; or that he considered a presbyterial form of the church establishment best suited to the democratic government then establishing. We may justly adopt the latter conclusion, because we have seen that he did not shrink from suffering in the maintenance of his own ideas of right; and we have his very marked opinion, recorded by the editor of his confidentially expressed sentiments, that "bishops do best stand with monarchy." It is indeed obvious, that a peerage, lay or ecclesiastical, does not assort well with a government that is neither monarchical nor aristocratical. In a democracy, founded upon general equality, the superiority of nobility is inadmissible. The probability that he was actuated by this opinion, is strengthened by the fact, that although the covenant was ordered to be taken by all the kingdom in September 1643, he did not sign it until the following February, when it was evident that the cause of monarchy was lost*. Selden undoubtedly most approved of a monarchical form of government, and struggled firmly in its defence, but the majority of the nation thought otherwise, and our own

* Rushworth's Collections, Part iii. 481.

judgments, independent of the confirming opinions of Vattel and other authorities, assure us, that the will of the majority should prevail. Selden submitted to its decision, and, when he signed the covenant, employed his judgment, like a good citizen, in promoting measures to assist its beneficial operation.

At this period occurred the attainder of Archbishop Laud, who was at once the Mecænas and Sejanus of this reign. Physiognomy does not play us false in offering this man's face as an index of his character. Vandyke pourtrayed his features, and in the portrait which yet survives, the diminutive eyes, contracted forehead, pointed nose, and compressed tout-en-semble, warn us to expect that littleness and cunning—that acuteness and meanness —which were his mental characteristics. History records that he aimed to effect his measures by tyranny and persecution, and that he finally sought for safety in intrigue. He trembled at the inauspicious prognostics of omens and dreams, and though without fear he could commit to prison those who conscientiously differed with him in opinion, he quailed because his picture fell from its hanging, and because he dreamed his teeth were starting from their sockets!

Notwithstanding the great demerits of Laud, and his unfitness to be the minister of government, over a free and enlightened people, it seems, from the evidence admitted by all parties, that he was unfairly tried and unjustly condemned.

He was unfairly tried, because his peers and judges did not pay that attention to his cause, during its progress, that is due from every judicial functionary to every defendant, upon every charge, however trifling, and much more when it involves his life. "My hopes under God," said the archbishop in his Diary, "were upon the Lords, yet, when my trial did come on, it did somewhat trouble me to see so few lords in that great House; for at the greatest presence that was any day of my hearing, there were not above fourteen, and usually not above eleven or twelve. Of these, one third part, at least, each day took, or had occasion to be gone before the charge of the day was half given. I never had any one day the same Lords all present at my defence in the afternoon, that were at my charge in the morning. Some leading lords were scarce present at my charge four days of all my long trial, nor three at my defence; and, which is most, no one Lord was present at my whole trial, but the Right Honourable the Lord Gray of Werk, the speaker, without whose presence it could not be a House." When the bill of attainder passed against him, there were only six peers present*.

He was unjustly condemned, because there were only fourteen peers present when they finally voted him guilty of endeavouring to subvert the laws; to overthrow the Protestant religion; and that he was an enemy to parlia-

* Heylin's Life of Laud, 494.

ments. The consequences of that dereliction of their duty by his judges, however, is upon their own heads; and no prisoner can be rescued from the possibility of having such delinquents to decide his fate. But in this case, after the peers had so voted, they consulted with the twelve judges, and they unanimously declared, that though guilty of all the charges, they did not amount to treason, by any known or established law of the land. Yet the House of Commons, as in the case of the Earl of Strafford, having passed a bill of attainder against the archbishop, the Lords similarly assented to it, and on the 10th of January, 1644, he was beheaded on Tower-hill, in despite of the king's pardon, which he pleaded. Affording another testimony that tyranny and disregard of the laws are not crimes peculiar to kings.

It is true, that, having disclaimed obedience to Charles, they were not to be expected to pay much attention to his judicial determinations; and it is also true that this clause in the Statute of Treasons (25 Edward 3, c. 2,) permits that "if any case supposed to be treason, which is not specified in this act, doth happen before any judge, the judge shall tarry without going to judgment, till the cause be shewn and declared before the king and his parliament, whether it ought to be judged treason." True it is, that this may be pleaded in *excuse* for the course adopted by the parliament with relation to Laud, but it would always be better for such high powers so to proceed, that they should require no apology for their

acts. They who would command our reverence for their justice, must not persist in traversing the very line which is barely legal. A master in the science of laws has laid down an axiom coming with conviction to every mind, that, if the crime of high treason is indeterminate, this alone is sufficient to make a government degenerate into arbitrary power*; and when this is aggravated by the enactment of bills of attainder, which are nothing less than ordinances for punishing men for disregarding laws that did not exist until after their offences, no greater concentration of tyranny can be imagined. It would be much wiser to let the offender pass unpunished, for "the escape of one delinquent can never produce so much harm to the community, as may arise from the infraction of a rule, upon which the purity of public justice, and the existence of civil liberty, essentially depend†."

The archbishop had cause to complain of injustice in various forms. He was committed to custody on the 18th of December, 1640, and was allowed to remain in prison until the 12th of March, 1643, before he was brought to trial. His papers, and other means of preparing his defence, were also withheld.

Mr. Pym was intended to conduct this prosecution, as he had that of the Earl of Strafford. He carried up the impeachment to the House of Lords, and enforced its

* Montesquieu L'Esprit des Loix, l. xii. c. 6.

† Paley's Moral Philosophy, l. vi. c. 8.

charges, with his usual ability; but before the day of trial arrived, he was sinking beneath his task of public service, and he rested in the grave about a month previously to the archbishop.

It was the misfortune, or the crime, of Sir Henry Vane, to be the only witness to criminal words spoken at the council table by Laud, as he had been upon a similar occasion against Strafford. "For the honour of Sir Henry Vane," said the archbishop in his defence, "let me not forget that he is a man of some years. Memory is one of the first powers of man on which age works, yet his memory is so fresh, that he alone can remember words spoken at a full council table. No person of honour remembers them but himself. But I would not have him brag of it, for St. Augustine says that some of the worst of men have great memories, and are so much the worse for having them. God bless Sir Henry*."

It is past all just doubt, that a majority of those who prosecuted and condemned Strafford and Laud were actuated by the best motives. They estimated them truly as arbitrary ministers; as talented, influential men, and above all others, the most dangerous opponents of the just freedom of the nation; but it would surely have

* StateTrials, i. 826, fol. ed. Clarendon says decidedly, that to gratify his revenge, Sir Harry Vane sacrificed his honour and faith to effect the ruin of the Earl of Strafford.—(Hist. of Rebellion, ii. 163, fol.) If he perjured himself to destroy the one, who will credit his testimony against the other?

been wiser and more just to have imprisoned them until the contest for liberty had ceased. If the contest terminated in its favour, those ministers might then be released without being capable of injury; and if the cause of liberty failed, it would not have been to the disadvantage of its champions that they had been merciful. However, those champions thought that they did but their duty in taking away, beyond the reach of accident, the power of Strafford and Laud, to do injury to their fellow countrymen; and they may be excused, if in a conflict so momentous, and in which there had been so much suffering, they erred on the side of safety. Though obliged to condemn their error, let us mitigate our censure, by reflecting that they were carrying on a warfare to secure the liberties we are now enjoying.

With the management of Dr. Laud's attainder, Selden does not appear to have been concerned. His name does not occur in any of the debates which it occasioned, and this admits the conclusion, that though he would not throw his weight into the scale against his friend, yet he could not raise his voice conscientiously in his favour. This did not arise from a fear to oppose the predominant powers, or because he had become inactive even in the cause of justice; his past efforts and sufferings shelter him from the first suspicion, and from the second by the fact that when he understood that in consequence of Dr. Laud's attainder, the parliamentary commissioners had seized upon his endowment of the Arabic Professor-

ship at Oxford, he exerted himself until he obtained its restitution.

The endowment of the Arabic professorship was an estate of about forty pounds per annum value in Berkshire. Mr. Greaves acquainted Selden with the injury done by its seizure to their friend Dr. Pococke, and Selden in reply expressed his sense both of the injustice and scandal of the proceeding, as well as his conviction that the commissioners could have no countenance for it from the order of the parliament, for the sequestration appointed by that order only related to individuals, and could not affect corporations. Having made himself thoroughly acquainted with the case, he earnestly exerted himself to obtain restitution, which he at last effected about the middle of 1647; Dr. Pococke thus being deprived of his stipend for about three years *.

In 1644 appeared Selden's work "De Anno Civili veteris Ecclesiæ, seu Reipublicæ Judaicæ, Dissertatio." It begins with a preface, in which is shown the importance of such a chronological inquiry to the correct understanding of the Scriptures; and the necessity of resorting to the best sources for elucidation, namely, the writings of the two sects of Talmudists, or traditionalists of the Jewish church, and the Karaites, or scripturists. In the numerous chapters of the work are discussed all the

* Twell's Life of Pococke, i. 100. Ed. 1816.

points relative to the Jewish calendar, its calculations of months, lunar phases, &c. The whole exhibits a profundity of learning, but it is not without deficiencies and mistakes, arising chiefly from a want of authorities. These were pointed out by J. Gottfred Schuppart*.

In April 1645, the parliament appointed a committee of six Lords and twelve Commoners to conduct the business of the Admiralty. Selden was named to be one of these commissioners; but before they could enter upon the duties of their office, the plan, probably in consequence of the ordinance to be next mentioned, was altered, and the management was vested in three selected from the eighteen at first appointed. Selden was not one of this triumvirate †.

In the same month was passed "the self-denying ordinance" that secured to Cromwell an easy passage to the throne, for "*Protector* was but *King* writ large." His party, for the anti-monarchists were now divided among themselves, by deceiving many as to the tendency and effect of this ordinance, obtained a majority in its favour; and it was thereby enacted, that all members of the parliament should be excluded from any office, civil or military. In consequence the Earls of Essex and Manchester, Sir William Waller and other commanders of the parliament's army, were compelled to resign. Cromwell

* Aikin's Lives of Selden and Usher, 131.

† Whitelocke's Memorials, 137.

alone obtained, through his friends' exertions, leave to remain for short successive periods with the troops, and having succeeded in officering these with his own partisans, and ingratiating himself with the men, he finally obtained them as the means whereby he subverted the power that had so unwittingly ministered to his rise. More artful speeches are nowhere to be read than those with which Cromwell beguiled the parliament*. Essex, Whitelocke, and others, saw through his Machiavelian practices, and counselled together how they might effectually oppose the enactment of the ordinance. They even considered whether they should impeach him†; but Cromwell, than whom no man knew better how to make use even of his enemies, diverted them from or thwarted all their plans.

In the June of this year the House of Commons ordered that such of their members as had lost the benefit of their estates during the war, or were in such necessity that they could not without some supply attend upon the House, should have an allowance of four pounds per week. We have a list of nearly seventy members who received this allowance. Among them are Whitelocke, Pym, Dryden, Sir Martin Lister, Sir Philip Stapylton and others well known in the literary and political annals of the period. Selden was not one of these pensioners‡.

* Parliament. Hist. xiii. 376, &c.

† Whitelocke's Memorials, 111.

‡ Parliament. Hist. xiii. 494.

But in the following year, 1647, a vote passed the House of Commons, giving to him and others who had illegally suffered in the third year of Charles's reign, whilst opposing the arbitrary measures of that period, five thousand pounds each, and revoking all sentences then passed against them *. Authorities differ as to whether Selden received the money thus voted: Wood says "some say he refused it, and could not out of conscience take it;" but that he received a part of the sum is nearly certain, for in the Journal of the House of Commons there are two entries ordering payments of the moieties. The first order is dated the 11th of May 1647, and the other the 11th of November of the same year. If the first moiety had not been accepted, why order the payment of the second? Walker says that Selden received half the money voted to him †. It would have been no disgrace if he had taken the whole that his country considered he merited for his losses and sufferings in her cause.

All history concurs in Selden's observation that Ecclesiastics as a body are too apt to strive for the acquisition of political influence. From the earliest introduction of Christianity to the period of the Reformation, there had been one continued struggle of the Church to obtain a

* In 1640, the House of Commons felt such resentment at the refusal to bail Selden and his fellow-prisoners, that it was seriously debated whether they should not have a compensation given them out of the estates of the Judges, who had decided against them.—(Whitelocke's Memorials, 37.)

† Hist. of Independency, 168. Ed. 1660.

predominance of civil power. Selden, in common with every legislator who is wise enough to learn from the past, jealously opposed all attempts to increase that power which the Reformation had subdued. In 1645 it was proposed to empower the clergy of the new Establishment to exercise, with no other controul than their own discretion, the ecclesiastical punishments of excommunication and suspension from the Sacrament. Selden successfully opposed this innovation, for the Parliament refused to confer upon them such judicial powers.

Selden, in the course of his arguments against the measure, reverted to facts, and employed reasoning that may be advantageously attended to by many of the subordinate clergy of our times. He observed that "for four thousand years there was no sign of any laws to suspend persons from the performance of their religious exercises. Under the Mosaic dispensation every sinner was especially directed to offer his sacrifices because he was a sinner; and no priest or other authority had power to restrain him unless his impenitence could be shown, which was difficult to be done. It is true that strangers were forbidden the passover, but they were Pagans, and this is not now the question, but whether protestants are to be kept from the sacrament, or other part of protestant worship. No divine can show that for this there is any command. The passage in scripture that is quoted as directing excommunication ('put away from among yourselves that wicked person,'

1 Corinth. v. 13) is a corruption of the Greek. It should be τὸ πονηρὸν, put away that evil from among you. There is a new edition of Theodoret published that has this correctly. It is true that the Christians, before the civil state became Christians, did by covenant and agreement determine certain rules of conduct, and he that did not observe what had been agreed upon, should come no more amongst them, that is, be excommunicated; but if, after Christ had suffered, the Jews had become Christians, the same freedom would have been permitted to the sacrament as had been allowed to their sacrifices.

"The other passage, which is quoted from the gospel of St. Matthew ('tell the Church'), is but a weak ground upon which to raise excommunication, especially from the sacrament, for when those words were spoken the sacrament was not instituted. The Jewish Sanhedrim sat in the Temple at Jerusalem, and the meaning of that passage is, that if, after once or twice admonishing a brother, he remained unreclaimed, he was to be taken thither. Excommunication was first adopted by Pope Victor, 180 years after Christ, and then in a sectarian quarrel about the observance of Easter, which demonstrates it to be of human invention. When Constantine became a Christian he acquired a devotion to the clergy that made him allow them to be judges of all things, but that did not continue more than three or four years, and then their interference was restricted to religion. All jurisdiction belonged to him,

and he scanted them out as much as he pleased. This has continued ever since. Ecclesiastics now excommunicate in matters concerning adultery, tythes and wills, which is the civil punishment the state allows for such offences; but if a bishop excommunicates a man for what he ought not, the judge has power to remove the excommunication and to punish the bishop. If ecclesiastics have such jurisdiction from God why do they not excommunicate for murder, &c.? As the civil power has taken away all but three things, why may not these be also taken away? If they were, the Presbyters would be quiet* ."

In the same year, 1645, during a debate upon an ordinance for discharging the wardship of the heirs of Sir Christopher Wray, who had died in the service of the Parliament, Selden, Maynard and others so displayed to the House of Commons the origin, abuses, and oppressions incident to wardships, that it gave rise to an order for the abolition of them, and other remnants of feudal tenures †. It has been justly said that a monarchical government is best calculated for active measures, but in this instance a democracy rivalled it in promptness. The vote was passed by the Commons, sanctioned by the Lords, and ordered to be printed and published in the course of one day ‡.

In the August of this year, upon the death of Dr. Eden, Master of Trinity Hall, Cambridge, Selden had the

* Whitelocke's Memorials. Table Talk, s. Excommunication.

† Whitelocke's Memorials, 199.

‡ Parliament. Hist. xiv. 264.

honour conferred upon him of being unanimously chosen his successor. It adds to the worth of this testimony that some of the members of both Houses of parliament approved of his preferment to the office, yet he was the active supporter of no party, and that at a time when an opponent was seen in every one who was not a violent coadjutor. The following extracts from the letter to Selden, announcing his election, show the rational motives which actuated the electors.

"From the first we chose you to the Mastership of Trinity Hall, because we thought that it was incumbent upon us to provide not only a Master to our College, but an ornament of literature, and a guardian and patron for the University. We trust that you will suffer your will, which has hitherto flowed for our advantage, to continue to direct and confirm our welfare. In your power it rests whether we shall have to lament our loss. If your modesty successfully opposes, we will appeal to your humanity. Grant then that it may be as we hope and ardently desire —let us forthwith hail you as our guardian, that they who were preserved under Eden, may continue to be happy under Selden." As a further proof of their anxiety to have him as their President, the Fellows prematurely informed the Chancellor of the University of the choice they had made, and requested his ratification of their election.

Selden declined this office, as he had studiously declined all other honours that had sought his acceptance; and this

rejection did not arise from any dislike to the clerical body, as was imagined by Dr. Wilkins, for Trinity Hall is a foundation for the study of civil and canon law, and its fellows are entirely of that faculty. Dr. Eden was eminent as a civilian, and was a member of the long parliament. Better reasons for his refusal may be found, though not recorded, in his age, his infirmities, his love of literary leisure, and his close connection with Oxford, his *alma mater*.

Although Selden declined this union with the University of Cambridge, he availed himself of every opportunity to show his care of its interests, united as they were with the interests of learning. Dr. Bancroft, who died in 1610, had left his library to the archbishops, his successors in the see of Canterbury, on condition that the one who succeeded him should give security that he would leave it entire and without embezzlement; but in case of refusal to give such security, he bequeathed it to Chelsea College*, then building, on condition that that institution should be finished within six years after his decease. If this did not occur, he left his library to the University of Cambridge.

Whether his successors, Abbot and Laud, gave the

* Chelsea College appears to have been founded by Dr. Sutcliffe, Dean of Exeter; to consist of a provost and twenty fellows, who were to answer all sectarian publications written against the Protestant religion, or its episcopal government.—(Kennet's Complete Hist. of England,ii. 685.)

security required, does not appear. However, the books remained at Lambeth, until the order of bishops being abolished, and Chelsea College abandoned, as more likely to create contention than assuage sectarian animosity, Selden suggested to the University that their right to the books had arisen on the contingent remainder. It consequently presented a petition to the House of Lords, and Selden pleaded for them so successfully, that the University obtained an order not only for the books of Dr. Bancroft, but those of his successor, Dr. Abbot*. Archbishop Juxon, after the Restoration, demanded their restitution, and in the time of his successor, Dr. Sheldon, they were restored to the Lambeth library †. Selden's object, therefore, was attained—their preservation entire during the prevalence of that neglect of literary property which disgraced the anti-monarchical period.

Selden's exertions for the protection of learning and its nurseries, the universities, were strenuous, general and unremitting. Mr. D'Israeli remarks, that the republicans of England at that period, like those of France in the next century, were infected with a hatred of literature and the arts; "the burning of the records in the Tower, he adds, was certainly proposed; a speech of Selden's, which I cannot immediately turn to, put a stop to these incen-

* For this and other services, the University returned Selden thanks in two letters given by his biographer, Dr. Wilkins.

† La Neve's Lives, &c., of Protestant Bishops, 87.

diaries*." It is certain that a similar spirit rendered them inimical to the privileges of the universities, and made them desirous to reduce, if not entirely to confiscate, their revenues. Contrary to his habits of retirement, and conscious of the additional protecting power it would impart, Selden obtained, in 1647, the appointment of one of the parliamentary visiters of the University of Oxford.

His guardianship had soon to be exercised, for Wood relates that Bradshaw proposing, in harsh terms, an immediate visitation, Selden successfully objected to the injustice of such a proceeding before the University had provided itself with legal assistance. The question in dispute was whether the University should admit the visitatorial power of the Parliament. By the aid of Mr. Prynne they reduced the controversy to a question whether the king had previously had the right of being visiter, for if it had been propounded, "whether the kingly power was not virtually included in the parliament?" no lawyer would have dared to argue for the negative. It was owing to the exertions of Prynne and Selden that counsel were allowed to the University †.

Dr. Gerard Langbaine, provost of Queen's College, Oxford, in a letter dated March, 1648, thus animatedly expresses the sense of his exertions in its favour, that was entertained by the university. "We are all abundantly

* Curiosities of Literature, Second Series, iii. 446.

† Walker's Sufferings of the Clergy, &c., i. 130.

satisfied in your unwearied care and passionate endeavours for our preservation. We know and confess

Si Pergama dextra
Defendi poterant, etiam hac defensa fuissent.

"Of this we are confident, that (next under God's) it must be imputed to your extraordinary providence, that we have stood thus long: you have been the only belli mora, and

"Quicquid apud nostræ cessatum est mænia Trojæ,
Hectoris

"(I cannot add Æneæque, for you had no second)

"manu victoria Graium
Hæsit —

By your good acts, and prudent manage, our six months have been spun into two years, and it has been thus far verified upon us, by your means, *nec capti potuere capi**."

In the Journals of the House of Commons, of the date of May 1645, there is an order "for Mr. Selden to bring in an ordinance for regulating the Heralds' Office, and the heraldry of the kingdom." The College of Heralds is subject to the control of the Earl Marshal of England, in whose court all disputes concerning their craft are determined, and as this dignity and court had been abolished by the parliament, Selden was required to propose some substitute for its superintending jurisdiction.

* Leland's Collectanea, by Hearne, v.282.

The knowledge of such subjects displayed by Selden in his "Titles of Honour," probably pointed him out as fitted for this task, and although without pretensions to armorial distinctions, yet he had not that petty proneness of a weak mind to esteem as valueless that of which it has not the possession. Selden duly estimated the value of temporal dignities and their attendant pageantry, without yielding in any degree the just claim of our nature, that there is a gradation of moral as well as hereditary dignity. "The king," said Selden, "cannot make a gentleman of blood; but he can make a gentleman by creation. If you ask which is the better of these two?—civilly, the gentleman of blood—morally, the gentleman by creation may be better; for the other may be a debauched man, this a person of worth."

The gossiping Aubrey expresses his wonder that Selden should not have obtained a coat of arms; but we should rather approve that good sense that made him content with his own plumage. Selden, says Dr. Heylin, chaplain to Charles the First, might, as was generally believed, have chosen his own preferment at court, but he regarded his literary pursuits more than all other employments; and no one will wish his choice had been different. One cannot help feeling a satisfaction that he died a commoner. There are some bright names in our national history, as Boyle, and Milton, and Shakspeare, and Locke, before which even the addition of "Mr." is an offensive surplusage. They are of an exalted rank in

every man's esteem, with which the herald has no concern. For a similar reason we must all feel that no title could add dignity to the plain name of John Selden. We may feel proud that he was entirely one of us, and still prouder to coincide with the opinion of Dr. Heylin, that it is "a name that stands in need of no titles of honour*."

In 1646, Selden published his work entitled "Uxor Ebraica; seu de Nuptiis et Divortiis ex Jure Civili, id est, Divino et Talmudico, veterum Ebræorum, Libri tres."

In his former work on the Jewish natural and international law, he had treated of everything relative to the Hebrew matrimonial regulations that came under those two heads. In this work he completed the subject by adding all that relates to it from what he terms their civil law, that is, the matrimonial rites, customs, and institutions proper to their nation, and derived either from the Levitical law, or from their ancient customs, and the ordinances of their rulers. He says "I shall consider my task as performed if I have duly explained the particular causes from which, by this law, marriages were either prohibited, enjoined, or permitted; also the solemn forms and circumstances of contracting them, the nuptial rites, the mutual duties of the parties, and the rules of divorce." He further enumerates among the particulars of his work, what he calls the stupendous doctrines of the Karaites respecting incest; and incidental notices of many things

* Life of Laud, 321.

relating to the modes of contracting and dissolving marriages among Pagans, Mahomedans, and Christians in the East and West, which have either been derived from Jewish customs or appear to resemble them.

From this view of the materials of the "Uxor Ebraica," it will be seen that it ranks with the most curious and interesting of his publications, and was accordingly received by the learned with merited applause. Another edition of it was printed at Frankfort, in the year 1673 *.

In 1647, Selden edited an edition of "Fleta." This work, says Lord Coke, was written by some learned lawyer, who being committed to the Fleet Prison, had leisure there to compile it, and concealed his name, as he states in the preface, by calling it after the place of his confinement. It is divided into six books, of which the first treats of the crown pleas; the second gives a copious and curious account of the officers of the king's household, &c. The other four books are more exclusively occupied with details of our national law.

This work was found in a very ancient manuscript in the Cotton Library †, and Selden says it was then the only one known to be existing. The booksellers having determined to publish it, employed a transcriber so careless or inefficient, that, upon comparing it with the original manuscript, many hundred errors were discovered, and

* Aikin's Lives of Selden and Usher, 138.

† Cotton MSS. Julius, B. 8.

after all, the edition was very inaccurate. To it Selden prefixed a dissertation, which was subsequently translated by Mr. R. Kelham, and an extract from whose copious title-page will give an epitome of its contents. According to this it contains "many curious particulars relating to those ancient authors on the laws of England, Bracton, Britton, Fleta and Thornton; showing what use was made of the imperial law in England, whilst the Romans governed here; at what time it was introduced into this nation; what use our ancestors made of it; how long it continued; and when the use of it totally ceased in the king's courts at Westminster."

## CHAPTER XI.

CONCLUDING SCENES OF HIS LIFE.—STRIVES TO RECONCILE THE CONTENDING POLITICAL PARTIES.—THE KING MIGHT HAVE BEEN RESTORED.—DEATH OF CHARLES.—ITS ILLEGALITY.—SELDEN PREVIOUSLY RETIRED FROM PUBLIC LIFE.—CROMWELL SEEKS HIS ASSISTANCE.—WRITES ANOTHER WORK CONCERNING THE JEWS. —HIS LAST PUBLICATIONS.—PREPARES FOR DEATH.—HIS LAST MOMENTS.—FUNERAL.—MARRIED TO THE COUNTESS OF KENT.— HIS WILL.—HIS "TABLE TALK."—HIS CHARACTER.

We have now arrived at the period of the concluding political efforts of Selden's life; efforts that were admirably consistent with the temperate opinions which had guided him through those times of extreme discord and ultra-politics. Every vote and action of his parliamentary career unite as an index of his wishes and thoughts respecting the national government, and tell us as plainly as if he had copied for us the tablets of his heart, that abhorring the illegal measures of Charles, and persuaded that of the two contending parties the parliament was least in error, he yet desired the establishment of a duly-restrained monarchy.

During the contest in 1647, between the Presbyterian party of the parliament, and the independent portion that joined the army, Selden appears to have sided with the

former. His name is not in the list of the latter, who signed an engagement to support the army *. On the 11th of December, in the same year, after the members had again united, Selden went up with a message to the Lords from the Commons, desiring their consent to four bills, and, in the event of such concurrence, that they might be presented to his majesty for his assent. These bisll were concerning the management of the army and navy; for justifying the proceedings of parliament in the late war; concerning the peerage and the adjournment of both Houses †. When the Scotch commissioners desired that the above named bills might be communicated to them, Selden again appeared at the bar of the House of Lords, with two resolutions, vindicating, from such interference, the independence of parliament ‡.

In this last effort to effect a reconciliation between the king and the parliament, we may readily conceive that Selden was active and earnest; and certainly no person was more likely to succeed in this effort, than he who was respected and trusted by all parties.

Under any circumstances it would occur that the propositions of the parliament would endeavour to secure to it safety and influence, and they would be the more strict and more careful because there could be little confidence in the king's sincerity. His private papers, which had been taken at the battle of Naseby, and which the

* Parliament. Hist. xvi. 244. † Ibid. 403. ‡ Ibid. 429.

"Eikon Basilike" mentions without denying that they were genuine, declared unequivocally, that though he called the parliament by that name, yet in his conscience he did not hold it to be one, nor should he, in the event of success, treat it as such. It therefore behoved that assembly to deprive him by every precaution of the power to harm them. To effect this, they proposed, in the four bills just mentioned, that the military power should be entirely under the management and controul of the parliament for twenty years; and that the raising or maintaining any other troops should be illegal. Subsequently the consent of the three estates should always be requisite to the management of the national military. That all proceedings and declarations against any member of the parliament for his conduct during the late war were illegal. That all titles of honour conferred since the 20th of May, 1642, the day the lord keeper deserted the parliament, should be void. And that the parliament might adjourn itself at any time, and to any place that it preferred. Besides these there were some accompanying propositions for sequestrating the estates of certain of the royalists, and others for the establishing a Presbyterian form of church government, &c.

That these were hard terms for the king to accept no one will dispute, but it is quite as certain that to many of them he would not object; that the parliament, if they acted consistently, or with regard to their own safety, could not require less; and that, situated as he was, he

could not reasonably expect more favour *. The hardest article was, that which called upon him to sanction the forfeiture of the estates of those who had supported him. However, to this he does not object in his reply, but chiefly that such propositions deprive him of all sovereignty, and concludes by expressing an unalterable resolution not to treat with the parliament, unless he can do so personally †.

Both Houses, in the hastiness of anger, passed an ordinance that it should be high treason to propose any further treaty with the king; a vote violent, unjust and absurd, for though they might have a majority against such communication, they had no right to impose silence upon those who entertained a different opinion. Clarendon says that the agreeing to that "monstrous declaration," caused many of the members to withdraw themselves from an attendance upon parliament ‡. It is but justice to observe that they rescinded that ordinance soon afterwards, and evidently would have concluded terms with the king, if the majority of those members who were favourable to such agreement, had not been forcibly expelled by Cromwell's party, and thus a predominance secured to those who opposed it, and who eventually brought the king to his death.

* The king was now a prisoner in Carisbrooke Castle.

† Parliament. Hist. xvi. 483.

‡ History of Rebellion, v. 94, 8vo. ed. There is little doubt of Selden being among these seceders.

Selden was not among those members who were imprisoned or expelled by the army, nor yet among those who continued to assume the office of legislators. He therefore must have voluntarily withdrawn himself when he saw that the military were determined to subvert the government.

There is scarcely room to doubt that at this last period of the struggle, the king might have saved his life and regained his throne. The Presbyterians having a majority in the parliament, and supported by the city of London and by the Scots, openly avowed themselves to be determined against any religious toleration. The independents, who chiefly constituted the English army, remonstrated against this, and finding their petitions disregarded, Cromwell and Ireton, their most influential officers, offered terms to Charles. However he fled from them, and became a prisoner of the parliament, whose offers, we have already stated, he had similarly rejected. All contemporary authorities agree, that he now entertained the vain idea, that he was important and necessary to the success of either party, and offending both by his haughtiness, insincerity, and duplicity, whichever triumphed, he could be trusted by neither. Unfortunately for him, the independents attained the superiority, and having expelled from the remaining part of the parliament all who were opposed to their plans, the residuum formed that "high court of justice" which found him guilty of treason against the state, and consigned him to the scaffold.

What was Selden's opinion of the final treatment to which Charles was subjected has been sought, but without success. If the question were simply, whether a nation has a right to depose its sovereign, or even put him to death—the answer might be reasonably in the affirmative. "A king," said Selden, "is a thing men have made for their own sakes;—for quietness' sake." They grant him certain high privileges and powers; but it is upon the condition that he shall guard their liberties and administer the laws. The moment he neglects either, he has broken the condition, and his privileges are forfeited. *Ipso facto* he is reduced to the liabilities of a subject. It matters little whether such a delinquent's crimes appear in the form of murder, rape, or general tyranny; he has disregarded the purposes for which he was raised to the throne, and no reason, either technical or moral, can convince the understanding that he has not degraded himself, or is not justly brought within the power of the law which he despised. If it is asked, who should be his judges? it may be answered, without the fear of a rational objection, that having forfeited his prerogative, he might be arraigned before those to whose integrity he had confided the dispensation of justice.

If it is asked, who should be the prosecutor? it may be answered, the power to whom the nation next confides the sovereignty—for to that power it delegates the administration of retributive as well as of preventive justice. The dignity of the delinquent might claim a trial before a

higher tribunal, and the Commons of England might vindicate the rights of the people, by impeaching him at the bar of the House of Lords. It would be absurd to admit as a good plea, that these tribunals have no jurisdiction over such an offender. From what has been suggested, even as a technical objection, it appears invalid, and in that case, if the most high tribunal of the realm is assigned to administer to him justice, he can avail himself of no further appeal; and the most hardy defender of absolute monarchy, will not dare to maintain that a king, being once chosen, may violate the nation's laws and the laws of God without the possibility of redress. What sympathy of our nature, what dictate of our reason, would it shock to see a John, a Richard the Third, or a Henry the Eighth, condemned by the laws which he had infracted *?

Admitting, under certain circumstances, the liability of our kings to be arraigned for their crimes, the succeeding query arises, Did Charles the First come within such liability? The answer must be in the affirmative. Charles certainly violated the laws and trampled upon the liberties of the people. He levied taxes, imprisoned his subjects, and tampered with the judges, in defiance of the

* There is no writer upon the Law of Nations that does not acknowledge their right to depose their sovereigns who act in subversion of their laws and liberties.—Locke on Government, ss. 213—243. Vattel's Law of Nations, l. i. c. 4. Puffendorf's Law of Nature and Nations, by Barbeyrac, l. vii. c. 8, s. 5, &c., and many others, as Sidney, Le Clerc, and even Barclay, may be referred to.

parliament, and in contempt of every rule of justice. He prevented the parliament assembling at its proper periods; by repeated dissolutions endeavoured to coerce it to his will; and made his own proclamations have the same power as the acts of the legislature. Finally, he endeavoured, by force of arms, to subdue the opposition that his illegal measures had roused into action, and for this purpose he not only levied soldiers in his own dominions, but made arrangements for the introduction of foreign troops. Each of these acts was a breach of the constitution, and rendered him liable to and worthy of degradation from that office of which he neglected the duties and perverted the powers.

Lastly arises the question, Was the power legal that condemned him? and there can be as little reason for hesitating in replying to this as to the former query.

The high court of justice had not a shadow of legal power, nor the remotest right to try, much less to condemn him. It is no mere technical objection to observe, in the first place, that the parliament had renounced all right to arraign Charles, for after all his offences had been completed, and they had got him in their power, they acknowledged him as their king; they treated with him as such at Newport; and as they acknowledged him as their sovereign, and were willing to retain him upon the throne, they then renounced the right to try him, for that right accrued to them only by the forfeiture of the office which they still acknowledged he retained. With

additional absurdity he was arraigned as, "Charles Stuart, King of England."

But the court had no right to try him. It not only was not founded upon the will of the nation, but was constituted in defiance of even the last exuviæ of its legislature. The House of Commons was so only in name, its more appropriate title would have been the delegation of the army, for by force the military had expelled from the House all the members who would not support their extreme faction, and the greatest number that now assembled, and who voted for the appointment of "the High Court of Justice," did not amount to seventy.

The House of Peers consisted of a still narrower remnant; for although, according to Rushworth, Whitelocke, and Walker, it had a larger attendance upon the occasion of the debate concerning the appointment of the above named court, than for a long time previous, yet the number then amounted but to sixteen, and of these, twelve voted against it, and the others did not record their opinions *.

The court then was appointed in defiance even of the wreck of the legislature, and as it was illegally constituted, for that and other reasons, it acted consistently in defiance of the laws throughout. The trial of Charles was a mere farce, and it would not have been in any degree more a murder, if the army-leaders had privately destroyed him,

* Parliament. Hist., xviii. 492.

as one portion of them strenuously desired might be effected.

Before Charles was arraigned, the political life of Selden had closed, yet he did not retire because his influence was gone, for Cromwell sought his aid, but he withdrew from an assembly whose conduct had ceased to meet with his approbation, and to whose proceedings opposition was vain. There seems to be little doubt that he was one of the members intended by the vote of the House on the 22nd of February 1649, that none who had been absent since the 31st of the preceding December, unless upon their military duty, should be admitted without further order.

There can scarcely be a less disputable mark of integrity and worthiness in an individual than his succeeding in securing the "golden opinions" of parties opposed to each other in contending for the same object, and concerning which object that individual is known by them to differ with them both. Now of all contentions History affords uniform testimony that none are so jealous and implacable as those in which are involved the religious opinions and the temporal pre-eminence of the disputants. Mingling in such contentions, Selden passed his life, a prominent actor in them all, and yet so moderate, consistent and talented was his course, that although occasionally supporting and opposing each, the extremes of the conflicting parties looked up to him and sought of him the aid of his abilities. We have already seen that

Charles the First wished to bestow upon Selden the highest civil office of the kingdom, and we have now arrived at the period when the successful opponent of that monarch proposed to avail himself of his literary, legal, and political acquirements. When the *Eikon Basilike* appeared, its pathos, humble tone, and religious sentiments, were so coincident with the spirit of the age, and so strengthened the feeling of pity and admiration that is always suggested by the exhibition of the unfortunate suffering with magnanimity, that probably a contemporary did not express an exaggerated opinion when he declared, that if that publication had issued from the press three weeks earlier Charles would not have died upon the scaffold. It is very certain that those who signed his death warrant hesitated even at the last moment before they affixed to it their signatures, and if the popular voice had declared in his favour more loudly, they probably would have withheld them entirely. As it was the "Eikon Basilike" had such an influence in winning public favour to the royal cause, that Cromwell considered it essentially necessary that an answer to it should be published. He selected Selden to execute this purpose, and is said to have applied to him personally, and by their mutual friends, to persuade him to undertake the task. He unhesitatingly declined, and it was eventually replied to by the poet Milton.

The opinion that Cromwell entertained of Selden is shown still further by the following incident. Soon after he had dissolved the parliament in April 1653, and

informed the council of state that it should meet no more, he sent for two influential members of the army faction, and complaining to them that he feared he was not equal to the government that had devolved upon him, requested that they would persuade the chief justice St. John, Selden, and some others, "to draw up some instrument of government." In other words, to arrange a new form of the executive*. It is probable, as the contemporary, prejudiced author from whom we obtain this information surmises, that this was mere duplicity in Cromwell, but that does not weaken the testimony it affords that Selden was admired and trusted by the most opposite factions†.

Selden continued his studies and his care of the literary interests of the country. In July, 1649, a vote passed in parliament for the preservation of the books and medals in the library at St James's Palace, and the care of them was offered to Mr. Whitelocke, which he accepted, he says, at the earnest persuasion of Selden, who declared that "if he did not undertake the charge, all those rare monuments of antiquity would be lost; and there were not the like to them, except in the Vatican, in any library in Christendom‡."

* Ludlow's Memoirs, 176. Ed. 1751.

† It is an impression upon the author's mind that he has seen it stated, that Cromwell offered to make Selden his attorney general, but he has been unable to find an authority upon the point.

‡ Whitelocke's Memorials, 401.

In 1650 Selden published the first book of his work, "De Synedriis et Prefecturis Juridicis veterum Ebræorum." Upon this he had employed the care and researches of which he was capable during twelve years. His object was to relate every thing recorded concerning the Sanhedrim or Juridical Courts of the Jews, both before and after the promulgation of the Mosaical Laws; together with such collateral notices of similar institutions in modern times and countries as he had interspersed in his other works, of which the polity of the Jews is the primary subject. This first book brings his details from the Creation to the giving of the Law at Mount Sinai, and was in all probability published separately as a vehicle for the author's opinions against the right of excommunication, so enlarged by the presbyterians, and which occupy so many of its pages. It was followed three years afterwards by a second book, comprising the judicial history of the Jews to the destruction of the temple. A third, which was not printed until after Selden's death, proposed to treat particularly of the great Sanhedrim, but he had left it incomplete. The whole occupies one of the six folio volumes which contain his works, and in none of these has he displayed more of his multifarious and recondite erudition. However, it incurred a good deal of criticism. In particular, his tenets concerning ecclesiastical censures were controverted by various foreign theologians. The author's learned countryman, Sir John Marsham, also expresses a doubt whether the Patriarchs exercised

any proper civil jurisdiction, and gives as his opinion that the whole Hebrew polity was posterior to the departure of the Israelites from Egypt.

In 1652, was published a collection of "Ten Writers of English History posterior to Bede," to which Selden prefixed some account of the authors, entitled "Judicium de decem Historiæ Anglicanæ Scriptoribus." In the commencement of this preface he informs the reader that he was not the editor of the collection, and had no other concern in it than occasionally looking over the proof sheets, and communicating some collations of manuscripts from the library of Sir Thomas, son of the late Sir Robert Cotton; but that at the request of the bookseller he was induced to prefix this dissertation. It begins with Simon of Durham, whose history of that church, Selden endeavours to prove to have been really composed by Turgot, prior of the monastery of Durham, and Bishop of St. Andrews, in Scotland. He takes occasion in this place to give some account of the Keledei, or Culdees, of Scotland, who long afforded an example of presbyterial ordination, without the intervention of a bishop. It is to be remarked, that in the preface to Dr. Wilkin's edition of Selden's works, is inserted a disquisition by Thomas Rudd, keeper of the Durham library, in which he vindicates the claim of Simon to the composition of this history. The other writers in the collection, noticed by Selden, are Prior John, and Richard of Hexham; Serlo, a monk of Fountain's Abbey; Ealred, abbot of Rivaulx;

Ralph de Diceto, dean of St. Paul's, London; John Brompton, abbot of Joreval; Jervaise, a monk of Canterbury; Thomas Stubbes; William Thorne, a monk of Canterbury; and Henry Knighton, a canon of Leicester*.

The last of Selden's writings was an answer to Theodore Graswinckel, a Dutch jurist, who in a refutation of a work by Burgus on the Dominion of the Genoese Sea, assigned very derogatory motives to Selden for writing his "Mare Clausum." The motto of Selden's Vindication, as well as its title page, indicates that he keenly felt the libel; "Contumeliam nec fortis potest, nec ingenuus pati." The work, which is dated from his house in White Friars, May the 1st, 1653, is chiefly valuable and interesting on account of the biographical information it affords relative to the author; which information has been frequently quoted and acknowledged in preceding pages.

In 1654 Selden felt those warnings of decay that admonish us finally to set our house in order. He pursued the suggestion without delay. He is one of that numerous band of transcendent minds who have borne testimony that the first thing needful is to prepare for eternity. His life had been a preparation for death, for he had lived virtuously and conscientiously, and he told his friends Archbishop Usher, and Dr. Langbaine, who attended him during the days of departing life, "that

* Aikin's Lives of Selden and Usher, 146—150.

although he had his study full of books and papers upon most subjects in the world, yet he could not recollect any passage whereon he could repose his mind, except some out of the Holy Scriptures; of which the one that made most impression upon his spirit was that contained in the 11th, 12th, 13th and 14th verses of St. Paul's epistle to Titus*." In those passages the apostle gives a summary of the Christian doctrine—obedience to the commands of God, and faith in the redeeming sacrifice of our Saviour. This then was Selden's creed, and, consonant with the other conduct of his life, yielding to authority that cannot err, and unbiassed by enthusiasms to which he never submitted, he adopted the religion of the Bible, content with fundamentals necessary to be known, and despising the sectarian bigotry that hurled damnation upon those who differed with them about a name, or even a still less material opinion upon a still less material doctrine. On the 10th of November, Whitelocke received the following invitation from his dying friend. It was the last exertion of his pen.

" My Lord†,

" I am a most humble suitor to your lordship, that you would be pleased that I might have your presence for

* Wilkins in vitâ Seldeni. He quotes a work entitled " Historical Applications and occasional Meditations upon several subjects;" written " by a Person of Honour," repeated in Woodward's " Fair Warning to a Careless World."

† Whitelocke was one of the Lord Commissioners of the Great Seal.

a little time to-morrow, or next day. Thus much wearies the most weak hand and body of

Your lordship's most humble servant,

J. SELDEN."

"Nov. 10, 1654, White Friars."

Whitelocke obeyed the summons, and advised him upon the subject of settling his estate, and altering his will. He also agreed to be one of his executors. What was the advice given we are not informed, but we are told that the bodily strength of Selden failed before he could fulfil his last intentions *.

He expired on the 30th, within sixteen days of completing his seventieth year. The immediate cause of his decease was dropsy.

Death came to him without terror. He had his funeral scutcheons prepared some months before he died, and had similarly anticipated the composition of his own epitaph †.

* Whitelocke's Memorials, 590.

† Aubrey MSS., Wood's Athenæ Oxon. by Bliss, iii. 378.

Selden's epitaph for himself is as follows:—

"Natus est 16 Decembris Salvingtoniæ, qui viculus est Terring, oppide in Sussexia maritimi, in œdibus Lacies ibi dictum, parentibus honestis, Johanne Seldeno, Thomæ filio (qui anno natus, septuagenarius obiit), et Margarita Bakera, Thomæ cognominis a Rushington, ex equestri in Cantia Bakerorum familia oriundi filia unica et hærede, quibus primogenitus et hæres. Fratres habuit ex hisce binos, Georgium et Henricum, in curio mortuos; sororem unicam Mariam, Johanni Bernardo è Goring enuptam.

Literis puerilibus in scholâ Cicestriensi publica Oxonium amandatus

Some may be ready to exclaim against this as a vain weakness. But surely it is no symptom of weakness to view with composure the requisite attendants of the charnel house; and there it not one sentence in the epitaph that savours of mistimed vanity. It is interesting because it records his estimate of his own character, and certainly deserves no reprehension for arrogance, because it merely records the truth. A man may acknowledge the possession of attainments without vaunting of their acquirement.

After stating his admission into the society of the Inner Temple, he adds, " he applied himself to the studies of the place neither remissly nor unsuccessfully; but indulging his natural disposition, and little fitted for the bustle of courts, he betook himself to other studies as an inquirer. He was happy in friendships with some of the best, most learned, and even most illustrious, but not without the heavy enmity of some intemperate adversaries

est; ubi in Aula Cervina, disciplinis academicis per aliquot annos incubuit. Jus illic Anglicanum ultro affectans, primo Hospitii Cliffordensis Londini, deinde Interioris Templi, Maii 1604, Socius admissus est: non indiligenter loci studiis, nec infeliciter, operam navavit; sed genio suo indulgentior, nec molestiis forensibus satis idoneus, ad alia, ut explorator, se contulit. Amicitiis cujusque ordinis, optimis, doctissimis, amplissimis, etiam et illustrissimis, nec paucis beatus fruebatur, nec sine summis procacium aliquot veritatis et libertatis justæ ossorum inimicitiis quas gravissimè sed viriliter perpessus est. Comitiis Parliamentariis ut burgensis sæpius intererat, etiam et in illis quæ et regem habuere et nullum. Denatus —— anno —— hic prope situs est."

of truth and genuine liberty, under which he severely but manfully suffered. He served as a burgess in several parliaments, both in those which had a king, and those which had none."

The risk of wearying the reader must be incurred by detailing at length, upon Aubrey's authority, the concluding ceremonies with which Selden's remains were interred in the Temple Church.

" His executors invited all the parliament men, all the benchers, and great officers. All the judges had mourning, as also abundance of people of quality. His grave was about ten feet deep, or better; walled up a good way with bricks, of which also the bottom was paved, but the sides at the bottom for about two feet high were of black polished marble, wherein his coffin (covered with black baize) lieth; and upon that wall of marble was presently let down a huge black marble stone of great thickness, with this inscription:—

" Hic jacet corpus Johannis Seldeni, qui obiit 30 die Novembris, 1654."

Over this was turned an arch of brick (for the house would not lose their ground), and upon that was thrown the earth, &c., and on the surface lieth another fair grave-stone of marble, with this inscription:—

" J. Seldenus, J. C. heic situs est."

There is a coat of arms on the flat marble, but it is

indeed the coat of his mother, for he had none of his own, though he so well deserved it*."

A mural monument to his memory was subsequently placed in the circular part of the church.

Archbishop Usher, owing to his age and infirmities, had ceased to preach to large congregations, but on this occasion he again occupied the pulpit, thereby intending to testify his regard for Selden, and for his executors, who made it their particular request. In this discourse, like almost all preachers of funeral sermons, Usher exceeded the bounds of legitimate praise. Thus he told his auditors that he considered Selden so great a scholar that he was scarcely worthy to carry his books after him†.

Mr. Richard Johnson, master of the Temple, read over the corpse the service of the New Directory, or liturgical form prepared by the Synod; adding extempore, "if learning could have kept a man alive, this our brother had not died‡."

Selden was tall, his height reaching to about six feet. His face thin and oval, and the whole head not very large. His nose was long, and inclining to one side. His eyes, which were grey, full and prominent§.

* Aubrey's MSS., Wood's Athenæ Oxon. by Bliss, iii. 379.

An anonymous writer states that these arms are an alteration of those of the Bakers, of Sisinghurst; being azure, on a fess between three Swan's heads, erased or ducally gorged gules, as many cinquefoils of the last.—(Gent.'s Magazine for September, 1834, 257.)

† Parr's Life of Usher, 75.

‡ Wood's Athenæ Oxon., ii. col. 184.

Aubrey MSS., Wood's Athenæ Oxon. by Bliss, iii. 378.

He kept a plentiful table, and was never without the society of learned guests. But he was temperate both in eating and drinking, though he was accustomed jocularly to observe, "I will keep myself warm and moist as long as I live, for I shall be cold and dry when I am dead." We can form an estimate of his sociality from one sentence of his intimate friend Whitelocke, who has recorded, tha "his mind was as great as his learning: he was as hospitable and generous as any man, and as good company to those whom he liked*."

His generosity was not confined to his convivial hours. Meric Casaubon told Dr. Usher that Selden, in a time of need, aided him with a considerable sum. He patronised Mr. Kelly, when pursuing his antiquarian travels; he subscribed largely to the publishing of Walton's Polyglot Bible; he was the patron of Farington and Ashmole the antiquarians; and detecting the merits of Hale, while yet a stripling, he continued, though much his senior, his unwavering friend†.

When called upon by those whom he considered it necessary to see, though his occupation prompted him to wish them absent, he threw a slight covering over the books and papers upon his table, so that they remained undisturbed and unnoticed by his visiter; but with those with whom he was intimate he was less ceremonious, and Colomies relates that when Isaac Vossius was ascending

* Whitelocke's Memorials, 590. † Wood's Athenæ Oxon., in vitis.

Selden's stairs, he would sometimes call to him from their summit, that he had not leisure for conversation.

The intimacy and connection of Selden with the Earl of Kent has been noticed in preceding pages of this work. The earl died in 1639, without issue, and from that time Selden appears to have made the family mansions at Wrest in Bedfordshire, and White Friars in London, his places of residence. It is doubtful whether he was married to the Countess, or merely resided with her as the legal adviser of the family, which being needed in the life time of the earl, must have been much more necessary after his decease. Previously to Selden becoming an inmate of the house another law authority had necessarily been employed, for he once noticed, "Lady Kent articled with Sir Edward Herbert, that he should come to her when she sent for him, and stay with her as long as she would have him; to which he set his hand; then he articled with her, that he should go away when he pleased, and stay away as long as he pleased, to which she set her hand*." "When I read this passage," says Dr. Aikin, "I was at a loss to conceive what was the nature of the connection between her ladyship and Sir Edward. A legal friend suggested to me that the latter, who was an eminent lawyer, was probably retained for his advice by Lady Kent at an annual salary; and he produced to

* Table Talk, s. Contracts.

me examples of deeds granted for payments on the same account; one of them so late as the year 1715."

The Countess of Kent was Elizabeth, daughter and coheiress of Gilbert Talbot, Earl of Shrewsbury. There passes under her name a book entitled, "A choice Manual of rare and select secrets in Physick and Chirurgery;" but her being an author was not the most estimable part of her character. She was eminent for her virtue and piety. She died in 1651 *. She appointed Selden her executor, and bequeathed to him the Friary House, in White Friars; and from her he is believed to have derived a chief part of the considerable property of which he died possessed. There is strong reason to believe that he was bound to her by other ties than those of service and friendship. Wood says equivocally that they lived together in a conjugal way; but Aubrey says expressly that Selden was married to the Countess, though he never acknowledged the marriage until after her death, when it became necessary to avow it in the course of some legal proceedings †.

When Selden died, his barber, who had noticed his learning and been annoyed by his eccentricities, for Selden would often escape from his hands to make a note of the

* Nicholls' Literary Anecdotes, viii. 510.

† Aubrey's MSS., Wood's Athenæ Oxon. by Bliss, iii. 378. The same authority alludes to two illegitimate daughters of Selden, by an unnamed mother. One married a tradesman of Bristol.

ideas and recollections that arose in his mind, declared his anxiety to know how he had devised his property, for added the tonsor, "I never knew a wise man make a wise will."

In the opinion of some persons, Selden's last testament, will not be esteemed an exception to this result of the barber's experience, for he left only small legacies to his relations, and the residue of his fortune, which was estimated at forty thousand pounds, to his four executors and residuary legatees. These were Lord Chief Justice Hale, Chief Justice Vaughan, Rowland Jukes, and Edward Herbert, Esqs. * In the opinion of others, by so disposing of his fortune, Selden will be thought to have acted wisely, for the very reason which he used to assign to Sir Bennet Hoskyns and others, who were his intimate friends: "I have no one to make my heir," he said to them, "except a milk-maid; and such people do not know what to do with a great estate." Grostest, Bishop of Lincoln, in a previous century, acted upon a similar principle, for when his brother applied to him for preferment, he answered, "brother, if your plough is broken, I'll pay for the mending of it; or if an ox is dead, I'll pay for another; but a ploughman I found you, and a ploughman I will leave you."

To each of his nephews and nieces Selden bequeathed one hundred pounds. To various other persons he left

* Aubrey leaves a blank for this last gentleman's name, stigmatising him as Selden's "flatterer."

tokens of his regard. One especially bespeaks an attention to what was probably in accordance with the wishes of the Kent family. He left the plate and a diamond hat-band which had belonged to the Earls of Kent, to Mr. Grey-Longueville, as a heir-loom, he being nephew of the last earl.

The disposal of his library was every way worthy of commendation. He resolved that it should be preserved entire for the benefit of his countrymen. Originally he determined to bequeath it to the University of Oxford, but with a weak betrayal of wounded pride, he altered this resolution, because the deposit of a sum of money had been required of him, before he was permitted to have the loan of a manuscript from the Bodleian library. Such a demand was in accordance with its regulations, and on this consideration ought to have been submitted to by him without objection, particularly as the university had made one special regulation in his favour, that he might have any three books from the library at a time, upon giving a bond that they should be returned within a year*. Although Selden withdrew the express bequest of his library to the university, yet he left its disposal to the discretion of his executors, and even by his uncertain expression, seemed willing to confess that he relented of his petulant resolution. He requests them "rather to part the books among themselves, or otherwise dispose of them, or the choicest of them, for some public use, than

* Biographia Britan. in vita.

put them to any common sale," and further suggests for their preservation "some convenient public library, or some college in one of the universities." His executors very correctly considered themselves to be "the executors, not of his anger, but of his will," and they in that spirit, after selecting some of the books, and offering them to the benchers of the Inner Temple as the foundation of a law library, presented the remainder, together with his museum, to the University of Oxford. Eventually, the benchers slighting the offer, and delaying to provide a depository for the books, the whole, comprising more than eight thousand volumes, were conveyed to the university, one of the terms enforced by the executors being, that they should be for ever kept together, and in a distinct body, with the title of "Mr. Selden's Library." They are preserved in a separate apartment of the Bodleian library. Anthony Wood has recorded that the books arrived at the university in September 1659, and that he with the head librarian, and several assistants, were employed some weeks in sorting and arranging them. In opening some of the books they found several pairs of spectacles, which Selden must have put in and forgotten where he had placed them.

In the previous June Selden's antique marbles had arrived, and they were finally arranged in one of the schools, each specimen being marked with his initial*.

* Wood's Autobiography.

A work entitled "De Nummis," was published in 1675, and is stated in the title-page to have been written by Selden. This is a literary fraud. It was written by Alexander Sardus, and published five years before Selden's birth, and was reprinted at Frankfort, in 1609, as well as in the eleventh volume of Grævius's Thesaurus Antiquitatum Romanorum. The edition under Selden's name differs only in the titlepage and dedication *.

In 1689 appeared Selden's "Table-Talk," from which so many quotations have been made in preceding pages. Its editor was the Rev. Richard Milward, who for many years was Selden's amanuensis, and consequently had the most favourable opportunities of becoming acquainted with the sentiments and opinions which he has recorded†. A note made by the Earl of Oxford on a manuscript copy of this work states, "this book was given in 168— by Charles Earl of Dorset, to a bookseller, in Fleet-street, in order to have it printed, but the bookseller delaying to have it done, Mr. Thomas Rymer sold a copy he procured to Mr. Churchill, who printed it‡." The authors of the Leipsic "Acts of the Learned," gave a decided opinion against the genuineness of this work, because they considered that it contains sentiments contrary to those

* Wood's Athenæ Oxon., iii. 373.

† Mr. Milward was of Trinity College, Cambridge, rector of Little Braxted, in Essex, upon the presentation of its then patron, the Earl of Pembroke; and installed a canon of Windsor in 1666. He died in 1680. (Newcourt's Repertorium. Kenet's Catalogue.)

‡ Harleian MSS. 1315. pl. 42 b.

recorded in Selden's works, and others that are not worthy of him. Dr. Wilkins and others have coincided in this condemnation. That it contains many observations which, being made in the prompt onflow of conversation, Mr. Milward would have done better not to have registered, cannot be denied, but that the work is at issue with Selden's more considerately delivered opinions has never been demonstrated. That as a whole it is unworthy of Selden is denied by the public approbation bestowed upon it. It has passed through numerous editions, and indeed may be considered as one of the English classics. A better critic than those of Leipsic, Dr. Johnson, entirely dissents from them, for replying to an observation made by Mr. Boswell in praise of the French *Ana*, he said, "a few of them are good, but we have one book of that kind better than any of them—Selden's Table-Talk *."

Selden adopted for his motto, περὶ παντὸς τὴν ελευθερίαν, liberty concerning all things †. His life was one consistent comment upon that text, a text to which no good man will object, and which only the bad will abuse by misconstruction. In social life we have seen that he encouraged an innocent freedom from icy formality in the observance of rules which were made to protect and not to enslave social intercourse.

* Boswell's Journal of a Tour to the Hebrides, 321.

† He inscribed this in all his books, as may be seen by referring to those in the Bodleian.

As a citizen, whilst he supported the government of the state, he as strenuously opposed the abuses of its power. For, although he perfectly understood the necessity of sacrificing in society some part of our individual freedom, for the security of the remainder, he as entirely perceived that the protecting power we create is not to be implicitly submitted to when it oppresses rather than preserves.

In religion he exercised the same freedom. His opinions relative to ecclesiastical discipline have already been noticed. They were those of common sense. Coming to the inquiry unshackled by prejudice, without any temporal interests to support, intimate with the first authorities and particularly attached to the study of the Scriptures,—Selden was one of the most unexceptionable judges of the truth of Christianity, and, as already noticed, we have the satisfaction to know that he declared in its favour.

Without professing, that we know, any particular creed, (and who will say that Luther, or Calvin, should bind such men as Selden, Newton, Grotius, Boyle, and Locke, to every tenet of their belief?) he lived and died as might be expected of one who derived his Christianity from the Bible. Aubrey has a tale that Mr. Hobbes succeeded in persuading Selden to decline in his last moments the attendance of a clergyman, and hence his infidelity has been asserted. However, we have more certain testimony than that of Aubrey, that Selden was a firm believer. Besides the authorities quoted at p. 298, we may refer to

the words of his contemporary, Mr. Baxter, who observed, "The Hobbians and other infidels would have persuaded the world, that Selden was of their mind, but Sir Matthew Hale, his intimate friend and executor, assured me that Selden was an earnest professor to the Christian faith, and so angry an adversary to Hobbs, that he hath rated him out of the room *." It is true that Sir Symonds D'Ewes tells us that though he always held "a good outward correspondence," with Sir Robert Cotton and Selden, yet he never sought or obtained much intimacy with them, "both of them being more learned than pious;" but what reliance we ought to place in the judgment of such a violent calvinistic bigot as Sir Symonds, may be left to the decision of any reader, who will first make himself acquainted with his diary, of which extracts are given by various authorities †. On the other hand, Selden's intimate friends were of the most learned and most pious of the age; the man who was beloved and sought for by Sir Matthew Hale, and Archbishop Usher, will not be condemned because he did not agree with Sir Symonds's standard of excellence.

Of his learning notices are spread through the preceding pages. Another testimony is in the following list of those who were his friends and correspondents, and who looked up to him as "the great dictator of learning." This list

* Baxter's Diary, by Silvester, Pt. 3, 48.

† Kippis's Biographia Brit. in vita. D'Israeli's Curiosities of Literature, 2nd Series, iii. 329.

is from a life of Selden in French, among the Birch Manuscripts. Grotius, Saumasius, Bochart, Langbaine, Pricæus, Petit, Gataker, Casaubon, Jun., Gerard Vossius, Imperialis, Holstenius, Rivet, Pococke, Golius, Purchas, Spelman, Gronovius, Daniel Heinsius, Taylor, Louis du Moulin, Bœclar, Spizelins, and if to these are added Jonson, Peiresc, Usher, Herbert, Ravius and Meibomius, there is enumerated a society of eminent acquaintances such as few men ever enjoyed *.

The best panegyric of Selden, is a faithful relation of his life. This has been attempted in the foregoing pages, and the whole may be summed up in the words of his friend Lord Clarendon:—"He was a person whom no character can flatter, or transmit in any expressions equal to his merit and virtue. He was of such stupendous learning, in all kinds and in all languages, that a man would have thought he had been entirely conversant among bo oks and had never spent an hour but in reading and writing; yet his humanity, courtesy, and affability were such, that he would have been thought to have been bred in the best courts, but that his good nature, charity, and delight in doing good, and in communicating all he knew, exceeded that breeding. His style in all his writings seems harsh and sometimes obscure, which is not wholly to be imputed to the abstruse subjects of which he commonly treated, but to a little undervaluing of style, and too much

* Birch MSS. 4247, pl. 107 e.

propensity to the language of antiquity; but in his conversation he was the most clear discourser, and had the best faculty of making hard things easy, and presenting them to the understanding, of any man that hath been known. Mr. Hyde was wont to say that he valued himself upon nothing more than upon having had Mr. Selden's acquaintance from the time he was very young. If he had some infirmities with other men, they were weighed down with wonderful and prodigious excellencies in the other scale *."

Poetry also contributed its aid to sound Selden's elegiac praise. The following lines, tinctured with the pedantry of the age, are a very small part of the offering to his memory, written by his worthy contemporary, Dr. Bathurst.

" We ask not now for ancestors, nor care
Tho' Selden does nor kindred boast, nor heir
Such worth best stands alone, content to be
To itself both founder and posterity.

* * * * *

When all thy statues shall be worn out so
That even Selden would not Selden know,
Ages to come shall in thy virtue share;
He that dies well, makes all the world his heir †."

* Clarendon's Autobiography, 16. Fol. ed.
† Dryden's Miscellanies, Part iii., 44.

# PORTRAITS OF SELDEN.

I am aware of four original painted Portraits of Selden. Thes were by Mytens, Van Dyck, Sir Peter Lely, and W. Faithorne. That by Mytens is in the Bodleian Library.

Of these there have been many engraved copies.

1. Prefixed to his "Nativity of Christ," by J. Chantrey, 8vo. 1661.
2. A quarto mezzotinto, after Van Dyck's portrait, by J. Faber, Jun 1713.
3. A copy of Faithorne's, by J. Sturt.
4. A copy of Lely's, by G. Vertue, prefixed to Selden's Works, edited by Dr. Wilkins, folio, 1726.
5. One after Faithorne, by R. White, prefixed to the "Janus Anglorum," 1683, folio.
6. One prefixed to Dr. Pococke's edition of "Eutychius," 1658, folio.
7. One at the corner of a portrait of Sir Thomas Bodley, by M. Burgher; being the frontispiece to the "Catalogue of the Bodleian Library."
8. One by Freeman, after that by Sir P. Lely, prefixed to Dr. Aikin's Lives of Selden and Usher, 1812, 8vo.
9. One engraved by Van Hove, 1677, 12mo.
10. One with a library in the back ground, with four Latin verses affixed, G. L. p. Scarce.
11. One by W. Birch, 1789, after the painting by Lely.
12. One by W. Holl, after the original by Mytens. In "Lodge's Portraits."

13. One "Johannes Seldenus" with the arms from his monument, and his motto. No engraver's name to my copy. 8vo.

14. One "Johannes Seldenus Armig." J. C. Bocklin, sculp. 8vo.

There has very lately been published another beautiful likeness of Selden, in the "Gallery of Portraits," published by the Society for the Diffusion of Useful Knowledge.

Many minor copies have appeared in editions of Selden's "Table-Talk," that are not worthy of further notice.

A medal bearing Selden's likeness was engraved by one of the Dassiers. (Nichol's Literary Anecdotes, i. 133. See also Bromley's Catalogue of Engraved British Portraits. Granger's Biographical Hist. of England.)

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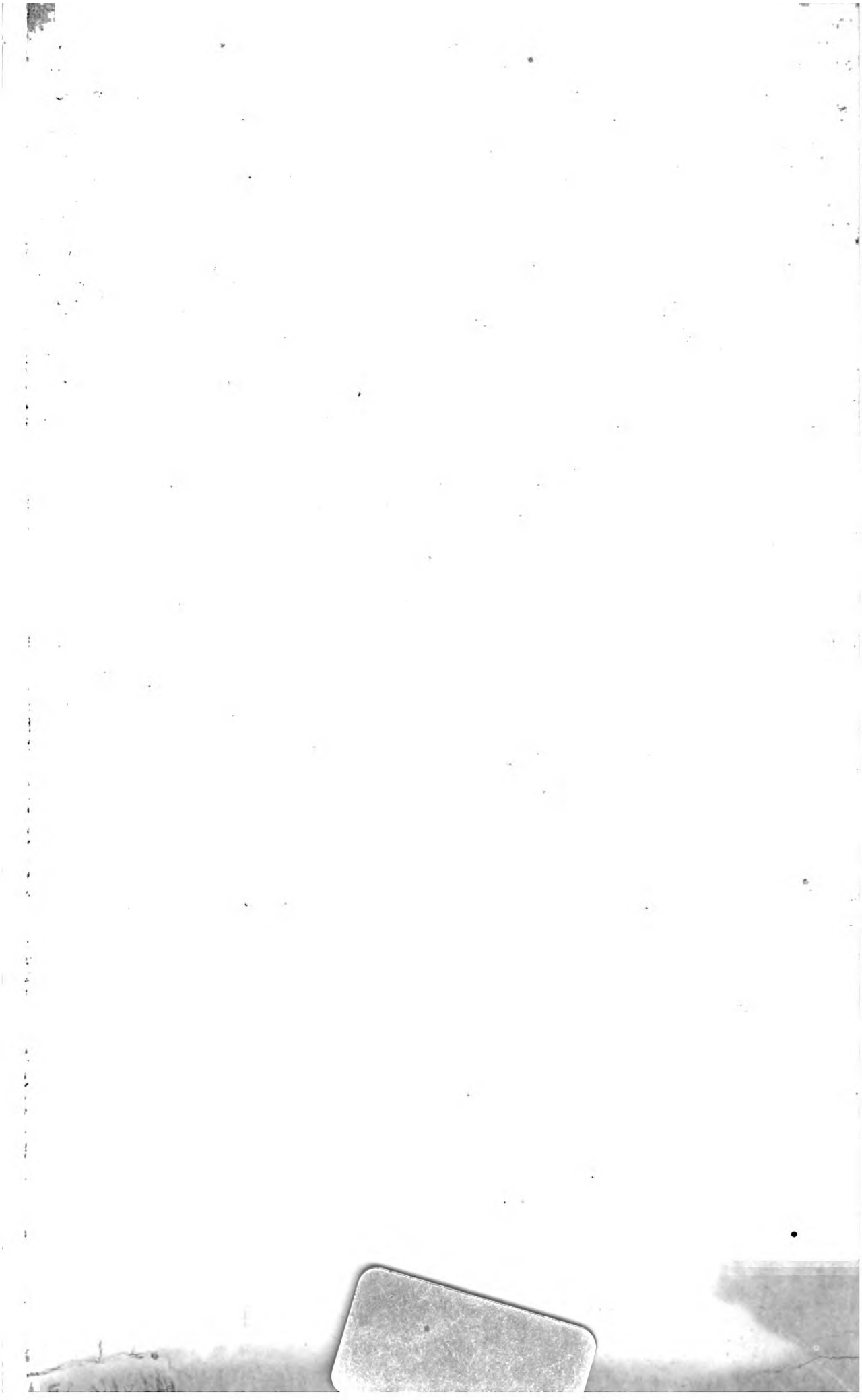
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