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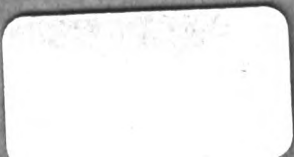
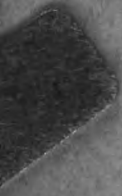


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Coke

Johnson



Thomas E. Levia
Oct 1. 1860

THE LIFE

OF

SIR EDWARD COKE,

LORD CHIEF JUSTICE OF ENGLAND IN THE

REIGN OF JAMES I.

WITH

MEMOIRS OF HIS CONTEMPORARIES

BY

CUTHBERT WILLIAM JOHNSON, Esq.

OF GRAY'S INN, BARRISTER-AT-LAW.

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THE LIFE

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SIR EDWARD COKE.

CHAPTER I.

1616—1617.

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WE now arrive at that part of Sir Edward Coke's career which is, in every point of view, unsatis-

factory to his biographer. He was now in his sixty seventh year,—a period when the mind usually begins to fall away from the high tone which characterises the middle age of life ;—a period when the slights of the world, or the frowns of a patron, are felt with all the acuteness and despondency of childhood. That Coke felt very sensibly his removal from office, is certain ; he had evidently not sufficient consolation in the reflection, that his dismissal was undeserved, and his discharge an outrage upon the justice of the land ; consequently, he was alive to every expedient which would again procure him the smiles of the court, and it was with much satisfaction that he heard of the quarrel between Secretary Winwood and the Chancellor Bacon, which occurred in 1616. It was obvious that Winwood would now gladly co-operate in any scheme which would lessen the power of his enemy ; and he could no where find a coadjutor so zealous or so talented as Coke.

Marriages have, in all ages, been employed to strengthen political interests ; and in Coke's days the marriage of a child or ward was regarded as a regular territorial perquisite, to which every lord of a manor was clearly entitled, even upon the marriage of his tenant's orphan children. That Coke viewed these marriages as

mere matters of bargain, is shewn by the way in which he now proposed the espousal of his youngest daughter by the Lady Hatton, Frances Coke, to Sir John Villiers. This event arose in 1617, the year after his disgrace, since which he had been living in retirement, at his seat at Stoke in Buckinghamshire.

Coke gladly proposed, through Winwood, this marriage to the favourite Buckingham ; for Sir John Villiers was Buckingham's eldest brother. An account of this proposal being written to Buckingham, then on a progress with the King in Scotland, the offer was very readily accepted. The Lady Frances Coke was only about fourteen years of age ; and her inclination in this affair was never thought of, nor was even her mother consulted in the match. Coke considered only one darling object—how to recover his interest at court ; and for this he was evidently willing to make any sacrifice.

Lady Hatton, indignant at this unfeeling conduct, carried off the Lady Frances, and secreted her first at Sir Edmund Withipole's house, near Oatlands, and then at a house of Lord Argyle's, near Hampton Court. Coke, who was violently enraged at this spirited resolution, immediately desired Buckingham to procure a warrant from the privy council, for the restoration of his daughter. But

before this could be procured, having discovered the place of her retreat, he proceeded with his sons to Oatlands, and carried her away by force ; breaking through several doors, before he could obtain her.*

Upon this, Lady Hatton, following her husband's foolish example, indignantly complained of the outrage;—to the privy council thus making public a family feud, which highly amused the lovers of scandal, and long occupied their attention. Bacon, too, strenuously opposed the proposed union ; for he saw the important object which Coke had in view, and the advantages which his great rival would probably derive from its accomplishment. His instant and powerful opposition, therefore, drew upon him the indignation of Buckingham, and Lady Compton, Buckingham's mother.†

Bacon, nothing daunted, stoutly continued his opposition, and encouraged the attorney-general, Yelverton, to file an information in the Court of Star Chamber against Coke, for thus violently carrying off his own daughter.

This proceeding was soon rendered unnecessary, by the Ladies Compton and Hatton being recon-

* Nicholl's Progresses of James I. vol iii, p. 371.

† See Stephen's Introduction to Bacon's Letters, p. 43.

ciled by the kind offices of their mutual friends. Lady Hatton speedily after came to an understanding with Sir Edward Coke, and the Star chamber prosecution was, in consequence, suspended.

Many and bitter were the debates, before this apparent reconciliation took place. As is usual in all family contentions, there was no lack of an interchange of sarcastic observations, and caustic remarks.

There is, in the Harleian manuscripts, a letter written on the 10th of July, 1617, "to my Lady Hatton," which contains some curious details. It is worth the perusal. This memorial probably was written by the confidential adviser of Lady Hatton, to furnish her with arguments when before the privy council. "The forcible simplicity of the style in domestic details," says Mr. D'Israeli, "will show what I have often observed—that our language has not advanced in expression since the age of James the First."*

My copy of this eloquent letter is from the original in the Harleian manuscripts.

"Madam,

"Seeing that these people speak no language but thunder and lightning, accounting this the

* *Curiosities of Literature*, vol. i, p. 304.

cheapest and best way to work upon you, I would with patience propose myself to your extremities, and study to defend your breaches, by which to your advantages these suppose to come in upon me; and thenceforth quitting those ways of pacification and composition heretofore and unreasonably endeavoured, which in my opinion lie most open to trouble, scandal, and danger; wherefore I will briefly set down your objections and such answers to them as I conceive proper.

“The first is, you conveyed away your daughter from her father.

“Answer. I had cause to provide for her quiet, Secretary Winwood threatening she should be married from me, in spite of my teeth, and Sir Edward Cook daily permeating your quiet with discoveries intending to bestow her against her liking, which he said she was to submit to; besides, my daughter daily complained and sought to me for help, whereupon, as heretofore I had accustomed, I bestowed her apart at my cousin german’s house, for a few days, for her health and quiet, till my own business for my own estate were ended; Sir Edward Cook never asking me where she was, no more than at those times when at my placing she had been a quarter of a year from him, as the year before, with my sister Burley.

“ The 2nd. That you endeavoured to bestow her and to bind her to my Lord of Oxford, without his consent. Upon this subject a lawyer, by way of inuendo, may open his mouth wide, and anticipate every hearer’s judgment by the rights of a father ; this is dangerous in the precedent to others, to which nevertheless this answer may be justly returned.

Answer. My daughter, as aforesaid, tempted with her father’s threats and hard usage, and pressing to me to find some remedy from this violence intended, I did compassionate her condition, and bethought myself of this contract to my Lord of Oxford, if so she liked ; and therefore I gave it her to peruse and consider by herself, which she did ; she liked it, cheerfully writ it out, with her own hand, subscribed it, and returned it to me, wherein I did nothing of my own will, but followed hers, after I saw she was so adverse to Sir John Villiers, that she voluntarily and deliberately protested that of all men living she would never have him, nor could ever fancy him for a husband.

“ Secondly, by this I put her into no new way, nor into any other than her father had heretofore known and approved ; for he saw such letters as my lady of Oxford had writ to me thereabouts ; he never forbad it, he never disliked it ; only he

said they were too young, and there was time enough for the treaty.

“ Thirdly, He always left his daughter to my disposing, and my bringing up, knowing that I proposed her my fortune, and my whole estate ; and as upon these reasons, he left me to my cares, so he eased himself absolutely of hers, never meddling with her, neglecting her, and caring nothing for her.

“ The 4th. You counterfeited a letter from my Lord of Oxford to yourself.

“ Answer. I know it not counterfeit, but be it so ; to whose injury ? If to my Lord of Oxford's, (for no one else is therein instructed) it must be either in honour or in freehold. Read the letter, it proves neither ; for it is only a complement, it is no engagement, presently nor futurely ; besides, the law shows what forgery is, and to counterfeit a private man's hand, nay a magistrate's, makes not the fault, but the cause wherefore.

“ Secondly, The end justifies, at least excuses, the fact ; for it was only to hold up my daughter's mind to her own choice for herself only, and for no other bodies, that she might see some retribution, and thereby with the more constancy endure her imprisonment, having this only antidote to resist the poison that place, company,

and conversation, myself and all her friends barred from her; and no person or speech admitted to her care, but such as spoke Sir John Villar's language.

“ The 5th. That you plotted to surprise your daughter, and to take her away by force, to the breach of the King's peace, and particular commandments, and for that purpose had assembled a number of desperate fellows, whereof the consequences might have been dangerous, and the affront to the King was the greater, that such a thing was offered, the King being forth of the kingdom, which by example might have drawn on other assemblies to more dangerous attempts, &c., and this field is large for a plentiful babblers.

“ Answer. I know no such matter, neither in any place was there such assembly ; true it is, I spoke to Tamer to provide me some tall fellows, for the taking a possession for me in Lincolnshire of some lands Sir William Mumson had lately deseised me ; but be it that they were assembled and convoqued to such an end ; what was done ? was anything attempted ? were they upon the place, kept they the heath, or the highways, by ambuscades, or was any day, any place appointed for a rendezvous ? No, no such matter ; but something was intended, and I pray you what was the law of such a single intention, which is

within the view or notice of the law? besides, who intended this? the mother; and wherefore? because she was unnaturally and barbarously secluded from her daughter, and her daughter forced against her will, contrary to her vows and liking, to the will of him she disliked; nay, the laws of God, of nature, of man, speak for me, and cry out upon them. But they had a warrant from the King, and an order from the commissioners to keep my daughter in custody; yet neither this warrant nor these commissioners did prohibit the mother's coming to her, but contrarily, allowed her. Then, by the same authority, might she get to her daughter, that Sir Edward Cook had used to keep her from her daughter; the husband having no power, warrant, or permission, from God, the King, or the law, to sequester the mother from her own child, she only endeavouring the child's good, with her own liking, and to her preferment, and he his private end, against the child's liking, without care of her preferment; which differing respects, as they justify the mother in all, so condemn they the father, as a transgressor of the rules of nature, and as a perverter of his rights as a father and a husband, to the hurt both of child and wife.

“Lastly, if recrimination could lessen the fault, that this in the worst sense, and naked of all the

considerable circumstances it hath, what is this? nay, what had the execution of this intention been, comparatively with Sir Edward Cook's most notorious riot committed at my Lord of Argyle's house, where without constable or warrant, associated with a dozen fellows, well weaponed, without cause being beforehand offered to have what he would, he took down the doors of the gate-house, and of the house itself, and tore the daughter in that barbarous manner from her mother, and would not suffer her to come near her; and when he was before the Lords of the Council to answer this outrage, he justified it, to make it good by law, and yet he feared the face of no greatness; a word for the encouragement of all notorious and rebellious malefactors, especially from him that had been the Chief Justice of the law, and of the people reputed the oracle of the law, and a most dangerous bravado, cast in the teeth and face of the state in the King's absence, and therefore most considerable for the maintenance of authority, and the quiet of the land; for if it be lawful for him with a dozen to enter any man's house thus outrageously for any right to which he pretends, it is lawful for any man with 100, nay with 500, and consequently with as many as he can draw together, to do the same; which may endanger the

safety of the King's person, and the peace of the kingdom.

“ The fact you having certified the King you had received an engagement from my Lord of Oxford, and the King commanding you, upon your allegiance, to come and bring it to him, or to send it to him, or not having it, to signify his name who brought it, and where he was, you refused all, by which you doubled and trebled a high contempt to his Majesty.

“ Answer. I was so sick, as for the week before for the most part I kept my bed, and even at that instant I was so weak as I was not able to rise from it without help, nor to endure the air, which indisposition Sir William Paddy and Dr. Atkins can affirm true ; which so being, I hope his Majesty will graciously excuse the necessity, and not impose a fault whereof I am not guilty ; and for the sending it, I protest to God I had it not, and for telling the parties name, or where he is, I most humbly beseech his Majesty in his great wisdom and honour, to consider how unworthy a part it were to bring any man into trouble, for which I am so far from redeeming him I can no way relieve myself, and therefore humbly crave his Majesty, in his princely consideration of my distressed condition, to forgive me this reservedness proceeding from that just

sense, and the rather, for that the law of the land, in civil causes, (as I am informed) no way tyeth me thereunto.”

Lady Elizabeth Hatton, for whom this long and eloquent paper was prepared, was the fourth daughter of Thomas Cecil, the first Earl of Exeter ; she is described as being a most beautiful creature, and certainly figured very prominently in most of the splendid pageants celebrated by the court of James the First.

At the exhibition of Ben Jonson's, “ Masque of Beauty,” played before the King at Theobalds and at Whitehall in 1607, she was one of the fifteen court beauties who, with the Queen, performed in the show.*

In 1616, when the King dined with her father Lord Exeter, at Wimbledon, “ Lady Hatton,” says Nichols, “ was there, and well graced, for the King kissed her twice.”†

When Sir Edward Coke first fell under the censure of the court, Lady Hatton dutifully supported him, “ stood by him,” says Mr. Chamberlain (June 22, 1616,) “ in great stead,

* Nichol's Progresses, vol. ii, p. 174-5.

† Ibid, vol. iii, 177.

both in soliciting at the council table, wherein she hath done herself great honour, but especially in refusing to sever her cause from his, as she was moved to do, but resolving and publishing that she would run the same fortune with him.”*

Her zeal even rendered her indiscreet ; for on the 6th of the following July, Mr. Chamberlain, in a letter to Sir Dudley Carlton, informed him, when speaking of Coke’s disgrace, “ His lady hath likewise carried herself very indiscreetly, of late, towards the Queen, whereby she hath lost her favour, and is forbidden the court, as also the King’s.

“ The story were too long to tell, but it was about braving and uncivil words to the Lady Compton, Sir George Villier’s mother, and vouching the Queen for her author.”†

It was the marriage of her daughter with Villiers that caused the great quarrel between her and her husband, never afterwards thoroughly forgotten. They separated, held each other in contempt, began to scramble for their common property, and to lay informations before the privy council, in which, as might have been

* Nicholls. vol. iii, p. 176.

† Birch MS. 4173.

reasonably anticipated, neither party appeared to advantage.

The public attention being drawn to the quarrel, it naturally gave rise on the part of Coke's enemies, to many sarcastic observations. Thus it was said of him :

*Cum pari certare dubium ; cum rege stultum ;
Cum puero clamor ; cum muliere pudor.*

“ He was in doubt when he contended with an equal ; was a fool when he contended with the King ; was clamorous with a child, and sheepish when he contended with his wife.”

Mr. Chamberlain, when writing to Carleton, (May 24, 1616) told him, “ the Lord Coke and his lady have had great wars at the council table. The first time she came accompanied with the Lord Burghley and his lady, the Lord Danvers, the Lord Denny, Sir Thomas Howard and his lady, with I know not how many more, and declaimed so bitterly against him, and so carried herself, that divers said Burbage* could not have acted better.”

Two months afterwards, the still indignant lady addressed the following letter to the lords of the council, August 1, 1617.†

* A celebrated actor of that day.

† Harleian MS. No, 6055.

TO THE LORDS OF THE COUNCIL, AUGUST, 1 1617.*

My Lords,

Your Lordships, by order from the King, determined the difference concerning my estate, betwixt Sir Edward Coke and me ; that order *moved* from my *perfiting* his Majesty's bargain with Sir Robert Rich and Sir Christopher Hatton, from which without the King's protection, Sir Edward Coke had terrified me ; now that being by me accordingly performed, and all my rights in my first husband's estate thereby cancelled, myself here a prisoner and in the King's disgrace. Sir Edward Coke according to his own brain, got upon his wings, injured me by all the ways he can, by the advantage of his quality, and the time, and having entered upon all my goods, broke into Hatton house, seized my coach, and coach horses—nay my apparel which he detains, thrust all my servants out of the doors, without wages, or any consideration, hath sent down his man Sawman to Corfe to inventory, seize, ship, and carry away all those goods. Which being

* Harleian MS. No. 6055.

refused him by the castle keeper, he threatens to bring your Lordships' warrant for the performance thereof. Now for so much as it was before your Lordships established, that he should have only the use of the goods during his life, in such houses as the same appertained to ; without meaning, I hope, of depriving me of such use as always I had had ; these also being either the goods I brought at marriage, even then stowed in these several houses, or such as I bought with the money I spared from my allowances ; I most humbly beseech of your Lordships in your honourable justice, stopping these his high handed tyrannical courses, and thereby unjust, because he would transplant them from one house to another, and the rather that I am a prisoner, much of these goods unpaid for, and a good part belonging to divers my friends, and suffered beyond the measure of either wife, mother, nay of any ordinary women in this kingdom, without respect to my father, my birth, my fortune, with which I have too highly raised him.

“ And if in any thing he can suppose himself wronged, to leave him to the law, to which both I and my friends do willingly submit.

“ And so I take my leave, and rest your Lordship's, etc.”

About the same period, Lady Hatton, while the marriage treaty of her daughter was still pending, thus ably and eloquently addressed Buckingham who had demanded of her on behalf of his brother, that she should contribute largely to the marriage settlement of her daughter.

August, 1617.*

“ My Lord,

“ Notwithstanding my late respectful proceedings in this cause of your brother’s, in which I come as near your design as in honour and conscience I could, I am threatened with much hard dealing, and no consideration to redeem me hence, unless I will quit my estates.

“ I will not repeat my grievances past and present, and thence ground my just answer to this hard additional demand ; yet give me leave to tell you, that with noble houses the alliance is as much sought as portion, and that which is merely by me ; and by me your brother is let into no mean family, which though for the present he less needed, hereafter may be to him the chief advantage of his match.

* Harleian MS. No. 6055.

“ This then, thus endeavoured and so much differing from the honour this connexion would bring with it, I have no cause to think your Lordship, being so noble, would favour, much less set this course.

“ And therefore I deal freely with you, that to this altar I will never sacrifice my estate, nor thereby unwind myself from any entanglement, wherein I may be supposed.

“ Neither for want of patience to endure the worst, speak I this language following,—that I shall be glad of your Lordship’s favour, and that your brother for my daughter’s sake may deserve my love, which will rather be increased towards him, for the good return I shall receive from you.

“ Thus have I expressed myself, which if not accepted shall not be denied, but that in respect I have shewed you, by what way I may be had, and so I rest, &c.”

Soon after this period the lady was evidently out of favour at court ; for there is in the Harleian manuscripts, a letter from Lady Hatton to the King, dated April 21, 1618, in which she says, “ Your Majesty may please with patience, which nearest overwhelms the mind of your

humble servant, which is that I hear your sacred Majesty is offended with me for some errors committed by me, a woman and a mother, which sex, too weak to wrestle with strong apprehensions, be the more pardonable, though my great affliction, had less to say in my behalf, which consideration I humbly lay at your royal feet, and humbly crave your pardon."

This petition was sent to the Earl of Buckingham, with the following letter :—

TO THE EARL OF BUCKINGHAM.

" I presume to present the enclosed to your Lordship, desiring that you will please to deliver it to his Majesty, who however might less respect it, yet coming from you, will vouchsafe it the better acceptance. And I hope your Lordship will less blame me therein of craving my happy return into His Majesty's good opinion. I take this the nearest way, and interest you in an office of no dishonour to you, to her who will acknowledge the return from you, and rest your Lordship's friend,

" ELIZ. HATTON."*

* General Dict. vol. 4, p. 387—this was only signed by Lady Hatton ; the letter is in the hand writing of another.

The petition was successful. The smiles of the court were again speedily bestowed upon her. She was once more one of its most constant, most beautiful attendants; was a mourner at the funeral of Anne, the Queen of James I; performed in most of the great masques; gave splendid suppers without inviting her husband; and sometimes entertained even the King at her table, in the most sumptuous style.

The court of James appear on all occasions to have extended their frowns to Lady Hatton with considerable reluctance; she was too high spirited, too highly connected, and much too beautiful and talented, to be readily spared from the court festivals, of which we have seen she was one of the brightest stars. The court, two or three years after her foregoing temporary disgrace, were present at the representation of Ben Jonson's masque of the "Metamorphosed Gypsies," at Burley on the Hill, August 3, 1621; in which the fifth Gypsy thus addressed Lady Hatton:

Mistress of a fairer table
 Hath no history, no fable:
 Others fortunes may be shown
 You are builder of your own,

And whatever Heaven hath given you
 You preserve the State still in you—
 That which time would have depart,
 Youth, without the help of art,
 You do keep still, and the glory
 Of your sex is but your story.*

Thus distinguished, with these tastes, indulging in habits so foreign to her husband, it need not surprise us that Coke and his lady never lived cordially together after this period. That Coke was estranged from his wife, even till the period of his death, is pretty certain. The Rev. George Garrad when writing to Lord Wentworth, June 20, 1634, told him : “ Sir Edward Coke was said to have been dead all one morning in Westminster Hall this term, insomuch that his wife got her brother, the Lord Wimbleton, to post with her to Stoke, to take possession of that place ; but beyond Colnbrook they met with one of his physicians coming from him, who told her of his much amendment, which made them also return to London. Some distemper he was fallen into, for want of sleep, but is now well again.†

* Nichols's progress of James, vol. 3, p 689.

† Wentworth's Letters, vol. 1, p 265.

But again to return to the treaty of marriage between Frances Coke, and Sir John Villiers.

Coke was sensible that, by the forcible recovery of his daughter, he had committed a great outrage upon those very laws he was sworn to protect and execute ; he, therefore, in the following letter to Buckingham, thought it necessary to defend himself from his reproaches ; and, by the accompanying paper, to induce his favour, by a statement of the large portion he was willing to give his daughter.

“ To the Right Honourable his singular good Lord the Earl of Buckingham, of his Majesty’s most honourable Privy Counsellors.

“ Right Honourable,

“ After my wife, Sir Edmund Withipole, and the lady his wife, and their confederates to prevent this match between Sir John Villiers and my daughter Frances, (whereunto his Majesty hath given his consent and blessing) had conveyed away my derest daughter out of my house, and in most secret manner, to a house near Oatland, which Sir Edmund Withipole had taken for the summer of my Lord Argyle, I by God’s wonderful providence, finding where she was,

together with my sons, and ordinary attendants, did breake open two doores, and recovered my daughter, which I did for these causes : First, and principally, lest his Majesty might think I was of confederacy with my wife, in conveying her away, or charge me with want of government in my householde in suffering her to be carried away after I had engaged myself to his Majesty, for the furtherance of this match. 2. For that I demanded my child of Sir Edmonde and his wife, and they denied to deliver her to me. And yet for this, warrant is given to sue me, in his Majesty's name, in the Star Chamber, with all expedition, which though I fear not well to defend, yet it will be a great vexation.

“ But I have full cause to bring all the confederates into the Star Chamber, for conveying away my child out of my house. If I had not recovered my daughter as I did, the match could never have proceeded ; but nowe (noble Lord,) protect me from the malice of men, and make no doubt of it. She is now sequestered by my Lords to Mr. Attorney's house for a time, and afterwards to my Lord Knevett's house ; whereas, by law, the custody and government of my child belongs to me, which I must obey untill further order be taken ; and so resting under the protec-

tion of your honourable favour and supportation,
I shall ever remain your devoted servant,

“ EDW. COKE.”*

July 15, 1617.

The paper which accompanied this letter was
entitled :

“ Brief articles to be performed on my part :

1. During my life, two thousand marks by the
year, for the present maintenance of Sir John and
my daughter Frances.

2. There is already conveyed, of manors and
lands of my own inheritance, after the decease
of me and my wife, fifteen hundred pounds per
annum to the use of my daughter. And I am to
convey three hundred pounds more per annum,
to the use of my daughter ; in toto, £1800 per
annum.

3. I will give ten thousand pounds to be
layed out in lands to the use of Sir John and my
daughter Frances.”

“ EDW. COKE.”

15 June, 1617.

* General Dict. vol. iv. p. 387, citing the original letter in
the possession of Mr. West.

“ On my wife’s part—

“ My wife hath lands of inheritance, which she hath purchased, since she was my wife, as followeth,

1. The Castle and Isle of Purbeck, in the county of Dorset.

“ 2. The Manor of Croft, in the county of Lincoln.

“ 3. The Manor of Wittlesea, in the county of Cambridge.

“ 4. Hatton House, in Holborn, and land in Middlesex.

“ Also, all the plate, householde stuffe, leases, goods and chattels, which my wife brought with her, shall after our deceases be divided between them, and in the mean time they shall not be sold, given, or diminished.

“ EDW. COKE.”*

It was about this time that the following letters were addressed by Lady Hatton, in which though evidently still enraged with Sir Edward Coke, she endeavoured to convince the Earl that she was a willing party to the proposed match :

* General Dict. by Boyle, vol. iv, p. 386. From the originals in the possession of Mr. West.

“ To the Right Honorable, the Earl of Buckingham, Master of the Hors, and Prevey Counsolor to the King.

“ If your Lordship had not writt, by which I was seurlly engaged to a return, I had not been so bold with your liesure. I had patiently sitten down, with these violences offered me, tho' I be the first mother from whom a daughter hath been pulled out of her father's house, and by her father made a prisoner in her halfe brother's. Neither seek I the honour of this treaty, and therefore contradict because I am not wood, as your Lordship toucheth in your letter; for if I had been to have been treated withal, I should as the last winter have answered clerely a fairer dealing than some now have afforded your lordship's mother and brother, who breaking the first, now mean as little truth, tho' to their ends better disguised.

“ But I am a woman, and must suffer, and less than a woman in being his wife. I will use my best patience and joy, that these violences I suffer is for no other fault than for obeying the King in making good that bargain the King hath received £10,000. I have ever respected your Lordship, and on all occasions have so expressed myself, and do, as much as any soever, detest

that defamation laid upon your brother, Sir John Velors, which I only speak, from the respect I carry to your satisfaction and my own honour, being of a family that can acknowledge your respects to me, and would be ashamed of such unworthiness in me. Your Lordship therefore vouchsafe me a place in your good thoughts, till I shall deserve the contrary, and judge me by your own knowledge, not by others' report, for I am your Lordship's respectful friend.

“ ELIZABETH HATTON.”*

‘ To the Right Honourable the Earl of Bucking-
‘ ham, Master of the King's horse.

“ My Lord,

“ According to the resolution taken before your Lordship, your mother and brother demanded the paper mentioned. Sir E. C. answered that either Secretary Winwood had it, or it was cast by he knew not where. We are now at a stand, I, not daring to trust to my bad memory, do write my conceivings. What suits with the King's meaning and yours, I pray may be written in a letter by the King's command to the King's attorney.

* There is no date to this letter. The original was in the possession of Mr. West. General Dict. vol. iv, p. 387.

“ I conceived, by the King’s words, that Sir Edward Coke was asked what he did, or would do more for the King’s favour. Sir E. C. answered that he would assure all the land with this daughter, and give his elder daughter an honourable portion in money. The King bade him write it. Sir E. C. wrote a paper, and put in both the daughters. The King asked what he had to do with the other daughter ; so as Sir E. C. mended it, the same as we remember was both repeated and avowed by your Lordship, to myself, your mother, and brother, whose respect I find so much to my content, as I shall desire to be enabled to make demonstration thereof, and ever to avow myself your affectionate and loving friend,

“ ELIZABETH HATTON.”*

From these letters we learn that Coke parted with his daughter’s large portion, with much reluctance. The court, certainly, demanded greater consideration for its favourite’s family than he anticipated. But the Rubicon was passed. Coke had been too ardent and energetic at the commencement of the treaty of marriage, to pause during its progress at any, however dis-

* No date is attached. Gen. Dict. vol. iv, p. 387.

agreeable, stipulations. Every wish of the court therefore was gratified ; not a single obstacle was presented. But, in the end, Coke found that the court had taken his bribe without granting him an equivalent. They were willing to take his money and his estates, but they dreaded too much his talents, and his liberty-loving principles, to restore him to his former place.

CHAPTER II.

1617.

The foolish position of Coke in the negotiation—Bacon's opposition to it—His letter to Buckingham—His letter to the King and to Buckingham—Receives a letter from the King, and changes his opinion of the match—Bacon's letter to the King—The King's letter to Bacon—Buckingham's to Bacon—Bacon becomes a warm friend to the match—His letter to Buckingham—Sir Henry Yelverton's letter to Bacon—The marriage settlements—Lady Hatton's letter to the King—Her memorial to the King with regard to Coke's treatment of her—The marriage celebrated—The history of this union—Sir John Villiers made Viscount Purbeck—Lady Purbeck's letter to her mother—Purbeck deserts his wife—Lady Purbeck's letter to Buckingham—Gossiping letters of that period—Death of Lady Purbeck—History of Sir Robert Wright.

THE position which Coke assumed in these wretched family broils, was at once lamentable

and ridiculous ; and, in truth, from the day of his second marriage he appears never to have been master of his own family. His wife absolutely refused to take his name, and to her death was invariably called Lady Hatton ; she never signed her name as Elizabeth Coke, but openly justified her conduct in this respect, upon the plea of breaches on the part of Coke, of certain marriage agreements. To do her justice, she appeared, as is generally the case in matrimonial broils, to be the injured as well as the weaker party.

While these family feuds were thus proceeding the Chancellor Bacon was neither a disinterested nor an idle spectator. On the 12th July 1617, he addressed Villiers, now Earl of Buckingham, on the subject of his brother's match, with his usual zeal. He saw that this union would tend to restore again Coke's interest at court, and his rival seemed once more about to verify the King's observation, that " he ever fell upon his legs."*

" It seemeth," said the sagacious chancellor, " that Secretary Winwood hath officiously busied himself to make a match between your brother

* Bacon's Works, vol. 5, p. 477.

and Sir Edward Coke's daughter, and as we hear he does it more to make a faction, than out of any great affection for your Lordship. It is true he hath the consent of Sir Edward Coke, as we hear upon reasonable conditions for your brother, and yet no better than, without question, may be found in some other matches.

“ But the mother's consent is not had, nor the young gentlewoman's, who expects a great fortune from her mother, which without her consent is endangered.

“ This match, out of my faith and freedom towards your Lordship, I hold very inconvenient both for your brother and yourself.

“ First he shall marry into a disgraced house, which in reason of state is never held good.

“ Next he shall marry into a troubled house, of man and wife, which in religion and christian discretion is disliked.

“ Thirdly, your Lordship will go near to lose all such your friends as are adverse to Sir Edward Coke, myself only excepted, who out of a pure love and thankfulness shall ever be firm to you.

“ And lastly, and chiefly, believe it will greatly weaken and distract the King's service ; for

though in regard of the King's great wisdom, and depth, I am persuaded those things will not follow which they imagine, yet opinion will do a great deal of harm, and cast the King back and make him relapse into those inconveniences which are now well on to be recovered. Therefore my devise is, and your Lordship shall do yourself a great deal of honour, if according to religion and the law of God, your Lordship will signify unto my Lady your mother, that your desire is, that the marriage be not pressed or proceeded in without the consent of both parents, and so break it altogether, or defer any further delay in it till your Lordship's return; and this the rather, for that besides the inconvenience of the matter itself, it hath been carried so harshly and inconsiderately by Secretary Winwood, as for doubt that the father shall take away the maiden by force, the mother, to get the start, hath conveyed her away secretly, which is ill of all sides.

“ Thus hoping your Lordship will not only accept well, but believe my faithful advice, who by my great experience in the world, must need see farther than your Lordship can, I ever rest, &c.”

To this earnest expostulatory letter Buckingham made no reply, and the chancellor having

remained silent for a fortnight, now addressed King James in a letter, upon the same disagreeable subject. The time which elapsed from the date of his letter to Buckingham, had not reconciled him to the match ; neither had it moderated his hatred of Coke. On the 25th of July 1617, from his seat at Gorhambury in Hertfordshire, he thus eloquently expressed his feelings. *

“ I think it agreeable to my duty, and the great obligations wherein I am tied to your Majesty, to be freer than other men, in giving your Majesty faithful counsel while things are in passing, and more bound than other men, in doing your commandments when your resolution is settled and made known to me.

“ I shall therefore most humbly crave pardon from your Majesty, if in plainness and no less humbleness I deliver my honest and disinterested opinion in the business of the match of Sir John Villiers, which I take to be *magnum in parvo*, preserving always the laws and duties of a firm friendship to my Lord Buckingham, whom I will never cease to love, and to whom

* Bacon's Works, vol. 4, p 481. Stephen's first collection 210.

I have written already, but have not heard yet from his Lordship.

“ But first I have three suits to make to your Majesty, hoping well you will grant them all.

“ The first is, that if there be any merit in drawing on that match, your Majesty would bestow the thanks not upon the zeal of Sir Edward Coke to please your Majesty, nor upon the eloquent persuasions or pragmatics of Mr. Secretary Winwood, but upon them that, carrying your commandments and directions with strength and justice in the matter of the Governor of Dieppe,* in the matter of Sir Robert Rich, and in the matter of protecting the lady, according to your Majesty’s commandment, have so humbled Sir Edward Coke, as he seeketh that now with submission, which, as your Majesty knoweth, he before rejected with scorn:—for this is the true orator which hath persuaded this business, as I doubt not but your

* In this case Sir Edward Coke, according to a letter of Secretary Winwood to Buckingham, quoted by Stephens consigned unto the hands of the Lords £2400 for the satisfaction of the French Ambassador in the cause which concerned the Governor of Dieppe.

Majesty's excellent wisdom doth easily discern.

“ My second suit is, that your Majesty would not deem me so pusillanimous, as that when I was but Mr. Bacon had ever through your Majesty's favour, good reason at Sir Edward Coke's hands, should now that your Majesty of your goodness hath placed me so near your chair, being as I hope by God's grace and your instructions made a servant according to your own heart and hand, fear him or take umbrage of him in respect of my own particular.

“ My third suit is, that if your Majesty be resolved, the match shall go on after you have heard my reasons to the contrary, I may receive therein your particular will and commandment from yourself, that I may conform myself thereunto : imagining with myself, though I will not wager on women's minds, that I can prevail more with the mother than any other man.

“ For if I should be requested in it from my Lord of Buckingham, the answers of a true friend ought to be, that I would rather go against his mind than against his good ; but your Majesty I must obey, and besides I shall conceive that your Majesty out of your great wisdom and depth doth see those things which I see not.

“ Now, therefore, not to hold your Majesty with many words which do but drown matter, let me most humbly desire your Majesty to take into your royal consideration that the state is at this time not only in good quiet and obedience, but in good affection and disposition.

“ Your Majesty’s prerogative and authority having risen some just degrees above the horizon more than heretofore ; which hath dispersed vapours ; your judges are in good temper ; your justices of the peace, which is the body of the gentlemen of England, grow to be loving and obsequious and to be weary of the humour of ruffling ; all mutinous spirits grow to be a little poor, and to draw in their horns ; and not the less for your Majesty’s disauthorizing the man I speak of.

“ Now then I reasonably doubt, that if there be but an opinion of his coming in with the strength of such an alliance, it will give a turn and relapse in men’s minds, into the former state of things, hardly to be helped, to the great weakening of your Majesty’s service.

“ Again, your Majesty may have perceived, that as far as it was fit for me in modesty to advise, I was ever for a parliament, which seemed to me to be *Cardo rerum or summa summarum* for the present occasions. But this my advice

was ever conditional, that your Majesty should go to a parliament with a council united, and not distracted; and that your Majesty will give me leave never to expect if that man come in. Not for any difference of mine own, for I am *omnibus omnia* for your Majesty's service, but because he is by nature unsociable, and by habit popular, and too old now to take a new ply.

“ And 'men begin already to collect, yea and to conclude, that he that raiseth such a smoke to get in, will set all on fire when he is in.”

On the same day after this able letter was written, Bacon addressed another to Buckingham,* in which he told him, “ I do think long to hear from your Lordship, touching my last letter, wherein I gave you my opinion touching your brother's match.

“ As I then showed my dislike of the matter, so the carriage of it here in the manner I dislike as much.

“ If your Lordship think it is humour or interest that leads me, God judge my sincerity.

* Bacon's Works, vol. 5, p 482. Stephen's first collection.

I shall give you, as I give my master, safe counsel, and such as time will approve."

Such was the language, such was the bitter opposition to the match, adopted by the Lord Chancellor of England. The affair in his eyes was even of national importance. The very peace of the empire—the happiness of the King,—depended on the prevention of Lady Frances Coke's marriage with Sir John Villiers! This was his cool, calculating, unruffled, opinion, when he addressed the King, and his favourite on the 25th of July 1617. But on the 31st of the same month, only five or six days having elapsed, the chancellor in the interim having received a communication from the King his master, then absent with Buckingham in Scotland, his impressions of the affair suddenly became more moderate, for he tells the King in a letter :*

“ I dare not presume any more to reply upon your Majesty ; but I reserve my defence till I attend your Majesty at your happy return, when I hope verily to approve myself not only a true

* Bacon's Works, vol. 4, p 481. Stephen's first collection 213.

servant to your Majesty, but a true friend to my Lord Buckingham, and for the times also I hope to give your Majesty a good account, though distance of place may obscure them.”

King James had in the mean time, received another long letter addressed to him by Bacon, dated about the 25th of July, in which the Chancellor told him, in answer to some former communication from his Majesty,*

“ I do acknowledge that this match of Sir John Villiers is *magnum in parvo* in both senses, that your Majesty speaketh ; but your Majesty perceiveth well that I took it to be in a farther degree, *majus in parvo* in respect of your service ; but since your Majesty biddeth me to confide upon your act of empire I have done.

“ For as the scripture saith, to God all things are possible ; so certainly to wise Kings much is possible.

“ But for that second sense, that your Majesty speaketh of *magnum in parvo*, in respect of this stir ; albeit it being but a most lawful and ordinary thing, I most humbly pray your

* 6 Bacon's Works, 357.

Majesty to pardon me if I signify to you, that we here take the loud and vocal, and as I may call it, sterperous carriage to have been far more on the other side, which indeed is inconvenient, rather than the thing itself.

“ Now for the manner of my affection to my Lord of Buckingham.—But yet I was afraid that the height of his fortune might make him too secure, and as the proverb is, a looker on sometimes seeth more than a gamester.

“ For my opposition to this business, which, it seemeth, has been informed your Majesty. It is true that in those matters, which by your Majesty’s commandment and reference came before the table concerning Sir Edward Coke, I was sometimes sharp it may be too much ; but it was to the end to have your Majesty’s will performed, or else when methought he was more peremptory than became him, in respect to the honour of the table.

“ It is true also I disliked the riot or violence, whereof we of your council gave your Majesty advertisement, by our joint letter ; and I disliked it the more, because he justified it to be law, which was his old song.

“ But on that act of council, which was made thereupon, I did not see but all my Lords were as forward as myself, as a thing most necessary

for preservation of your peace : which has been so carefully and firmly kept in your absence.

“ And all this had a fair end in a reconciliation made by Mr. Attorney (Yelverton), whereby both husband and child should have been kept together, which if it had continued, I am persuaded the match had been in better and fairer forwardness than now is.

“ But, to conclude this point, after I had received by a former letter of his Lordship, knowledge of his mind, I think Sir Edward Coke himself the last time he was before the Lords, might particularly perceive an alteration in my carriage. And now that your Majesty hath been pleased to open yourself to me, I shall be willing to further the match by any thing that shall be desired of me, or that is in my power.

“ For the interest I have in the mother, I do not doubt but that it was increased by this, that I in judgment, as I then stood, affected that which she did in passion.

“ But I think the chief obligation was, that I stood so firmly to her in the matter of her assurance, wherein I supposed I did your Majesty service, and mentioned it in a memorial of council business as half craving thanks for it. And sure I am now that and the like matter hath

made Sir Edward Coke a convert, as I did write to your Majesty in my last.

“ For the collation of the two spirits, I shall easily subscribe to your Majesty’s answer ; for Solomon were no true man, if, in matter of malice, the woman should not be the superior.”

To this letter King James, then on his return from Scotland, sent an answer dated from Nantwich in Cheshire, which had a powerful influence, in making Lord Bacon still farther inclined no longer to oppose, but rather promote the marriage.* The style of it is more that of a proclamation than of a sovereign to an affectionate servant. It was as follows :—

“ James R.

“ Right trusty and well beloved Counsellor, we greet you well,

“ Although our approach doth now begin to be near London, and that there doth not appear any great necessity of answering your last letter, since we are so shortly to be at home ; yet we have thought good to make some observations to you upon the same, that you may not err by mistaking our meaning.

* Bacon’s Works, vol. vi. p. 101.

“ The first observation we are to make is, that whereas you would invert the second sense, wherein we took your *magnum in parvo*, in accounting it to be *magnum* by their streperous carriage, that we were for the match,—we cannot but show you your mistaking therein. For every wrong must be judged by the first violent and wrongous ground whereupon it proceeds.

“ And was not the theftous stealing away of the daughter from her own father the first ground whereupon all this noise hath since proceeded? For the ground of her getting again came upon a lawful and ordinary warrant subscribed by one of our council, for redress of the former violence; and except the father of a child might be proved to be either lunatic, or ideot, we never read in any law that either it could be lawful for any creature to steal his child from him, or that it was a matter of noise and streperous carriage for him to hunt for the recovery of his child again.

“ Upon the point of your opposition to this business, wherein you either do, or at least would seem to, mistake us a little. For, first whereas you excuse yourself of the oppositions you made against Sir Edward Coke, at the council table, both for that and other causes we never took upon us such a patrociny (patron-

izing) of Sir Edward Coke, as if he were a man not to be meddled withal in any case. For whatsoever you did against him by our employment and commendation, we ever allowed it, and still do, for good service on your part, *de bonis operibus non lapidamus vos*. But whereas you talk of the riot and violence committed by them, we wonder you make no mention of the riot and violence of them that stole away his daughter, which was the first ground of all that noise, as we said before, for a man to be compelled by manifest wrong beyond his patience, and the first breach of that quietness which hath ever been kept, since the beginning of our journey, was made by them that committed the theft.

“ And for your laying the burthen of your opposition upon the council, we meddle not with that question, but the opposition which we justly find fault with you, was the refusal to sign a warrant for the father to recover of his child, clad with those circumstances as is reported of your slight carriage to Buckingham’s mother, when she repaired to you upon so reasonable an errand. What farther opposition we made in that business we leave it to the due trial in the old time.

“ But whereas you would distinguish of times, pretending ignorance either of our meaning or

his, when you made your opposition ; that would have served for a reasonable excuse not to have farthered the business till you had been first employed in it, but that can serve for no excuse of crossing anything that so nearly concerned one whom you profess such friendship unto.

“ We will not speak of obligation ; for surely we think even in good manners you have reason not to have crossed anything wherein you had heard his name used, till you had heard from him.

“ For if you had willingly given your consent and hand to the recovery of the young gentleman, and then written both to us and to him what inconvenience appeared to you to be in such a match : that had been the part indeed of a true servant to us, and a true friend to him. But first to make an opposition and then to give advice by way of friendship, is to make a plough go before the horse.”

Most probably, with this long address, Bacon received the following laconic letter from Buckingham, which is contained in the collection of Stephens, and printed in the 4th volume of Bacon's Works, p. 165.

“ To the Lord Keeper Bacon,

“ My Lord,

“ If your man had been addressed only to me, I should have been careful to have procured him a more speedy dispatch ; but now you have found a more speedy dispatch, I am excused ; and since you are grown weary of employing me, I can be no otherwise in being employed.

“ In this business of my brother’s, that you over trouble yourself with, I understand from London, by some of my friends, that you have carried yourself with much scorn and neglect both towards myself and my friends, which if it prove true, I blame not you, but myself, who was ever your Lordship’s assured friend.

“ G. BUCKINGHAM.”

(July, 1617.)

These communications decided the conduct of the Lord Keeper. A miraculous change took place in his opinion, sometime in the course of the next three weeks ; and from being its most bitter opposer, he had now become the warm advocate of the proposed marriage. Finding the King and Buckingham both set upon the match, Bacon thought it well to veer round with the wind, and sail before it with the most vigorous alacrity : he

despaired probably of successfully stemming the tide. On the 28th of August, 1617, he therefore addressed Buckingham, now created a Marquis, in this mean and contemptible letter :

“ My very good Lord,*

“ Since my last to your Lordship, I did first send for Mr. Attorney General, and made him know that since I heard from court I was resolved to further the match, and the conditions thereof, for your Lordship’s brother’s advancement the best I could.

“ I did send also to my Lady Hatton, and some other special friends, to let them know I would in any thing declare for the match ; which I did to the end, that if they had any apprehension of my assistance, they might be discouraged in it.

“ I sent also to Sir John Butler, and after my letter to my lady your mother, to tender my performance of any good office towards the match, or the advancement from the mother.

“ This was all I could think of for the present.

“ I did ever foresee that this alliance would go near to lose me your Lordship, that I hold so dear ; but that was the only respect particular to

* Bacon’s Works, vol. v, 483. Stephen’s 1st collection, 215.

myself that moved me to be as I was, till I heard from you. But I will rely on your constancy and nature, and my own deserving, and the firm tie we have in respect of the King's service.

“ In the meantime, I must a little complain to your Lordship, that I do hear my lady your mother, and your brother Sir John, do speak of me with some bitterness and neglect.

“ I must bear with the one, as a lady, and the other as a lover, and both for your Lordship's sake, whom I will make judge of anything, they shall have against me.

“ But I hope, though I be a true servant to your Lordship, you will not have me to be a vassal to their passions, especially as long as they are governed by Sir Edward Coke and Secretary Winwood, the latter of whom I take to be the worst ; for Sir Edward Coke I think is more modest and discreet ; therefore, your Lordship shall do me right, and yet I shall take it for favour, if you signify to them that you have received satisfaction from me, and would have them use me friendly, and in good manner.

“ God keep us from these long journies and absence, which make misunderstandings, and give advantage to untruth.”

Thus, thoroughly despicable in this affair

was the conduct of Lord Bacon, to whom science is deeply indebted for services which all time will be proud to acknowledge. He was indeed a remarkable instance of the union, in one great mind, of thoughts truly sublime, and judgment the most elevated, with prejudices and weaknesses that appeared degrading in action, and contemptible in feeling. His career was a mixture of weak subserviency to the will of the court, united with the meanest cowardice. Yet such is the character, such the profound knowledge of the true paths of philosophy, which this man possessed, such his love of philosophical truth, that in spite of his venality, his corruption, his convicted bribery, and his slavery in the service of a corrupt and despicable court that he will go down to all after ages with the well earned title of "the great Lord Bacon, ('the wisest, brightest, meanest of mankind,') the father of true science." The philosopher, as he arises from the study of his works, feels quite satisfied that the noble confidence which Bacon had in the favourable judgment of posterity, was not founded on slight grounds; and that confidence he retained to the last; for in his will he tells us: "For my name and memory, I leave it to men's charitable speeches, to foreign nations, and to the next ages."

As King James was now returning from Scotland, the Attorney General, Sir Henry Yelverton, had an interview with him on the road ; and, on the 3rd of September, in a letter dated from Daventry, he made a report to Bacon, containing many curious details and much practical advice, but thrown away, in all probability, upon the fears of Bacon. The Attorney General shall tell his own plausible story ; it is in rather a desponding strain ; for his mission was evidently a failure. Buckingham could not be deceived.

“ My most worthy and honourable Lord,
“ I dare not think my journey lost, because I have with joy seen the face of my master the King, though more clouded towards me than I looked for.

“ Sir Edward Coke hath not forborne, by any engine, to heave at your honour, and at myself, and he works by the weightiest instruments. My Lord of Buckingham, who as I see sets him as close to him as his shirt, the Earl speaking in Sir Edward’s praise, and as it were menacing in his spirit.

“ My Lord, I emboldened myself to assay the temper of my Lord of Buckingham to myself, and found it very fervent, misled by information which yet I found he embraced as truth, and did

nobly and plainly tell me, he would not secretly bite, but whosoever had any interest or tasted of the opposition to his brother's marriage, he would as openly oppose them to their faces, and they should discern what favour he had, by the power he would use.

“ In the passage between him and me, I stood with much confidence upon these grounds.

“ First, that neither your Lordship nor myself had any way opposed, but many ways furthered, the fair passage to the marriage.

“ Secondly, That we only wished the manner of Sir Edward's proceedings to have been more temperate, and more nearly resembling the earl's sweet disposition.

Thirdly, That the chiefest check in this business was Sir Edward himself, who listened to no advice, who was so transported with passion, as he purposely declined the even way which your Lordship and the rest of the Lords left both him, his lady, and his daughter in.

“ Fourthly, I was bold to stand upon my ground, and so I said I knew your Lordship would, that these were slanders, which were brought him of us both, and that it stood not with his honour to give credit to them.

“ After I had passed these straits with the

Earl, leaving him leaning still to the first relation of your envious and odious adversary, I ventured to approach his Majesty, who graciously gave me his hand to kiss, but intermixed withal that I deserved not that favour, if three or four things were true which he had to object against me. I was bold to crave his princely justice; first to hear, then to judge; which he graciously granted, and said he wished I could clear myself. I said I would not appeal to his mercy in any of the points, but would endure the severest censure, if any of them were true; whereupon he said he would reserve his judgment till he heard me, which could not be then, his other occasions pressed him so much.

“ All this was in the hearing of the Earl; and I protest I think the confidence in my innocency made me depart half justified; for I likewise kissed his Majesty’s hand at his departure; and though out of his grace he commanded my attendance at Warwick, yet upon my suit he easily inclined to give me the choice to wait on him at Windsor or at London.

“ Now, my Lord, give me leave, out of all my affections, that shall ever serve you, to intimate touching yourself.

“ 1. That every courtier is acquainted that

the Earl professeth openly against you, as forgetful of his kindness, and unfaithful to him in your love and in your actions.

“ 2. That he returneth the shame upon himself, in not listening to counsel that dissuaded his affection from you, and not to mount you so high, not forbearing in open speech, as divers have told me, and this bearer, your gentlemen, hath heard also, to tax you, as if it were an inveterate custom with you, to be unfaithful to him, as you were to the Earls of Essex and Somerset.

“ 3. That it is too common in every man’s mouth in court, that your greatness shall be abated ; and as your tongue hath been as a razor to some, so shall theirs be to you.

“ 4. That there be laid up for you, to make your burthen the more grievous, many petitions to his Majesty against you.

“ My Lord, Sir Edward Coke, as if he were already upon his wings, triumphs exceedingly ; hath made private conference with his Majesty, and in public doth offer himself, and thrust upon the King, with as great boldness of speech as heretofore.

“ It is thought and much feared that at Woodstock he will be again recalled to the council

table, for neither are the Earl's ears nor his thoughts for ever off him.

“ Sir Edward Coke, with much audacity, affirmeth his daughter to be most deeply in love with Sir John Villiers, that the contract pretended with the Earl of Oxford is counterfeit, and the letter also that is pretended to have come from the Earl.

“ My noble Lord, if I were worthy, being the meanest of all, to interpose my weakness, I would humbly desire

“ 1. That your Lordship fail not to be with his Majesty at Woodstock. The sight of you will fright some.

“ 2. That you single not yourself from other lords, but justify the proceedings as all your joint acts, and I little fear but you pass conqueror.

“ 3. That you retort the clamour and noise in this business upon Sir Edward Coke, by the violence of his carriage.

“ 4. That you seem not dismayed, but open yourself bravely and confidently, wherein you can excel all subjects, by which means I know you shall amaze some and daunt others.

“ I have abused your Lordship's patience long ; but my duty and affection towards your Lordship shall have no end ; but I will still wish

your honour greater, and rest myself your honour's servant,

“ HENRY YELVERTON.”

“ I beseech your Lordship burn this letter.”

The reader will perhaps regard the concluding admonition of honest Yelverton as not an unnecessary caution. Yelverton had a merit which the friend he so earnestly addressed had not ;— he adhered to his friends in their adversity ; and this commendable virtue recommended him, in the end, to Buckingham.

Buckingham, in good truth, appears to have been a much better man than the opponents of the Stuarts are willing to allow. He was open-hearted and generous ; loved his friends, and hated his enemies, with equal warmth and sincerity ; was greedy of honour and wealth, but in their pursuit was straightforward and uncompromising. He was raised with unexampled rapidity to the highest offices in the state, but was not rendered giddy by the suddenness of the elevation. His letters show him to have possessed considerable literary talents ; but he was evidently unfit for either ministerial or military affairs. His habits were never indolent ; he wrote, he advised, he travelled, he commanded

foreign expeditions, with equal zeal and activity. He was engaged in the service of his master when he was murdered at Portsmouth. His death was another instance of the dangers encountered by public characters, from the daggers and pistols of the enthusiast and the maniac.

On the 15th of September, 1617, King James returned from Scotland, and on the same day received at the council board Sir Edward Coke ; he intimated, at the same time, to all those of his ministers who had promoted the match between Sir John Villiers and Frances Coke, the greatest satisfaction ; but to Bacon and Yelverton he expressed himself in terms of great displeasure. Bacon submitted to a humiliating apology to Buckingham, and by that means recovered the King's favour ; but Sir Henry Yelverton had no apologies to offer, no concessions to make ; for he had committed no offence. Buckingham, however, thought otherwise ; and the same interest which removed Coke from the Chief Justiceship of the King's Bench, speedily ejected Yelverton from his Attorney-generalship, and fined and imprisoned him.

This nuptial union was in truth rendered an affair of state. The very marriage articles were drawn up by the direction of the Privy Council. By these, Sir Edward Coke settled ten thousand

pounds in money, two thousand marks per annum during his own life, and nine hundred pounds per annum during that of Lady Hatton, if she survived him ; and after both their deaths the manor of Stoke, in Buckinghamshire, &c. Moreover, when these settlements were regularly drawn and executed, a certificate of the same was presented to the King, signed by serjeant Ranulph Crewe, and Robert Hitcham, and by the Attorney-general Yelverton. The caution observed in this transaction is very remarkable ; the bargained marriage of an infant, and the certificate to the King, shew that James regarded Frances Coke much as a baron in the days of feudalism viewed his ward,—almost as his own property.

It is more than probable that Lady Hatton was obliged to make certain settlements also on her daughter, although I have not been able to ascertain their amount with any certainty. She was very rich, having since her marriage with Coke purchased the castle and isle of Purbeck, and other lands.

It is certain that she was induced to be very liberal on this occasion ; for when Villiers and Frances Coke were married, on the 29th of September, 1617, Lady Hatton was actually in confinement on the complaint of her husband, and was

not set at liberty until the 2nd of November following. That she employed some most efficacious mode of regaining the favour of the court, is very certain; for only fourteen days afterwards, the 16th of November, she entertained the King, Buckingham, and the whole court, without even inviting her husband. In fact, the quarrel subsisted with unabated bitterness for a considerable period after the marriage.

That it was not without much difficulty, and only by taking great pains, that Lady Hatton satisfied and reconciled the King, is shown by the following paper, which was about this time forwarded to him by the lady.

“ To the King’s most excellent Majesty, the humble petition of the Lady Elizabeth Hatton.

“ That your Majesty would be pleased, among your many other businesses of greater importance, to have in remembrance her last petitions, wherein is contained in effect the sum of what she desireth. And that your Majesty would also vouchsafe to think upon the misery of a poor woman, who for her obedience to your commandment, is both left by her husband, and deprived of her former allowance she then enjoyed to maintain her family, which now wanting, she liveth in some necessity, and also in

continual fear of her life, being credibly informed that the same servant of his that put a quarrel upon hers, hath used to wear a stiletto in his pocket, contrary to your Majesty's commandment, which said servant he still continueth and keepeth in his service.

“ That in consideration hereof, your Majesty would be pleased to settle an estate upon her daughter Villars, according to his promise made to your Majesty, and also to relieve and supply the necessity of her own present wants, and also to secure her from the fear and danger of those that seek after her (I fear) life.”*

The progress of the treaty of marriage did not interrupt the quarrel of Coke with Lady Hatton, for there is also given in the General Dictionary, on the authority of the original in the possession of Mr. West, extracts from a long representation from the same talented and high spirited lady to the King, in answer to a representation of Sir Edward Coke, that she had denied him access to Hatton House, and that when she was at Newmarket with the King, she had conveyed away all his goods and plate ; to which she replied :

* Gen. Dict. vol. iv, p. 387.

“ My memory serves me not, but sure I am that it was when I had notice that there were certain bills preferred against him in the Star Chamber, that contained some foul misdemeanour he had committed in his circuits, and that I was credibly informed by some of the late Lord Chancellor’s house, that instead of the Premunire Sir Edward Coke pretended to bring upon the Lord Chancellor, the said Lord Chancellor was confident to make good against Sir Edward Coke in the like kind ; therefore, let him not blame me if I meant to keep something for myself, who brought it all to him ; wherein, if I did offend, I most humbly crave pardon of your Majesty, against whom the offence was committed.”

Lady Hatton never appears to have forgotten her high birth, and noble connexions ; she clearly evinced this by a constant refusal to assume the name of Coke, an omission which naturally annoyed her husband, and which she thus proceeded to excuse. The whole letter plainly evinces that the feud was not conducted in the mildest or most dignified manner by either party.

“ Sir William Cornwallis was the man who came from Sir Edward Coke, by whom I returned

this answer, that if Sir Edward Coke would bury my first husband according to his own directions, and also pay such small legacies as he gave to divers of his friends, in all coming not to above 7 or £900 at the most, that was left unperformed—he having all Sir William Hatton's goods and lands to a large proportion—then would I willingly stile myself by his name. But he never yielded to the one, so I consented not to the other. The like answer I made to my Lord of Exeter, and my Lord of Burghley, when they spoke to me of any such business.

“ And whereas he accuseth me of calling him, ‘base and treacherous fellow,’ the words I cannot deny, but when the cause is known, I hope a little passion may be excused. It was when he had assigned away all my living by my first husband, and sold his daughter, who was left to my trust and care by Sir William Hatton, and afterward he deceived the children he had by me of their inheritance.

“ His sixth accusation of me is the number of attempts I made the last summer against your Majesty's command concerning this late marriage of my son Villars and my daughter. I must confess I ignorantly did many, for which I humbly crave pardon for all such offences as were by me committed, after your Majesty's

pleasure known, and I give myself the happiness to believe that your Majesty hath fully forgiven all those whatsoever. Were it not to make this writing too tedious for your Majesty's reading, I could much lessen mine offence by the uncivil proceeding of Sir Edward Coke and Mr. Secretary Winwood ; but the one being dead, I will forbear, and the other out of the acknowledgment of that duty I owe unto a husband, will let slip as many of his inhumane proceedings as I can, except such wherein he calleth me by a writing of Mr. Solicitor to the Marquis of Buckingham, wherein I find how desirous he is to rub anything to make ill blood betwixt my son Villars and myself, in that I should be obstinate against this marriage, wherein I crave your Majesty's patience to hear my willingness and unwillingness thereto.

“ First, for my willingness. I call to witness my Lord Houghton, whom I sent twice to move the matter to my Lady Compton, so as by me she would take it. This was after he had so proudly broke off with my Lord of Buckingham, when he rated your Majesty's favour at scarce the value of a thousand pounds. After that my brother and sister of Burghley offered in the gallery chamber at Whitehall their service unto my Lady Compton, to further this marriage, so

as from me she would take it. Thirdly, myself coming from Kingston in a coach with my Lady Compton; I then offered her, that if she would leave Sir Edward Coke, I would proceed with her in this marriage.

“ But let me entreat that a favourable construction may be made of this, that I be not adjudged an alien from Sir Edward Coke’s will and pleasure, which I am ready to obey. For the cause which made me thus averse from him, was when he had signed away my living himself, yet would not by any means give consent to me to obey your Majesty, for neither myself nor any of my friends could ever obtain his allowance thereto. But if I did sign it, he would (as he said) be revenged double and treble of me. And when he was told that I should but sign what he signed before, his answer was, that what he had done was worth nothing, for if he once came upon his wing again, he would blow all that away. So long I staid in due respect, to have obtained Sir Edward Coke’s leave, till my brother Burghley and myself had committed two contempts against the Court of Chancery, and that warrants were ready to commit us both. Neither durst I have done anything at all, had your Majesty’s letters not given me the assurance

I should not be torn in pieces by this man as now I am.

“ Secondly, for Mr. Solicitor’s latin sentence from Sir Edward Cooke, I must let it pass as being altogether unlearned in that language ; but I presume it will be not thought fit that a husband, whose pleasure it is to leave a wife, should also take away all maintenance from, and make her live of these poor gatherings, that she, in her younger days, hath spared from her pleasures, for the good of her children ; but your Majesty I trust will be a just judge of that yourself. Neither do I think it will be thought fit, that though he have five sons to maintain, (as he allegeth in his writing), that a wife should be thought unfit to have maintenance according to her birth and fortune.

“ And concerning the discourse that seemeth to have passed between your Majesty and him, I dare not presume to meddle with, only I beseech your Majesty to conceive how he hath adventured to deal indirectly with me on all my occasions, that dares presume so to abuse your Majesty in his promises to yourself.”*

Whatever were the errors of Lady Hatton, she

* General Dictionary, vol. iv. p. 388. The West papers ; no date is attached.

uniformly commands our admiration of her talents and courage; she was ever prepared, ever ready for the fray. Coke never had so formidable an opponent as his own wife. All obstacles to the marriage being removed, forced consents obtained, and an unwillingly paid portion secured, the marriage ceremony appears to have been at length celebrated with much splendour.

“The marriage,” said one of the court gossips “between the two honourable persons, Sir John Villars, Knt. gentleman of the Prince’s bedchamber, and brother to the Earl of Buckingham, and the Lady Frances, youngest daughter of the Honourable Sir Edward Coke, Knt., formerly Lord Chief Justice, and of the Lady Hatton, his wife, was solemnized by the Bishop of Winchester; the King gave her away in his chapel at Hampton Court.”*

Mr. Adam Newton, in a letter to Sir John Puckering, told him, September 30, 1617,

“Yesterday, which was Michaelmas Day, the marriage, betwixt Sir John Villars and his lady, was celebrated in the presence of their Majesties. Sir Edward Coke brought them from his son’s at Kingston Townsend, with eight or nine coaches.

* Malcolm’s London, vol. iv, 276.

It is said the mother's consent was obtained, the lady protesting, that however she liked Sir John better than any other, yet she desired to keep a solemn promise, made to her mother, not to marry any man without her consent."*

To avoid again recurring to so unpleasant a theme, I will proceed with the history of these two unfortunate persons, thus united merely to promote the interest of the Coke family.

The fate of Frances Coke seems the most to be pitied. She was only about fourteen years of age at the period of her marriage, and, there is some reason to believe, had been previously contracted to the Earl of Oxford. Her proposed husband, Sir John Villiers, it is probable, she had never seen; he was more than twice her age, and appears to have had as little regard for his future wife, as she entertained for him. It was a regular bargain and sale, of Frances Coke on the part of Sir Edward Coke, and of Villiers on the part of his brother. The money of Coke was exchanged for the smiles of royalty, and for these base considerations two persons were thoughtlessly sacrificed. They were speedily miserable: indifferent to each other, and separated without regret, one banished himself the realm, the

* Birch MS. 4176.

other became lost to all sense of virtue. The marriage, it is true, was solemnized at Hampton Court, with all the splendour that the presence of the court could command. Ample settlements, noble connexions, all seemed to add promise to the marriage. The hopes of all parties were doubtlessly excited to expect a brilliant and a happy career to the new married couple. But Coke's penetration deceived him ; he had evidently paid no regard to the dispositions, the tempers, the youth, the habits, of the two persons whom he successfully laboured to bring together in marriage. He probably reasoned as many persons still reason, who know as much of human nature as Coke knew ; many of whose ideas, in this respect, there is little doubt, partook of the elegant refinements of the days of feudalism, and of the description of them which he found in his law books.

Coke here fell into a great error. Buried through life in courts of law or in his chambers, paying no attention to any readings, save his law books, his visions of connubial felicity were probably derived from the decisions of judges, or the axioms of learned pleaders, or the statute of Merton.* He had himself had two wives, in

* 20 Henry III, c. 6.

marrying whom he was guided by the same principle. With the first, of the house of Paston, he was happy ; with the second, who was a Cecil, he was eminently wretched—pitied by his friends, laughed at and libelled by his enemies. Both his wives were of good families, and both heiresses.

Coke, it is true, merely enforced upon his daughter, what he had himself practised. The failure, however, he had made in the case of Lady Hatton, might have taught him wisdom ; since it demonstrated that the sacrifice of happiness might be too great, even for riches, family, and influence. That the heart of the young lady was not in the match from the commencement, is shewn by the following excellent letter to her mother, Lady Hatton.* No date is attached to it, but its language denotes the period of its composition to be, when she was separated from her mother, and under the controul of Sir Edward Coke, after being seized by him during the early stages of the marriage treaty.

“ The Lady Purbeck to her mother, the Lady Hatton.

“ Madam,

“ I must now humbly desire your patience,

* Harleian MSS.

in giving me leave to declare myself to you, which is, that without your allowance and liking, all the world shall never make me entangle or tie myself; but now by my father's especial commandment, I obey him, in presenting to you my humble duty in a tedious letter, which is to know your ladyship's pleasure, not as a thing I desire, but I resolve to be wholly ruled by my father and yourself, knowing your judgments to be such that I may well rely upon, and hoping, that conscience, and the natural affection parents bear to children, will let you do nothing, but for my good, and that you may receive comfort, I being a mere child, and not understanding the world nor what is good for myself, but wholly resolved to be disposed by you both and my uncle, and aunt Burley, who as a second father, I have ever been bound to, for their love and care of me; but that which makes me a little give way to it is, that I hope it will be a means to procure a reconciliation between my father and your ladyship, which, I protest, I would rather prejudice myself, than, if it were in my power, not to accomplish it; for what a discomfort it is to you both, what a dishonour, nay, what an ill example to your children, what occasion of talk to the world, who, without occasion is apt to speak so much of the best: also, as I think, it will be a

means of the King's favour to my father, and with all them that have opposit against it, which, as they make me believe, he is much offended with them, which, we have no reason the more to dislike ; for himself, your ladyship, is not to be disliked ; his fortune is very good, a gentleman well born ; for honour, it is not likely, seeing it is in his brother's power, and he doing it for others, but he will do something for his brother, whom they say he loves so well. So I humbly take my leave, praying that all things may be to every one contentment, your ladyship's most obedient and humble daughter, for ever,

“ FRANCES COKE.”

“ Dear mother, believe there has no violent means been used to me, by words or deeds.”

It is impossible to read this letter without being impressed by the conviction that no personal feeling inclined the writer to the projected marriage : the interests of her family, and the King's favour, were the topics, on which alone a girl of fourteen years of age commented. That Villiers was a gentleman born, was the only personal accomplishment she could remember in his favour : and she very feelingly and touchingly

tells us, in conclusion, the truth—that she was a mere child, willing to be sacrificed to the domestic peace, and the despicable political interests, of the house of Coke.

Frances Coke is described, by cotemporary authors, as being a celebrated beauty, the object of more than one noble suitor's regard. She had been educated with no very great care, but had considerable natural abilities; was clever, but not accomplished.

Such a marriage could not portend any happiness to either party. It is true that the favour of the court attended him, and that in June 1619 Villiers was made Baron Stoke and Viscount Purbeck; but the husband was according to Camden, proud in the extreme,* and the lady speedily treated him with indifference, if not with contempt. In May 1620, not three years after the marriage, he left her, and departed the kingdom, under pretence of drinking the waters of Spa, in Germany; and, after his departure, Lady Purbeck's conduct became highly criminal.

It would seem, from the following letter which about this period she addressed to his brother, the Duke of Buckingham, that their disunion

* Camden's Annals of James, 28.

did not proceed from any wish of Purbeck to be separated from his wife.

This letter is written with hereditary talent ; she had for her ancestors Coke and Burleigh.*

“ My Lord,

“ Though you may judge what pleasure there is in the conversation of a man in the distemper you see your brother in, yet the duty I owe to a husband, and the affection I bear him, which sickness shall not diminish, makes me much desire to be with him, to add what comfort I can to his afflicted mind, since his only desire is my company ; which if you please to satisfy him in, I shall with a very good will suffer with him, and think all but my duty, though I think every wife would not do so.

“ But if you can so far dispense with the laws of God as to keep me from my husband, yet aggravate it not by keeping me from his means and all other contentments, but which I think it rather the part of a christian, you ought especially much rather to study comforts for me, than add ills to ills, since it is the marriage of

* Cabala, p. 15.

your brother makes me thus miserable. For if you please but to consider not only the lamentable estate I am in, deprived of all the comforts of a husband, and having no means to live of, besides falling from the hopes my fortune then did promise me, for you know very well I came no beggar to you, though I am like to be so turned off.

“ For your honour and conscience sake, take some course to give me satisfaction, to tie my tongue from crying to God and the world for vengeance, for the unworthy treatment I have received.

“ And think not to send me again to my mother’s, where I have staid this quarter of a year, hoping (for that my mother said you promised) order shall be taken for me, but I never received a penny from you. Her confidence in your nobleness made me so long silent, but now believe me, I will sooner beg my bread in the streets, to all your dishonours, than any more trouble my friends, and especially my mother, who was not only content to afford us part of the little means she hath left her, but whilst I was with her, was continually distempered with devised tales, which came from your family, and withal lost your good opinion, which before she either had or you made

show of it. But had it been real, I cannot think her words would have been so translated, nor in the power of discontented servants tales to have ended it.

“ My Lord, if the great honour you are in, can suffer you to have so mean a thought as of so miserable a creature as I am ; so made, by too much credulity of your fair promises, which I have waited for performance of almost these five years, and now it was time to dispart, but that I hope you will one day be yourself, and be guided by your own noble thoughts, and then I am assured to obtain what I desire, since my desire be so reasonable, and but for my own.

“ Which whether you grant or no, the affliction my poor husband is in (if it continue) will keep my mind in a continual purgatory for him, and will suffer me to sign myself no other but your unfortunate sister,

F. PURBECK.”

Such was the eloquent, half angry appeal, to the Duke of Buckingham. Of its result I have no account, and the remaining portion of her story, is not such as to encourage a very anxious research. It is a story which I willingly tell by quoting the gossiping letters of that day.

The Reverend George Garrad, in a letter to Lord Deputy Wentworth, dated March 17, 1635, remarked,

“ Here is a new business revived ; your Lordship hath heard of a strong friendship heretofore betwixt Sir Robert Howard and the Lady Purbeck, for which she was called into the high commission, and there sentenced to stand in a white sheet in the Savoy church, which she avoided then by flight, and hath not been much looked after since, having lived much out of town, and, constantly these last two years with her father, at Stoke, until he died ; but this winter she lodged herself on the water side, over against Lambeth, I fear too near the road of the Archbishop Barge, whereof some complaint being made, she had a serjeant-at-arms sent with a warrant from the Lords of the Council to send her to the gatehouse, whence she will hardly get out until she have done her penance. The same night was a warrant sealed, signed by the Lords, to the Warden of the Fleet, to take Sir Robert Howard, at Suffolk House, and to carry him to the Fleet ; but there was never any proceeding against him, for he refused to take the oath *ex-officio*, and had then the Parliament to

back him out, but I fear he will not escape now.”*

Two months afterwards, Mr. Garrad, in addressing the Lord Deputy, May 19, 1635 reported,

“ No news yet of the Lady Purbeck, since her escape out of the gatehouse ; but Sir Robert Howard lies before it still a close prisoner in the Fleet ; being so committed from the High Commission Court, until he shall bring her forth who being there, cannot do it, for he sees nobody ; and if he were out, would not do it. So that he is like miserable and like to pay dear for his unlawful pleasures.”

And on the 24th of June 1635, he writes, †

“ Sir Robert Howard, after one month’s close confinement in the Fleet, obtained his liberty, giving two thousand pounds bond, never more to come at the Lady Purbeck, wherein he stands bound alone ; but for his appearance within thirty days, if he be called, two of his

* Strafford’s letters, vol. 1, 390.

† Wentworth’s letters, 1, 426. Ibid, 434.

brothers stand bound with him in fifteen hundred pounds ; so I hope there is an end of that business.

“ The lady, I hear, passed in man’s clothes, first into Jersey, since, she is gone to France, and there means to continue.”

And finally, the Reverend George Garrad, when writing to the Lord Deputy Wentworth, July, 30, 1637, told him,*

“ The Lady Purbeck is heard of. It seems she went first into the Isle of Guernsey, disguised in man’s apparel. You know who is governor there, her kinsman the Earl of Danby ; but he knew nothing of it. Thence she went to St. Maloe’s, and is still in one part of France, where, I wish she might stay, but it seems not good so to the higher powers, for there is of late, an express messenger sent to seek her, with a privy seal from his Majesty, to summons her into England, within six months from the receipt thereof, which if she does not obey, she is to be proceeded against according to the laws of this kingdom.”

* Wentworth’s letters, vol. 1, p. 447.

Frances Lady Purbeck eloped from her husband in 1622, and went by the name of Mrs. Wright. She was delivered of a son, christened Robert Wright ; died during 1645, in the King's garrison at Oxford, and was buried in St. Mary's church.* Lord Purbeck survived her only twelve years ; he died and was buried at Charlton, near Windsor, February 18, 1657.† This Robert Wright, Lady Purbeck's son, married a daughter of Sir John Danvers, one of the judges of King Charles I, and obtained a patent from Cromwell to assume the name of Danvers, out of hatred, as he asserted, to the name of Villiers.

In 1660 he levied a fine of his honours, and retired, first to his estate at Saluria, in the county of Radnor, and then into France, to avoid his creditors, where he died at Calais, in 1617.

He had a son, Robert Wright, who assumed the title of Purbeck, but, on a petition, his clause was disallowed after a lengthened investigation by the House of Lords, July 20, 1678.‡

* Dugdale's Ramage, vol. 2, p. 482.

† Bank's Extinct and Dormant Baronage, vol. 3, p. 614.

‡ Lyson's Magna Britannia, vol. 1, 636.

The decision of the Lords, however, was by no means unanimously carried ; several peers entered their protest against the decision, in which protest they say : “ The said claimant’s right did, at the hearing at the bar, and debate in the house, appear to us clear in fact and in law, and above all objections.”*

His father’s mode of abandoning the title, however, by levying a fine, their Lordships declared on the 18th of June, 1678, to be clearly illegal ;— “ For no fine now levied, nor at any time hereafter to be levied, to the King, can bar such title of honour, or the right of any person, claiming such title under him that levied, or shall levy such fine.”† His father, to engage the favour of the patriots of those days, was rather anxious to disclaim his title, and he is said to have destroyed for that purpose, the enrolment of his patent.

The decision of the House of Lords in the Purbeck peerage was certainly influenced by the conduct of Frances Lady Purbeck, in concealing the birth of Robert Wright Villiers, her son.

This decree of the House of Lords, there is

* Shower’s Parl. Cases, 1. Collin’s Parl. Prac. p. 305.

† Bank’s Dormant and Extinct Peerage, vol. 3, p. 614.
Chandler’s Parl. Debates in the Lords, vol. 1, p. 207.

no doubt, was contrary to all settled rules of law ; none of the courts of Westminster would have so decided ; and yet, in the cases of the Bandbury and Chandos peerages, the Lords seem to have adopted a similar opinion with regard to supposed adulterine births.

Twenty years previously to this decree, viz. in 1658, the Court of King's Bench had, by their verdict, pronounced for his legitimacy, in the case of *Heyns v. Villars* ;* and no attempts were made, by either a writ of error, or an appeal to the House of Peers, to reverse the decision. And twenty years afterwards, the court again pronounced a similar verdict, in the case of *Rex v. Knollys*, who was indicted for murder. †

The house was evidently puzzled. That the father of the petitioner was born in lawful wedlock was quite clear, but still the strong probability was, that he was not the son of Lord Purbeck. The house, on that supposition, departed from long-settled rules of law, in their anxiety to exclude the petitioner ; and, as a natural consequence, fell into all kinds of absurdities. Their very journals gave evidence of

* Sidifins' Reports, vol. 2, p. 64, 98, 129, 137.

† Salkeld's Reports, 509, and my Lord Banbury's Case. 2 Lord Raymond, 1247.

the difficulties with which they were surrounded. Thus they state, July 20, 1678:

“ The Lords, proceeding this day, which was appointed to give judgment in the case concerning the claim and right of Robert Viscount Purbeck to that title of honour, to them referred by his Majesty, and three questions being after debate, propounded as follows—

1. That the petitioner hath right by law to be admitted according to his title.

2. That the question shall be now put.

3 *That the King shall be petitioned to give leave that a bill may be brought in, to disable the petitioner to claim the title of Viscount Purbeck.*

And leave being asked and given, before the putting of the said questions to my Lords to enter their dissent and protestation, if they or any of them were resolved in the affirmative, as the second and last were, the Lords whose names were underwritten, did accordingly protest against the said resolutions, for the reasons following, and in these words :

1st. The Lords, being in judgment as the highest Court of England, in a case referred to them by his Majesty, (and whereof they are the only proper judges) concerning the right of

nobility claimed by a subject that is under no forfeiture, and wherein their Lordships had, in part, given judgment before, that he was not, (nor could be) barred thereof by a fine, and surrender of his ancestor ; it was as we humbly conceive, against common right and justice, and the orders of this house, not to put the question, that was propounded for determining the right.

2ndly. The said claimant's right, (the bar of his ancestors being removed) did, both at the hearing at the bar, and debate in the house, appear to us clear in fact and law, and above all objections.

3rdly. His said right was acknowledged even by those Lords, who therefore opposed the putting of the main question for adjudging thereof, and carried the previous question, (that it should not be put) because in justice it must inevitably, (if it had been put) have been carried in the affirmative, and his right thereby allowed.

4thly. By putting and carrying the third question, concerning leave to bring in a bill to bar him, his right to the said title is confessed ; for he cannot be debarred of any thing which he hath not a right to ; and this renders the proceed-

ings in this case contradictory and inconsistent.

5thly. The petitioning the King to give leave for such a bill to be brought in, is to assist one subject, viz. the Duke of Buckingham, against another, in a point of right, wherein judges ought to be indifferent and impartial.

6thly. This way of proceeding is unprecedented, against the law and the common right, as we humbly conceive, after fair verdicts and judgments in inferior courts upon title of lands, which have long been in peace, and vested in the claimer by descent, without writ of error brought or appeal, to suffer the same to be shaken or drawn in question by a bill.*

7thly. This way by bill, in case of nobility, is to admit the commons with us into judicature of peers.

8thly. It is to make his Majesty party in a private case, against a clear legal right, to anticipate and pre-engage his judgment,—in a case carried upon great division and difference of opinion in this House, forestalls his Majesty's royal power and prerogative, which

* Alluding to the case *Heyn v Villars*. 2 Sidfin 64, 157.

ought to be free to assent or dissent to bills, when they shall be tendered to him by both houses.

9thly. After so many years' delay, to give no answer to his Majesty's reference nor judgment in the claimer's case, is a way in which the Kings of this realm have not been heretofore treated, nor the subjects dealt with.

10thly. We conceive this course, in the arbitrariness of it, against rules and judgments of law, to be derogatory from the justice of Parliament, of evil example, and of dangerous consequence, both to peers and commons.

This able protest was signed by the Lords, Oxford, Hunsden, and five others.

When, on a subsequent day, the House took into consideration, whether the petition should be presented to his Majesty, it was resolved in the affirmative. The Lords Anglesea and Northampton, however, very properly protested against this decision, for several reasons.

1st. That this is a transition from our judicature, in a case of nobility, wherein the Lords are sole judges, to the exercise of the legislature, wherein the Commons have equal share with us, and admits them judges of peerage,

which I conceive ought not to be, if he be a peer, as seems implied by proposing a law to bar his title ; and there is no need of a law, if he be no peer.

2ndly. If a bill come in question, the case must be heard again, and then judgment ought to be given ; which, (if against him) the Commons must credit upon the proofs made here, where only witnesses are sworn, and therefore judgment here ought to be final.

3dly. This petition is no answer to his Majesty's reference, and we leave him in uncertainty, when he asks our opinion, or desire the royal assent to nothing, if he hath no title, to be barred.

4thly. If the Commons should reject a bill sent to them, they establish him a peer, by adjudging it injurious to bar him by a law, and so would seem more tender of peccage than we.

5thly. Leave is asked of his Majesty to bring in a bill, when every peer has a right to do it in this case, if he conceive himself aggrieved by a false claim of honour, and therefore several Lords have been admitted parties against him, upon former hearings and judgments given in part for him by a vote, that he is not barred by the fine of his father.

6thly. It seems against common right to bar any bill which claims a legal title, without forfeiture be in the case, and if so,—there needs no bill.

Of this absurd petition, and proposed bill, I can find no farther account. If it was presented, and leave obtained, the matter probably rested there ; for I find no traces of such an absurd enactment, on the statute book. The petitioner was entitled to the peerage which he then claimed, and if any of his lineal descendants are now alive, they would not be barred by any former decree of the House of Lords, which, however correct in equity, was absurd in law, and ridiculous in its form.

The proofs of Lady Purbeck's criminality, however, were undoubted, and the story was founded in something more substantial than rumour ; for I find that in 1629, one Isabel Peel was punished by the Ecclesiastical Commissioners for, " aiding and assisting Sir Robert Howard, in the years 1622—3, until September, 1624, to have familiar acquaintance with the Viscountess Purbeck.*

Such was the wretched termination of the

* Croke Car. 113.

marriage of Frances Coke: she was deserted by her husband, disowned by the Villiers family, and a disgrace to her own; she had been a wife five years, and had become an out-cast from her country, before she was twenty years of age.

CHAPTER III.

1617—1623.

Commencement of Coke's second parliamentary career—The first Parliament of James I—The King's proclamation—His address to the House of Commons on the first day of the sessions—The Speaker's prosy reply—The close of the session—The King's parting speech to them—Brief sketch of the first Parliament of James—Speech of Sir Edward Coke—Carries up a message from the Commons to the House of Lords—His address to the Lords on this occasion—His speech in the Commons on the impeachment of Bacon—The Parliament several times prorogued and dismissed—Dispute between the Commons and the King—The King's letter to the Speaker—The Parliament dissolved—Another summoned—Coke elected for Coventry—His papers seized by the government—Memoir of Pym—Another Parliament summoned—King James opposed to any warlike assistance for his son-in-law—Parliament is opposed to the marriage of his son Charles with the Infanta of Spain—Conference with the Lords on the occasion—Coke's address to them.

By the loss of the chief justiceship, Coke again became eligible to be elected into the House

of Commons ; and of this the electors of his native county speedily availed themselves. Coke again entered the lower House, as a member ; but during the few years he had been absent, strange alterations had taken place, both in its members, and in the Sovereign who summoned it as a branch of the parliament.

With Queen Elizabeth ceased the age of energetic speeches, and brief addresses. James I. summoned his first parliament to meet at Westminster on the 19th of March, 1608, by a long and able proclamation, in which he gave the electors of England good and sober advice touching the elections, warning them to “ avoyde the choice of any persons either noted for their superstitious blyndness one way, or for their turbulent humours other ways, because their disorderly and unquiet spirits will disturb all the discreete and modest proceedings in that greatest and gravest council.”*

It is apparent too, from one part of his address, that the sheriffs then used to decide upon the worthiness of the boroughs in their bailiwicks, to send representatives to parliament ; for he charges them that “ they do not direct

* Rhymer's *Fœdera*, Tom. p. 15, 604.

any precept for electing and retaining of any burgesses to or for any ancient borough town, within their counties, being so utterly ruined and decayed, that there are not sufficient residents to make such choice."

The length of the proclamation was however but a prelude to a far greater display of words, when the King, seated upon his throne, inflicted upon his patient Houses of Parliament a speech, which must have taken an hour in its delivery. One specimen will suffice; " Shall it ever be blotted out of my mind, how at my first entry into this my kingdom, the people of all sorts rid and ran, nay, rather flew to meet me? Their eyes flaming nothing but sparkles of affection; their mouths and tongues uttering nothing but sounds of joy; their hands, feet, and all the rest of their members, in their gestures discovering a passionate longing and earnestness to meet and embrace their new sovereign."

He anxiously glanced, in the course of this long speech, at the question of the union between the two kingdoms, a work which required another century, and wiser heads than his to accomplish.

Every thing seemed now to partake of the pedantic taste of the King: the very journals

of the Commons of this session have a long preface, with this absurd commencement :

LUNÆ,—MARTII, 19, 1603.

“ The first frame of this earthly body, of a chaos became a distinct essence of creatures. Man, the most noble by nature, born to a law, out of that gave law to others, and to himself. Hence order, the lustre of nature, guided by a first essence, put all government into form, &c. &c.”

Sir Edward Philip being chosen Speaker, of course was not behind hand in producing a long dry address, begging to be excused from the office; but as Egerton, who was still Lord Keeper, desired him to proceed in the execution of his duties as Speaker, he again struck off in a long speech, of insufferable dryness, filled with all the large words, to be ransacked out of any old dictionary ; and so unqualified was its tediousness, that the very transcriber who entered it in the journals of the House, stuck fast in the middle; for, after a long preamble, he began to divide the lengthy petitions of the Commons into five portions. The reporter waded steadily through three of them, but after entering the word

“ fourthly,” he could proceed no further, he omitted in charity that and the fifth.*

There is little doubt that these drowsy harangues must have exhausted the patience of every person about the House. Bryan Tashe, one of the yeomen of the guard, was charged with pushing Sir Herbert Crofte, one of the members, who went to hear these entertaining speeches, out of the House of Lords. The Commons were naturally indignant, and poor Tashe, on his knees, was severely reprimanded by the Speaker, for having deprived him of one of his auditors.

Sir Edward Philips preserved to the last his consistency ; for when the King, on the seventh of July, closed the session, the address of the Speaker was again of unrivalled length : it was full of the most grave and misplaced absurdities, filling nine closely printed pages of the parliamentary history. How would a modern House of Commons be surprised to hear their Speaker, at the close of the session, begin his address to the King in language such as this :

“ History, most high and mighty Sovereign, is truly approved to be the treasure of time past,

* Parl. Hist. vol. 5, p. 53.

the light of truth, the memory of life, the guide and image of man's present estate, pattern of the things to come, and the true work-mistress of experience, the mother of knowledge; for therein, as in a crystal, there is not only presented unto view the virtues, but the vices, the perfections, but the defects, the good, but the evil, the lives, but the death, of all precedent governors and government, which held the reins of this imperial regiment."*

The parliament was prorogued on the 5th of November 1605, and, on the same day, in an awfully long speech, the King gave his parliament a minute and tedious account of his escape from the Gunpowder Plot.

This horrid conspiracy occupied them during almost all this session. The question, of the union with Scotland, proceeded as slowly as all contracts usually do, when neither of the contending parties understand the advantages of the treaty.

As, during this session, Coke was employed in the investigation of the Popish Plot, his attendance upon the House of Lords was probably but seldom required.

When the parliament of 1606 met at West-

* Parl. Hist. vol. 5, p. 115.

minster, Coke was on the bench. He now attended the House of Lords as one of the twelve judges ; but, like the rest of his brethren, he never had a vote there.

The King again pressed upon the parliament the question of the union ; but neither the lords, the commons, nor the parliament of Scotland, were in its favour ; and in this humour, in December, the houses adjourned.

When they again met, little progress was made. The nation was evidently jealous of the Caledonians and their King. One of the Buckinghamshire members, Sir Christopher Pigott, spoke against them with great bitterness :

“ Let us not,” he exclaimed, “ join murderers, thieves, and the rogueish Scots, with the well deserving Scots ; there is as much difference between them as between a judge and a thief. He would speak his conscience without flattery of any creature whatever. They have not suffered above two Kings to die in their beds these two hundred years ; our King hath hardly escaped them ; they have attempted him.”

The house were astounded at such language ; but they at first passed it over in silence. A message from the King compelled them to notice the unlucky sally, and, in consequence, poor Sir Christopher Pigott was committed to the Tower,

and only found his liberty, after some days' confinement, by making a very sorrowful apology, for daring to tell the truth of the King's countrymen, in favour of whom, the King, on the 31st of March, sent the house a message, pressing the union, which must have certainly taken an hour to read, and which, being misunderstood, required an explanatory message, on the 2nd of the following May, nearly as long, and equally ineffectual.*

The parliament was again prorogued on the 4th of June, 1608, and did not meet again until the 9th of February, 1609.

When they met for their fifth session, they speedily began to complain of monopolies, the prerogative possessed by the King with regard to military tenures, and other sources of dispute. The session moved on slowly, and in consequence, on the 31st of December, 1610, the King dissolved the parliament.

The King had now lost his great minister, Robert, Earl of Salisbury, and Robert Carr, Earl of Somerset, had succeeded as prime minister. The change was lamentable for the nation, and disgraceful to the King. The new minister undertook to raise the King a

* Parl. Hist. vol. v, p. 181—208.

sufficient revenue, without the assistance of a parliament, and for the space of four years he persevered in the attempt. But, after trying a lottery, instituting and selling the order of baronets, raising the value of money, and other equally absurd and futile projects, he recurred at last to the old system—an appeal to a parliament; and in consequence it was summoned to meet on the 5th of April, 1614.

Of this parliament Sir Randolph Carew was chosen speaker. The King in vain, in his long opening speeches to them, recommended harmony and industry. The commons desired a conference with the lords, on the subject of the impositions levied by the crown without the consent of parliament. This conference the lords refused, principally by the advice of Dr. Neile, then Bishop of Lincoln, and afterwards promoted to the primacy of York.

The speech made by this courtly prelate on the occasion, annoyed the house of commons to such a degree, that they proceeded to discuss the affair, in preference to any other business. In consequence, the King, on the 5th of June, warned them, “that unless they forthwith proceeded to treat of a supply, he would certainly dissolve the parliament.” Finding them little disposed to obey his commands, two days after-

wards, by a commission of several lords, he put his threat into effect, June 7, 1614.

Six years now elapsed without a parliament. The King, whose reign was certainly peaceful, long managed without taxes. He and Somerset legislated for England as well as they could, and raised money by all sorts of expedients. At length, however, Somerset fell, and Buckingham succeeded him as the King's favourite. But Buckingham, although of superior talents to his predecessor, could not go on long without a parliament.

By a proclamation, therefore, dated in November, 1620, a parliament was again called, with many warnings to the electors of England, not to choose " Bankrupts and necessitous persons, that may desire long parliaments for their private protections ; or young and inexperienced men, that are not ripe and mature for so grave a council ; or men of mean qualities in themselves, who may only serve to applaud the opinions of others on whom they depend ; nor yet curious and wrangling lawyers, who may seek reputation by stirring needless questions."

The necessity for calling this parliament was certainly as urgent as it was unpalatable. The King, however, told them, in his speech from the

throne, the real facts of the case. "The main errand, to speak truth, which I have called you for, is for a supply of my urgent necessities."

Of this parliament, Sergeant Richardson was chosen speaker.

Sir Edward Coke was certainly a member of it. He had now lost his place as Chief Justice of the court of King's Bench, and had been returned for the borough of Liskeard, in Cornwall.* The King's ministers were evidently dissatisfied with the independence of his conduct. On the 7th of March, 1620, Bacon, in a letter to Buckingham, confessed this unpleasant truth; † for when commenting upon the proposed conference between the two houses of parliament, upon Sir Giles Mompesson's case of a monopoly, he remarked :

"I was as nobody; I do but listen, and have doubt only of Sir Edward Coke, who I wish had some round *caveat* given him from the King; for your Lordship hath no great power with him, but I think a word from the King (check) mates him."

The parliament met in the first week in February 1620; on the 14th Sir Edward Coke, in

* Willis's Notitia Parl. vol. 2, p. 177.

† Bacon's Works, vol. vi, p. 275.

company with Lord Cavendish, Fulk Greville, and several other members, brought up a message from the commons, praying a conference with the Lords, on the subject of the laws against jesuits, seminary priests, and popish recusants.

The feelings of Coke upon again revisiting, as a messenger, the House of Lords, in which he had once sat, were not probably of a very subdued tone. He had filled a seat in the upper house with too much fearless honesty, to feel degraded by again being a member of the commons. He had betrayed no trust, violated no commission entrusted to his charge. The disgrace was not on his shoulders. The electors of England, when they again sent him to parliament, paid a noble tribute to his inflexible rectitude of conduct. There were few such instances, before his time, of a judge being a member of parliament; and fortunately for our country, such examples have since been equally rare. I can find but one of his speeches reported during this parliament. It was delivered on the fifth of February: when Mr. Secretary Calvert moved for a committee of supply, Sir Edward thus addressed the house:

“ *Virtus sileret in convivio, vitium in consilio.*
I joy that all are bent with alacrity against the enemies of God and the people—jesuits, semi-

naries, and popish catholics. It was a grievance complained of in the eighth year of the present King's reign, that the laws against recusants were not executed. I would have all those grievances of the eighth of James reviewed, and if there are any new ones, to take especial consideration of them.

“ I and Popham were employed thirty days at the Tower, examining the Powder Plot. The root of it was out of all the countries belonging to the Pope. And Faux repented him that he had not done it. God then, and in the year fifteen hundred and eighty-eight, delivered us for religion's sake.

“ The privileges of the house concern the whole kingdom, which like a great circle, ends where it began. But let us take heed that we lose not our liberties, by petitioning for liberty to treat of grievances, &c.

“ No proclamation can be of force against an act of parliament.

“ In Edward the Third's time, a parliament was held every year, that the people might complain of grievances. If a proclamation is issued contrary to law, the law is to be obeyed, and not the proclamation.

“ In the fourth of Henry the Eighth, Strowde moved against the Stannary Court, but was fined

after the parliament, and even imprisoned by the Steward of the Stannary. Thereupon, a law ensued for freedom of speech in this house ; but it ought to be done in due and orderly manner.

“ My motion is, that the grievances may be set down ; those that are nought *in radice*, or *tractu temporis*, first. The King’s ordinary charge and expenses much about one ; the extraordinary ever borne by the subject ; therefore the King can be no beggar.

“ And if all the corn be brought to the right mill, I will venture my whole estate, that the King’s will defray his ordinary charges. Lastly, I move for a committee of the whole house for grievances ; the remedying these will encourage the house, and enable them to increase the supply to his Majesty.”*

The house adopting this resolution, proceeded in a committee of grievances, forgetting or postponing the consideration of his Majesty’s wants ; well knowing, that, if once they granted the money, their existence would be too speedily terminated to allow them to enter upon the question of national grievances.

The commons, therefore, kept their attention steadily fixed upon the question of grievances ;

* Parl. Hist. vol. v, p. 332.

and, on the 3rd of March, a message was delivered to the House of Lords by Sir Edward Coke, attended by several other members, to the effect, "that the house had entered into a due consideration of divers heavy grievances, and do desire a conference about them, leaving the time, number, and place, to their Lordships' appointment." He further added, that the commons had enjoined him to say, "that while the two houses were thus in consultation together, the principal offender, Sir Giles Mompesson, had escaped; and, in consequence, the commons did desire strict search should be made for him."

The messengers being withdrawn, the house deliberated; and then, Coke being again called in, the Chancellor informed him, that the Lords agreed to a conference with the whole house, on the following Monday, March 5th, in the Painted Chamber.

On which, Sir Edward Coke, addressing the Lords, begged to explain to them that the house of commons would not be prepared for the conference so soon; but, that he intended to say on behalf of his house, "That if their Lordships would be pleased to yield to a conference, then the other house would so prepare the business, as it might give the least interruption to their Lordship's greater affairs, and, when they were ready,

would return and acquaint their Lordships with it." On this, Lord Chancellor Bacon told them, the Lords would suspend the time of meeting.

Of this conference, Sir Edward Coke, on the 13th of March, reported the result to the house, adding, that their proceedings were highly applauded, both by the prince, and all the peers. But the Lords required to be furnished with certain letters-patent, and other written as well as verbal information, which the commons' deputation had no power to furnish.

The house, however, having granted them this power, Sir Edward Coke again proceeded to the Lords, to request another meeting ; and this was appointed by the Lords for the following Thursday, in the same chamber ; on which day the commons came prepared with a written statement of many monopolies and other grievances. A long investigation was the result of this conference, in the progress of which Coke brought up many messages from the commons, and managed on their behalf, several conferences ; but little progress was made ; their attention was speedily withdrawn to greater matters ; they granted the King a subsidy, and they impeached the Chancellor Bacon for corruption in the administration of his office. A trial ensued, memorable for the

results, and disgraceful to the great man, who fell by the investigation.

In the trial of the great and fallen Chancellor, Coke sat as one of the accusers of his inveterate, and talented rival. He appears to have refrained from taking a very prominent part in the prosecution; probably from commendable feelings of forbearance towards an old and talented, though fallen competitor.

I find, however, that he spoke on the 17th of March, 1620, with regard to the sufficiency of certain evidence adduced in proof of Bacon's corruption; but his address was much shorter than usual with him.

“It is objected,” said Coke, “that we have but one single witness, therefore, no sufficient proof.

“I answer, that in the thirty-seventh of Elizabeth, in a complaint against ‘soldier-sellers,’ for that, having warrants to take up soldiers for the wars, if they pressed a rich man's son, they would discharge him for money, there was no more than *singularis testis* in one matter; but though they were single witnesses in several matters, yet, agreeing in one and the same third person, it was held sufficient to prove a work of darkness.

“ For in such works it is a marvel there are any witnesses.

“ But some object, that these men are culpable, and therefore no competent witnesses.

“ I answer, they come not to accuse, but were interrogated.

“ If I be interrogated, I had rather speak truth than respect any man ; and you will make bribery to be unpunished, if he that carryeth the bribe shall not be a witness.

“ In this, one witness is sufficient ; he that accuseth himself, by accusing another, is more than three witnesses ; and this was wrought out of them.”*

This session abounded with impeachments, and trials of great officers ; they constituted the chief business of the session. Bacon was impeached and condemned ; Sir Thomas Bennet and Sir Henry Yelverton shared a similar fate. Of the three, the fate of Yelverton seemed the hardest ; and the court evidently thought so. He was forgiven and promoted to a judgeship in after life.

The parliament was adjourned by proclamation, on the 14th of November ; and it did not again assemble until the 20th of November, 1621.

* State Trials, vol. i, p. 555.

On this day, on behalf of his Majesty, Bishop Williams, who was then Lord Keeper, addressed the parliament in the usual dry pedantic style of that age, reporting to them the heads of the King's message.

The house of commons speedily became engaged in warm disputes, with regard to the King of Bohemia's endeavours to recover his kingdom, and the assistance which James afforded his son-in-law. They also remonstrated with the King, on the proposed match of his son Charles with the Infanta of Spain, and, in so doing, excited his high displeasure. The King, hearing of its contents, forbad the presentation of their petition; and in the full flow of his boiling indignation, in a letter "to our trusty and well beloved Sir Thomas Richardson, Speaker of the House of Commons," dated at Newmarket, December 3, 1621, he expressed his feelings, with a clearness of which he was seldom capable, unless in a passion.

" Mr. Speaker,

" We have heard, by divers reports, to our great grief, that our distance from the houses of parliament, caused by our indisposition of health, hath emboldened some fiery and popular spirits of some of the House of Commons, to argue and

debate publicly of matters, far above their reach and capacity, tending, to our high dishonour, and breach of the prerogative royal.

“ These are, therefore, to command you, to make known, in our name, unto the house, that none therein shall presume henceforth to meddle with anything concerning our government, or deep matters of state, and namely, not to deal with our dearest son’s match with the daughter of Spain, not to touch the honour of that King, or any other our friends and confederates ; also, not to meddle with any man’s particulars, which have their due motion in ordinary courts of justice.

“ And whereas we hear they have sent a message to Sir Edward Sandys, to know the reason of his last restraint, you shall in our name resolve them, that it was not for any misdemeanour of his in parliament.

“ But to put them out of doubt of any question of that nature, that may arise among them hereafter, you shall resolve them in our name, that we think ourselves very free and able to punish any man’s misdemeanour in parliament, as well during the sitting, as after ; which we mean not to spare hereafter, upon any occasion of any man’s insolent behaviour there, that shall be ministered unto us ; and, if they have already

touched any of these points which we have here forbidden, in any petition of theirs which is to be sent unto us, it is our pleasure that you shall tell them, that except they reform it before it come to our hand, we will not deign the hearing or answering of it."

Upon this letter being read, the commons sent and recalled their messengers, who were proceeding with their remonstrance to the King. After long debates, however, they agreed upon a second petition, which, with the former, they deputed twelve of their members to carry to the King.*

To this petition, the King replied in a long and angry letter.

In this communication, which is dated from Newmarket, December 11, 1621, James told them some home truths, but without employing the dignified language of a King. Coke, it seems, had, in an especial manner, displeased him.

" You tax us in fair terms of trusting uncer-

* It was on this occasion, that James, according to Wilson, desired, in a passion, that twelve chairs might be set; for, said his Majesty, " there are twelve kings coming."

tain reports. We wish you to remember, that we are an old and experienced King, needing no such lessons ; being in our conscience freest of any King alive from hearing or trusting idle reports, which so many of your house as are nearest us can bear witness unto you, if you would give as good ear unto them as you do to some tribunitial orators among you."

The King was highly indignant at their advising him as to the conduct of the war. He told them plainly that " the difference is no greater than if we should tell a merchant that we had great need to borrow money from him, for raising an army, that thereupon it would follow that we were bound to follow his advice in the direction of the war, and all things depending thereupon."

And with regard to the excuse of anything concerning the welfare of the kingdom being a fit subject for the consideration of the parliament, he answered, " This plenipotency of yours invests you in all power upon earth, lacking nothing but the Pope's, to have the keys also both of heaven and purgatory.

" And, touching your excuse of not determining anything concerning the match of our dearest son, but only to tell your opinion ; first, we

desire to know how you could have presumed to determine in that point, without committing of high treason ?”

He then, in alluding to their misconception of a former portion of a letter to them, explains his words :

“ We confess we meant Sir Edward Coke’s foolish business ; and, therefore, it had well become him, especially being our servant and one of our council, to have complained unto us ; which he never did, though he was ordinarily at court since, and never had access refused to him.”*

It was not likely, while the three great estates of the realm were actuated towards each other with a spirit which such language clearly indicates, that any valuable laws could be enacted. Much debate and many letters passed, and finally, on the eighth of February, 1622, the King dissolved the parliament.

He could not exercise this prerogative without giving a long and superfluous proclamation, in which he states his reasons for such a step, and, towards the conclusion, tells the electors, “ By all which it may appear, that in the general pro-

* This business of Sir Edward Coke, referred to by the King, is the affair of Lepton and Goldsmith, Commons’ Journals, vol. i, p. 651.

ceedings of that house, there were many footsteps of loving and well affected duty towards us, yet some ill-tempered spirits have sowed tares among the corn, and thereby frustrated the hope of that plentiful and good harvest which might have multiplied the wealth and welfare of this whole land.”*

James was incapable of feeling, that the less a King argues with his parliament, the better it is for his reputation ; since his actions should need no explanation to render their wisdom apparent to his subjects. To reason, was in truth to confess that their equity required illustration.

The parliament, foreseeing that a dissolution was at hand, entered in their journals an able and energetic protest, in vindication of their parliamentary rights and privileges, which the King, in council, was afterwards silly enough to tear out with his own hand.

Two years now elapsed without a parliament ; Buckingham and the King, during this period, raising money by “benevolences,” loans, and all sorts of illegal expedients. These means, however, gradually failing, the King was, by the advice of Lord Carlisle, induced to try his fortune with another parliament ; and consequently

* Parl. Hist. vol. v, p. 524.

one was summoned to meet on the 12th of February, 1628. Coke was returned to it for Coventry, of which city he still continued Recorder.*

Coke however had been in the meantime exposed to the vengeance of the court. He was one of the "ill-tempered spirits" alluded to in the King's proclamation, and was soon after the dissolution, in company with Sir Robert Phillips, committed to the Tower; while Selden, Pym, and Mr. Mallory, were sent to other prisons. Sir Edward Coke's papers were seized at the same time, and his chambers, both in the Temple, and in the city, sealed up.

It would seem that the Privy Council were anxious that this arbitrary operation, of searching for treasonable papers, should be carried on with all becoming regularity, and that the papers of Coke, relating to his private affairs, should receive no injury. The paper of instructions (of which the following is a copy) to the gentlemen who were to search his papers, particularly expressed this feeling. It was entitled :

" Instructions to the gentlemen that are to search Sir Edward Coke's papers :

" To take some of his servants or friends in

* Brown Willis' Not. Parl. vol. ii, p. 495.

their company, who shall be witnesses that they meddle with nothing that concerns his land or private estate.

“ If they meet with any evidence, of his concerning his lands, that it be safely laid by, and sealed.

“ The like they are to do for any papers which shall concern any suit that he has, or is to have, in care ; and so to carry it, as they be neither copied, nor any body see them that may do him any wrong, or hinder his cause by it.

“ That they likewise take with them Sir Edward Leich, Knight, one of the Masters in Chancery, and John Diex, to the end that if there shall be any writings or evidence, that concern the Earl of Shrewsbury’s lands or estate, the same may be deposited and laid up in some safe place apart by themselves, and under seal.”*

In this attack of the court upon the patriots, Coke was the prominent object of their indignation ; they were determined, at all events, that *he* should not escape. Thus the Privy Council, when debating about a general pardon which they intended to have passed that session of

* Cotton MS. Titus B. vii. 204.

parliament, had arranged that Coke should have been deprived of all benefit from it,—either by preferring a bill of indictment against him before the pardon was published, or by exempting him by name; for which, there is no doubt, they had several precedents.*

Roger Coke, years afterwards, described this transaction with becoming indignation. “Of all others, the storm fell most severely upon Sir Edward Coke, and, by several ways, his ruin was contrived; first, by sealing up the locks and doors of his chambers in London and in the Temple; secondly, by seizing of his papers, in virtue whereof, they took away his several securities for money; thirdly, it was debated in council, where the King would have brought in the general pardon, containing such points as he should think fittest, by what ways they might exclude him from the benefit of it. Fourthly, if the King’s name was used, by Northampton and Somerset, to confine Overbury so closely that neither his father nor his servants could come at him, so was the King’s name used here, that none of Sir Edward Coke’s children or servants could come at him; and of this I am assured by one of Sir Edward Coke’s sons, and his wife.

* Parl. Hist. vol. v, p. 525.

Fifthly, in this confinement the King sued him in the King's Bench, for thirty thousand pounds, for an old debt pretended to be due from Sir William Hatton to Queen Elizabeth ; and this was prosecuted by Sir Henry Yelverton, with all the severity imaginable. But herein all the King's council were not all of one mind ; for when a brief against Sir Edward was brought to Sir John Walter, (I think) then Attorney-general, he returned it again, with this expression, ' Let my tongue cleave to the roof of my mouth, whenever I open it against Sir Edward Coke.' "

John Pym, with whom Coke's name is so often associated in the debates of this period, was another great member of the moderate reformers of that day. He was born in 1584, of a highly respectable family, of the county of Bedford. He was a member of the university of Oxford, being a student of Pembroke College ; and was afterwards called to the bar, but by what inn of court is rather uncertain. Patronized, for his early displayed talents, by the Earl of Bedford, he obtained a responsible situation in the court of Exchequer, and was returned to parliament for the borough of Tavistock.

At this period of his life, Pym did not appear

on the political stage, as a decided leader of any party: he was remarkable rather, says one of his biographers, for "extreme humanity, affability, courtesy, and cheerfulness of spirit in every condition;" and as sharing a happy home, and cultivating intellectual pleasures, with his wife, who possessed "excellent accomplishments, and learning rare in her sex."

The loss of this admirable woman, in 1620, probably led Pym to forget his loss in the turbulence and excitement of public life; and having chosen his side, and resolved to act with those who were withstanding the arbitrary proceedings of the court, he prepared for the gathering storm.

Placing, therefore, his children under the care of trustworthy guardians, and having provided for their welfare, he henceforth devoted himself to the public good, with an unflinching devotion; it became his meat, his drink, his work, his exercise, his recreation, his pleasure, his ambition, his all.

Pym speedily became the most popular and influential of all the opponents of the court. This arose from his thorough knowledge and habits of business, his mental penetration, his powers of debate, and private worth.

Baillie* gives this instance of his popularity in 1648 : “ 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.”

Pym was of the celebrated election committee of which Sergeant Glanville, the chairman, published the reports ; and he was one of the managers in the impeachment of the Duke of Buckingham.

Thus popular and thus active, it was natural for the court of Charles to wish him as an ally, rather than as an opponent ; and it is probable they had made him some overtures. They had already obtained as their friend, Wentworth, afterwards Earl of Strafford ; and Strafford wished very much that Pym should follow his example ; and, at a conference at Greenwich, took some pains to sound him on the subject. Pym speedily saw his object, and as abruptly stopped him. “ You need not,” he observed, “ use all this art to tell me you have a mind to leave us. But remember what I tell *you*, you are going to be undone. Remember also that

* Letters and Journals, vol. i, p. 409.

though you leave us, I will never leave you, while your head is upon your shoulders.”*

If such a threat was ever employed by Pym, he certainly realized it ; for he was the chief manager of the charges against the unfortunate Earl, which he opened on the 11th of November, 1641.

On the 12th of the following April, when the Earl of Strafford had finished his eloquent reply to all the charges which his enemies could adduce, amid the tears and agitation of an admiring and pitying court,† Pym rose to reply, in the name of the commons of England. In this memorable speech, he proceeded, with admirable eloquence, to expatiate upon the advantage of a just code of laws, and thence, proceeding to the Earl’s offences, and the punishment they deserved, he thus proceeded :

“ His death will not be a new way of blood,” “ At that moment,” says the biographer of Selden,‡ his eye involuntarily met the earnest gaze of the Earl, and he faltered beneath the glance of an eye that, beaming with all its accustomed fire, spoke the more rebukingly, when com-

* Wellwood’s Memorials, p. 53.

† Rushworth’s Trial of Strafford.

‡ Johnson’s life of Selden, 219.

pared 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."

Pym was, in good truth, an experienced hand at impeachment. He led on that of Archbishop Laud and others; and even had the folly to do the same in the case of the highminded Queen. It need excite little surprise, therefore, that he was an especial object of the hatred of the court; that Charles impeached him at the bar of the House of Lords, and even personally came to the House of Commons, to seize him, with Hampden, and the other impeached members.

He died, on the 8th of December, 1643, at Derby House.

Pym, like several members of the moderate party, with whom Coke associated, had the misery of surviving the period when moderate measures and conciliatory language were alone employed. The storm, which he at first directed so successfully, speedily became too powerful for his talented and well meaning guidance; and the re-

sults of his labours were evidently not in accordance with his intentions; for as death approached, he thought it necessary, in a paper which he left behind him, to defend the integrity of his intentions to God, his King, and his country. Even on his deathbed, he was heard to pray for the King and his descendants, for the parliament, and the cause of the people.

Rushworth and the great Clarendon, though his political opponents, admit that he was a friend to a limited monarchy.* In a proposed ministry of the patriots of that day, which, unfortunately for Charles I, was not formed, he was to have been Chancellor of the Exchequer.

But to return to the political scenes in which Coke appeared. Of the parliament which met at Westminster, Feb. 12, 1623, Sergeant Crewe was chosen Speaker. The House of Parliament, being in debate on the question of the projected marriage of Prince Charles with the Infanta of Spain, and upon the means of recovering the Palatinate for its Sovereign Frederic, the son-in-law of James I, the Lords desired a conference with the Commons on these matters in the painted chamber, which was managed on the part of the

* Johnson's *Life of Selden*, 21. Clarendon's Rebellion, Rushworth's Collections.

Lower House by Coke, whose speech is the only one on their behalf which has been preserved.

Both these projects were distasteful to the Commons ; they objected to the expense of the war, and still more decidedly to the religion of the lady. James had no objection to the lady ; but to the war, to shedding of blood, he had an inherent horror, an aversion, so decided, that some curious speculations have been indulged to trace the cause ; some attributing it to his own youthful hair-breadth escapes in one or two Scottish plots ; others to the fright of his mother, Mary Queen of Scots, then near her confinement, when David Rizzio was murdered by Darnley and the other conspirators. He shuddered it appears with instinctive horror. at the sight of a drawn sword.

The scene of murder enacted before his mother's eyes, in this celebrated tragedy was indeed sufficient to affect sterner nerves, than those of poor Mary Queen of Scotland.* It occurred on the evening of the 9th of March, 1556, in almost the very presence of the Queen, from whose table the victim was dragged. The historian, who has the task of detailing and

* Rizzio was murdered on the 9th of March, 1566. James I was born on the 19th of the following June.

commentating upon the brutality of such a scene of unqualified barbarism, must not forget that it took place in an age, and among a people, not then distinguished for their refinement.

The account of the murder, as given by even Lord Ruthven, the chief assassin, does not make the affair assume a better aspect; for all he can say in his own defence is, that he was hired by the King, who was present at the execution of the affair, and whose dagger was found in David Rizzio's side. His pretending that it was not intended to dispatch the victim in the presence of his mistress, but that they had brought cords to strangle him outside the palace walls, is an unwilling confession of what they would willingly deny,—that they were a band of uncivilized Scots, who could mix fancied refinements with their greatest atrocities. Darnley, too, was distinguished from the rest only by his being the most stupid and brutal of the clan; for if Rizzio was doomed to die, Darnley might at least have remembered his wife's feelings, even when he was gratifying his own revengeful passions. But no—this could not be; the Secretary's fate being once decided on, no place but the banquet-room of his Mistress Queen could serve for the tragedy; no other hour but that of midnight was fitted

for the slaughter ; no guide could be found to lead on the conspirators into the Queen's presence, save Darnley, her husband. The disgraceful scuffle which ensued the overturning of the supper table—the dragging forth of Rizzio—the fifty or sixty wounds by which he fell in the very next room ; all this completes a picture unequalled for savage brutality, even in the history of Scotland.

The after-part of the tragedy was worthy of the commencement ; for Darnley, in less than a week, turned round upon and banished the very men who, under his own sign manual, had committed the murder ! I wish I could point to ill-fated Mary as an example of gentleness, worthy of being contrasted with the other actors in this barbaric scene ; but the death of Darnley, and her marriage with his suspected murderer, renders such a contrast quite impossible, and almost tempts us to believe, that in the first murder, the Queen felt more for herself than for the sufferings of David Rizzio.

In the account given of the murder of Rizzio by Lord Ruthven, which is still preserved in the Cotton Library, the King, in answer to the upbraiding of Mary, says, “ I have good reason for me ; since yonder fellow, David, came in credit

and familiarity with your Majesty ; you neither regarded me nor trusted me after your wonted fashion ; every day before dinner you were wont to come to my chamber, and pass the time with me ; and this long time you have not done so ; and when I came to your Majesty's, you bore me little company, except David had been the third person ; and after supper, your Majesty used to sit up at cards with the said David till one or two after midnight." This clearly shows that he did not even pretend to deny a knowledge of the conspiracy against Rizzio.

It is also curious to remark, how different our ideas of Mary's delicacy and gentle refinement are, to those of the English commissioners who visited her, on the part of Elizabeth, upon her arrival at Carlisle. Their first impressions are thus stated, in a letter to Sir Robert Cecil, written by Sir Francis Knollys, dated Carlisle, 11th June, 1568.

“ She sheweth a disposition to speak much, to be bold, to be pleasant, and to be very familiar. She sheweth a great desire to be avenged of her enemies, and a readiness to expose herself to all perils in hopes of victory. She

desireth much to hear of hardiness and valiancy. The thing she most thirsteth after is victory ; and it seemeth indifferent to her to have her enemies diminished, either by the sword of her friends, or by the liberal promises and rewards of her purse, or by division and quarrels raised among themselves ; so that, for victory's sake, pain and peril seem pleasant unto her. Compared with victory, wealth and all things seem to her contemptuous and vile. Now what is to be done with such a lady and prince, I refer to your judgment.

“ Before yesterday,” continues Knollys, “ she has been twice out of the town, and once to the play of football ; and once she rode out hunting the hare, *she galloping so fast* upon every occasion, and her retinue being so well horsed, that we, upon experience thereof, doubted not that, upon a set course, some of her friends in Scotland might invade and assault us upon the sudden,” &c. &c.*

It is worthy of remark, too, that at this early period—for she was only now twenty-five years of age—she had had three husbands, and was

* Letters in the British Museum.

more than suspected of being concerned in the murder of the second.

King James, from whatever cause, had no inclination to embark in a warlike crusade for the recovery of his son-in-law's dominions. The Commons, therefore, had not much need of employing any arguments to dissuade him from the attempt. It was to the marriage of his son with a Catholic Princess, that Coke was instructed most strongly to apply himself, in his conference with the Lords; and it was in this spirit, laying a principal stress on religious reasons, that he thus addressed the Peers :*

“ Noble Lords,—The knights, citizens, and burgesses, being the Lower House of Parliament, have given me commandment to declare unto your Lordships, that they have considered of these great matters, have deliberately consulted, and with one mind agreed, that both those treaties of the match, and of the Palatinate, should be utterly and absolutely put by.

“ Hereunto, my Lords, we were led by a rule of the book of Judges, that we should attend upon you, at this time, and that it should

* Appendix to Parl. Hist. vol. 23, 64.

follow with that council to consider, consult, and then give council, so that, my Lords, my part is very short ; for your Lordships have concluded, to our exceeding joy and great comfort, that those treaties could not be concluded with safety of religion, and with safety of the King's own person, or of his posterity. Help me if I mistake.

“ And if, my Lords, I should make an humble narration to your Lordships, for the whole House of Parliament, that you should be pleased to join with us in supplication to his Majesty, that he would at his good leisure, and due time, (but our suit is that it be with all speed) give his royal determination and resolution, to break off and to utterly dissolve these treaties, which we hear to be so dangerous to the King, his children and the state, and especially to religion.

“ And if it please his Majesty, when he is resolved, that he would make declaration of it, so that it would put alacrity into the hearts of all true subjects, and so put a wing to those good works of Parliament. And, my Lords, I had almost forgot it, that this will not only be a singular comfort and content to the subjects of England, but to all his subjects abroad, and well wishers to Sion.”

All Coke's eloquence, however, availed not ; every reader of English history is aware of the romantic progress of this silly marriage, of its consummation, and how distasteful it was to the Commons. It was one of the many follies of the ill fated house of Stuart.

CHAPTER IV.

1624.

Coke manages a conference on behalf of the Commons—
Impeachment of the Earl of Middlesex—Coke's speech on the
occasion—Prefers his charges—The trial—the King defends
his Lord Treasurer—He is condemned—His character
—Death of James I—The character of the first Stuart—
And his Parliaments—Review of his treatment of them—
The first Parliament of Charles I—The subsidies granted by
Parliaments in that reign—Amount of a subsidy—A tenth or
a sixteenth—How paid—Royal expenses—Salaries of the
officers of the Crown, and other King's servants—Royal
grants—Review of the King's treatment of Coke—Domestic
life of Coke during this period.

A fresh scene now occurs in the life of Coke.
He who had long been familiar with state prose-
cutions when Attorney-General, was now to
appear in a similar capacity on behalf of the
Commons of England.

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On the 15th of April, 1614, Sir Edward Coke managed, on behalf of the Commons, their conference in the painted chamber, with the House of Lords, on the subject of the impeachment of Lionel Cranfield, Earl of Middlesex. This nobleman was charged with bribery, and other mal-practices, in the execution of his office. Coke, who was now in his seventy-fourth year, seemed as able to lead on a legal charge, as he was twenty years previously. His speech was reported the following day by the Lord Keeper Williams, to the House of Lords, and, in spite of the learned bishop's dry style of reporting, was evidently a very elaborate and eloquent production. Good Bishop Williams had no talents for a reporter : he was pious, learned, and industrious, and the last Prelate who held the office of Lord Keeper of the great seals. His life, by his friend Bishop Hackett, displays a talent for verbiage far exceeding anything that even the Lord Keeper himself possessed : it is an unrivalled specimen of the dry biography of that age.

Coke felt, on that occasion, the necessity of explaining to the Peers why, in that age of impeachments, the House of Commons alone seemed so zealous in the crusade against public offenders. He showed therefore, said his reporter,

“ That the knights, citizens, and burgesses, assembled in Parliament, are always elected, the knights by the counties, the citizens by the cities, and the burgesses, by the boroughs of the kingdom. That the Lords do enjoy their places by blood and descent ; some by creation ; the Lords Ecclesiastical by succession ; but the members of the House of Commons by free election. They appear for many, and bind multitudes, and have therefore no proxies ; since all the people are present in Parliament by their representatives ; and therefore, by the wisdom of the state, and by the order of Parliament, the Commons are appointed the Inquisitors General of the grievances of the kingdom, and that, for three causes :

1. Because they have the best notice from all parts thereof.

2. They are most sensible it is not your Lordships, but the weaker Commons,—that go to the Wall.

3. As in a natural body,—not the disease, but the neglect of care, killeth—so the long delay of grievances ; and this would happen if they were not found out by the Commons.

The length of this apologetical preamble would almost lead one to conclude that Coke

himself had not much confidence in the strength of his own case.

After telling them it was against the Earl of Middlesex,— the Lord Treasurer, he appeared, he thus proceeded :

“ The House of Commons have appointed me to present three enormities to their Lordships, —much against my inclination, other members of their House being far more sufficient, as well in regard of my great years,—as of other accidents: yet I will do it truly, plainly, and shortly.

“ There are two great offences charged ; one of which shall be represented by me, the other by my colleague, Sir Edwin Sandys. That which he should speak to, would consist of two charges.

“ The first, gross and sordid bribery ; the second, for procuring the orders of the Court of Wards to be altered, for that this was done by his principal procurement, to the deceit of the King, oppression of the subject, and enriching of his own servants. He would begin with the bribery.

“ Here I crave favour if he should seem tedious in some particulars ; for circumstances to things, are like shadows to pictures—to set them out in fuller representation.”

Coke then proceeded, in his usual energetic style, to press against Lord Middlesex the cases of bribery in the office of Lord Treasurer; in which he followed the manœuvres of his Lordship to avoid detection, with his accustomed ability.

He then proceeded to the charges against him, as master of the Court of Wards. These charges, however, were not of a very grave nature. The worst appeared to be, that the Earl had more duties to fulfil, in his various offices, than any one person could well manage.

“The Lord Treasurer’s place,” said Coke, “requires a whole man, and so doth the Mastership of the Court of Wards. His Lordship therefore was fain, being unable to wield these two great places, to invent a new device, a stamp even with his own name, ‘Middlesex.’ Now, this hand moves and guides the seal of the court; and, therefore being turned by the hand of a young secretary, may produce strange consequences.

“Never did any King suffer a subject to use a stamp.

“Old Lord Burleigh had a stamp, because of his gout, but never suffered it to be used but in his own presence.

“King Henry VIII had also a stamp; but

by his suffering it to be used by another, an act of parliament was thence overthrown.

“ Never before did I know a man trust a stamp in the hands of another person, to command the King’s revenue.

“ All this,” concluded Coke, “ I speak by command. I pray your Lordships to weigh it well, with solemn consideration, and to give judgment according to the merits.”*

I shall not follow this long case in all its details. On the 24th of April, Coke preferred his charges ; and five days afterwards, some additional ones were produced by the Attorney-general.

With regard to this great public officer, much yet remains undecided. It is true that his peers found him guilty, and punished him very severely ; but the charges involved no very enormous crimes ; and posterity has taken a cooler view of the evidence adduced by Coke against him, than was possible at that period. That the King had many doubts of his guilt, is very clearly apparent ; for on the 5th of May, in his address at Whitehall, to both houses of parliament, he laboured hard, and with much ability, to screen his Treasurer from their vengeance.

“ He cannot,” said the King, “ but have

* Parl. Hist. vol. vi, 145.

many enemies ; all Treasurers, if they do good service to their masters, must be generally hated, as M. Rosney was in France. Two kinds of people are continually hated in court—treasurers and ushers ; because this latter must of necessity put disgraces upon men ; and the treasurers must keep the King from importunity of many suitors. I pray, judge not by the affections of the people, nor the hatred of the people ; you must avoid both these ; and, therefore, judges of old were painted blind.

“ Lastly, there are divers things laid to his charge, which were done with my knowledge and approbation. Let him bear no charge for that ; for that is mine, and I must bear it. For if you question him for any such thing, you punish me. If anything touches upon him in that kind, either meddle not with it, or stay and know the verity from me. I love my servants, God is my witness ; but it is only for virtue’s sake ; and he is an unhappy master that doth not love a faithful servant. But if there appear in any of them falsehood, and treachery, and deceit under trust, my love is gone. If, of an angel, he become a devil, I will never excuse him ; I will never maintain any man in a bad cause.”*

* Parl. Hist. vol. vi, 195.

This speech of James the First, in behalf of his falling Treasurer, is the more worthy of notice, from its emanating from a Stuart—a family known, to a proverb, for their desertion of their distressed friends.

On the 13th of May, 1624, the Earl of Middlesex, having been found guilty by the peers, was sentenced to lose all his places, and to pay a fine of fifty thousand pounds, and was rendered incapable of office, or to come within the verge of the court, or to sit in parliament.

Thus fell Lionel Cranfield, Earl of Middlesex; a man who, from low beginning, attained to one of the first offices of the state. He lived twenty-one years afterwards; not dying until 1645, when he was succeeded by his eldest son, and was buried, according to Dugdale, who gives his epitaph, in St. Michael's Chapel, Westminster. It is very uncertain whether the fine was ever paid. The commons read the bill a third time with reluctance, as if they regarded the punishment as more than equal to the offence; and it was only carried by a majority of 36; the numbers being 38 to 125.*

The Duke of Buckingham, and the Prince of Wales, are supposed by Clarendon to have been

at the bottom of this impeachment. The King evidently liked it not. He told the Duke, "that in this fit of popularity you are making a rod with which you will be scourged yourself;" and, turning to the Prince, he told him, "that he would live to have his bellyfull of parliament impeachments."*

Petty, in the preface to his *Miscellanea Parliamentaria*, tells us, that the great Chancellor Bacon, meeting the Treasurer, then Sir Lionel Cranfield, soon after he was appointed, warned him, half in jest and half in earnest, to ever remember one considerable rule, in common with all other great officers of the crown, which was, that "a parliament will come."

Both these great officers were living witnesses of the truth of the axiom; and Coke had a saying which agreed with the experience of them all,—"that no subject, though ever so powerful or subtle, ever confronted or jostled with the law of England, but the same law in the end infallibly broke his neck."

This was the last parliament of James I. It was prorogued on the 29th of May, and he died on the 27th of March, 1625, after an inglorious reign of twenty-two years.

* Clarendon's History of the Rebellion, 20.

The House of Stuart, unhappily for themselves, occupied the throne of England at a period when great and rapid changes were taking place in the constitution of the country—alterations, the necessity of which they did not comprehend, and therefore, in justice to their prerogative, opposed on principle. They had moreover, no ability to observe and meet the altering spirit of the times, or the increasing power of the House of Commons. They reasoned by precedents taken from the olden time ; they stood by antiquated principles of English governments, with a constancy worthy of a happier fate ; and that they were sincere in their belief, Charles maintained, with unflinching heroism, even to the death. It is an idle attempt to discover, in the proceedings of the parliaments of England previously to the accession of the Stuarts, any traces of a third estate, possessing a power even formidable to an under secretary.

Elizabeth, the immediate predecessor of the House of Stuart, dictated to the commons with the most uncompromising authority. She called them together but seldom ; told them what topics to discuss ; warned them to avoid others, kept the unruly members quiet by remonstrance, warnings, or summons before the Privy Council, and, in the *dernier ressort*, by committals to the

Fleet prison. Again, she was careful of the public money, made few demands upon the public purse, and was therefore rich and independent.

Mary's parliament was equally subservient. She restored the catholic religion, and murdered the protestants, unheeded by the parliament. She exercised as absolute control over the commons as her sister and successor.

The father of these two Queens, the last Henry, (I pass over the short minority of the amiable and accomplished Edward VI,) had a parliament equally accommodating. They changed their religion when he did ; gave him the power of making laws ; divorced him from four wives, and would have done so from forty, if he had asked them. It is hard to say which presents to the reader of English history the most revolting picture,—the base subserviency of the parliament, or the insolent brutality of their master.

With such preceding monarchs for his guide, coming from a foreign country to govern England, it ought hardly to excite our astonishment that James made great and manifold blunders in the management of his parliament, which was now rapidly acquiring a great and mighty increase of knowledge and power.

James did not perceive this: he saw only through the eyes of his despicable favourites; was sacrificed to their interests, and made ridiculous by their management.

The impeachment of Lionel, Earl of Middlesex, the Chancellor Bacon, and others, indicates the courage of the Commons of his reign; their perseverance in struggling for the redress of grievances, and in making their claims go hand in hand with their grants of money, unanswerably demonstrates that the House of Commons was now composed of a body of men, such as no English monarch had yet had to contend with. James, therefore, yielded to the demands of the Commons, because he dared not dispute them. His cowardice was of inestimable advantage to the country and to liberty; it enabled the Commons to acquire, peaceably, great and wholesome privileges, which they had to contend for, in the reign of his successor, with other arguments.

Sir Edward Coke was now in his seventy-fifth year. At an age when the wealthy of his time of life are usually timid, and opponents of change, he was leading on the reformers of his day, with all the gallant buoyancy of youth; his love of liberty, and even-handed justice, shone as bright as it did twenty years previously, when he first ascended the seat of judgment. He was

still labouring for his country with an energy which never flagged, and an enthusiasm not yet nearly exhausted.

The King, therefore, regarded him with a suspicion which rarely slept. He could not distinguish between those who conscientiously opposed his wishes, and those who committed treason. Coke, therefore, experienced all the vengeance of the court. They often examined him; they suspended, and discharged him from his Chief Justiceship. They seized his papers, and imprisoned him. But no discoveries were made; no symptoms of amendment appeared; and the reluctant confession was at last made, that in this respect he resembled a cat; he invariably, in all his persecutions, seemed to fall on his feet.

In the parliament of Charles I, Coke continued the same moderate line of conduct he had observed during the reign of his father; he was the supporter of liberal measures, but no advocate of the blundering legislation resulting from ignorance and impatience.

In the age of Sir Edward Coke, the grants of parliament to the King were usually made in the form of a subsidy—a tenth, or a sixteenth. A subsidy was granted, for instance, to James

the First, in 1609, which produced sixty-nine thousand, six hundred, and sixty-six pounds. And a subsidy was therefore, in the parliamentary estimates, always valued at that sum. And this was paid, in the following proportions, by

| | | | |
|-----------------|---|---|-------|
| Berkshire | . | . | £973 |
| Buckinghamshire | . | . | 1,526 |
| Bedfordshire | . | . | 721 |
| Cambridge | . | . | 1,205 |
| Chester | . | . | 871 |
| Cumberland | . | . | 516 |
| Cornwall | . | . | 1,784 |
| Durham | . | . | 61 |
| Dorsetshire | . | . | 1,239 |
| Derbyshire | . | . | 644 |
| Devonshire | . | . | 5,821 |
| Essex | . | . | 2,653 |
| Yorkshire | . | . | 4,070 |
| Gloucestershire | . | . | 1,748 |
| Hampshire | . | . | 2,412 |
| Hertfordshire | . | . | 1,221 |
| Herefordshire | . | . | 1,105 |
| Huntingdonshire | . | . | 553 |
| Kent | . | . | 3,042 |
| Lancashire | . | . | 978 |
| Leicestershire | . | . | 805 |
| Lincolnshire | . | . | 2,571 |

SIR EDWARD COKE.

145

| | | |
|----------------------|-----------|--------|
| London | | £5,178 |
| Middlesex | | 1,512 |
| Monmouth | | 293 |
| Nottinghamshire | | 593 |
| Northampton | | 980 |
| Norfolk | | 2,840 |
| Northumberland | | 129 |
| Oxfordshire | | 1,109 |
| Rutland | | 174 |
| Shropshire | | 787 |
| Staffordshire | | 681 |
| Suffolk | | 2,824 |
| Surrey | | 2,286 |
| Sussex | | 1,705 |
| Somersetshire | | 4,249 |
| Worcestershire | | 1,178 |
| Westminster | | 102 |
| Wiltshire | | 2,240 |
| Warwickshire | | 918 |
| Paid by the Nobility | | 3,180 |

WELCH COUNTIES.

| | | |
|------------|-----------|-----|
| Anglesea | | |
| Brecon | | |
| Carnarvon | | |
| Carmarthen | | 101 |
| Cardigan | | |

| | | | | | | | |
|------------|---|---|---|---|---|---|-----|
| Denbigh | . | . | . | . | . | . | . |
| Flint | . | . | . | . | . | . | . |
| Glamorgan | . | . | . | . | . | . | . |
| Merioneth | . | . | . | . | . | . | 120 |
| Montgomery | . | . | . | . | . | . | . |
| Pembroke | . | . | . | . | . | . | . |
| Radnor | . | . | . | . | . | . | 44 |

Most of the Welch counties did not contribute to a subsidy, because they were charged with the tax, when every new Prince of Wales was created, called a mise; which was an impost originally paid in cattle, corn, and wine, but afterwards in money; and, in consequence, five thousand pounds were paid by the counties which did not contribute to a subsidy.

Until 1609, the three border counties, Cumberland, Northumberland and Westmorland, did not pay to any subsidy, or fifteenth, because of the continual charges they were at, in defending the frontier against the inroads of the Scotch.

Every city, hundred, town, or vialge, had to pay, for sixteenths and fifteenths, no more than they were charged by the ancient roll and tax set upon them; so that their payments were certain as to the amount.

By a fifteenth was meant the fifteenth of every

man's personal estate, according to a reasonable valuation ; by a tenth was meant one tenth of all personal estates.

A tenth and a fifteenth, in the reign of James, produced thirty-six thousand five hundred pounds.*

If the amount of the parliamentary grants do not seem large to a modern reader of annual budgets, it must yet be remembered that the value of money, salaries, and other expenses, have strangely altered since those days.

There is, in the Plumian Library, a curious paper, containing an account of "his Majesty's extraordinary disbursements since his coming to the crown, besides the ordinary annual issues.

In this it is stated that the

| | |
|--|---------|
| Expense of his Majesty and his traine, in his journey from Scotland to London, was | £10,752 |
| The funeral charges of Queen Eliza- beth ; | 17,428 |
| The King's coronation and royal entry ; | 36,145 |

* Abstract of the present state of his Majesty's Revenue, 1616, p. 71, Plumian Library.

His Majesty's household expenses, over and above the yearly assignments and allowances, appear to have been heavy, viz. £232,200.

Among the smaller charges, I find some curious items :

“ For tombs for Queen Elizabeth, the King's two daughters, and the late Queen of Scots, the King's mother,— £3,500.

The King contributed largely towards bringing the New River to London.

“ His Majesty's charge towards bringing of the New River to London, from Armwell and Chadwell, for the new water work, £7,856

“ To the Earl of Nottingham, for the hangings of the story of the Fight, in 88, containing 708 Flemish ells, at £10. 6s. per ell, 1,628

This was probably the tapestry representing the destruction of the Spanish Armada, which perished in the burning of the house of Lords in 1835.

To Christian Steward, the dwarf, £20

To Sir Fulke Grevill, Chancellor of the Exchequer, for his fee by the year, £26.13s.4d, and as under Treasurer of the Exchequer, £173.6s.8d.

A clerk's salary was then five pounds per annum.

To Sir Ralph Winwood, principal Secretary of State, for his fee yearly, £100.

To Sir Thomas Lake, one of the principal Secretaries, £100.

To Sir John Herbert, second secretary; £100.

To Sir Thomas Hamilton, Secretary for Scotland, £100.

The Clerks of the Council, each, £50.

To Sir George Villiers, Master of the Horse, £66. 13s. 4d.

To George Colmer, the King's coachmaster, £200.

To John Wood, and Robert, his son, for keeping and breeding of cormorants, by the year, £45. 12s. 6d.

To William Cambden (the great Camden) Clarenceux King at arms, his fee per annum, £20.

The York, Windsor, and other heralds, were each allowed £13. 6s. 8d, per annum.

Doctor de Mayerne, the King's physician, £400.

To Doctors Craig, senior and junior, Atkins and Hammond, each £100.

To Gilbert Primrose, serjeant surgeon to the King, £26. 13s. 4d.

To John Wolfgango Rumlero, apothecary to the King, his fee by the year, £40.

ARTIFICERS.

To A. Miller, and R. Arskin, the King's tailors, to each of them two shillings by the day, in all, £73.

The Prince's tailors had eighteen pence a day.

The King's furriers, two shillings; the sadlers, twelve pence; the arras makers, sixpence; the clockkeeper one shilling; the maker of blackjacks sixpence; the King's girdler sixpence per day.

Robert Barker, King's Printer, per annum, £6. 13s. 4d.

The King's bookbinders, J. and A. Bateman, per annum, £6.

KEEPERS OF THE KING'S HOUSES.

To the Lady Helen, Marchioness of Northampton, for keeping Richmond House and wardrobe, twelve pence a day; for keeping the garden and orchard, sixpence a day; and for the park, eighteen pence; in all, by the year, £54. 15s.

To William Lord Compton, keeper of Holhenby House, £26. 13s. 4d.

To the Keeper of the Robes and Jewels at Whitehall, £66. 13s. 4d by the year; for keeping the great wardrobe there, tenpence by the day;

for keeping the orchard there, sixpence by the day ; and £17. 3s by the year for charges there ; for keeping the garden, £17. 2s by the year ; for keeping the coniyard, twelvecence by the day, and £12. 13s. 8d by the year, in consideration of rents taken into the King's hands ; in all, £156. 3s. 4d.

More to him for keeping the garden at Saint James, £13. 6s. 8d, by the year ; for keeping the outlodgings at Whitehall, £4 by the year ; for keeping the conduit heads, £6. 2s. by the year ; for distilling of water, £3. 6s. 8d, by the year ; for fire, to ayre the hothouses, £2 ; for carrying hay, £2 by the year ; for mowing, making, and carriage of hay for deer in the park, £3. 6s. 8d ; for swans, and other fowl in the park, twenty shillings by the year ; for digging and setting of roses in the spring garden, £2 by the year ; £20 by the year, in recompense of certain lodgings ; for keeping of the range trees, sixpence by the day, and for keeping of the reine deer, fourpence by the day ; in all by the year, £72. 5s. 10d.

To John Trevor, for keeping Oatland's House, £27. 7s. 6d.

To Sir Marmaduke Darrel, for keeping Maison-dieu Place, at Dover, £9. 2s. 6d.

To the Lady Barwick, and John her son, for

keeping the King's House and garden at Thetford, £36. 10s. by the year.

To John Vinyard, Keeper of the King's House in the palace at Westminster, sixpence by the day, £9. 2s. 6d.

To Richard Hamerton, Keeper of the King's House at Royston, eight pence by the day, £12. 3s. 4d.

The King had also keepers at his houses at Theobalds, Richmond, Westminster, Hinchinbroke, Greenwich, Tower of London, and Windsor.

To Jasper Stallenge, for keeping the garden for the silkworms, for his fee by the year, £60. And for two attendants, £60."

The King had also keepers of his stables at Hampton Court, the Mewes, Reading, and St. Albans, to whom were paid in all by the year, £60. 10s.

To Alexander Glover, keeper of the game about Lambeth and Clapham, one shilling per day, and per annum, £1. 6s. 8d ; for his livery ; £19. 11s. 8d.

To Ralph Smith, keeper of the game about Westminster, eightpence per day, and £1. 6s. 8d per annum for his livery ; £13. 10s.

From the inferiority of the pay, it is probable that the game about Westminster was not so plentiful as in the neighbourhood of Lambeth.

Sir Patric Howme, master of the privy harriers, for his fee, £120 per annum, and for keeping one footman, four horses, and twenty couple of dogs, £100 per annum. £220.

To Robert Lord Dormer, Master Falconer to the King, his fee, £44 per month, which is per annum, £528.

The falconers had salaries of various amounts; the total expense of the falcons was £981.14s.4d per annum.

The master of the revel had per annum £10.

The master of the tent and foils, £30.

The King's jewellers, £50.

OFFICERS OF THE WORKS.

To Inigo Jones, surveyor of the works done about the King's Houses, 2s. 6d per day, £45. 12s. 6d.

The master plasterer, bricklayer, carpenter, mason, plumber, joiner, and wheelwright, had each one shilling per day.

OFFICERS OF THE ORDNANCE.

Sir Richard Morrison, Lieutenant of the Ordnance, had for his fee per annum, £66.13s.4d.

The Surveyor, Sir John Kay, £36. 10s.

The Master Gunner of England, two shillings per day.

To Charles, Earl of Nottingham, Lord Admiral of England, for his fee per annum, £133.6s.8d.”*

There is little reason for us to be surprised at the early dissatisfaction of the English, with the profusion of James the First, and his partiality to his countrymen ; for his grants to them were very considerable. Thus, in the first year of his reign, the following grants were paid out of the exchequer ; and it will be seen, from the very names, that Scotchmen had much the most considerable portion.†

| | |
|---------------------------------|------|
| To Mary Countess of Southampton | £600 |
| — The Earl of Downbarre . . . | 1266 |
| — The Viscount Haddington . . . | 900 |
| — Sir Robert Crosse . . . | 700 |
| — The Lady Arabella . . . | 666 |

* Abstract of the present state of his Majesty's Revenue, 1616. in the Plumian Library at Maldon.

† Ibid. p. 17.

| | |
|-------------------------------------|------|
| To the Earl of Marre | 500 |
| — The Earl of Murray | 2600 |
| — The Master Bevis Bullmere | 100 |
| — Sir James Lindsey | 500 |
| — David Lillingstone | 133 |
| — Sir Patrick Murray | 300 |
| — Sir George Elphingston | 500 |
| — The Earl of Lithgow | 3000 |
| — Sir Robert Melville | 500 |
| — Sir Charles Haes | 120 |
| — David Murray | 200 |
| — Lord Dingwell. . . . | 150 |
| — Sir Roger Aslon | 2000 |
| — Alison Hay | 200 |

These were all the grants for the year. In the following years I find several curious entries among the grants.

| | |
|--|-------|
| To Adam Newton, Prince Henry's tutor . . | 3,000 |
| — the Duke of Holst, the Queen's brother . . | 4,000 |
| — the French Ambassador, | 500 |
| — George Zadwasky, sent with horses out of Poland | 100 |
| — the merchants of the Levant seas, for a present to be given by them to the Grand Signior, for establishing capi- tulations of intercourse | 5,322 |

| | |
|--|--------|
| To the poor watermen of London, for their relief in the great frost | 200 |
| — Sir Oliver Cromwell, for relinquishing of his grant of £200 by the year, out of his Majesty's lands, given to him of free gift | 6,000 |
| — the King of Denmark's servants, for bringing of deer, in reward. | 100 |
| — Claud Rolfe, for bringing of hawkes. | 20 |
| — Sir Robert Carre, late Earl of Somerset, | 500 |
| ————— for his interest in the manor of Sherborne, lately given to him. (This was forfeited by Sir Walter Raleigh.) | 20,000 |
| — Lady Raleighe, for composition for Sherborne | 8,000 |
| — Peter de Moulins, Doctor of Divinity lately come out of France, | 300 |
| — Christian Steward, the dwarf, | 20 |
| — the late Earl of Somerset, to pay his debts | 5,083 |
| — the Lady Walsingham | 1,000 |

On the institution of the order of baronets, each knight paid, according to the same paper, one thousand fourscore and fifteen pounds. Among these I find the names of

| | |
|-------------------------|--------------------|
| Sir Nicholas Bacon, | of Suffolk. |
| Sir John Shelley, | „ Sussex. |
| Sir Francis Barrington, | „ Essex. |
| Sir William Wentworth, | „ Yorkshire. |
| Sir Henry Hobart, | „ Norfolk. |
| Sir Robert Cotton, | „ Huntingdonshire. |
| Sir Richard Worsley, | „ Hampshire. |
| Sir Phillip Woodhouse, | „ Norfolk. |
| Sir Thomas Mildmay, | „ Essex. |
| Sir Harbottle Grimston, | „ Essex. |

There were about ninety made in all ; and “ the money raised by creating knights baronets, —towards the defraying the charge of the army in Ireland, besides some few since, £98,550.”

It is very evident that the fearless honesty of Coke, very early after the accession of James the First, annoyed and displeased the King. The same openness, and other sterling qualities, which had elevated him in the reign of Elizabeth, no longer sustained him at court in that of her successor. Elizabeth regarded his learning, his talents, and his probity ; she did not think it requisite for her lawyers to be courtiers also ; she therefore promoted Coke, when even Bacon, and other great lawyers, were his competitors. James preferred the courtier, and the high

prerogative lawyer. He continued, it is true, Coke as Attorney-general, and even promoted him to the Bench ; but it seems to have been done with reluctance. At one time he was dissatisfied with his inquisitive legal investigation of the Overbury murderers ; at another,—with the freedom of discussion allowed in his court ; at another—with his conduct to the regal favourites.

The smiles of the court attended Bacon ; its frowns were reserved for Coke. Even his promotion to the chief justiceship of the King's Bench, seemed to be an experiment of the King, to see if the elevation would render him more a court lawyer ; but it was decidedly a failure.

The court, when they displaced him, evidently calculated upon humbling him : they concluded he would submit, and be more tractable in future. This error was the error of ignorance. They evidently could not understand the character of Sir Edward Coke. They thought he was merely striving to attain a vain popularity, at the expense of the King's prerogatives ; and, in consequence, the deadliest hatred attended him. The great Chancellor Egerton alluded to this, as the burthen of his charge, when he addressed Montague, Coke's successor in the King's Bench,

warning him "to take heed of being ambitiously popular."* And in a letter of the Chancellor's to Lord Salisbury, after lamenting to Cecil the trouble which Coke was giving him, he proceeds to call him, "a turbulent and idle broken-brayned fellow."†

The conduct of Egerton, in this affair, was foolish and unjust. Coke was infinitely his superior in intellect and in learning; and he knew full well that the man he thus characterized had been most unjustly deprived of his office, for his honesty, and courageous defence of justice. Egerton, also knew that, with all the industry of his enemies, no charge could be raised against Coke, which would enable them to bring him to trial; for, spite of repeated seizures and examinations of his papers, committals to prison, threats, and annoyances, still not a single charge could be established against the object of their hatred.

The court would have rejoiced at being able to do so. It was a reign of charges, trials, and impeachments, carried on without the smallest regret, and generally with success; and that the King was annoyed by the uniform safety of Coke,

* More's Reports, 826.

† Lansdowne MS. 91, 41.

is apparent from his half angry exclamation, that he ever seemed to fall upon his legs ; in all his disgraces, however his enemies endeavoured to entangle him.

Coke's endeavours to obtain popularity were certainly confined, as a judge, to the court of King's Bench. While he held the office of a judge, he made no attempts at public meetings ; and when on being displaced from his office, the electors of Norfolk again returned him to the House of Commons, his popular speeches were not heard beyond the walls of parliament. We have no tradition that he harangued in other places ; and his speeches even there could not have been known to many of his countrymen ; for newspapers did not then exist ; an occasional six-penny pamphlet ill supplied their absence, and in these the speeches were miserably reported.

Coke stood in the way of Buckingham, and the King was angry ; he, therefore, unjustly degraded his judge. The person who injures another rarely forgives his victim. King James was not an exception to the general rule.

During this period, there is too much reason to apprehend that Coke and Lady Hatton lived on very ill terms ; most probably in separate houses—the one at Stoke, in Buckinghamshire, and the other, at Hatton House in Holborn—

a mansion which had been left her by her first husband, Sir Christopher Hatton, Queen Elizabeth's Chancellor. It was built on the garden and orchard ground,—formerly belonging to Ely House, a palace of the see of London, which was unwillingly extorted from Bishop Cox, for this purpose,—by Queen Elizabeth,—whose letter, beginning “Proud Prelate,” and threatening to “unfrock” him, if he remained obstinate in his refusal to alienate the land, is well known. This house stood on the site of the modern Hatton Street or Garden ; and, for a considerable period, Lady Hatton had for her next door neighbour in Holborn, Gondomar, the Spanish ambassador, who appeared to be rather annoyed, upon one or two occasions, at the independent manner she adopted towards him. Howell mentions one of these squabbles in a letter to Sir James Crofts, March 24, 1622.

“Gondomar has ingratiated himself with divers persons of quality, ladies especially ; yet he could do no good upon the Lady Hatton, whom he desired lately, that in regard he was her next neighbour, (at Ely House) he might have the benefit of her back gate, to go abroad into the fields ; but she put him off with a compliment ; whereupon, in a private audience lately

with the King, among other passages of merriment, he told him that my Lady Hatton was a strange lady ; for she would not suffer her husband, Sir Edward Coke, to come in at her fore doors ; nor him to go out at her back door, and so related the whole business.”

CHAPTER IV.

1625—1627.

The first Parliament of Charles I—Coke a member—The Parliament adjourned to Oxford—The meeting in St. Mary's Hall—Coke's speech on the question of granting the King a supply—The King's message to the House, noticing an unguarded speech of one of Coke's sons—Coke's speech on the debate on the King's message—Moves for a Committee in the case of Fleming—The King dissolves the Parliament—Coke made Sheriff of Buckinghamshire—Returned for Norfolk—The King sends a message noticing the circumstance, and claiming that he should not be allowed to sit—Coke's objections to take the oath required of Sheriffs—The House appoints a committee to investigate the case—Coke prevented sitting—The Parliament again dissolved—After two years the Parliament again assembled—Coke speaks on the question of grievances—And on the court sending obnoxious members abroad—Coke himself once commissioned for Ireland—His speech on the committal to the Tower of some of the members of Parliament—Memoir of Selden—Noy—Prynne—Dudley Digge—Edward Littleton—Sir John Banks—Sir Robert Heath.

THE first Parliament of Charles I assembled

M 2

on the eighteenth of June, 1625, amid the universal gloom inspired by the ravages of the plague.

As soon as the House of Commons proceeded to business, Sir Edward Coke, who in this Parliament again represented his native county,* moved that there might be no committee of grievances, or courts of justice; since there could be no grievances as yet to redress, it being the first year of the King's reign, and also because the plague was in London.†

On the fourth of July, he reported the King's answer to the address of the Commons, with regard to a recess in Parliament at that sickly season.

A few days afterwards, in consequence of the plague still raging, the King adjourned the Parliament to Oxford.

On the first of August the Parliament met in that city, and three days afterwards the King addressed both Houses from his throne, in the hall of Christchurch.

On the fifth of August, the Commons being engaged in debating the question of a supply

* Willis Not. Parl. vol. 2, 202.

† Parl. Hist. vol. 6, p. 351.

to his Majesty, Coke addressed the House with some energy ; but, like most of his speeches, we have only an outline of its contents, which is given on the authority of an old manuscript.*

“ No King,” he remarked, “ can subsist, in an honourable estate, without three abilities ; first, to be able to maintain himself against sudden invasions ; secondly, to aid his allies and confederates ; and thirdly, to reward his well deserving servants.

But he urged that “ there was a leak in the government, of which leak, such as these were the causes ;—frauds in the customs ; treating about the Spanish match ; new invented offices with large fees ; old unprofitable offices, which the King might justly take away with law, love of his people, and his own honour.

“ There were the presidentships of York, and Wales ; a multiplicity of offices in one man. Every man ought to live on his own office.

“ Again, the King’s household is out of order. New tables kept there,—might make the leakage the greater, and many voluntary annuities or pensions, which ought to be stopped till the King is out of debt.

* Parl. Hist. vol. 6, p. 563.

“ Lastly, all unnecessary charges, costly diet, apparel, buildings, &c., increase the leakage.

“ To apply some means for a remedy, the multiplicity of forests and parks, now a great charge to the King, might be drawn into a great benefit to him.

“ That experienced officers should be employed in the King’s household, to reduce it to its ancient form, and not like Sir Lionel Cranfield, to divide a goose, and that his shop boys be not taken from his shops and placed in the greencloth. That the great offices for the defence of the kingdom be put in the hands of able men, that have experience ; such as the places at the Admiralty, &c.

“ The King’s ordinary expenses, in Edward III’s time, were borne by the King’s ordinary revenue. Ireland at that time was also thirty thousand pounds a year benefit to the King, but now it is a great charge to him.

“ Let us petition the King rather for a logical than a rhetorical hand, and let us have a committee to put down these, and such other heads as shall be offered.”

It was during this session, that Clement Coke, —youngest son of Sir Edward Coke, having made use of some unguarded expressions, the King

sent a message to the House, noticing the liberty, —in which he observed,

“ That his Majesty hath taken notice of a seditious speech uttered in the House by Mr. Clement Coke ; the words are said to be to this effect, ‘ that it was better to die by an enemy than to suffer at home.’ Yet his Majesty, in his wisdom, hath foreborne to take any course therein, or to send to the House about it, not doubting but the House would in due time correct such insolence.”*

Much debate ensued, but nothing was done in the way of correcting the offender. This Clement Coke seems to have been a person of more rashness than wisdom,—for he had, according to Camden, about two years previously, —paid a visit to the Tower, for some violent expression of his indignation.†

On the 10th of August in the same session, upon the debate on the King’s Message to hasten the grant of a supply, the speech of Sir Edward Coke against granting one without a redress of grievances, was by far the most energetic and bold of any pronounced by the thirty

* Parl. Hist. vol. 6, p. 432.

† Annal of James, p. 71.

members who spoke on that day. His observations were fearlessly directed against the prime minister.

“ For leaks,” said Coke, in his usual terse way, “ will drown any ship. An evil King, and a bad council, are indeed bottomless pits. A public officer, ought not to be greedy of wealth, but frugal of what is committed to his care; a miser for the republic, and above all things, of good experience.

“ In the eleventh year of the reign of Henry III, Hubert de Burgh, chief justice, having advised the King that Magna Charta was not to hold good, because the King was under age, when that act was made, was soon after, though Earl of Kent, publicly degraded. And in the sixteenth year of Henry III, Segrave, chief justice, was sentenced, for giving counsel to the King against the Commonwealth. It was *malum consilium* to press more subsidies, when they had given two, to bring them hither only for forty thousand pounds.” And lastly, Coke offered to give one thousand pounds out of his own estate, rather than grant any subsidy now.

On the following day, August 11th, Coke moved for a committee to examine the charges made against Admiral Fleming, who was accused

of suffering a pirate to capture an English trading vessel before his face, without attempting a rescue.

In this debate, Sir Francis Seymour, wished to direct all the displeasure of the House against the Duke of Buckingham, as the cause of even Admiral Fleming's inactivity.

From these, and other proceedings of the Commons, the King clearly perceived that, without a redress of grievances, the Commons were determined not to grant a supply; and as that was the chief object for which they had been summoned, he resolved to put an end to the session; and on the twelfth of August, therefore, he directed a commission to several Lords to dissolve the Parliament.

Having thus, by his open, decided opposition to the measures of the court, rendered himself very obnoxious to the King's government, Coke was now pricked by the King, as the Sheriff for the county of Buckingham, in order to render him ineligible to be elected as a member of the ensuing Parliament.

To such despicable tricks, to such paltry manœuvres, did the government of Charles I descend, in order to disarm a single opponent.

Coke, however, was returned for his native

county of Norfolk, in the second Parliament of Charles I, which met on the sixth of February 1625.*

This did not escape the vigilance of the ill-advised Charles ; for, on the tenth of February following, a message from the King was delivered to the House by the Chancellor of the Exchequer, to the effect,

“ That his Majesty, taking notice of an order they had made to send out new writs upon double returns, desires to acquaint them also, that Sir Edward Coke being Sheriff of Buckinghamshire, was returned one of the knights of the shire, for the county of Norfolk, contrary to the tenor of the writ ; wherefore he hoped the House would do him that right, as to send out a new writ for that county.”†

Coke had struggled hard against the acceptance of the office. He objected to the oath, hitherto taken by all Sheriffs in ignorance of its import ; he contended that there were sundry additions made to it, not authorized by the statute of the eighteenth of Edward III. These additions were, that he should seek to suppress all errors and heresies commonly called Lollories,

* Willis, vol. 2, p. 212.

† Parl. Hist. vol. 6, p. 421.

and should be assistant to the commissioners, and ordinary, in church matters.

This, he objected, would compel him to suppress the established religion ; since Lollard was but another name for Protestant, and that, in fact, the act was virtually abrogated by the first of Edward, and the first of Elizabeth.

This was the chief objection : the other three related to the return of reasonable issues ; the return of juries of the nearest and most sufficient persons ; and lastly, the execution of the statute of Winton, and that against rogues and vagabonds.

Upon these exceptions being made, the Lord Keeper, Coventry, assembled all the judges together, and submitted to them the case.*

“ Touching the first point, the judges unanimously resolved, ‘ that it was fit to be omitted out of the oath, because it is appointed by statutes which are repealed, and were intended against the religion now professed, and established, which before was condemned for heresie, and is now held for the true religion.’ ”

The other objections of Coke, the judges did not deem conclusive, they resolving generally, that this oath being appointed, and continued

* Croke Car. 26.

divers years, by the direction of the State, although without the express authority of any statute law, yet may be well continued for the public benefit.”

This opinion the judges delivered to the Lord Keeper, at his house at Reading ; the term being adjourned to that town from London, on account of the sweating sickness.

Upon this report, the privy council ordered the oath so far to be altered, according to the first objection of Sir Edward Coke ; which being done, he probably submitted to take it.*

That he did so with reluctance is very evident. He saw the motive which prompted his appointment, and the electors of Norfolk had probably already intimated to him their intention of electing him as their representative. His election was certainly pretty secure ; for otherwise the court would not have taken the pains to render him ineligible ; nor would he so readily have taken exceptions to an oath which he had often himself administered to other Sheriffs.

Upon the receipt of the King’s message, the House referred it to the committee of elections and privileges.

On the 27th of February,—the committee re-

* Parl. Hist. vol. 6, p. 422.

ported, that they had, after diligent search, found many cases, *pro et contra*, as to a High Sheriff for one county being elected to represent another in Parliament ; but they offered to the House no opinion on the case.

The House ordered them to search, adjourning the debate upon it, until the third of March ; but the question was not again mooted. The Commons were evidently puzzled with the case, and reluctant to decide against their distinguished member. Coke, however, was prevented, by the objection, from taking his seat ; his voice was not heard during the session ; and yet on the ninth of June, the day before the dissolution of the Parliament, it was decided by the House “ that Sir Edward Coke standing, *de facto*, returned a member of that House, should have privilege against a suit in Chancery, commenced against him by the Lady Clare.”*

There is no doubt that, in those days, a Sheriff, if elected, could not sit in Parliament ; his oath obliging him to reside within his bailiwick ; an obligation which of necessity disabled him from performing his parliamentary duties. Coke, it is said,—made a point of sleeping every night, while Sheriff,—at his own house in Buckingham-

* Parl. Hist. vol. 6, p. 425.

shire, and the seven other members, who were at the same time made Sheriffs, did not attempt to come into Parliament.*

The act, however, of the third of George I† has substituted a new oath for that formerly taken by Sheriffs, by which residence is no longer enjoined; and a Sheriff may now sit even for his own county, provided he was elected before he was made Sheriff,—for he cannot return himself. And he can even be elected for a borough in his own bailiwick, provided it be a town and county within itself; as for instance the town, and the county of the town, of Southampton.‡

The Parliament and the King continued, during this session, on very ill terms with each other. Impeachment seemed to follow impeachment; the Duke of Buckingham one day, the Earl of Bristol the next. Charles became exasperated and tried unsuccessfully all kinds of plans to intimidate the leading members of the House of Commons. Threats, exclusions, appointments, to disagreeable offices were all ineffectually employed; and finally, on the fifteenth of June,

* *Stafford's Letters*, vol. 2, p. 29.

† Cap. 15, 1, 18.

‡ *Douglas's Election Reports*, vol. 4, p. 87.

1625, he, by commissioners, dissolved the Parliament.

Two years elapsed before it again met ; and in this long interval the King had to procure money by all sorts of expedients, and with varying success ; forced loans, benevolences, and other illegal means, being once more ineffectually tried to raise a sufficient supply. A grand council was therefore held at Whitehall, to consider of the national difficulties, and of the best means of extricating the government from their embarrassments.

At this meeting Sir Robert Cotton, the founder of the Cottonian library, now in the British Museum, ably and eloquently urged the re-assembling of a Parliament, and principally from his recommendation writs were issued, by which it again assembled on the seventeenth of March, 1627.* To this Parliament, Coke was returned by both the counties of Suffolk, and Buckingham : he made his election for Bucks, and had for his coadjutor, Sergeant Fleetwood.†

* In the interval, between these Parliaments viz. in 1626, according to Roger Coke, (Elements of Power and Subjection p. 266,) Sir Edward Coke was much troubled with the gout.

† Willis, vol. 2. p. 218, 224.

Only five days elapsed after the meeting of this Parliament, before the Commons again resumed their old question of grievances. Sir Francis Seymour opened the debate. He was for the appointment of a committee, who should investigate all the illegal proceedings since the last meeting of Parliament. Sir John Elliott, Sir Thomas Wentworth, Rudyard and others ably supported him ; Coke spoke energetically in favour of the motion. In this speech his ardent love of his country is as apparent as ever ; in the seventy-sixth year of his age, the fire of youth seemed not yet abated.

“ *Dum tempus habemus bonum operemur*, he exclaimed. I am for giving a supply to his Majesty, yet with some caution. I will not tell you of foreign dangers and inbred evils. The state is inclining to a consumption, yet not incurable. I fear not foreign enemies, if God sends us peace at home : for this I will propound remedies. Who will give subsidies, if the King may impose what he will ? and if, after Parliament, — the King may impose what he pleaseth, I know the King will not do it. I know he is a religious King, free from personal vices ; but he deals with other men’s hands, and sees with other men’s eyes. The King cannot lawfully tax any

one by way of loans. I will begin with a noble record; it cheers me to think of it: 26 Edward III. It is worthy to be written in letters of gold. "Loans, against the will of the subject, are against reason, and the franchise of the land, and they desire restitution. What a word is that franchise? The lord may tax his villain high or low; but it is against the franchises of the land, for freemen to be taxed but by their consent in Parliament."*

Four days after this, the fourteen propositions from King Charles to the Parliament were delivered to the House, by Mr. Secretary Cook, relating to a supply to his Majesty, then at war with France; and when, on the second of April, these were taken into consideration by the House, Coke thus nobly and eloquently expressed himself. "When poor England stood alone, and had not the access of another kingdom, and yet had more, and as potent enemies as it now hath, yet the King of England prevailed.

"In the Parliament roll of the forty-second year of Edward III, the King and the Parliament gave God thanks for his victory against the

* Rushworth vol. 1. 502. MS. in the Harleian Library. Parl. Hist. vol. 7, p. 371.

Kings of Scotland and France, he had them both in Windsor Castle as prisoners.

“ What was the reason of those conquests ? Four reasons :—first, the King was assisted by good council ; secondly, there were valiant soldiers ; thirdly, they were timely supplied ; fourthly, good employment.

“ In the third year of the reign of Richard III, the King was environed with Flemings, Scotch, and French, and yet the King of England prevailed.

“ In the thirteenth year of the same monarch, the King was environed with Spaniards, Scotch, and French, and the King of England still prevailed. And in the seventeenth year of his reign were wars in Ireland and Scotland ; and yet the King of England prevailed, and thanks were given to God here ; and I hope I shall live to give God thanks for our King’s victories.

“ In the seventh year of Henry IV’s reign, one or two great men, about the King, so *mewed* him up, that he took no other advice, but from them ; whereupon the Chancellor took this text and theme in this speech : at the Parliament ‘ the advice of many is required in great affairs in war ; the most fearful are in the greatest danger.’

“ Let us give, and not be afraid of our enemies; let us supply bountifully, cheerfully and speedily, —entering not into particulars. Solomon’s rule is, ‘ he who retreats separates from his allies.’

“ We are united in duty to the King. The King hath forescore thousand pounds a year for the navy, and to scour the narrow seas. It hath been taken, and we are now to give it; and shall we now give more to guard the seas? Besides, when that is taken of our gift, it may be directed another way.

“ It shall never be said, we deny all supply. I think myself bound,—where there is common danger,—that there must be common assistance.”*

There is no speech of Coke’s so well known, and so often quoted, as this. Time had not blighted his faculties; intense study had not cooled the energies of this great lawyer, when he delivered this celebrated speech, which many a politician has quoted, and will yet quote in cases of England’s difficulties. Cowper seems to have had it in remembrance, when he was addressing his country :

“ Poor England ! thou art a devoted deer,
Beset with every ill but that of fear.”

* Rushworth, vol. 1, p. 520.

On the same day, on the question regarding the expedient found out by the court, to rid themselves of certain obnoxious members, by sending them abroad on various employments, Coke again addressed the House.

“ No restraint,” he observed, “ be it ever so little, but is imprisonment ; and foreign employment is a kind of honourable banishment. I myself was designed to go to Ireland. I was willing to go, and hoped, if I had gone, to have found some *mompessons* there.* There is a great difference when the party is the King’s servant and when not.

“ In the 46th of Edward III, was the time when the law was at its height. Sir Richard Penebridge was a Baron and the King’s servant, the warden of the Cinque Ports. He was commanded to go to Ireland, and to serve as deputy there, which he refused.

“ He was not committed, but the King was highly offended, and having offices, fees, and lands, *pro servitii sui impenso*, the King seized his lands and offices.”

The Irish Commission alluded to by Sir Edward Coke in his speech, was certainly issued, but

* Meaning great extortions from Sir Giles Mompesson a great monopolist of that day.

never acted upon. It was communicated to him by the King on the 29th of December, 1623, in a letter to the effect, "that he now commissions Henry Viscount Falkland, Deputy of Ireland, Sir Edward Coke, Sir William Jones, Sir Edwin Sandys, John Lloyd, and Francis Philips, to inquire what and how many churches be in Ireland; also how many presentations, and which are appropriate; and how those churches are served, &c. &c., and generally to inquire into all matters tending to the decay of religion in that kingdom; as also into the trade and commerce of that nation, &c. &c.*"

This commission was certainly intended to have been carried into effect. It most probably originated in an honest intention to improve the religious condition of the people of Ireland. The placing the names of Coke, and others on the commission, was probably an after thought,—as a means of getting rid for a season of some of the court annoyances.

The commission betrays that, even in those days, the ministry were anxious to do everything in their power to promote the interest of Ireland, and that that disquieted island was then, what she is now, poor and disturbed, full

* Rymcr's Fædera, Tom. 17, p. 531.

of religious tumults and infractions of the public peace.

The great Earl of Tyrone was then, or had hardly ceased to be, the agitating chieftain of the land, with all the talents and zeal of more modern Irish patriots, but with far less discretion ; for when he had provoked the fancied enemies of his country to the field, by hurling upon them his eloquent defiance, he took refuge from the effects of his audacity, not behind some specially drawn plea, but behind his own buckler, in the open fields and fortresses of Ulster.

Even in those days, this beautiful island was evidently what she is now,—wretched, even in her beauty ; poor,—in the midst of all her natural profusion.

The next speech in parliament, which I can find of Sir Edward Coke, was delivered as one of the committee of four, appointed by the commons to confer with the lords on the question of the liberty of the subject, which originated in the illegal commitment, by the Privy Council, of some members of the lower house, without stating their offence. These were Sir John Darnel, Sir John Heveningham, Sir Walter Earl, Sir Edward Hampden, and Sir John Corbet.

In this memorable conference, Coke had for his associates, Selden, Digges, and Littleton ;

names which too often occur in the course of this work to be passed over without some notice. I will add also some remarks as to Noy, who was acting with the same party at this period, and who left them, about the same time, with Sir Dudley Digges and Littleton.

The life of the great Selden, the most learned of Sir Edward Coke's cotemporaries, has been ably written by a near relative, and to his work I most earnestly refer my readers.* Coke was thirty-four years of age when, in 1584, Selden was born. His character was decidedly different, in many respects, from that of Coke, however similar to it in others. Like Coke, he was profoundly learned; he never dwelt upon any subject, but he exhausted all learning that could be brought to bear upon the question; had the same enthusiastic love of liberty and even-handed justice, the same hatred of tyranny which distinguished his illustrious friend. So far these two great men resembled each other. But in other great and important features they differed very widely. Coke loved decision of character, and early action after such decision; —Selden examined carefully, and acted slowly.

* Memoirs of John Selden, by G. W. Johnson. Esq.

Coke never hesitated to avow his opinions, or to oppose the will of the King with the same energy as he disputed the wild unjust proceedings of the more violent portion of the commons. Moreover both were mentally and personally industrious. Selden, on the contrary, had a great love of ease, and sometimes indulged his idleness and timidity, at the expense of his character as a patriot.

For instance, when the popular party had acquired strength, and were rushing on with fearful rapidity, destroying the most valuable portions of the constitution of England, Selden, with many other eloquent patriots, sat quiet spectators of the outrage; the very men who were formerly so loud in their denunciations of the unjust proceedings of Charles the First—so pathetic, and so courageously eloquent, in describing the violated right of the commons of England—now witnessed in silence the destruction of the two other branches of the legislature. Even the abolition of the house of lords, and the murder of their King, did not arouse them from their lethargy; they made no attempt to save him, and Selden was as disgracefully silent as the rest.

Coke and Selden were for a long period members of the same party, sat in the same parliament,

acted with similar views ; but Selden long survived his great friend, and witnessed more stirring political scenes—the abolition of royalty, the establishment of a republican tyranny ; and he lived nearly to the restoration—not dying until 1654.

Of Selden's profound learning there can be but one opinion. He is known to the general reader by his History of Tythes for which he was unjustly prosecuted by the court ; and he is still more popular for his Table Talk, a work published after his death, by his secretary Milward. Of this excellent book some have doubted the authenticity.

Selden's works, edited by Bishop Wilkins, in six folio volumes, bear ample testimony to his industry and profound knowledge.

Of William Noy, one of the most learned of Coke's cotemporaries, history does not report in very favourable terms ; for Noy openly deserted his party, and was bought by the smiles of royalty. He was not an exception to the general rule, that no one changes his party, or deserts his friends, without having some cause for repentance. He was born in Cornwall in 1577, and by intense study at Oxford, and afterwards in Lincoln's Inn, became profoundly learned in the common law. In the parliaments of 1620 and 1623, Noy sat

for the borough of Helstone, and for St. Ives in that which met in February 1625.

In his representative character he sided with the patriots of the day,—energetically opposing the undue exercise of the King's prerogative, and voting with Coke, Elliot, and the others, who were then making so able a stand against the King, for the privileges of parliament.

In 1631, however, he accepted the place of Attorney General from Charles the First, and, henceforward, laboured in his service with a zeal which never relaxed. He became speedily very unpopular, and was supposed to have been the great author of ship-money, and of several other obnoxious attempts to raise money without the sanction of parliament.

His exertions, in studying and speaking, wore him out. He sought refuge at Tunbridge Wells, but died, soon after his arrival there, in August 1634. Coke survived him about a month.

His friend Bishop Laud, who was a martyr to the same principles which Noy, in his latter days, advocated, when he heard of his death, made this remark in his diary: "I have lost a dear friend in him, and the church the greatest she had of his condition, since she needed any such."

He left an extraordinary will ; for, after bequeating to his son Humphrey a hundred marks a year out of his lands at Peyder in Cornwall, he says of the remainder, " I leave it to my son Edward Noy, whom I make my executor, to be consumed and scattered about."

The sensation caused by his death betrayed the importance of his character. The King and clergy lamented his loss ; the players and the innkeepers rejoiced, for Noy was the friend of neither.

Wood describes him as a solid rational man ; and though no great orator, yet a profound lawyer.*

Noy lived in days of anarchy, feverish national anxieties, and star chamber severities ; and, in consequence, his official duties obliged him to appear in several prosecutions, in which the court and the crown were alike disgraced. In none did he appear in more lamentable colours, than in the case of the libeller, William Prynne; perhaps the most voluminous writer that this country has ever produced. His collected works in the library at Lincoln's Inn, of which society he was a member, in forty huge folios, demonstrate his intense enthusiasm and his unwearied industry. It is in fact recorded

* *Athenæ*, vol. i, p. 595.

of Prynne, that he rarely let even his meals interfere with his writings, but that he every now and then in the course of the day eat a roll of bread without losing the time in a regular dinner. It has been calculated, by one of his biographers, that he wrote a sheet a day, from his manhood to his death.

Prynne was eminently impartial in his scurrilities ; for he libelled in succession the King, the parliament, Oliver Cromwell, Charles the Second, and *his* parliament ; by all of whom he was severely punished and imprisoned.

It was found impossible, however, to silence him ; for he wrote away, in prison, as happily as if he had been in his chamber in Lincoln's Inn. It was in vain they removed him to the most distant castles ; to Dunster, Carnarvon, Pendennis, the Isle of Guernsey ;—his works still came forth, dated from those places, in inexhaustible profusion. He seemed to know something of everything ;—divinity, church, government, politics, natural history, poetry, topography, popery, Quakers, Jews, Coke's Institutes, parliamentary history, chronology, English history, the Tower records, and about two hundred other different heavily treated works, the very catalogue of which fills eleven folio columns.*

* Wood's *Athenæ*, vol. i, 439.

It was Noy who first elevated Prynne into public notice, by an ill-judged star chamber prosecution. Prynne, who was then a zealous puritan, had published a heavy work, upon the immorality of stage players; a work remarkable for its coarseness, vulgarity and length,—for it was a huge volume of more than one thousand pages. This was thought to reflect indirectly upon the Queen, Henrietta Maria, who not only attended plays, but often performed in the court masques.

This ponderous tome was highly applauded by his friends. A modern Attorney General, so far from regarding it with anger, would have deemed it quite a sufficient punishment to Prynne's party for them to be obliged to read it; but 'Archbishop Laud, and the then Attorney General, thought differently.

Prynne was only thirty-three years of age, when, in 1633, he was tried by the star chamber, on (among other things) the following ridiculous indictment, preferred by Noy :

“ Yet Mr. Prynne, in his book, hath railed not only against stage plays, comedies, dancings,—and all other exercises of the people, and against all such as behold them, but farther and particular, against hunting, public festivals, Christmas keeping, bonfires, and May-poles—nay,

against the dressing up of a house with green ivy ! ”*

Noy enlarged upon this at great length, but with little eloquence. His case was deplorably weak ; yet Prynne, although well defended by his counsel, was speedily found guilty. The indignation of his judges, in passing sentence, was truly absurd. The Chancellor of the Exchequer, Lord Cottington, thought “ it was the mercy of the King that Mr. Prynne is not destroyed. Have we not,” he sagely asked, “ seen men lately condemned to be hanged, drawn and quartered, for far less matters ?”

Chief Justice Richardson, however, knew that this was not the legal punishment for a libeller of stage players. Although not less indignant than the Chancellor of the Exchequer, he had more judicial moderation. He read to the court a specimen of what he called the “ huge mishapen monster :” it was Prynne’s wise animadversions upon dancing. “ It is the devil’s profession, and he that entereth into a dance, entereth into a devilish profession, and so many paces in a dance so many paces to hell. The woman that singeth in a dance is the prioress of the devil, and those that answer are clerks, and the beholders are the

* State Trials, vol. 1, p. 396.

parishioners.” Need we wonder that such a “damned offence” made the old Lord Chief Justice exclaim, “it maketh my heart swell, and the blood in my veins to boil.”

And yet, such was the cold blooded cowardice of those times, that Prynne was for this offence expelled his inn of court, and his university; had both his ears cut off; was sentenced to pay a fine of five thousand pounds; and to suffer perpetual imprisonment!

By such a scandalous and brutal sentence, Prynne was of course elevated into importance; he was now deemed a patriot and a martyr; was ever afterward a thorn in the side of the rulers of England. He became successively an independent, a republican, then a royalist under the second Charles, and again an opponent of the King—who at last found out the true way of silencing such a restless scribbler: he was appointed keeper of the Tower Records, with a handsome salary; was brought on his knees to the bar of the House of Commons, of which he was a member, and then enlarged, on his promise of good behaviour in future—a promise which he rigidly fulfilled.

His works, which are little known, and very rarely read, bear some of the most extraordinary titles; thus we have:—“God no Imposter.” “*Histrion Matrix.*” “Looking-glass for all lordly

Prelates." " A Quench Coal." " Pleasant Purge for a Roman Catholic." " A Gag for long-haired Rattle Heads." " Quakers, the Spawn of Romish Frogs, Jesuits, and Franciscan Fryers," &c.

Prynne died in 1669, and has been the theme of many a poet. Butler has immortalized him, as being one of those who, being inspired by ale, of which he was a great drinker, would scribble in spite of " nature and their stars."

Noy had not the mortification, after he became a royalist, of again sitting in the House of Commons with his old friends, and of meeting, in hostile argument, with Coke, Selden, Elliott, and others of that party, with whom he had once so zealously sided. And it was well perhaps for him he did not ; for they constituted a body, with whom the dry learning of Noy would have had but little chance. He must have stood nearly alone ; for, of the old members, there was only Secretary Cook remaining among the King's old friends, and Sir Dudley Digges and Mr. Littleton among the deserters from the parliamentarian side, who came over with Noy, by whom he could have been supported.

It was here that Charles committed his great error : when he brought over his political opponents, he acquired them on too small a scale, and enticed over powerless detachments, from the

liberal side, when he should have employed and trusted the whole body ;—for such a ministry having the popular opinion with them, could have done justice, with equal facility, to the prerogative of the King, and to the true liberties of the subject. Wentworth, Noy, Digges, and Littleton, would cheerfully have done the same things ; but their power was not commensurate with their good intentions. They soon felt their political weakness, and they in consequence speedily sank into mere tools of the King ; and instead of being able to adopt measures worthy of a great and free nation, they were compelled to assist in all sorts of petty and inadequate schemes, which so far from answering the proposed end, merely exposed the government to ridicule, and excited the generally successful resistance of their opponents.

Noy was the author of several law books, of which his reports are the best known amongst lawyers. But it is probable that these were never prepared by him for the press ; and, consequently, they are not of much authority in the courts.

A copy of the original edition, which the talented Hargreave had in his possession, contained the following manuscript note, which is worthy of notice, as showing the spirit of the age in which Noy died :—

“ A simple collection of scraps of cases, made by Sergeant Size, from Noy’s loose papers, and imposed upon the world for the reports of that vile prerogative fellow Noy.”*

Such was the spirit of the age ! An opponent was sure of being regarded as a rascal; and later and more enlightened times have too often fallen into the same great mistake, of substituting nicknames for proofs, and abusive epithets for the arguments of common sense.

About the same period that Noy was made Attorney-General, Sir Dudley Digges was appointed Master of the Rolls, and Mr. Littleton became Solicitor-General.

DUDLEY DIGGES.

Sir Dudley Digges was born at Burham, in Kent, in 1583, and had for his tutor at Oxford in 1595, the celebrated Abbot, afterwards Archbishop of Canterbury. To a speech of the latter he, in 1628, at a conference between the two Houses, ably replied. “Both their speeches,” says the author of the *Biographia Brittanica*, “were animated by a spirit of moderation and candour.”

* Hargreave’s *Coke on Littleton*, 54, A.

Digges was a patriot, but a friend of moderate measures. He was during all his parliamentary career, thoroughly independent, and acted throughout a long and distinguished life, as if he never forgot that he was a member of the House of Commons, representing his great and honourable native county of Kent.

He sometimes supported the King, but more often sided with the independent party; and in consequence, on several occasions, he exposed himself to the vengeance of the court. He was sent into Ireland with Sir Thomas Crew and others, on a frivolous commission, which was intended only as a means of ridding the ministry of several obnoxious ill-tempered spirits;* and he was, on account of his zeal in leading the impeachment of the Duke of Buckingham, committed to the Tower in 1616, along with Sir John Elliot, who had zealously and ably supported his friend, in the attack on the royal favourite. The Commons, however, resenting this encroachment upon their liberties, the two friends were speedily released.

Digges was evidently a man of an admirable disposition; for, even by this unjust imprisonment, his feelings towards the King were not so exas-

* Rushworth, vol. 1, p. 55.

perated, but that he could support, in the next Parliament of 1628, a grant of the subsidies which Secretary Cooke proposed should be granted to the King. A few days afterwards, however, he spoke long and ably in support of the liberty of every freeman, in the conference between the Lords and Commons, held on the 14th of April. His speech is entered at length in the journals of the House of Lords, in the report of the conference made by the Lord President, and three other Lords, and which report thus commenced :

“ The conference which was lately had with the lower House, was about the liberty of the subject, and to set this forth they employed four speakers.

The first was Sir Dudley Digges, a man of volubility and elegance of speech : his part was but the introduction.

The second was Mr. Littleton, a grave and learned lawyer, whose part was to represent the resolutions of the House, and the grounds whereupon they went.

The third was Mr. Selden, a great antiquary and a pregnant man : his part was to show the law and precedents in the points.

The fourth was Sir Edward Coke, that famous reporter of the law ; whose part was to show the

reasons for all that the others had said, and that "it all was but an affirmance of the common law.*

There were never perhaps more distinguished advocates employed in any case, than the four great men who on this occasion were associated in defence of the liberty of the subject; and he could not be regarded as a second-rate orator, who was the deputed leader of such men as Littleton, Selden, and Coke.

That he spoke with great eloquence on this occasion, the Lords who drew up the report acknowledged.

"Now to report the first man, Sir Dudley Digges; but how his words will come off from my tongue, I cannot say.

"He hoped to begin the conference auspiciously, with an observation out of holy writ.

"In the days of good king Josiah, when the land was purged of idolatry, and the great men were about to repair the house of God, while money was sought for, there was found a book of the law which had been neglected.

"He was confident that we would as cheerfully join in acknowledging God's blessing in their good King Josiah, as they did.

* Parl. History, vol. 8, p. 408.7

“ He thankfully remembered your Lordships’ truly honourable invitation of them to the late petition, for cleansing the land from Popish abominations ; and as then, so now, while they were seeking for money, they found, he could not say a book of our law, but main and fundamental points of the law, neglected and broken ; and this occasioned their desire of a conference, wherein he was commanded to shew, &c. &c.

He then proceeded, in an eloquent and learned speech, to illustrate the object of the Commons in desiring this conference; but his being merely the introductory speech, he told them, “ mine being the cloudy part, I will open the way for your Lordships to hear more certain arguments. Know then, that it is an undoubted and fundamental point of this so ancient common law of England, that the subject hath a true property in his goods and possessions, which doth preserve as sacred that *meum* and *tuum*, which is the nurse of industry and mother of courage, without which there can be no justice.”

Thus eloquent in his harangues, and moderate in his political feelings, it is not surprising that Charles I was desirous of gaining Digges over to his side. Two years after this Parliament, therefore, he had the reversionary grant of the

mastership of the rolls, then held by Sir Julius Cæsar.

On the death of Cæsar in 1636, Digges succeeded to the office and held it to his death, on the 18th of March, 1639; "which event," says Wood, "the wisest men did reckon among the public calamities of those times."*

He was buried in the church of Chilham, the castle of which,—partly by purchase, and partly by inheritance in right of his wife, belonged to him.

He was a great loss to the House of Commons, which did not then abound in moderate men of influence on either side. Digges had been employed on foreign embassies, and was aware of the many difficulties with which the most honest statesmen have to contend; he had therefore less enthusiasm than many of his early associates, and had no intention of subverting any of the established institutions of his country.

He spoke with great eloquence, wrote with considerable elegance, and had read a great deal. He had a taste for antiquities, and family genealogies; which last he very absurdly indulged, by setting up in the church of Chilham, a long

* *Athenæ Oxoniensis*, vol. 1, p. 619.

Latin inscription, which gives his pedigree from the days of Henry III.

EDWARD LITTLETON.

Sir Edward Littleton was the last of those great lawyers who, leaving the popular party, accepted office under the crown. He came of an honourable family, long distinguished among the lawyers of England, being descended from the celebrated Thomas Littleton, the author of *Tenures*, who was a judge of the court of common pleas in the reign of King Edward IV, and of whom Coke wrote a biographical sketch, annexed to his *First Institutes*.

“ He left this life,” says Coke, “ in his great and good age, on the 23rd of August, 1481 ; for it is observed for a special blessing of Almighty God, that few or none of that profession die without will, and without child.”

His son Richard, to whom he dedicated his book of *Tenures*, was also an eminent lawyer.

The father of Sir Edward Littleton was also bred to the law, being a Welsh judge. In that office Sir Edward succeeded him, and was made recorder of London, and in 1634 Solicitor-General.

At the conference held on the 14th of April, between the two Houses, on the liberty of the subject, Littleton learnedly seconded the opening address of Digges, in a speech,—imperfectly reported, but which thus commenced :—

“ Your Lordships have heard that the Commons have taken into consideration the question of personal liberty, and, after long debate, have upon a full search and clear understanding of all things pertinent to the question, declared unanimously that no freemen ought to be committed, or restrained in prison, by the command of the King, or privy council, for any other, unless some cause be expressed or which, by law, he ought to be committed. And they have sent me, with others of their members, to represent unto your Lordships the true grounds of their resolutions, and have charged me particularly,—leaving the reasons of laws and precedents for others, to give your Lordships satisfaction, that this liberty is established and confirmed by the whole state, the King, the Lords spiritual and temporal, and Commons, by several acts of Parliament, the authority whereof is so great, that it can receive no answer, save by interpretation or repeal by future statutes.”*

* Parl. Hist. vol. 7, p. 412.

Notwithstanding this, and many other warm speeches in favour of the liberal side of the House of Commons, and for the members of which he was often counsel, we have seen that he left his party, and was appointed the King's Solicitor General.

In 1640, he was made chief justice of the court of common pleas; and immediately afterwards succeeded Lord Fordwich, as Lord Keeper, at the same time being enrolled as a Peer, by the title of Littleton of Monslow.

Lord Keeper during the early part of the long and difficult reign of Charles I. Lord Littleton had a difficult and arduous task. He had to figure as the chief person in many very lamentable scenes; and, after having for seven years assisted Charles to rule without a Parliament, was now the agent for making concessions to almost every demand of the Commons. Thus, on the 14th of February 1641, he signified by commission from the King, his assent to the bill for removing the bishops from the House of Lords; an act to which Charles was weak enough to assent, and Littleton to applaud. He thus addressed the House:—

“The second bill, much wished, and earnestly insisted on, is for taking away the votes of Bishops out of the House of Lords, and ex-

emptying them from other secular affairs ; that so being reduced to their first and original institution, they may the better attend the gaining of souls to heaven, by their frequent preaching of other divine offices proper to their functions ; a work much more excellent than their mingling in temporal business.”*

This silly concession was only part of the farce in which the Republicans exhibited the Prelates of England. They were clamoured and mobbed out of the House, their estates sequestered, and their order abolished ; and were banished for treason, committed to prison, and afterwards ransomed to bail.

Littleton kept his seat on the woolsack with much tenacity, as long as a chance remained of serving the Crown ; but in 1642, the King having withdrawn to York, the Lord Keeper previously discharging the great seal before him, remained his master there, and adhered to him until 1644, with unshaken fidelity.

This event happened three years afterwards : Littleton died at Oxford, on the 27th of August, 1645. It appears that he had even

* Parl. Hist. vol. 10, p. 289. This act was repealed by the 13th Charles II, c. 2.

served his Majesty in a military capacity ; for at the time of his death, he was actually Colonel of a regiment of foot. He was the last Keeper of the great seals of England who served in the field.

Littleton was the author of a volume of reports, and of several minor works.* His descendants still rank among the nobles of England.

SIR JOHN BANKS.

On the decease of Noy, Sir John Banks was made, in August 1634, Attorney-general to Charles the First.

This great lawyer had long sided against the King's party in the House of Commons, and had spoken in support of the patriots, with much learning and eloquence. He became, however, a convert to more moderate measures, and finally accepted office from the crown, and, in 1640, succeeded his friend, Lord Littleton, as Chief Judge of the court of common pleas.

He was, for a long period after the commencement of the civil war, trusted by both parties ; preserving his loyalty to the King, with the res-

* Wood's Athenæ, vol. 1, p. 83.

pect of the parliament, who even requested Charles to retain him as a judge.

Having, however, in the spring circuit of 1648, when addressing the grand jury at Salisbury, denounced the conduct of Lords Essex, Manchester, and Sir William Waller, as treason to the King, the parliament became exasperated, impeached him before a remnant of the house of Lords which adhered to them, of high treason, and ordered the seizure of his castle and estate of Corfe, in the county of Dorset.

This fine castle, still magnificent even in its ruins, was the dwelling place of Sir John Banks, his Lady and their children; and its defence by this Lady, when the parliamentarians attempted its seizure, is another of the many noble instances of female heroism displayed in those days of England's wretchedness. Had the royalists of that day displayed the same skill, and the same undaunted courage, as those exhibited in the example of Lady Mary Banks, at Corfe, Charlotte, the Countess of Derby at Latham, and the Lady Arundel, at Wardour, twenty Oliver Cromwells would have fought in vain for republicanism.

Sir William Earle and T. Trenchard made the first attempt on Corfe castle, on the 1st of May 1648, when they marched some troops of horse

from Dorchester, early in the morning, to attempt its capture by a coup-de-main.

On their arrival in the isle of Purbeck, they found the gentry of the island engaged in stag hunting; an annual meeting for that purpose being held in the island every May day.

The hunt immediately dispersed, and the soldiers proceeded to surround the castle, summoning Lady Banks to surrender. But, although her garrison at this time consisted of only five men, she resolutely bid them defiance.

Some of them had previously endeavoured to obtain an entrance, under the pretence of seeing the castle; but the gates were ordered to be closed, and the baffled horsemen retired to Dorchester.

The parliamentary committee sitting in the adjoining town of Pool, fearing that the female commander might victual the castle, and stand a siege, sent to demand four pieces of cannon, belonging to the public, which were mounted on the castle ramparts, but she put them off by some trifling excuses, pretending they were dismounted. But when the commissioners, a few days afterwards, sent a body of forty or fifty sailors, to again demand their delivery, Lady Banks, with her five men, reinforced by all the maid

servants in the castle, mounted and discharged one of them : on which the sailors, who were probably ashamed of the expedition, returned to Pool.

Lady Mary immediately called in a body of her tenantry ; and a quantity of gunpowder, and fifty stand of arms, were procured from the island. The parliamentarians were not, however, in the next few days inactive. They intercepted a supply of gunpowder going to the castle ; and proclamation was made, in all the neighbouring towns, that, under pain of high treason, no one should either sell provisions to, or hold communication with, the castle of Corfe.

Having failed in their attack, they now commenced a strict blockade, for which the island on which Corfe castle stands affords many facilities.

Thus circumstanced, Lady Banks beat a parley, and agreed to deliver up this magnificent train of four old pieces of cannon, the largest of which was a three pounder, on condition of the blockade being withdrawn, and that she should be allowed to dwell in peace.

The parliamentarians had probably little intention of observing the articles of this treaty. Lady Mary had no faith, at least, in their sincerity ; for the moment the blockade had partially

ceased, she seized the opportunity to replenish the castle with victuals, gunpowder, and matchlocks.

She also, on the advance of the King's army, under Prince Maurice, to Blandford, so energetically represented the importance of the place, that Captain Lawrence was sent as its governor ; but with the characteristic folly which marked the royalist proceedings, he arrived without a commission, and, in consequence, had no power to obtain either provisions or money ; and, when at last the commission did arrive, the hour for supplying the deficiency was passed ; for soon after his arrival, a body of nearly three hundred of the rebels again attacked the castle. They opened a heavy fire upon it from the adjoining hills, with two pieces of cannon ; set fire to four houses in the town of Corfe, which is directly under the castle, and did much other damage. But being gallantly withstood, they retired, after again summoning Lady Banks to surrender the castle.

The garrison did not long remain undisturbed. On the 28th of June, 1648, a body of six hundred soldiers from Poole, under the command of Sir William Erle, took advantage of a thick fog to penetrate unobserved into the town. They brought with them a demy cannon, a culverin, and two

sakers. With these and their matchlocks they opened on all sides upon the castle, offered to bribe the servants of Lady Banks, and threatened to give no quarter ; even offering an oath to their own soldiers, to that effect.

To make their approaches to the walls with more safety, they constructed two engines, framed of boards, and lined thickly with wool ; one they called the boar, the other the sow. These were intended to be moved before them, and were thus constructed in order that they might deaden the effect of the shot from the garrison. The experiment was, however, a very bungling one ; for the balls of the besieged penetrated beneath, and killing some who were under it, the rest ran away, and the rebels dared not renew the attempt.

They now altered their plan of attack ; converting the solid built church of Corfe into a battery, from which they played upon the castle. Their guns were probably as ill directed as their measures ; they made no impression upon Lady Banks, who made several sallies, doing the besiegers much injury, and in one of them capturing twelve head of cattle belonging to the rebels.

The Earl of Warwick, who was evidently annoyed at the slow progress made by Sir

William Earle, reinforced him with one hundred and fifty sailors, and an abundant supply of petards, hand grenades, and other materials for an assault, which Earle now prepared with much care.

It was arranged that both the upper and the lower wards of the castle should be assaulted together; that the first man who scaled the wall should receive £20; and that the next in succession, down to the twentieth man, should receive in a decreasing proportion. "Old Wat" was to be their watch-word, and when the twenty had entered, these were to be the words which should announce to their comrades the success of the forlorn hope. Spirits were profusely distributed, and everything portended that Corfe would that day be carried by storm.

Laurence commanded in the lower ward, and had with him the principal part of the brave little garrison, which never amounted to forty men in any of its sieges, and triumphantly repelled every onset with unflinching firmness. It was in vain that the rebels mounted the ladders: they were rapidly either speared or shot.

Lady Banks herself commanded in the upper ward, which was at the same time pressed with equal energy. She had under her immediate

direction five men, who kept up a warm fire of small arms ; and when the attempt was finally made to scale the walls, Lady Mary, her daughters, and the women servants, heroically assisted their brave defenders, by throwing over hot embers, and pieces of the stone of Purbeck.

On neither ward did the attack succeed ; the rebels lost more than one hundred men, killed and wounded, and thus baffled and disheartened, they were seized soon after with a panic, on hearing of the approach of the Earl of Carnarvon with the royalists. They fled, therefore, in great confusion, leaving their cannon, ammunition, tents and stores, to the care of the heroic Lady Mary,—who lost only two men during the attacks.

Thus terminated, after a siege of six weeks, the investment of this fine old castle, one of the most interesting of the English baronial residences. It had then existed nearly seven centuries ; it is yet magnificent in its ruins. Tradition yet shows the spot where Lady Banks commanded, and where the besiegers encamped. It is justly an object of interest to all travellers, in its bleak and iron-bound neighbourhood. It was one of the last that held out for Charles the First ; having been only at last captured, after several more unsuccessful attempts, by Lawrence

allowing, in February 1645, some men to enter, who pretended they came to reinforce his weak garrison. Even then it was not surrendered without an arduous struggle, and at last Lawrence obtained an honourable capitulation.

The heroic Lady Mary, who long survived her husband, lived, during the commonwealth of England, unmolested by the Cromwell party, who to their honour, did not make war upon the weaker sex, and naturally respected her heroism and devotion to her sovereign. She survived to see the restoration of Charles the Second; and the inscription on her modest tombstone in the south aisle of Riselip church in Middlesex, contains all the particulars of her future history with which I am acquainted. I cannot refrain from giving part of this inscription in a note.*

* “ To the memory of Lady Mary Bankes, only daughter of Ralph Hawtrey, Esq. of Riselip in the county of Middlesex, the wife and widow of the Honourable Sir John Banks, Knight, late Lord Chief Justice of his Majesty's Court of Common Pleas, and of the Privy Council to his Majesty King Charles the First, of blessed memory, who having borne, with a courage and constancy above her sex, a noble portion of the late calamities, and had the happiness to outlive them, so far as to have seen the restitution of the government, with great peace of mind laid down her most desired life, the 11th day of April 1661.”

She had, it appears, six daughters and four sons by Sir John Banks.

Her descendants, the Bankses of Kingston Hall, still hold possession of the castle and town of Corfe.

Sir John Banks did not live to witness the surrender of his castle. During the period of its earlier sieges he was employed either at Oxford, or on his circuit, in the duties of his office, and he died in that city on the 28th of December, 1644, in the 55th year of his age. He was born at Keswick, in Cumberland; was of Queen's College, Oxford, and a member of Gray's Inn, of which he was afterwards appointed Lent reader and treasurer.

Clarendon describes him as "a grave and learned man." He lived in times when no man of any eminence was treated with moderation by either party; and Banks was not an exception to the general rule.

The same parliament who had once desired Charles to continue the judges, Banks and Brampton, in his employment, now changed their opinion, and in the year of Banks's decease; they impeached him before the House of Lords, along with his brother judges, Heath and Forster, for adhering to their King.*

* Harl. MS. Hutchin's Dorset, vol. i, p. 286. Clarendon's Rebellion, vol. ii, p. 335. Wood's Athenæ, vol. i. f. 26.

It is probable that this silly step against persons not in their power, was merely meant to act by way of intimidation, without any intention of following up the impeachment. Neither of them was tried : the Commons could not legally charge any one, nor the Lords receive the accusation ; or, if they got over that difficulty, they could not sit, without the authority of the King.

The conduct of Sir John Banks, during a period when all public men were in doubt as to which side they ought to espouse, was marked by a cautious mode of proceeding, and a moderation of tone, which his enemies attributed to cowardice. The manly way in which he spoke of the rebel generals at Salisbury, dispelled this delusion ; and the noble conduct of his lady still farther convinced them that weakness was certainly not the family failing.*

Such were the great associates with whom, in the great conference on the 2nd of April,

* The female heroism of the age was almost exclusively confined to the royalists. There was, however, one instance, the defence of Caldecot Manor House, by Mrs. Purefoy, against Prince Rupert, which rivals anything recorded of the other party. It took place in 1642. After the raising of the siege of Warwick, the house was defended by Mrs. Purefoy, whose husband was a colonel, then absent serving in the rebel army, with a garri-

1628, Coke acted. We have seen that to Sir Dudley Digges was assigned the task, in this conference, of the opening address ; an undertaking which he ably and eloquently fulfilled. Littleton as ably seconded his leader ; and the learned Selden nearly exhausted all the learning which could be brought to bear on the question. Coke was reserved as the last great gun, to close the debate. His part was to show, that all that his three great coadjutors had said was entirely in accordance with the common law of England ; and in this species of learning no man could attempt

son of only eight men servants, her son-in-law, Mr. Abbott, with her two daughters, and a few maid servants. And so gallant was the resistance, that Rupert in vain endeavoured to carry it by a *coup de main* ; three of his officers, and many of his men, being killed by the fire of the besieged. He set fire therefore to the out-houses towards night, and under cover of the smoke, again advanced upon the house. The garrison had now expended all their ammunition, and the maids had even melted all the pewter into bullets. Mrs. Purefoy therefore went forth, and claimed the protection of Prince Rupert for herself and friends ; and this gallant royalist, struck with her heroism, and the gallantry of the little garrison, not only granted her terms, but carefully preserved their property from farther injury. He would not, says Viccars, “ suffer a pennyworth of the goods in the house to be taken from them.” Gibson’s Camden. Nugent’s Hampden, vol. i, p. 256.

to follow him. He revelled unanswered and in triumph.

“ Your Lordships have heard,” said Coke, in his opening sentences, “ seven acts of Parliament in point, and thirty-one precedents summarily collected, and with great understanding delivered, which I have perused and thoroughly understand.” To follow him closely throughout his long speech is needless, for its turns on all the old cases brought from the year books, in the most fertile profusion. A few detached extracts will show the line of his arguments, as reported by the Lord’s committee to their House.

“ No one shall reprehend anything,” he said, “ out of the books or records. For he had no law but what by great pains and industry he learned at his book ; for at ten years of age he had no more law than other men of like age.

“ And here he held it an unreasonable thing that a man had a remedy for his horse or cattle if detained, and none for his body thus indefinitely detained ; for a prison, without a prefixed time, is a kind of hell.

“ Festus conceived it an absurd and unreasonable thing, to send a prisoner to a Roman Emperor, and not to write along with him the

cause alleged against him ; send therefore no man a prisoner, without his causes along with him.

“ Such commitments will destroy the endeavours of all men. Who will endeavour to employ himself in any profession, either of war, merchandise, or of any liberal knowledge, if he be but a tenant at will of his liberty ? For no tenant at will, will support or improve anything, because he hath no certain estate ; therefore to make men tenants at will of their liberties, destroys all industry and endeavours whatsoever.

“ Then (say his noble reporters,) Sir Edward Coke ended his discourse, with a recapitulation of all that had been offered ; that generally their Lordships had been advised by the most faithful counsellors that can be, viz. dead men ; for these cannot be daunted by fear, nor muzzled by affection, reward, or hope of preferment ; and therefore their Lordships might safely believe them.

“ And so, he concluded that their Lordships are involved in the same danger ; and therefore they desired a conference, to the end that their Lordships might make the same declaration, as they had done, *commune periculum commune requireret auxilium*, and therefore take such farther

course, as may secure their Lordships, and them, and all their posterity, in enjoying of their ancient, undoubted, and fundamental liberties.”*

SIR ROBERT HEATH.

In the many learned arguments and lengthened debates on the King's prerogative, which engaged the attention of Parliament from 1625, until the long suspension of its meetings in 1628, Sir Robert Heath stood almost alone, as the champion of the King.

For the years this great and eloquent lawyer was the Attorney-General of Charles I, and in the period to which I have just alluded, he had to contend single handed with the ablest lawyers on the popular side of the question ; and it is no mean praise for any advocate, that on this great question of the right of the Crown to commit any one to prison, without assigning the reasons for the committal, he successfully withstood, Digges, Littleton, Selden, and Coke, who, we have already seen, eloquently and learnedly addressed the committee of

* Parl. Hist. vol. 7, p. 424.

Lords and Commons on behalf of the people of England.

In this weighty affair, Heath on several occasions spoke shortly and learnedly, during the progress of the opening speeches of the four great commoners; and on the 19th of April, 1628, he replied on behalf of the Crown, in a long address, remarkable for its eloquence and learning, in defence of a proposition long since exploded, as inconsistent with the liberty of the subject.

After stating to the Peers the course he intended to pursue in his address, he thus stated the proposition in dispute.

“ That no freeman ought to be committed or detained in prison, or otherwise restrained, by command of the King, or the Privy Council, or any other, unless some cause of the commitment, detainer, or restraint, be expressed, for which by law he ought to be committed, detained or restrained.

And afterwards,

“ That if a freeman be committed or detained in prison, or otherwise restrained by command of the King, Privy Councils or any others, no cause of such commitment, detainer, or restraint being expressed; and the same be returned upon an habeas corpus, granted for

the party ; that then he ought to be committed or bailed."

After commenting upon the law, as declared in Magna Charta, and other explanatory statutes adduced by Selden, Heath thus proceeded, " Surely, my Lords, this cannot be the true meaning of the laws ; for then it would necessarily follow that no offender could justly and legally be committed and restrained of his liberty, unless he was first indicted or presented by a jury.

" Then could not a constable (which is the lowest and yet the most ancient officer of the Crown,) nor a justice of the peace, but in these cases only where there is a precise statute to warrant him, either apprehend or commit one to prison, or set a knave in the stocks for a just suspicion. Nay, if he was taken according, he could not, according to this doctrine, be committed, unless the fact was first presented or found by a jury.

" My Lords and Gentlemen, for I speak to those of whom I am sure the greatest part are persons of authority in your counties, I appeal to you all, whether if this should be held for a direction, I may not truly say, *In hoc erravimus omnes* ? And whether it would not be too late, and utterly in vain to proceed against

offenders, when they must be left at large until the indictment was first found, or presentment made against them? for surely they would then provide for themselves, and be gone, when they should be proceeded against.

“ But if ye will vary the case thus far as to say, that by those laws no freeman ought to be committed or imprisoned without just cause, this I shall agree to be good law.

“ But herein stands the difference, whether this cause must always be expressed upon commitment; and whether such cause so expressed must always be legal, and warranted by the strict rules and letter of the law, and whether the law hath not ever allowed this latitude to the King or his Privy Council, which are his representative body, and do what they do in his name, and by his authority, in extraordinary cases, to restrain the power of such freemen as for reasons of state they find necessary, for a time, without the present expressing of the causes thereof, which might discover the secret of the state in that point.”

Then, after quoting at much length the opinions of Judge Stamford, the earliest writer upon the Pleas of the Crown, in favour of the powers possessed by judges to commit in cer-

tain cases without assigning a reason, he continued,

“ My Lords, I pray observe this part of his opinion also, for it makes full against the tenet of the House of Commons, that the King, nor no other, can commit without cause shewed ; which as here appears the justices of the King may.

“ My Lords, have the justices this power and this latitude, and shall it be believed that the King himself, who is *Justiciarius Regni*, and is the fountain of justice, may not be trusted with that power ?”

He then proceeded very elaborately to examine the various old cases adduced by Selden, and Coke, and with much tact brought forward some cases in point decided by Coke himself.

“ And here by the way I must observe, that although this be the report of a private student, and not in point, yet it is such, and of that nature as all other reports are, (being faithfully collected) whereupon we who are of the profession of the law do ground opinions ; and wherein judges of succeeding times do ground themselves upon the opinions of their worthy predecessors ; and such reports, whether in paper or print, are of equal authority with us ; for these

which are printed by the labours of those worthy men who have taken pains therein, were first collected out of such written reports.

The words are these, “Coke, Crooke, Dodderridge and Haughton, justices, did hold that a return that one is committed, by warrant of the King’s Privy Council, was good enough without returning any cause, for it is not fit, that the *arcana imperii* should be disclosed.

“In Queen Elizabeth’s reign, it was resolved by all the judges of England, that the cause of the commitment should not be returned. And *Sir Edward Coke*, when Chief Justice of the Court, said, that if the Privy Council commit one to prison, he is notailable by any court in England; for where the statute of Westminster saith that he which is committed to prison by the commandment of the King, cannot be let to mainprize, Judge Stamford makes this interpretation, that by the King is well intended his Privy Council, who are the representative body of the King.

“My Lords, by the words of this case thus reported, and by the opinion of those reverend judges, you see how many things, before cited, have authority and life given unto them, not only in the main point in the question, but in the reason thereof.

“ Next I come to the opinion delivered in the Parliament House, in the 18th of James I. It was the words of the reverend and learned gentleman *Sir Edward Coke*, upon whose opinion I have much grounded myself. It was upon occasion of a bill then preferred in Parliament, which came to a second reading on the 5th of May, 1617, I being then a member of that House. Upon this occasion *Sir Edward Coke* stood up and said, (I have a note of the very words) :

“ There are divers matters of state which are not to be comprehended in the warrant, for so they may be disclosed. One committed by the body of the council is notailable by law.” My Lords, this was not a sudden opinion of *Sir Edward Coke*’s; for on the 28th of the same month, in moving for the recommilal of the bill, he again spoke, and said, ‘ that in the 33rd of *Henry VI*, upon an *habeas corpus* where a party was imprisoned by two privy councillors, for words relating to the King, that being the return, it was held sufficient.’

“ The reasons that have been delivered on the other side have been many, collected and applied with a great deal of art and judgment. All these reasons I shall with your favour reduce to one general head; the liberty of the free subject

of this kingdom, which is of great esteem, and is the inheritance of the subject ; I acknowledge it to be very true, that which hath been said thereon, and I am also of this mind, that he is not worthy to enjoy his liberty, who would not by all just means endeavour to preserve, and maintain it.

“ Another argument was out of the Acts of the Apostles, where Festus being then Viceroy, thought it unreasonable to send Paul to Cæsar, and not to send him without the cause of his commitment. My Lords, I acknowledge it to be a very discreet resolution of Festus, not to send a prisoner to Cæsar, his superior, to whom he was to give an account, and not to send with him the cause for which he should be tried, and of which he was accused.

“ But, my Lords, whether this do prove anything in our case in question, I humbly refer to your judgments, where not the inferior to his superior, but the superior to his inferior, sends the prisoner to whom he is not bound to give that account.

“ But it hath been objected that if the King or the Privy Council may commit without shewing cause, it may be productive of infinite mischief ; for as the King may commit one, so he

may commit many ; as he may commit for a just cause, so he may commit without any cause.

“ The true answer to these, and the like cases is, that it is not contrary to the laws ; for as God has entrusted the King with governing the whole, so hath he therefore trusted him with ordering of the parts. There are many cases of infinite importance to the subject, and of undoubted trust reposed in the King, wherein notwithstanding it was never questioned by a subject of the King, why he did thus and thus. It may be urged, that if the King is trusted with the coins and monies of the kingdom, he may of his own absolute power abuse or inhance them ; if he is to be trusted, he may make wars, he may conclude peace, or leagues, and these may be fatal to the whole kingdom, to the liberty, and the lives of his subjects. The answer is, he will do none of these things to the hurt of his people. Again it may be said, he hath power to pardon traitors or felons ; the people of this land may suffer by too great an extent of mercy, and thus the good be devoured by the bad ; and further, the King hath power without number or limitation, to make strangers to be denizens ; it may be said that this lets in a flood of strangers to eat up the bread of natural born subjects ; but these

receive the same answer:—the King will not break the trust committed to him by God. But, my Lords, do I by this say or maintain, that a King hath liberty to do what he lists? no, God forbid: he is set over the people for their good, and if he do transgress and acts unjustly, there is a greater than he, the King of kings; *respondet superiori*.

“ I conclude with observing, that these gentlemen of the House of Commons have done like true Englishmen, to maintain their liberties by all the true and fit means they may, and I as one of their number shall ardently desire it likewise. But I fear they have done like *right Englishmen*, that is, they have overdone it; they have made their proposition so large that it cannot possibly stand, and it is incompatible with that form of government, that monarchy under which we happily live.”*

Such are some fragments only of Heath's speech. It was reported to the Lords by the Earl of Devonshire, and although unsupported, it made a very considerable impression. It is true that Sergeant Ashley seconded Sir Robert, in an elaborate speech, but he urged such extravagant

* Parl. Hist. vol. 8, p. 30.

doctrines, that the Lords compelled him to apologize to the House, on his knees.

Sir Robert Heath was decidedly the most talented of the King's Advocates. He was born at Eatonbridge in Kent, and became a member of the Inner Temple. In 1618, he was chosen by the citizens of London to be their Recorder on the death of his predecessor, the talented and facetious Richard Martin, who only held the office for a month. In 1620, he was appointed Solicitor, and five years afterwards Attorney-General, a situation he held with great talent and reputation, until he was, in 1631, made Chief Justice of the Court of Common Pleas.* From this office, however, in 1634 on the 14th of September, the King discharged and removed him: he being accused, according to Wood, of certain malpractices in the execution of his office.

His crimes were evidently not of a very heavy nature; for at the time the King discharged him from his office, he gave him special leave to practise in the Courts of Westminster, as Sergeant of law, which he actually did in the very court over which he had once presided.†

* Croke, Jac. 607. Croke, Car. 13, 225.

† Croke, Car. p. 37

In 1641, on the death of Sir William Jones, he succeeded him as a judge of the Court of King's Bench,* in which capacity, attending the King to Oxford, he was on the 31st October 1643, promoted to be Chief Judge of the same Court.†

In the course of his tenure of the Attorney-Generalship, Heath had many very arduous cases on the part of the crown. He led in 1626 the impeachment of the Earl of Bristol. In 1628 he had to conduct the prosecution in the Court of Star Chamber, against Sir John Elliot, Denzil Holles, Selden, Sir John Hobart, and others, for holding the speaker, Sir John Finch, in the chair, when the King had directed him to adjourn the House. This was a long and important case: many were the debates, motions, and arguments to which it gave rise, in all of which Heath showed great judgment and zeal; and although opposed to Selden, Littleton, and some others of the most talented men of the age, demonstrated a nearly equal knowledge of the law. It was made a popular question, but clamour and abuse were em-

* Croke, Car. 601.

† Parl. Hist. vol. 13, p. 257.

ployed in vain; the judges of the Court of King's Bench held the accused to bail, and on their refusal to find the required securities, committed them to prison. The question as to the non jurisdiction of the Court of King's Bench, in Parliamentary cases, was ineffectually pleaded; the grossness of the outrage it was impossible to palliate. If a body of members could without punishment drag their Speaker in or out of the chair, they might with equal impunity beat or murder him; and if the majority participated in the fray, they could not, according to the doctrine sought to be established, be punished at all.

No Attorney-General ever had so arduous a tenure of the office as Sir Robert Heath. He adhered to the King during all his struggles with the Parliament, with the most unflinching loyalty; was made a Privy Councillor; and became very naturally an object of hatred to the Cromwell party.

By that party he was excepted from those of the King's friends to whom they were willing to grant pardon, on their submission. And in consequence, when the cause of Charles grew daily more desperate, and he had no longer occasion to employ either a Chief Justice or a Privy

Councillor, Heath withdrew to the continent, and died soon afterwards, at Caen in Normandy, in August 1649. The Commons sequestered his estates, but at the restoration, Charles the Second restored them to his son, Edward Heath.*

* Wood's Athenæ, vol. 1, p. 26.

CHAPTER V.

1627—1628.

The King urges the parliament by a message to be expeditious with the public business—Coke's speech on the occasion—Coke's speech in the conference between the deputies of the two Houses on the subject of the imprisoned members—His speech on the King's message—Proposes a petition of right—His speech on the Lord's amendment of the petition—Sent with a message from the Commons to the Lords—The petition delivered to the King—The King addresses the parliament from the throne—Coke's last reported speech in parliament—Charles prorogued the parliament—the last parliamentary notice of Coke—Cromwell's first speech—Notice of Cromwell—The King dissolves the parliament—Publishes a long address to the nation—Notice of Coke's parliamentary associates—Hampden, Elliott, Holles, Strode—Character of Charles I.—The progress of the law during Coke's parliamentary career.

WHEN, on the 10th of April, 1627, the King's message was delivered to the House of Commons, desiring the members, by way of expediting the public business, not to make any recess

as usual during the Easter holidays, the House was evidently dissatisfied ; the Commons were as fond of holyday making, in those days, as modern senators are now. Coke spoke of the King's message with dissatisfaction : " I am as tender," he remarked, " of the privileges of this House as of my life, for they are the heart-strings of the commonwealth. The King makes a prorogation, but this House adjourns itself ; the commission of adjournment we never read, but say, ' this House adjourns itself.' " *

On the 19th of April, the Lord Keeper Coventry made his report to the House of Lords of the result of the first conference, which took place two days before, between the deputies of the two Houses, concerning the liberty of the subject, in which a very learned speech by Sir Edward Coke is briefly reported. The fifth and last part of this important conference was reported to the House of Lords by Dr. Williams, Bishop of Lincoln. At this part of the conference Coke spoke twice.

These committees and conferences arose from the imprisonment of the five gentlemen, Sir

* Parl. Hist. vol 7, p. 436.

Thomas Darrel, and four others, by order of the King in council, for refusing to contribute to a forced loan.

The judges of the Court of King's Bench, before whom the prisoners were brought by a writ of habeas corpus, refused to bail them, and the chief justice, Sir Nicholas Hide, with judges Whitelocke, Doddridge, and Jones, now gave their reasons for refusing the bail, which were learnedly answered by the great Selden, one of Coke's coadjutors. Coke also observed "as the centre of the greatest circle is but a little point, so the matter ever lies in a little room; but weighty businesses are spun out to a great length. For a freeman to be tenant at will for his liberty, he could never agree to; it was a tenure that could not be found in all Littleton."

Having "put their Lordships in mind that they had the greatest cause in hand which ever came into the hall at Westminster, or indeed into any parliament," he thus eloquently concluded his address :

"My Lords, your noble ancestors, whose places you hold, were parties to Magna Charta, so called from its weight and substance, (for otherwise many other statutes are greater in bulk) and all the worthy judges that deserved

their places, have ever had Magna Charta in great estimation.

“ Now as justice hath a sword, so it hath a balance,

“ *Ponderat hæc causas, percutit ille Reos,*

“ Put together, my noble Lords, in one balance seven acts of parliament, records, precedents, reasons, all that we have spoken. And in God's name, put into the other balance, what Mr. Attorney (Sir Robert Heath) hath said, his wit, learning, and great natural endowments, and if he be weightier, let him have it, if not, then conclude with us. You are enrolled in the same danger with us, and therefore we desire you, in the name of the commons of England, represented in us, that we might have cause to give God and the King thanks for your justice in complying with us.*

On the 2nd of May, the King having sent the House of Commons a message, desiring the members to rely upon his royal promise to observe the laws, Coke again addressed a committee of the whole house ; he was for agreeing to the King's propositions.

“ We bind his Majesty,” he observed, “ by relying on his word. We have laws enough ; it is the execution of them that is our life, and it is the King that gives life and execution.”*

He was for putting the King’s promise, however, upon record, in the shape of an act of parliament ; for on the 4th of May he remarked, “ Was it ever known that general words were a sufficient satisfaction to particular grievances ? Was ever a verbal declaration of the King *verbum regis* ? When grievances exist, the parliament is to redress them. Did parliament ever rely upon messages ? They put up petitions of their grievances, and the King ever answered them. All succeeding Kings will say, Ye must trust me as well as ye did my predecessors, and trust my messages ; but messages of love never come into parliament. Let us, therefore, put up a petition of right ; not that I distrust the King ; but that I cannot take his trust but in a parliamentary way.”†

On the 8th of May following, he acted as manager, and addressed the Lords, at a conference, in the Painted Chamber, between the two houses, on the proposed petition of right.

* Parl. Hist. vol. viii, p. 97.

† Ibid, p. 104.

On the 17th of May, the Lords agreed to that petition, with this addition :

“ We humbly present this petition to your Majesty, not only with a care of preserving our own liberties, but with due regard to leave entire that sovereign power wherewith your Majesty is trusted for the protection, safety, and happiness of your people.”

On the same day, the Lords' amendment being taken into consideration by the Commons, Coke spoke decidedly against it.

“ This turns all about again. Look into all the petitions of former times ; they never petitioned wherein there was a saving of the King's sovereignty. I know that prerogative is a part of the law ; but “ sovereign power ” is no parliamentary word. In my opinion, it weakens Magna Charta and all the statutes, for they are absolute, without any saving of sovereign power. And should we now add it, we shall weaken the foundation of law, and then the building must needs fall. Take heed what we yield unto ; Magna Charta is such a fellow, that he will have no sovereign. I wonder this sovereign was not in Magna Charta, or in the confirmations of it.

“ If we grant this by implication, we give a sovereign power above all laws. Power, in law, is taken for a power with force. The sheriff

shall take the power of the county ; what it means here, God only knows. It is repugnant to our petition, that is, a petition of right, grounded on acts of parliament. Our predecessors would never endure a *salvo jure suo* no more than the Kings of old could endure for the church, *salvo honore dei et ecclesiæ*. We must not admit of it, and to qualify it is impossible. Let us hold our privileges according to the law ; that power that is above this, is not fit for the King to have it disputed farther.”*

All disagreement being ended, the Lords and Commons at last concurring in the words of the petition of right, the house of Commons, on the 27th of May, sent Sir Edward Coke, and others, with a message to the Lords, “ to render them their most hearty thanks for their noble and happy concurrence with them all this parliament ; and they acknowledge that their Lordships had not only dealt nobly with them in words, but also in deeds.

“ That this petition, which they are now to deliver, contained the true liberties of the subjects of England, and a true exposition of the great charter, not great for the words thereof, but in respect of the matter contained therein—

* Rushworth, 562.

the liberties of the people. That their Lordships concurring with the Commons had crowned the work, and therefore they doubted not, but as the first parliament of King James was called *Felix Parliamentum*, so this might be justly styled, *Parliamentum Benedictum.*” Coke concluded “with the humble desire of the Commons, that the Lords would join with them to beseech his Majesty, for the more strength of this petition, and the comfort of his loving subjects, to give a gracious answer to the same in full parliament.”

On the 29th of May, this celebrated petition was delivered to Charles the First by the Lord Keeper, and three days afterwards, the King thus laconically addressed both houses from the throne in the house of Lords :

“Gentlemen, I am come here to perform my promise. I think no man can call it long, since I have not taken so many days in answering the petition, as ye have spent weeks in framing it ; and I am come here to show you, as well in formal things as in essential, I desire to give you as much content as I can.”

He then, after a speech from the Lord Keeper,

* 8 Parl. Hist. 144.

who finished with reading the petition, formally announced his assent to its contents.*

Whatever were the errors of Charles the First, whatever ignorance of the true arts of government he may have displayed in his hard and unfortunate career, he never forgot that he was a King. This recollection followed him through life, shone in him to the last before his judges, when Coke no longer lived to plead for him, and even on the scaffold at Whitehall. And that Coke would have pleaded for him, had he lived, there is little doubt. The judge, who had refused to truckle to a court favourite, who had delivered decrees in direct opposition to the mandates of a court, was not the man to be overawed by republican brutality, or to be so mystified as to slumber over tyranny in any shape.

The last time that Coke is reported to have spoken in parliament, was on the 5th of June, 1628, on occasion of a message from the King to the Commons, in which he required "that they enter not into, nor proceed in, any new business which may spend greater time, or which may lay

* Parl. Hist. 147

any scandal or aspersion upon the state, government, or ministers thereof.”

This message was sent in anticipation of a charge expected to be preferred by the Commons against the favourite, the Duke of Buckingham. The house resolving itself into a committee, Coke spoke with his usual energy.

“ We have dealt, sir, with that duty and moderation that never was the like. *Rebus sic stantibus*, after such a violation of the liberty of the subject ; let us take this to heart.

“ In the 30th year of the reign of Edward III, were they then in doubt to name the men in parliament who misled the King ? They accused John de Gaunt, the King’s son, the Lord Latimer, and the Lord Neville, for misadvising the King, and they were sent to the Tower for it. Now when there is such a downfall of the state, shall we hold our tongues ? How shall we answer our duties to God and men ?

“ In the 7th of Henry IV. Parl. Rot. n. 31, 32, and in the 11th of Henry IV. n. 13, there the council are complained of, and removed from the King, because they mewed him up, and dissuaded him from the common good ; and why are we now to be tied from that way ? And why may we not name those that are the cause of all our evils ?

“ In the 4th of Henry III, in the 27th of Edward III, and in the 27th of Richard II, the parliament moderated the King’s prerogative ; and nothing grows to an abuse, but this house hath the power to treat of it. What shall we do? Let us palliate no longer ; if we do, God will not prosper us. I think the Duke of Buckingham is the cause of all our miseries ; and till the King be informed thereof, we shall never go out with honour, or sit with honour here. That man is the grievance of grievances. Let us set down the causes of all our disasters, and they will all reflect upon him. As for going to the Lords, that is not *via regia* ; our liberties are now impeached ; we are deeply concerned ; it is not *via regia*, for the Lords are not participant with our liberties.”*

On the 12th of June, Coke carried up to the House of Lords the bill for granting five subsidies to the King ; on the 16th of the same month, he again spoke against the Duke of Buckingham ; and on the 18th, he brought to the lords a message from the commons, which related to a dispute between them and the upper house, with regard to the terms of granting the five subsidies, the commons having omitted in

* 8 Parl. Hist. 193.

that grant, to name the lords, as being parties to the bill. This is the last time I can find any record of Coke's sayings or doings in the senate. On the 26th of the same month, Charles prorogued the parliament, and it did not meet again until the 20th of January, 1628. In that session, February 12th, I find the speaker was directed to write to Sir Edward Coke, to request his attendance,* and that is the only time even his name appears in the journals of the house.

On the 12th of February, 1628, when this last parliamentary notice of Sir Edward Coke occurs in the journals of the Commons, Oliver Cromwell made his maiden speech. This occurred on the debate relating to the pardons granted by the King to Dr. Sibthorp, Dr. Montague, Dr. Manwaring, and others, who had been prosecuted by the parliament for publishing works advocating the King's supremacy, and despotic power.—They were found guilty; but the King not only pardoned, but promoted them. Montague was made Bishop of Chichester.

To inquire into these pardons, the house appointed a committee, and upon the report being

* Parl. Hist. vol. viii, 288.

brought up by Mr. Sherland, "Mister Oliver Cromwell," who had been elected this session for the town of Cambridge, said

"That he heard, by relation from one Dr. Beard, that Dr. Alabaster had preached flat popery at St. Paul's cross; and that Dr. Neile, the Bishop of Winchester, had commanded him, as he was his diocesan, that he should preach nothing to the contrary. Dr. Manwaring, so justly censured for his sermons in this house, was by this Bishop's means, preferred to a rich living. If these," concluded Oliver, "are steps to church preferments, what may we not expect?"*

When Oliver Cromwell made this his first speech in parliament, he was not thirty years of age; for he was born April 29, 1599.

Coke and Cromwell, therefore, came little into contact; for Coke was going off the public stage, when Cromwell was making his first appearance there. Consequently, I have no occasion to give any lengthened notice of the Protector, although his life affords materials for the most interesting of biographical notices, crowded with incidents, abounding in action, and connected,

* Parl. Hist. vol. viii, 289.

during the last nine years of his life, with the history of the world.

Cromwell's history is the most extraordinary of any to be found in the English annals. In this country, no private person ever before made such surprising advances in rank and power. He is in many respects entitled to the grateful remembrance of his countrymen. He was the first who roused them from the long lethargy in which the government of the Stuarts had involved them. He may be said to have laid the foundation of England's present great supremacy, by his triumphant naval exertions. His administration was certainly vigorous and economical; and his name made many a foreign despot respect the prowess of his countrymen. His measures were not marked with unnecessary severity: he spilt little blood. It is even now a doubt whether the murder of Charles the First was not a measure in some degree forced upon the parliament by the duplicity of the King; at least, Oliver told Lord Orrery that such was the fact; and very strong suspicions were in his day entertained, that he would willingly have restored Charles the Second, if he could have had the slightest dependence upon his sincerity.

That the royalists deemed such an event pos-

sible, is very certain ; it is equally so that Oliver was sounded as to his inclinations on this head ; and had he not known the character of the Stuart family as well as he did, it is very probable he would have made the attempt. In his answer to his wife, who was on the last occasion employed as the agent of the royalists, he betrayed no repugnance to serve a King of England. That answer confessed, too, that he had mainly assisted in bringing Charles the First to the block. It was a reply every way worthy of being recorded :—“ Charles would never forget or forgive the share I had in his father’s death ; and if he could he would be unworthy of a crown.”

Cromwell had naturally no love of despotism : his abortive attempts to assemble a parliament, composed of two houses, betrayed his willingness to govern after the ancient constitution of his country, if he could have done so with personal safety. But the commons were the mere dregs of the old house ; the lords would not assemble at all ; and the kind of peers whom he attempted to create, were contemptible and powerless.

Many idle arguments have been employed as to the original intentions of Oliver in his political career. He was the creature of circumstances. He was originally a law student of Lincoln’s Inn ;

and there began to eat his way to the bar, was dissipated and licentious, married as soon as he was of age, and then became a rigid puritan. By great good fortune, and several skilful deceptions, he was elected in 1628 to represent the town of Cambridge. But he made no figure in parliament, was a sloven in appearance, and inelegant in his mode of addressing the house. That he had then little prospect of distinction, is quite certain; for he would have emigrated with his family to New England, had he not been prevented by a proclamation of Charles the First.

As to Cromwell's military taste, he certainly was forty-three years of age, before he wore the military coat; and it is probable that when he drilled his own troop of horse, he at the same time taught himself the duties of a soldier. That, as a soldier, he was brave, talented, energetic, and fortunate, there can be but one opinion: he was not only deemed so in his own country, but the kings of far greater kingdoms than his own, flattered him and conciliated his friendship.

The example of Cromwell was infused into those whom he employed; for in the case of some of his general officers, and of Admiral Blake, who took to the naval and military service full as late in life as Cromwell, it seemed

to demonstrate that a knowledge of those professions could be attained in a much shorter period than was once deemed necessary.

It was probably not till after the battle of Newbury, that Cromwell, by finding how great his influence had become with the soldiers, began to feel convinced that he could by their agency rise to power. A long succession of victories ensured his advancement. A victorious general is ever certain of the hearts of his soldiers. They participated in his triumphs, they shared his glory, and they elevated him to the protectorship.

Cromwell enjoyed little peace or tranquillity as ruler of England ; for he had many causes for suspecting the friendship of his adherents ; and a suspicious man is ever an unhappy one. He felt, and the nation at large felt the same, that they must return to the government of a king. Correspondences, he knew, were kept up with Charles the Second ; his own family even seemed inclined to make their peace with the exiled family ; and he himself had evidently studied the same possibility. He ruled, however, to the last, with his characteristic vigour, and had a splendid although a short reign of nine years, dying at Whitehall in 1658, on the 3rd of September ; a day he superstitiously regarded as peculiarly fortunate to him. In

this feeling, as in many other things, he closely resembled Napoleon Bonaparte; a still greater conqueror, a still more talented child of fortune, who, with greater opportunities, and a far mightier field of operation, enacted in consequence, much more brilliant scenes. Cromwell however was far the better man; for he elevated, while the other degraded his country.

That Cromwell had many estimable qualities, there is no doubt. Time has done away with the libels of the royalists, and even again banished the family whom he displaced. His children died in affluence, and unpersecuted, in the land of their birth. Richard, his successor, lies buried at Hurstley, in Hampshire, on an estate he long enjoyed, unmolested, in succeeding days of royalism.

Thus we have seen terminated, on the 12th of February, 1628, Sir Edward Coke's parliamentary career; and on the 10th of March following the King dissolved the parliament—a parliament that Charles had not ministers wise enough to manage, and in whose sincerity, moreover, he had no confidence; while the commons, on their part, were equally suspicious of the King.

A few days after the dissolution, in a long

public declaration, the King had the folly to enter into all these morbid feelings,—in which, without convincing the public that he was in the right, demonstrated and acknowledged that the obstinacy of the commons was insuperable.

“ Whilst,” said the King in this long paper, “ the Duke of Buckingham lived, he was charged with all the distempers and ill events of former parliaments, and therefore much endeavour was made to demolish him, as the only wall of separation between us and our people ; but now he is dead, no alteration is found amongst those envenomed spirits, which troubled then the blessed harmony between us and our subjects, and continue still to trouble it.

“ So that now it is so manifest the Duke was not alone the mark these men shot at, but was only as a near minister of ours taken up on the bye, and in their passage to their more secret designs,—which were only to cast our affairs into a desperate condition, to abate the powers of our crown, and to bring our government into obloquy, that in the end all things may be overwhelmed with anarchy and confusion.”*

* Parl. Hist. vol. vii, p. 351.

A period of twelve years elapsed without another parliament ; for Charles did not again call the two houses together until April 1640, and Sir Edward Coke had then been dead some years.

It is to be lamented that so few of Coke's parliamentary speeches have been preserved ; and even those which have escaped, are in general miserably reported, and sometimes given only in fragments. In those days, almost the only mode in which a speech could be preserved was by the publication of a pamphlet. Newspapers did not then exist, and the commons were just as jealous of their privileges as they are now, and sometimes even laughably so : for instance, a low silly fellow named Lewis, having said in a public company, " the devil take the parliament," the house of commons, highly indignant, ordered him into custody.

A century after this, the parliament were just as tenacious ; for down to the reign of George the Third, the parliamentary debates were only published in the form of club debatings, and with disguised names. It was an immense advance to allow a reporter even to take notes of their proceedings. The celebrated Woodfall had to trust entirely to his memory ; and his paper,

“the Register,” attained its great circulation, mainly owing to the accuracy with which his prodigiously retentive memory enabled him to give the debate *verbatim*.

Coke had all the of these advantages: the best reporter he had was the official paid journal-keeper of the house, who naturally in stating his arguments, *omitted*, as much as possible, every thing that *tempered* *and* *damental*.

The *early* career of Sir Edward Coke, during that portion of the reign of Charles the First which he was spared to witness, was marked by the same moderation of tone which had distinguished him during the reign of James. He was still anxious for the redress of real grievances, yet cautious of trenching upon the just and wholesome prerogatives of the crown.

The house of commons had, in Charles the First, a prince to contend with, of a character widely different from that of his predecessor: he had more energy, more talent, more courage, but had the misfortune to be governed by the same favourite, the unfortunate Buckingham. Thus influenced, Charles made many and great mistakes. He dreaded the character of Coke; tried all kinds of methods to keep him out of parliament; and unsuccessfully canvassed

other schemes to remove him from the scene of action. Charles here made strange blunders; but they were however the errors of inexperience.

His contests with the house of commons, and his repeated dissolutions of parliament, were all suggested by the same erroneous principles as those which guided James the sixth. Neither of them could see that the prerogative of princes, and the privileges of parliament, were modified by times and circumstances, and that while everything else was progressing, they alone were not to remain immovable.

Charles, therefore, stood out for his privileges with unflinching heroism, and withstood the demands of the commons with a firmness and constancy which King James never exhibited. This firmness only appeared once to have deserted him, when he consented to the execution of Strafford,—who was clamoured out of his life by the ferocious indignation of a party with whom he had once acted.

Both parties, it is true, lamented themselves of the murder when the victim was already sacrificed. Charles lamented it even on the scaffold at Whitehall, and on another occasion expressed his sorrow that he had been induced to

prefer “the outward peace of my kingdoms with men, before that inward exactness of conscience before God ;” and a succeeding parliament did equal justice to his memory.*

Coke, in the reign of Charles the First, acted during this arduous struggle with the moderate party of the patriots,—with Pym, Hampden, Elliott, Selden, and a chosen band of reformers, who stood far aloof from the party who advocated extreme measures. He had no communion of feeling with Oliver St. John, Arthur Haselrigg, or with Cromwell ; persons who finally obtained an ascendancy in the state, in the face of which no King could exist, no well ordered government act. Of Pym and Selden I have already spoken. Hampden, Elliot, and one or two others, remain to be noticed.

JOHN HAMPDEN.

Of this distinguished patriot, for whom even Charles I mourned, and for whose recovery when he heard of his wounded state, he offered to

* 13 and 14 Charles II.

send his own medical attendant, there is already an ample account. His name is known to all students of England's history, as the noble assertor of the rights of the Commons in the great case of ship money, as their undismayed champion in Parliament, as their martyr in the field of Chalgrove. His life has been recently written by Lord Nugent, with great industry and elegance, and with a warm feeling of patriotism, which, as might reasonably have been anticipated, sometimes carries him much too far. Hampden lived in strange and eventful periods, when the difficulties of the political path was an ample excuse for the occasional great and dangerous wanderings of the passengers.

John Hampden was born in London in 1594 ; he was the heir to an ample fortune, which had descended to him from a long line of ancestors, who received it even from Saxon kings.

“ This mansion ” says Lord Nugent, “ still remains. It stands away from both the principal roads which pass through Buckinghamshire, at the back of that chalky range of the Chilterns which bounds on one side the vale of Aylesbury. The scenery which immediately surrounds it, from its seclusion little known, is of singular beauty, opening upon a ridge which

commands a very extensive view over several counties, and diversified by dells, clothed with a natural growth of box, juniper, and beech. What has once been the abode of such a man, can never be but interesting from the associations which belong to it. No one surely can visit the residence of Hampden, and not do justice to the love which its master bore, and to that stronger feeling which could lead him from such retirement, to the toils and perils to which henceforth he entirely devoted himself. At this beautiful residence after his second marriage about the year 1641, he never again resided, but lived principally at his lodgings in Gray's Inn Lane, near to the house occupied by his friend Pym.

He long represented the town of Wendover in Parliament, and afterwards was elected for the county of Buckingham. His noble resistance to ship money is familiar to every one.

“ In a skirmish with the royalist cavalry under Prince Rupert, on the 18th of June 1643, Hampden received his mortal wound, being struck by two balls in the shoulder.

“ His head bending down, and his hand resting on his horse's neck, he was seen riding off the field before the action was done ; a thing says

Lord Clarendon, he never used to do, and from which it was concluded he was hurt.

“ It is a tradition, that he was first seen moving in the direction, of his father-in-law’s, (Simeons) house at Pyrton. There he had in youth married the first wife of his love, and thither he would have gone to die, but Rupert’s cavalry were covering the plain between. Turning his horse therefore, he rode back across the grounds of Hazely in his way to Thame. At the brook, which divides the parishes, he paused awhile ; but it being impossible for him, in his wounded state, to remount if he had alighted, to turn his horse over, he suddenly summoned his strength, clapped spurs to his horse, and cleared the leap. In great pain and almost fainting he reached Thame, and was conducted to the house of one Ezekiel Brown, where his wounds being dressed, the surgeons would for a while have given him hopes of life. But he felt that his hurt was mortal.

“ After nearly six days of cruel suffering, adds his able biographer, his bodily powers no longer sufficed to pursue or conclude the business of his earthly work. About seven hours before his death he received the sacrament of

the Lord's supper ; declaring that though he could not away with the governance of the church by bishops, and did utterly abominate the scandalous lives of some clergymen, he thought its doctrine in the greatest part primitive and conformable to God's word, as in holy scripture revealed."*

He was buried shortly after his death, in his own parish church of Hampden, with all the honours that his sorrowing brother soldiers could pay him ; and in the same honourable grave amid the Chiltern hills, he still reposes, as the watchword of the patriot, and the true friend of freedom. At his death, the great bulk of the royalists rejoiced ; their leading men however, and King Charles among the rest, were silent. They knew the moderate motives which actuated their opponent ; they knew that in the hour of extremity, it would be well to have such a man in the ranks of their opponents to appeal to ; and this conviction, Charles I. had still stronger reasons to retain, when days of bitter affliction had arrived.

As a member of the House of Commons, Hampden generally acted with the moderate

* Lord Nugent, vol. 2, 440.

reformers of the day ; a party of patriots whose influence was necessarily great, since they held in their hands the weight which balanced the powers of the royalists, and the ultra parliamentarians. But this influence was destroyed, as the power of the royalists diminished ; and when, by the death of the King, royalty for a season was banished from England, the surviving members of Hampden's party found themselves in no condition to withstand the atrocities of the then ruling powers. They discovered that they had gone much too far ; that in withstanding the King's prerogative they had only helped to set up a power still more despotic, and far more merciless. The one was, it is true, imperious, and arbitrary, but then the practice of ages had softened its proceedings; if it was firm, it was still courtly in its language. The new governing power was equally strong, and quite as energetic ; but then it had all the hypocrisy of pride, vulgarity and insolence.

The year 1643 was indeed a year of great mortality in the ranks of moderate men of both parties ; for on the parliamentary side died Hampden, and their leader in the Commons John Pym. On the side of the royalists in the fight of Newbury fell Lucius Cary, Lord Falk-

land, of whose death Clarendon thus speaks.*
“ He fell, in the four and thirtieth year of his age, having so much despatched the true business of life, that the eldest rarely attained to that immense knowledge, and the youngest enter not into the world with more innocency. Whosoever leads such a life needs be the less anxious upon how short a notice it is taken from him.”

As these moderate reformers fell away, the strength of the more violent proportionately increased. This has in every age been the fate of all revolutionists: they set out with moderate plans of sober alterations; they support these views by appeals to the people; other champions fly to their assistance, actuated with the same zeal for liberty, but with none of their moderation; the storm soon thickens, and then the moderate men as naturally slink out of the fray, leaving their more decided reforming brethren uncontroled masters of the field. In the period of tumult, of which we are now speaking, death had indeed done the work; for it early removed the choicest of the band. Sir John Elliot died in 1632, Coke only two

* Rebellion, vol. 2, p. 277.

years afterwards, Sir Dudley Digges in 1639, Pym, Falkland, and Hampden, in 1643. The great Selden, it is true, survived eleven years longer ; but his voice was heard not after the decease of his friends. He was far too indolent or cowardly for active service ; his powers lay in the profound learning of the schoolman, in the conduct of an argument ; he was invincible in a battery of books, in entrenchments formed of huge folios, and tough quartos ; he shone amid precedents and authorities, and was unrivalled as the skilful skirmisher of duodecimos and pamphlets. But these were qualities which, in the Cromwellian era, were rarely regarded, and less frequently employed. Thus Selden was naturally angry, as were all good patriots, when Charles I came personally to the House of Commons to seize its accused members ; much indignant eloquence expressed the feelings, much learned lore demonstrated the profound knowledge, of the patriots of that day, as to the illegality of his ill-advised attempt. But when, in after days, Cromwell answered the argument of a succeeding Parliament at the head of his soldiers, and cleared the House at the point of their lances, then the arguments of the patriots were heard only in whispers. No Coke thundered on its illegality, no Elliot

pleaded ; Selden was silent ; he had now no hope, and made no attempt to moderate the military despotism of England's rulers, or to puzzle them with learned authorities : yet he it was who gravely adopted for his motto " Liberty above all things."

SIR JOHN ELLIOTT.

Of this gallant and youthful patriot, many and melancholy are the memorials in the history of England's days of struggling and wretchedness. He was born in Cornwall in 1592, of a highly honourable family, whose descendants still possess the fair estates which give a title to the Elliotts, Earls of St. Germain. Port Elliott was the property and residence of Sir John Elliott. He was of Exeter College, Oxford, but speedily left it to study the law, which he as readily abandoned to accompany the celebrated George Villiers, afterwards Duke of Buckingham, on his travels.

On his return, by the interest of his friend, he became Vice Admiral of Cornwall, and was elected into parliament for one of the numerous Cornish boroughs. He continued in parliament

to the day of his death, representing either the county, or one of its towns.

He was of an extremely ardent temperament ; he carried off and married a daughter of Sir Daniel Norton, for which the court of Wards fined him four thousand pounds; and, in a quarrel with Mr. Moyle, he nearly killed his opponent with his rapier.

It required, in those days, men of a warm, zealous and courageous disposition to offer themselves as opponents of the court ; for to men of quiet peace-loving characters, such a crusade offers no temptations ; the noisy and the bold very naturally are exhilarated by the danger, and rejoice in the popular storm ; the friend of quiet improvement shudders at the clamours of the mob, luxuriates in the tranquillity of peace, and would attempt no improvements unless they could be effected without danger, and carried without a tumult.

Elliott was not of this description of patriots ; he and Buckingham, therefore, speedily separated in politics, and became each other's deadly opponents ;—the one the champion of the people, the other as devotedly the friend and slave of the King.

Elliott was eloquent in the defence of the violated rights of his countrymen, denounced

his former friend as a traitor to his country, and speedily became, in consequence, a marked object of the fear and hatred of the court.

But it was in vain they threatened him, in vain they committed him to prison ; Elliott still stood firm, his eloquence still poured out a flood of indignation upon the cowardly advisers of Charles ; and his shortsighted advisers finding him unbending, he was released from his imprisonment.

But his freedom was of short duration ; he was one of those who refused to contribute to loans not authorised by the crown, and exasperated the King by far more energetic appeals to the patriotism of the house, conveyed in language still more eloquent than ever. The court again proceeded against him ; again he was committed to the King's Bench, and from thence was committed to the Tower, his last prison, since from thence he never escaped. For although his native county petitioned for his release, Elliott would not address the King in language sufficiently humble ; his spirit was as unbending in the Tower as when pleading for his countrymen in the House of Commons. Even when brought before Lord Chief Justice Richardson, his conduct was such that the judge could not help remarking " that though brought

low in body, Sir John is as high and lofty in mind as ever."

He passed the hours of his long imprisonment in composing a work "upon the Monarchy of Man," a treatise at once moral and philosophical.* He sat for his portrait, which he desired should be kept "as a perpetual memorial of my hatred to tyranny," and this is still preserved at Port Elliott in Cornwall, the seat of the St. Germain family.

A few only of his eloquent letters of this period have escaped to us. They are full of expressions of resignation and of hope; some of them are directed to his friend, the great Hampden, who regarded "his affections as a noble purchase,"† and who never deserted him in his adversity.

Lord Nugent, in his *Life of Hampden*,‡ has given a fac simile of one of Hampden's affectionate letters to Elliott, dated from Hampden, March 21, 1631, and directed, "To my honoured and dear friend, Sir John Elliott, at his lodging in the Tower." And in another letter, dated May 11, 1631, he says, "Present my services to Mr. Long, and Mr. Valentine," who

* It is in the Harleian MSS. 2228. 60. B

† Elliot Collection, No. 126.

‡ Vol. i, p. 162.

were his companions in misfortune. This was written in reply to a letter of Elliott, in which he had consulted Hampden on the education of his two sons.

The correspondence of these two great men continued uninterrupted till the last. But disease stole on, and the physicians of Elliott first memorialised the government in vain, for a relaxation in the strictness of his confinement; and when some favour was at last tardily allowed, the order came too late to be of any service; he was rapidly sinking away from the hatred of his persecutors, and in the third week of November, 1632, death released him from their malice.

He was buried in the Tower chapel, his son having ineffectually petitioned the King to be allowed to convey his body into Cornwall.*

My brother, in his *Life of Selden*†, has given some extracts from Elliott's work written in the Tower, which breathe the purest sentiments of patriotism and native benevolence. He was indeed an extraordinary character—one on whom I seem inclined to linger longer than my limits will fairly allow. He constantly, in the words of

* Harleian MSS. 7000, Fol. 186.

† Page 13.

Lord Nugent, bore* “ testimony of a hardihood of purpose, and a resolute endurance of all the sufferings it brought upon him, which, if we consider the length and fatal termination of them, and, above all, the repeated occasions offered to him to escape them, by compromising public duty, and private honour, were unparalleled even in those days of patient and obstinate courage and persecution.”

Thirty-five years after his death, the parliament of England, in 1667, did justice to his memory by declaring that the judgment given against him in the court of King’s Bench was “ an illegal judgment, and against the freedom and privilege of parliament.”† At the same time, by a vote of money to his representatives,

* Life of Hampden, vol. i, p. 177.

† The sentence upon Sir John Elliott, Valentine, and Hollis, was for forcibly holding the Speaker of the House of Commons Sir John Finch, in the chair, when he offered to depart by command of the King, and refusing to put a motion of Sir John Elliott, for a remonstrance to the King. For this outrage, by an information from the Attorney-General, they were tried in Hilary Term, 1630, found guilty, and sentenced to various fines and imprisonments, Sir John Elliott to find securities for his good behaviour, pay a fine of two thousand pounds, and to be committed to the Tower, until he performed these directions of the court.—Croke’s Reports, vol. iii, p. 182, 604.

they endeavoured to repair the damage that was formerly done to his estate.

The fate of Elliott serves among a host of similar cases, as a warning to the government of any country to beware of persecution in any shape ; to avoid all acts of tyranny and injustice such as those against which the commons of England, on the motion of Elliott, so warmly protested ; for however illegal his conduct in holding the speaker in his chair, it was evidently an act not more unlawful than the previous command of Charles the First, forbidding the speaker to put the question ; and legal or illegal, the court of King's Bench had clearly no jurisdiction in the case.

Persecution, however, did by Elliott what in more sober days it did by many other eloquent patriots : it, in after ages, rendered Sacheverel notorious, and Wilkes the popular champion of liberty, and a martyr in a very doubtful cause.

Elliott and Coke served in the same ranks, and fought the same battle. Few of the debates of that day have escaped to us, and yet on many important questions I find them pleading together ; as on the 22nd of March 1627, on the debate upon the redress of grievances, Elliott, Wentworth, and Coke were among the speakers of the popular party.

On the 2nd of April, 1628, on the question of granting the King a supply, Elliott, Pym, Wentworth, and Coke were again together on the same side. And on the question of constrained foreign employments, which was one of the unworthy expedients adopted by the court of Charles to get rid of the obnoxious members, Elliott and Wentworth ably supported Sir Edward Coke's argument demonstrating the illegality of the scheme.*

The last time that Elliott appeared in the House of Commons was on the second of March 1628, when he offered to the house certain resolutions against the imposition of tonnage and poundage. Elliott seemed to have a presentiment that the session was near its close; for he observed when alluding to the political path he had pursued, "If my fortune be ever again to meet in this honourable assembly, where I now leave, I will begin again."

The debate, however, was interrupted by the Speaker, Sir John Finch, announcing to the house that he had a message from the King, commanding him to adjourn the house for a week.

This adjournment was commanded for the purpose of preventing the House entering further

* Parl. Hist. vol. vii, 363, 399, 405.

upon the question of tonnage and poundage. It gave rise to the most disgraceful scuffle that ever occurred in the parliamentary history of England, a fray to which Elliott eventually fell a sacrifice.

Upon the refusal of the Speaker to put to the House a long and energetic remonstrance to the King, moved by Sir John Elliott, he desired the clerk of the House to read it; but the clerk followed the example of the Speaker, and returned the paper to Elliott, who therefore proceeded to read it himself.

This petition Sir John Finch was again desired to put, but he told them, with great emotion, "he was commanded otherwise by the King."* And in reply to the energetic appeal of the great Selden, he added, "I have an express command from the King, so soon as I have delivered my message, to rise."

But upon his attempting to rise, he was forcibly detained, and shoved back again by Holles, Valentine, and other members, although Sir Thomas Edmonds, at the head of a party of Privy Councillors, vigorously endeavoured to release him, Holles swearing, by God's wounds, he should sit there until it pleased them to allow him to depart.

* This petition is given at length, Parl. Hist. vol. viii, p. 329.

The Speaker was evidently unfit for the crisis in which he stood ; he with much emotion, with many tears, expressed his grief. “ I will not say I will not ;” he exclaimed, but I dare not put the question ;” and with much humility he implored the House to suffer him to depart.

Selden again upbraided him, and threatened him with punishment ; and his own relation, Sir Peter Hayman, regretted openly that he was his kinsman, since he was a disgrace to his country, and a blot to a noble family, and strongly advised the choice of a new Speaker. But no threats, no arguments availed. Sir John Finch sat still, compelled to keep the chair—but he sat there totally out of the power of the House.

Holles, therefore, proceeded with a loud voice to read to the house certain resolutions, which were unanimously carried, condemning the levying of tonnage and poundage ; and an interval of two hours being consumed in these proceedings, the House adjourned until the 10th of March.

While they were in debate, however, the King, hearing of their proceedings, sent a messenger to the Sergeant-at-arms, desiring him to bring away the mace from the table of the House, which would have prevented further proceedings ;

but the House desired the sergeant to remain quiet, caused the door of the house to be locked, and one of the members put the key in his pocket.

The King then sent the usher of the black rod, and, upon his rejection, a company of soldiers, who would certainly have forced the door of the House, and dispersed the members by force, but fortunately on their arrival, they found the House adjourned.

Such was the termination of this miserable day's proceedings. The power of the King to adjourn the houses may be doubted, but had any one produced a commission from the King to prorogue the parliament, there can be no doubt of its legality. The power of the House to enforce the putting of any question by an unwilling speaker is equally doubtful. They could perhaps vote him out of the chair; but then, as his successor would not be a Speaker until the King had approved their choice, such a proceeding would hardly place them in a better situation. Both the King and the parliament were placed in a novel situation; and amid such a series of unconstitutional proceedings, it ought not to excite our surprise that the King, the parliament, and their Speaker all appear to very great disadvantage.

Three days afterwards, by a warrant from the

Privy Council, Mr. Holles, Sir John Elliott, Sir Miles Hobart, and Sir Peter Hayman, appeared before the board to answer for their conduct on the occasion.

Holles was first examined; he was asked, "Wherefore contrary to his former usage, did he on the morning of the tumult in the House, place himself above divers of the Privy Counsellors by the chair?"

He claimed it as his right—"He came into the House with as great zeal to do his Majesty service as any one:—yet finding his Majesty was now offended with him, he humbly desired that he might rather be the subject of his mercy than of his power."

"You mean," rejoined the Lord Treasurer Weston, "rather of his Majesty's mercy than of his justice."—"I say," retorted Holles, "of his Majesty's power my Lord." The others behaved just as fearlessly, just as independently as Holles; they were perfectly right in the conclusion, that the Privy Council had no jurisdiction to take notice of the fray.

Elliott was asked to acknowledge certain words he had used in his speech to the House, but he would not be examined; he told them, "that he was, and always should be ready to give, an account of his sayings and doings in that

place, whenever he should be called upon by the House ; where as he taketh it, it is only to be questioned ; and in the mean time being now but a private man, he would not trouble himself to defend what he had either spoken or done in that place, as a public man.”

Sir Miles Hobart (the son of the great Judge Hobart) was asked why he shut the door of the House. He “ desired to know by what warrant he was examined to give an account of his actions in Parliament, when he was a member of that House? Nevertheless, he would not stick to confess, that it was he who shut the door that day, and when he had locked the door, put the key in his pocket, and he did it by the desire of the House.”

Sir Peter Hayman was questioned as to his reproof of the speaker; he told the Privy Councillors that he did so, “ because he was the speaker, and so the servant of the House, and one that ought to have applied himself to its commands, and he did it with the more freedom, and detestation because he was his countryman ; but he should have done it to any other man, that in the same kind should have deserved it as he did.”*

* Parl. Hist. vol. viii, 355.

Thus ended this disgraceful scene ; eight days afterwards, the King dissolved the Parliament and thence the imprisoned members were left to the tender mercies of grave prerogative judges of the Court of King's Bench, and the tyrannical Star Chamber.

After many grave consultations, the twelve judges determined that offences in Parliament, were punishable in the Court of King's Bench, on an information filed by the Attorney-General ; and in consequence, in Michaelmas term, 1629,* they were all sentenced to pay certain fines, and find security for their good behaviour. Sir John Elliott's fine being the greatest, because as Mr. Justice Jones remarked in passing sentence, " we think him the greatest offender, and ring-leader."† It was in consequence of his refusing to find these securities, and to pay his fine, that he endured his long and fatal imprisonment.

Elliott was worthy of better and happier days ; he had no guile, no dissimulation in his composition, his language announced the warm feelings of the patriot and the christian. His last letters

* Croke's Reports, vol. iii, 605.

† Parl. Hist. vol. viii, p. 388.

says my brother, in his life of Elliott's friend Selden,* " have the most eloquent expressions of resignation and 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."

The conduct of Sir John Elliott, though warm and uncompromising, rarely appears to have outraged the gentlemanly feelings of his political opponents. He opposed the King it is true even to the death ; but he never was led away by the warmth of his indignation to forget that his sovereign was entitled to be addressed in the language of a gentleman, and to all the rights of decency. In his petitions to the King when he was confined in prison, he was always firm, often touchingly eloquent, but never insolent.

Thus when confined in the Gatehouse in 1626, in petitioning the King, he thus expresses himself ;†

* Parl. Hist. p. 12.

† Ibid, vol. vii, p. 324.

“ TO THE KING’S MOST EXCELLENT MAJESTY.

The humble petition of Sir John Elliott, knight, prisoner in the Gatehouse, concerning the loan sheweth :—

“ That your poor suppliant affected with sorrow, and unhappiness, through the long sense of your Majesty’s displeasure, willing in every act of duty and obedience, to satisfy your Majesty of the loyalty of his heart ; than which he hath nothing more desired, and that there may not remain a jealousy in your royal breast, that any stubbornness of will hath been the motive of his forbearing to condescend to the said loan ; low at your Highness’s foot, with a sad, yet a faithful heart, for an apology to your clemency and grace ; he now presumes to offer up the reasons that induced him, which he conceiveth the necessity of his duty to religion, to justice, and to your Majesty did enforce.

“ The rule of justice he takes to be the law ; the impartial arbiter of government and obedience, the support and strength of majesty, the observer of that justice by which subjection is commanded :—

“ In this particular, therefore, of the loan, being desirous to be satisfied how far the obliga-

tion might extend, and resolving where he was left master of his own, to become servant to your will, he had recourse unto the laws to be informed by them ; which in all humility he submitteth to your most sacred view, in the collection following.

“ In the time of Edward I he findeth, that the commons of that age were so tender of their liberties, as they feared even their own free acts and gifts might turn them to a bondage of their heirs. Wherefore it was desired and granted.

“ That for no business, such manner of aids, taxes nor prizes should be taken, but by common assent of the realm, and for the common profit thereof. And that no tallage or aid should be taken or levied, without the goodwill and assent of the archbishops, bishops, earls, barons, knights, burgesses and other freemen of the land.

“ And upon a petition of the commons, afterwards in Parliament (time of Edward III.) it was established : ‘ that the loans which were granted to the King by divers persons, be released, and that none henceforward be compelled to make such loans against their wills, because it is against reason and the franchises of the land.

“ And by another act, upon a new occa-

sion in the time of Richard III, it was ordained,

“ That the subject is no wise to be charged with any such charge, exaction, or imposition, called a benevolence, and that such like exactions be annulled and damned for ever.

“ Such were the opinions of those times, for all these aids, benevolences, loans and such like charges, exacted from the subject not in Parliament; which they held to be grievances, contrary to their liberties and illegal; and so pious were their princes in their confirmation of their liberties, that having secured them for the present, by such frequent laws and statutes they did likewise by them provide for their posterity; and in some so strictly that they bound the observation by a curse, as in that of 25. of Edward I.* All which acts extend to us.

“ And these reasons he presents to your Majesty, as the first motive taken from the law.”

Having then proceeded to offer other argu-

* Cap. 4. “ All archbishops, and bishops shall pronounce the sentence of excommunication against all those who by word, deed, or council, do contrary to the aforesaid charters. And that the said curses be twice a year denounced and published by the prelates aforesaid.”

ments for his refusal, he thus proceeded, “ He could not as he feared, without pressure to these immunities become an actor in the loan, which by imprisonment, and restraint was urged contrary to grants of the great charter, by so many glorious and victorious Kings, so many times confirmed ; being therein most confided of your Majesty, that never king that reigned over us, had of his own benignity and goodness, a more pious disposition to preserve the just liberties of his subjects, than your sacred self.

“ Though he be well assured by your Majesty’s royal promise, whose words he holds as oracles of truth, that it should not become a precedent, during the happiness of your reign (the long continuance of which is the daily subject of his prayers) yet he conceived from thence a fear that succeeding ages, might thereby take occasion for posterity to strike at the very property of their goods, contrary to the piety and intention of your Majesty so graciously expressed.

“ And these being the true grounds and motives of his forbearance to the said loan. That no factious humour, nor any disaffection led on by stubbornness of will, hath herein stirred or moved him, but the just obligations of his conscience, which binds him to the ser-

vice of your Majesty, in the observance of your laws ; he is hopeful, presuming upon the piety and justice of your Majesty, that your Majesty according to your innate clemency and goodness will be pleased to restore him to your favour, and his liberty, and restore him to the benefit of those laws, in which, in all humility he craves.”

This petition produced no favour to its author, he remained in prison, till the general order of discharge came.

The petition to the King, in his last imprisonment, I am not able to give so much at length ; all I know of it, is derived from the Harleian MS. No. 7000, fol. 186 ; which Lord Nugent gives in a note to his able life of Hampden.* I give it verbatim, and its interest will, I am sure, be an ample excuse for its length.

“ A gentleman not unknown to Sir Thomas Lucy, tolde mee from my Lord Cottington’s mouth, that Sir John Elliott’s late manner of proceeding was this. Hee first presented a petition to his Majesty by the hand of the lieutenant his keeper, to this effect ; ‘ Sir, your Judges

* Vol. 1, p. 157. The Letter is dated by Dr. Birch, December 13, 1632.

have committed me to prison, here in your Tower of London, where by quality of the ayer, I am fallen into a dangerous disease. I humbly beseech your Majesty, that you will command your judges to set me at liberty that I may take some fresh ayer, &c. &c.’

“ Whereunto his Majesties answere was, it was not humble enough. Then Sir John sent another petition by his own sonne, to the effect following: ‘ Sir I am hartily sorry I have displeased your Majesty, and having soe said, doe humbly beseech you once again to set me at liberty, that when I have recovered my health I may return back to my prison, there to undergo such punishment as God hath allotted unto me, &c. &c.’ ”

Upon this, the lieutenant of the Tower came and expostulated with him, saying it was proper to him, and common to none else, to do that office for delivering petitions for his prisoners. And if Sir John, in a third petition, would humble himself to his Majesty in acknowledging his fault, and craving pardon, hee would willingly deliver it, and made no doubt he should obtain his liberty; unto this Sir John’s answer was: “ I thank you, Sir, for your friendly advice; but my spirits have grown feeble and faint, which when it shall please God to restore

unto their former vigour, I will take it farther into my consideration."

DENZIL HOLLES.

Denzil Holles, who was another ring-leader in the disgraceful scuffle, when Sir John Finch was forcibly held in his chair, was the second son of the first Earl of Clare. He was evidently of the most ardent, fearless temperament, continually suffering his feelings to carry him further than his cooler judgment justified.

His fearless answer to the Privy Council I have already given ; and when afterwards committed to the Tower, and a motion made by their counsel for their discharge on bail, Holles absolutely refused to be bound over for his own good behaviour, although Sergeant Asthley, whose daughter and heiress he had married, offered to be his surety to any amount the Court might require.

He had no idea, however, of carrying his opposition to the extremes to which his party would have hurried him, for although Charles I. impeached him in 1641, along with Lord Kimbolton, Pym, Hampden and other mem-

bers, and on several other occasions prosecuted him with some severity ; yet when the Commons were trying Charles, Holles always kept away from the trial, and energetically opposed his execution.

His opposition to the tyrannical measures of Cromwell and the army, became so annoying that in 1647 he was one of the members impeached by the army, and expelled the House, in consequence of which he retired into Normandy, where he employed himself in writing his "Memoirs." In the following year the Parliament restored them to their seats. He served in this Parliament along with the celebrated John Bond, for Dorchester.

After the death of Oliver Cromwell, he actively promoted the restoration, for which Charles II. created him a peer, by the title of Lord Holles of Isfield. He afterwards actually sat as one of the Commissioners in the trial of the regicides, during the progress of which, several speeches were made by the prisoners, which must have occasioned rather melancholy reflections on the part of some of those who presided as judges on their less fortunate brethren.

Thus on the 12th of October 1660, when

Adrian Scroope Esq. was tried at the old Bailey, he thus addressed Sir Orlando Bridgeman the Chief Commissioner: " My Lord, I do see that every thing I speak, though it be for clearing of myself, from your ill opinion, I see it is taken in an ill sense. If I err I will crave your Lordship's pardon ; but, my Lords, I say that if I have been misled, I am not a single person that have been misled. My Lord, I could say, (but I think it doth not become me to say so), that I see a great many faces, at this time that were misled as well as myself ; but that I will not insist upon."*

He died in 1690, having survived all his old companions ; he was then ninety-three years of age.

His patriotism was undoubted, for he sided with the Commons, although the friend and even bed-fellow of Charles I. in his days of boyhood. He was one of the members whom Charles came to the House in person to apprehend, but he escaped the capture by the intimation of a friend. His courage was never questioned ; he was once insulted openly in the House by Ireton, Cromwell's son-in-law, upon which Holles drawing him out of the House,

* State Trials, vol. 2, 524.

challenged him to fight a duel. But this Ireton refused, as contrary to his conscientious feelings. Holles immediately pulled him by the nose ; telling him very coolly, “ If your conscience prevents you giving men satisfaction, it should keep you from insulting them.”

It was to this gallant bearing, according to Clarendon, and this punishment of their favourite Ireton, “ a man of the most virulent, malicious, and revengeful nature of all the pack,” that caused the army to impeach, and the commons for a season to banish Holles.*

The patriotism of Denzil Holles shewed itself in a much more practical manner than it sometimes does in our age ; it was not with him a question of pounds and shillings. Thus in 1646, the House of Commons resolved ; “ that Mr. Holles should have £5000 for his damages, losses, imprisonments, and sufferings sustained, and undergone by him, for his service done to the Commonwealth in the Parliament of the third of Charles I.

They came to the resolution in favour of Selden, Walter Long, Benjamin Valentine, and the representatives of Sir John Elliott, Sir Peter Hayman, William Strode, and Hampden.

* Clarendon's Rebellion, vol. iii. p. 44. Fol. edition.

Holles however refused to take the money ; he thus tells the story and gives the reasons for his refusal :

“ I myself for my suffering after the Parliament of the third of Charles, which continued many years, cost me some thousand pounds ; and prejudiced me more, had five thousand pounds given me by the House for my reparation. I refused it, and said I would not receive a penny, till the public debts were paid. Let any of them say so much. I desire whoever shall chance to read this, to pardon me this folly. I do not mean for not taking the money but seeming to boast of it. I must again repeat the apostle’s words. “ I am become a fool in glorying, but they have compelled me.”*

This angry note by Holles was written during his absence in Normandy, through the influence of the army ; a banishment he evidently submitted to with great reluctance ; indeed he confesses as much, when giving an account of the transaction, he says, “ These gentlemen thought it best, rather than a breach should be made on their occasion, and that through their sides the Parliament should be struck to the very heart, and die for ever to make it their

* Memoirs p. 140. Parl. Hist. vol. 15, p. 278.

own act of forbearing the House, and therefore they told the House that they saw they were in that condition, they could neither protect them, nor themselves ; that if they would not do as Achish did to David, who bid him begone, because the princes of the Philistines loved him. “ Not yet that they would, at their humble suit and desire, be pleased to give them leave to withdraw, and to such as desired it, passes to go beyond the sea, which at last they did agree to, though truly I must say unwillingly.”*

WILLIAM STRODE

William Strode was another distinguished member, with whom Sir Edward Coke's name is often associated in the parliamentary proceedings of the latter end of the reign of James and the beginning of that of Charles the First.

He appears to have been zealous, courageous, and turbulent ; seemed at home always as the leader of impeachments, had no horror at the shedding of blood for political offences.

Thus almost the very first speech he made

* Memoirs, p. 125.

in the House of Commons in 1628, was an indignant appeal against the humanity of Chief Justice Hide, for having reprieved some catholic priests, who refusing the oath of allegiance had been tried and condemned to be hanged.

The Chief Justice, very probably, felt that the punishment far exceeded the offence, and he, in consequence, advised the King to reprieve them. The hum of indignation which this raised amongst the liberals of that day was every way worthy of a horde of cannibals. Even the great Selden joined in the outcry. He thought the humanity displayed by the learned Judge was clearly evidence of jesuitism.

Strode was one of those members, who, in 1689, corresponded with the Scotch, and strongly recommended them to invade England; he was evidently a turbulent, but not a very talented man. His zeal supplied in some measure his want of genius. The Commons, therefore, made him one of the managers in Archbishop Laud's impeachment, in several messages to the Lords, and in other important services, in which his zeal often exceeded the bounds of moderation. Thus when he carried up the message to the House of Lords, requesting them to pass the bill for Laud's attainder, seeing the Peers were still

likely to pause, he volunteered the observation to them "that if they did not do it quickly, twenty thousand citizens of London would come with a petition, and quickly compel them." The Lords, however, resenting the affront, Strode added, that this piece of ferocious vulgarity did not form part of his instructions from the Commons.

Charles I. clearly did not understand the character of this man. There was only one way in which he could be elevated into political importance, which was by state prosecutions, and this plan was unfortunately adopted by the court. Had Strode been ten times more violent, restless, and untalented than he really was, the steps taken by the King would have insured his becoming popular.

He was one of the five members whom the King came personally to seize in the House of Commons, in consequence of the House refusing to surrender them to the Sergeant at Arms. The members of the House fortunately had an intimation of the King's visit through the Countess of Carlisle, and in consequence, at their request, Selden, Pym, Haslerigg, and Hampden withdrew before the King's arrival, and Strode did the same, but it was with great

reluctance : he was in a manner dragged out of the House by his friend Sir William Walter Earle.*

He was, however, in company with the other four members, soon after apprehended, had an information filed against him in the Star Chamber, and was obliged to enter into a bond of two thousand pounds for his future good behaviour.

Strode was now raised into importance. The dignity of being a defendant against royalty, made him interesting ; his punishment rendered him a martyr, in the cause of liberty.

When the contest really began between Charles and the Parliament, Strode of course sided with the House of Commons, and to the period of his death faithfully supported their cause. When the news of the battle of Edgehill arrived, he went into the city with Lord Wharten as a deputation to inform the Lord Mayor and Common Council of the particulars.

He died in 1645, in his forty eighth year, and was buried in Westminster Abbey, from whence, after the restoration, his body was by command of Charles the second, brutally disinterred.

* Parl. Hist. vol. 8, p. 163.

The crusade of the advisers of Charles the Second against the ashes of the dead, was paltry and lamentable. Those upon whom they thus vented their anger, had appeared as actors in scenes of melancholy interest. They had been some of them over zealous—others led along by the popular torrent, and all of them engaged in actions of a nature which they could never have contemplated at the commencement of their exertions. Some of Strode's friends too, when this disgusting scene was performing, actually became royalists and servants of the King. Of this number was Daniel Holles, afterwards Lord Holles, and Ashley Cooper, the first Earl of Shaftesbury ; men who had served and supported every government establishment since the death of Charles the First.

Such were some of the chief members of the party with which Coke acted ; a band of patriots who intended no assaults upon the just prerogatives of the crown, for they knew very well that the maintenance of those constitutional prerogatives was essential to the maintenance of the monarchy, and that it was as entirely necessary that the rights of the King should be inviolable as those of the Commons.

The extreme party however, had no such actuating motives. They intended change, in all the

institutions of the country. They held no right sacred, no principle inviolable, save the acquisition of power by themselves and by their party. They hated, it is true, absolute royalism, but they submitted to tyranny of other names with the most despicable alacrity; shed their blood in defence of the constitution, and then, illegally murdered their King.

They acted a drama which is ever the certain result when the management of the affairs of any country falls exclusively into the hands of any persons, however talented and well-meaning who represent, and are principally supported by the most despicable, the most ignorant and infuriated portions of the community. They were obliged to head a stream they could not direct. A class of the people who were unable to comprehend the proper period for ceasing to destroy—had no sympathy for the rights of others—no feelings but for themselves.

The destruction of their King, led but to the setting up a tyrant protector. The abolition of the House of Lords was followed, as a natural consequence, by the same operation being performed upon the Commons. The ruin of the clergy of the church of England, was merely succeeded by the elevation of another class of clergymen,

who were little acceptable to the people at large; and whose chief merit seems to have consisted in the patience with which they sustained their protracted devotions. They in no other accomplishments excelled their predecessors, and were much less tolerant with regard to their religious opponents. The exhortation of Mr. Cheynel, one of their most distinguished leaders, over the grave of "good William Chillingworth" at his burial in Chichester Cathedral, speaks little in favour of their refinement, and unanswerably demonstrates their bigoted ignorance.

If Charles committed great and manifold errors, the Commons kept pace with him in all his blunders; no folly was perhaps more absurd than their concluding a bargain with the Scotch to deliver him up. He was evidently no acquisition. Their prisoner speedily became an intolerable burthen to his keepers. Plot succeeded plot for his deliverance,—they dared not set him at liberty, yet they treated with him as a King. The putting him to death evidently destroyed not the claim to the throne of his son and successor who was not in their power; far better had it been, if they had suffered him, as in an after age, a wiser Parliament suffered his son, James II, to escape out of the kingdom.

The rulers of that day performed a more wretched part ; they resolved, warm advocates as they were for the rights of others, to destroy their prisoner—for the death of Charles was resolved long before the solemn mockery of his trial ; he was legally subject to the cognizance of no court then in existence—he undauntedly told them so on his trial,—they yet persevered,—they condemned—they murdered their prisoner.

Such were the tragic scenes, which Sir Edward Coke, fortunately for himself, unfortunately for his country, was not spared to witness, for he had been dead six years, when in 1640, the last Parliament of Charles the First met at Westminster. This interesting period of England's history has been treated of by my brother, Mr. George Johnson, in his life of the great Selden, and I rejoice that I am spared the pain of travelling over the same ground.

It was indeed a scene crowded with melancholy events, full of instruction to the people of England : it confirmed in their minds the same love of freedom—the same horror of oppression and tyranny in any shape which characterises them now, and which I trust will continue with them to the end ; but, at the same time, it implanted in them an equal dread of

anarchy, and taught them that no despotism is so unmerciful as that of republicanism and bigotry ; no government so intolerable and despotic as that constituted by a mixture of ignorance, patriotism and vulgarity.

Charles the First in character, differed widely from his father ; he had no love of plots, no friendship for long speeches, interlarded with pedantic quotations ; but he had much personal gallantry, while James on the contrary was a confirmed coward, and they were both irresolute. It is probable that they were equally insincere in their professions, and far too readily departed from their engagements ; for both betrayed their friends, in the hour of their peril.

Had Charles the First escaped from England, and died in exile, his memory would have gone down to posterity as that of the discarded lover of arbitrary measures ; his rebellious subjects, on the other hand, would have been depicted merely as warm lovers of freedom, driven into rebellion by the faithless duplicities of the crown. His death, his murder, did much for his memory ; his noble defence elevated him in the eyes of all England, as the gallant fallen prince, pleading for his life, with a courage and an unshaken dignity, worthy of a King.

It is impossible to review the characters of Charles and James, without being struck with the family love of favourites. James had a regular successor ; Charles was constant to Buckingham. Neither of them possessed any pretensions to dignity of mind or talents for the varying situations in which they were placed. James owed his safety to his love of idleness, and his cowardice ; his was the security of indolence ; his parliament, who feared him not, readily slept when he did, and he rarely seemed disposed to arise from his torpor. He avoided war, and, in consequence, escaped debts ; he seldom demanded anything of his parliaments in the way of money, which they were not willing to grant him.

Charles had no such cautious principles of action ; he was extravagant, and thoughtless of results, plunging the nation into war without necessity or policy, and extricating it by disgraceful sacrifices. Money, Charles speedily found, was the sinews of war, and money could only be had from the parliament ; and these disagreeable necessities speedily brought Charles into contact with the Commons.

The power of granting, generally implies a power of stipulating for the management, and

enjoyment of the grant, and the parliament of England inflexibly, in this respect, asserted their right. They were willing to grant, but they were equally determined to reform; money and grievances went so completely and so unpleasantly hand in hand, that Charles with desperate alacrity seized every possible chance of raising money without their assistance.

Thus far these two princes differed widely; they were both, however, unlucky fellows; the one embroiled in a civil war, which ended in his death on the scaffold, and the other escaping, on one or two great occasions, from being murdered with considerable difficulty. Both his parents perished untimely, one murdered, the other beheaded.

In all kingly qualities, Charles left his father at an immeasurable distance; his errors were the errors of ignorance; he did not know the altering nature of the times; he stood upon his prerogative, boldly argued upon the laws, of which he claimed the advantage, and, to do him justice, was often, very often in the right.

His great error lay in refusing to concede, being by far too tenacious of rights and privileges, which, in other days, other sovereigns of England had been in the habit of enjoying—

rights which his father saw invaded with impunity, and for which, he was far too idle and timid to contend.

Charles the First did not stop to consider that the crown he inherited had, for a long series of ages, been gradually losing many arbitrary and profitable prerogatives, and that he was only travelling on, impelled by the same great stream of riches, knowledge and power, as that by which his ancestors had been controuled.

In fact, from the days of William of Normandy in 1067, from the first establishment of the feudal system in England, and the supreme power of the church of Rome, down to the year 1625, when Charles came to the throne, the loss of kingly prerogatives and power had been steadily and quietly going on. The gradual and peaceful decay of the feudal tenures, the increase in manufactures and trade, the struggles of the barons with their kings, the decrease of the peerage, the annihilation of the power of the church of Rome, the abolition of military services, the summoning the burgesses and citizens to parliament, and the separating these from the peers, were all great and mighty innovations upon the kingly prerogatives.

Charles did not see this, neither did he notice

how quietly, yet how strangely the members of parliament, in the previous century, had been improving in knowledge, in riches, and in respectability; that so far from the office, as formerly, being held as one which was burthensome and disgraceful; the appointment was now courted by the rich and talented of the land, and the men who formerly laboured to be excused from the office, struggled to obtain it. A parliament now was differently constituted than when John Earl of Warren sent a friend to speak and vote for him in the house, who was not even a member of parliament.* Charles saw none of these things; he had no suspicion that it would be possible to retain the kingly dignity when deprived of its prerogative, its wardships, its benevolences, and its courts of Star Chamber.

The idea of entering into an offensive and defensive league with the Commons, of taking them as partners of the revenues, patronage and emoluments of the state; being guided in their opinion in the choice of his ministers, and of

* This great nobleman did so, in the parliament 16 Edward II, 28 November, 1322. Palgrave's Writs of Parliament, vol. ii. p. 267. No. 30.

going with the current of their whims and prejudices, as long as they were in the humour to row in any particular, direction, however absurd, and of sailing back with them as soon as they found out their mistake—such a system Charles never imagined possible for a King of England. Neither did it ever occur to him, that a parliament could oblige the King of Great Britain to pause in any projected expedition, or to retrace his steps, without losing his dignity or his character, as the King of a nation of free men. Charles, on the contrary, merely saw in each political opponent, a Roundhead, in every patriot, a rebel. That there might be a difference in the views, feelings, and tempers of his dissatisfied subjects, was a fact he seems never to have regarded with sufficient attention. Those who were not his partizans were ever, in his eyes, traitors to their country, enemies to their King, and sworn foes to the dearest rights of his prerogative. He saw his error when it was too late to reap the fruits of repentance, for the parliament was then triumphant; the Scotch had basely delivered him up—Strafford was in his grave.

Whatever were the errors that distinguished Charles, in his long career of civil broils, and

fierce rebellion, whatever irresolution he had betrayed in their conduct, all these weak principles of action seemed banished from his mind when he appeared, on the 20th of January 1648, before the high court of justice. Here he displayed a talent and an energy, which at once startled and confounded Bradshaw and the court. He stood here totally unassisted, unadvised, borne down by a long imprisonment, and yet the wise ground he took in objecting to the jurisdiction of the court was at once learned and unanswerable.

His father, James the First, could not have done these things ; contrast, but for a moment, James in Ruthven Castle, surrounded by the Scotch nobles, arguing and crying like a child, with his son Charles, when surrounded by a body of soldiers, pleading for his life, and objecting to the jurisdiction of the court, with the energy of the practised pleader—and how infinitely does the latter rise above his father. Could James have said to his judges, when they desired him to plead to his charge, “ I stand more for the liberty of my people, than any here that come to be my pretended judges ; and therefore let me know by what lawful authority I am seated here, and I will answer it ; otherwise I will not answer it ? ”

Charles lost nothing by his refusal to plead, by his denial of the jurisdiction of the court ; had he waived his right, and proceeded to answer the accusations, his fate would have been just the same ; his death had been already determined, and since the law could not assist them to accomplish his destruction, his death was resolved upon, without its formalities and cautious axioms. To have pleaded before such a set of commissioners, with any hope of an acquittal, would have been entirely hopeless. Bradshaw, their conscious and brow-beaten president, told the King nearly as much, when he said to him : “ Charles Stuart, King of England, the Commons of England, assembled in Parliament, have resolved to make inquisition for blood ; and according to that debt and duty they owe to justice, to God, the kingdom, and themselves, and according to the fundamental power which rests in themselves, they have resolved to bring you to trial and judgment.”

When once a lawyer could so far degrade himself in intellect, as to thus answer a prisoner who objected to the jurisdiction of the court, there could be no doubt of the spirit by which that court was animated. Bradshaw knew that,

so far from the House of Commons possessing the right to try a prisoner of any description for his life, they had not even the power to try a case of the merest misdemeanour, the pettiest case of larceny ; that even in cases of their own privileges being invaded, they could merely punish by fine and imprisonment, and that they could only in such cases imprison during their own session. Bradshaw knew full well all these facts ; he was aware, moreover, that no court could delegate to a set of high commissioners, a power, which it did not possess itself. The death of Charles the First, therefore, was a cold-blooded unqualified murder, which, fortunately for liberty, is a crime rarely practised by its votaries ; otherwise, even liberty, with all its blessings, would speedily become a mere by-word and a reproach amongst the nations of the world.

In our own age, we have witnessed a tragedy performed in a neighbouring nation, closely resembling that of Charles of England, but in courage and dignity Charles infinitely surpassed Louis of France ; the result, however, was in both kingdoms, much the same—ruffianism, and anarchy, convulsions and blood. England, it is true, escaped successfully from the fearful expe-

riment ; but France seems yet struggling on, dissatisfied and restless, ready to pour over its boiling wrath, like the volcanic crater, with the least exciting cause.

During the long period of Coke's parliamentary services, extending with the short interval of the time which he held his chief justiceships, from 1592 to 1634, a space of forty two years, many important laws were made, many abuses corrected, some absurdities perpetrated, and several cruelties exercised by the parliament. Thus the catholics were forbid, by the 33rd of Elizabeth, 1593, from removing more than five miles from their dwellings, under a penalty of forfeiting all their lands, goods, and chattels.

They adopted, the same session, a very short mode with the dissenters from the church of England, catholics, &c. Such were, by c. 1, to be committed to prison until they agreed to come to church ; and if they did not so conform within three months, then they were to depart the realm under a pain of felony.

The poor were first regularly provided for in 1597, by the 39th of Elizabeth, which ordained the appointment of overseers to assist the churchwardens in the relief, management, and employment of the poor.

The wisdom and humanity of this statute, time has demonstrated, and experience improved upon ; and by an act of the same session, the erection of hospitals and workhouses was authorised and encouraged.

By another act passed in 1601, the care of the poor, the election of overseers, collection of poor rates, &c. was further directed and regulated. And thus was laid the foundation of that system of poor laws which has for ages tended to the peace and prosperity of England.

This was in some degree the necessary result of the extinction of feudalism, and the destruction of the religious houses ; for the poor of England had now no Lords to appeal to, from none of whom they could demand employment in their youth, and support in their old age ; and the charities and protection of the monks and nuns had shared the same fate. In 1604, 1 James I. an act was passed, against conjuration, witchcraft, and dealing with wicked and evil spirits, in which the penalty of felony was imposed upon the actors in such mummery with all becoming gravity.

In the same year, by the cap. 15, a foundation was laid for the present extensive system of bankrupt laws ; this object was further promoted in 1623, by an act of that year.

Many minor enactments, such as the discouragement of usury, drunkenness, profaneness, and general licentiousness, were made in this period. The time allowed for the bringing of real actions was limited and regulated, and an end put to all personal actions for sums less than forty shillings.

The woollen trade, long the staple manufacture of England, was encouraged and regulated by several acts of the legislature. Neither were the interests of agriculture forgotten; the rearing of cattle and horses was encouraged, the use of various fertilizers promoted, roads improved, and fens and marshes drained. There is perhaps no English sovereign, notwithstanding his otherwise inglorious career, whose reign, previously to the last century, produced more valuable laws than that of James I.

It was his principal misfortune to be governed by favourites, and nature formed him a confirmed coward, trembling even at the sight of a drawn sword; otherwise, he possessed considerable literary abilities, had read a good deal, and had a very easy pedantic way of exhibiting his book knowledge.

He had, moreover, the good fortune to have

for his ministers and judges, men of profound learning, who had been bred in the school of Elizabeth, and trained in her paths ; and hence with Cecil and Bacon, Hobart and Coke for legislators, we need hardly feel surprised that few statutes were made, that did not tend to some real and substantial improvement of the laws of England, since the laws were then made only to supply the omissions, and remedy the errors of the common law.

In those days, the electors of England did not require their representatives to be perpetually either making new laws or repeating old speeches, the legislature, therefore, rarely made a law without they clearly saw the insufficiency of existing enactments.

The statute book then extended to a moderate length ; if not so brief as it was in the days of the House of Tudor, it had not yet reached the inordinate size which it now annually attains.

And we must remember that the parliament then usually assembled at an interval of some years ; it was seldom summoned to meet in two following years. The subjoined short table will shew the rapid increase of the statute law, and how slowly former parliaments added to the bulk of the written laws of England.

In the parliament of

1 year of Richard III were passed 15 public acts.

| | | | | |
|-------|----------------|---|-----|---|
| — | Henry VII | „ | 10 | „ |
| — | Henry VIII | „ | 15 | „ |
| — | Edward VI | „ | 15 | „ |
| — | Mary | „ | 18 | „ |
| — | Elizabeth | „ | 22 | „ |
| — | James I | „ | 33 | „ |
| — | Charles I | „ | 7 | „ |
| — | Charles II | „ | 37 | „ |
| — | James II | „ | 22 | „ |
| — | William & Mary | „ | 34 | „ |
| — | Ann | „ | 24 | „ |
| — | George I | „ | 57 | „ |
| — | George II | „ | 23 | „ |
| — | George III | „ | 23 | „ |
| — | George IV | „ | 123 | „ |
| — | William IV | „ | 87 | „ |
| 2 & 3 | ———— | „ | 127 | „ |
| 3 & 4 | ———— | „ | 106 | „ |
| 4 | ———— 1834 | „ | 96 | „ |
| 5 & 6 | ———— 1835 | „ | 84 | „ |
| 6 & 7 | ———— 1836 | „ | 116 | „ |

In the long and glorious reign of Elizabeth,

there were but thirteen parliaments in forty-five years, and these parliaments passed in that period, only 272 public bills; while in the three first years of his late Majesty, 320 public acts of parliament have received the royal assent.

CHAPTER VI.

1628—1633.

Coke employed as Privy Councillor in several commissions—Bacon more civil towards him—Coke supported in Parliament the charges against Bacon for bribery—Presides in the Court of Star Chamber on the trial of Lord Suffolk—Speaks in support of the charges against Yelverton—Coke retires to Stoke Pogis—Is libelled by Jeffes—Coke's opinion of medicine—Meets with an accident—Coke's last days—His death—His last hours—His papers seized by Windebank—Memoir of Windebank—List of his papers seized—Memoir of Laud—Coke's friends and associates.

ALTHOUGH Sir Edward Coke was never restored to his Chief Justiceship, or promoted to any other place in the gift of the crown, yet he was entrusted as a Privy Councillor, with a variety of important services.

Thus in June 1619 he was employed in a com-

mission with several others to put in force the act of Elizabeth against jesuits, seminary priests and others, and to banish them out of the King's dominions.* And in the same year he was joined with others in a commission to investigate the conduct of the officers of Revenue, the Exchequer, and others, having the charge of the public money. A short time afterwards he was appointed one of the commissioners empowered to examine, dispose, and arrange the jewels belonging to the deceased Queen Anne. And about the same period, he was empowered to treat with the deputies of the United Provinces, about the differences which had arisen between the Dutch East India Company and the English merchants trading to the East Indies. In July, 1620, he was employed to regulate the royalties of the crown, and to discharge the superfluous officers employed in their management, and collection of the dues arising from them. In the following December, he was engaged in examining into and preventing the illegal exportation of brass and iron ordnance.

And, as during these investigations, Coke continued in favour with the King and Bucking-

* Rymer's Fœdera, t. 16, p. 93.

ham, the Lord Chancellor Bacon thought it well to run with the stream, and, in consequence, during the years 1618-19-20, in all his letters to the King and the favourite, he spoke of Coke's talents with much commendation.

Bacon and Coke could not but be aware of each other's talents. They both probably feared each other ; their rivalry was of too long standing to be easily forgotten ; their contests were far too keen, their disputes much too bitter, not to excite some degree of fear, and that as a natural consequence speedily engendered hatred.

Bacon, however, who could at the same time write like a philosopher and act like a slave, often publicly acknowledged the talents of his great antagonist ; thus in his proposition addressed to the King for compiling and amending the laws of England, he says :*—" Had it not been for Sir Edward Coke's reports (which though they may have errors and some peremptory and extra-judicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over of cases) the law by this time had been almost like a ship without ballast : for that the cases of modern expe-

* Law Tracts, p. 5.

rience are fled from those that are adjudged and ruled in former time.”

And again, page 13, he says, “ I am in good hope that when Sir E. Coke’s reports and my rules and decisions shall come to posterity, there will be (whatsoever is now thought) question who was the greatest lawyer.”

While Coke was now enjoying, for a second time, the smiles of the court, and the possession as a privy councillor of judicial power, he had an opportunity of repaying some of his old opponents for their proceedings against him.

Thus in 1620, came on the impeachment of the Lord Chancellor Bacon, for bribery and corruption, to which charge he pleaded guilty. Coke, as a member of Parliament, spoke in furtherance of the charge, but he did not take a very prominent part. It was quite needless to make his rival’s case worse. Bacon’s confession was amply sufficient for the greatest lover of clear cases of guilt,—he was ruined, and never rose again. Coke had previously witnessed the degradation of another enemy, for he presided in the Court of Star Chamber on the 13th of November 1619, when the Lord Treasurer, the Earl of Suffolk, and his lady received their sentence for various acts of corruption. This nobleman, it will be remembered, when

Coke was on his knees before the Privy Council, thought fit of his mere will and pleasure, to tell Coke he had no right to suffer his coachman to drive bareheaded. Coke now expatiated at much length upon the enormities perpetrated in all ages by Lord Treasurers, concluding by proposing a fine of one hundred thousand pounds : but this, on the motion of the great Lord Chief Justice Hobart, was reduced to thirty thousand.

In 1820, the Attorney General Yelverton, who had filed an information against Coke, and otherwise opposed his daughter's marriage with Sir John Villiers, was prosecuted for putting into a charter of the City of London, several clauses for which he had no warrant. Coke spoke against him, in proposing sentence, long and bitterly, moving for a fine of six thousand pounds ; but the court gave judgment for only four thousand.

From the dissolution of the last Parliament, which Coke lived to see, on the 28th of March 1628-9, he resided at his house at Stoke Pogis in Buckinghamshire, in peace and quietude. His conduct as a country gentleman, is said to have conciliated the esteem of all his neighbours. I can find, in this period, but one instance of his being publicly vilified for his conduct as a judge.

In Michaelmas Term, 1630, one Jeffes was indicted for a libel on Sir Edward Coke, and the Court of King's Bench, for a judgment given in the case of Magdalen College "affirming," says Judge Croke,* "the said judgment to be treason, and calling him therein traitor, perjured judge, and scandalizing all the profession of the law." He fixed this libel upon the great gate at the entrance to Westminster Hall, and in divers other public places.

This poor fellow was certainly a maniac. He was infuriated in a cause in which he, in all probability, had no interest. He begged for counsel, and then insisted upon pleading his own cause. Being found guilty, his punishment far exceeded the importance of his offence. He stood twice in the pillory, namely at Westminster and in Cheapside, with a descriptive paper on his breast, and while thus decorated was brought into all the courts of Westminster. He was to continue in prison until he had made his submission in every court; had found securities for his good behaviour during the remainder of his life, and paid a fine of one thousand pounds to the King.

In this affair, Sir Edward Coke, now eighty

* Croke, Car—175.

years of age had probably no concern ; his fame and the equity of his decisions, rested upon too solid a foundation to be shaken by poor Jeffes' libels. It was probably a state prosecution.

I have few materials for this portion of Coke's life. His quiet retirement at Stoke was seldom interrupted by events more important than those which are wont to disturb the repose of a venerable country magistrate. That he lived in the esteem of his neighbours is pretty certain ; for in the preface to the first part of his Institutes, he speaks of his "much honoured allies and friends of Buckinghamshire, where, in my old age, I live." This is hardly the language of a man whose vices estrange him from society : they are not the feelings usually expressed by the unjust, the miserly, or the extortionate.

Throughout a long and sedentary life, he enjoyed the greatest of all earthly blessings—excellent health. I have found no traces of his being visited by any sickness, except one attack of the gout.

As the infirmities of age crept on, his friends were naturally solicitous for the preservation of his life. There is in the Harleian MSS. a letter from Mr. Mead to Sir Martin Stuteville, which bears ample testimony to the long continued

health of Sir Edward Coke, and his hatred of physic. This letter was written about the year 1631, when Coke was more than eighty years of age.

“ Sir Edward Coke,” says Mr. Mead, “ being now very infirm in body, a friend of his sent him two or three doctors to regulate his health, whom he told that he had never taken physic since he was born, and would not now begin ; and that he had now upon him a disease, which all the drugges of Asia, the gold of Africa, nor all the doctors of Europe could cure—old age. He therefore both thanked them and his friend that sent them, and dismissed them nobly with a reward of twenty pieces to each man.”*

Twelve months before his decease, he met with an accident which probably tended to shorten his days ; he recorded it in his memorandum book with the same firmness of hand which he had written through life, though it was the last entry he made in it.†

“ The third of May, 1632, riding in the morning in Stoke, between eight and nine o'clock, to take the ayre, my horse under me had a strange stumble backwards, and fell upon me (being

* 390. Fol. 584. The Ellis Papers, vol. iii, p. 263.

† Portrait Gallery, No. 49.

above eighty years old) where my head lighted near to sharp stubbes, and the heavy horse upon me. And yet, by the providence of Almighty God, though I was in the greatest danger, yet I had not the least hurt—nay, no hurt at all. For Almighty God saith by his prophet David, ‘ the angel of the Lord tarrieth round about them that fear him, and delivereth them,’ et nomen Domini Benedictum, for it was his work.”

He had, about a year previously to this accident, been reconciled to his daughter, Lady Purbeck, and taken her to live with him at Stoke, and she continued to live with him until his death. He probably saw the error he had committed in uniting her to Lord Purbeck, was sorry for his folly, and had compassion on a daughter he had unintentionally assisted to render miserable.

His characteristic love of order, equity, and religion attended him to the last ; and in this frame of mind, on the 3rd of September, 1633, died the great Coke, the glory of the English common law, whose name will probably be held in reverence, as long as courts of justice exist, or lawyers have any regard to precedents.

He was in his eighty-third year when he died, and his pious resignation did not desert him in the hour of his departure ; for prayers to his Creator alone absorbed his attention when even

the hand of death was upon him, "thy kingdom come, thy will be done," being the last words he was heard to breathe.*

The malice of his enemies and the suspicions of courts attended him to the last; for while yet on his death bed, Sir Francis Windebank came to his house at Stoke in virtue of an order from the Privy Council in search of certain seditious papers—at least this was the pretence. He seized, in his search for these papers, and carried away Coke's will, his life of Judge Littleton in his own handwriting, his commentary upon that judge's Book of Tenures, and upon Magna Charta, Pleas of the Crown, Jurisdiction of Courts, besides fifty-one other manuscripts.†

Seven years afterwards, upon the motion of Sir Edward Coke's son, the King was requested by the House of Commons to restore these valuable papers to his family. His will was never recovered, but the remainder were, in consequence of this address, principally returned.

Roger Coke‡ describes Windebank as "Laud's old friend;" but adds, "I do not find that the Archbishop was the first mover of this, nor do I

* Inscription on his monument at Titheshal.

† Roger Coke's Detection, p. 355.

‡ Ibid.

find that the like was ever done before the archbishop was prime minister of state," although it is evident, from the way in which he brings in the archbishop in this comment, that he suspected him ; and speaking of the will, he tells us that in it " Sir Edward Coke had for several years been making provisions for his younger grandchildren."

Sir Francis Windebank, who was thus employed as the searcher of Coke's papers, and whose name so often occurs in the proceedings of this period, appears to have been a mere political official personage, with little talent except for business, and of no character.

He was the eldest son of Sir Thomas Windebank, of Hurst, in Berkshire ; and having, at St. John's College at Oxford, become acquainted with Archbishop Laud, through his interest he was made, in 1632, Secretary of State.

When Laud began to fall, Windebanks peedily forsook his old benefactor, entered into a correspondence with the papal agents, and yet managed on Laud's trial to shift the odium on the prime minister. He had before this, rendered himself extremely disagreeable to the puritans during his secretaryship, from his arbitrary conduct ; and in consequence, on the meeting

of the Long Parliament, in November 1640, various charges were exhibited against him.

Thus attacked, although he had been elected a member of the House for Corfe Castle, he had not sufficient courage to make his appearance in the House, but fled to Calais, from whence he addressed to the Earl of Pembroke, Lord Chamberlain, a long letter in his own defence.

When however, the royal cause began to look more prosperous, after the battle of Edgehill, Windebank returned to England, and endeavoured at Oxford to have an interview with the King. But Charles, disgusted with his treachery and his cowardice, refused to have any communication with a person so ungrateful, and in consequence, Windebank returned to France, and died at Paris in September 1646.

He had two sons; of the eldest, Thomas, one of the King's privy councillors, I have no account; the second, Francis, a colonel in the royalist army, was tried for cowardice in surrendering Blechingdon House, in Oxfordshire, to Oliver Cromwell, without a blow, and being found guilty, was shot at Broken Hayes, near Oxford, in April 1645.*

* Parl. Hist. vol. 13, p. 461. Wood's Athenæ.

Besides the more valuable papers carried off by Windebank from Stoke, there were many others seized and examined, a catalogue of some of which is in the Lambeth Library, among the papers collected by Archbishop Tennison, with the following copies of which I have been favoured by his Grace the present Archbishop of Canterbury. The list of items is sometimes laughably minute.

“ A note of such things as were found in a trunk of Sir Edward Coke, taken from Pepys, his servant :*

“ This trunk was brought to Bagshot, by his Majesty’s commandment, and then broken up, by his Majesty, 9th of September, 1634.

“ Two black books, in the one his indenture of articles between Sir Edward Coke, and John his son, and Edmund Doyley, and Sir Lionel Tallmash, and others, concerning the marriage between Edmund Doyley, and Bridget, eldest daughter of John Coke, dated 6th of May, 1634.

“ In the other book nothing.

“ A table book, embroidered with gold and silk.

* Miscellaneous Papers, Lambeth Library, No. 943, p. 369.

“ Six keys tied together.

“ Three other keys tied together, of which one is a great one.

“ Two gold rings, one set with a fair turkeies, and the other with a pointed diamond.

“ One silver seal, with his arms, set in white bone.

“ One black box, wherein is a little box, with a jewel of diamonds.

“ Item in that black box : three silver seals, three gold rings, one seal graved and enamelled, one other bigger ring enamelled, one seal engraved, one other ring with a woman's head engraved in the same form, one little old gold ring with a signet of brass, and two of gold, three silver and gilt clasps of a book, and one clasp of silver, a piece of silver bullion, one corner of a book, silver gilt.

“ One great iron key.

“ An old gold crown piece, a twenty-two shilling piece, two angels of 11s, seventy pieces of 10s 6d, two pieces of 20s a piece, four crowns of 5s 6d a piece, all put in an old purse.

“ One lid of an old painted box.

“ An exemplification of a decree under the great seal, at the request of Sir Edward Coke, between him and Sir Roger Townsend.

“ A bundle of letters and papers concerning

Doyley's Estate Papers, concerning Pepys, his servant, and the trunk sent unto him, 16th of April 1633, and the books in it. One great book of Statutes, called the Buckingham Book, three other books signed by him: first, the Pleas of the crown, Jurisdiction of Courts, and the Exposition upon Magna Charta, another ancient Statute, with part imperfect, for that which was finished was taken away.

“ Another improvement of an Indenture, dated the 1st of May, in the 8th year of King Charles, between Edward Coke, and Edmund Stubb, Doctor in Divinity, and John Stubb, of the Inner Temple Lane, Esquire, for the settling of some lands in trust for the said Stubbs.

“ One paper of poetry to his children.

“ Remembrance of what is in the iron chest in his lodgings.

“ A declaration, under Sir Edward Coke's hand, dated Anno Domini 1634, that his servant John Pepys, in reward of his service, shall have a lease of lands in Northlingham, of one hundred marks per year, for twenty-one years after Sir Edward's decease.

“ An assignment dated the 21st of April, 10 King Charles, to John Stubb, Esq. and Edmund Stubb, Doctor in Divinity, his nephew, of all

manner of corn growing within Stoke, in the county of Bucks.

“ A deed of gift, under his hand and seal, dated 1 July, 9 Charles I, to the Lord Keeper, and John Stubb, Esquire, and Edmund Stubb, Doctor in Divinity, of all his ready money, jewels, plate, and other goods and chattels whatever, not mentioned in his former deed of gift. This is in trust.

“ A note of money in Pepys his custody, dated the 3rd of March, 1633, amounting to £19000.*

“ A catalogue of Sir Edward Coke’s papers, that by warrant from the council, were brought to Whitehall, whereon his Majesty’s pleasure is

* The volume of papers, from which this is taken, formerly belonged to Archbishop Laud, many of them being written with his own hand, and most of them endorsed by him. This volume was long lost from the Lambeth Library, but was recovered by Archbishop Herring, with some money and papers, it was found in a box which Archbishop Tenison directed his executors to burn without opening ; but the box bursting in the fire, the money and the book, which they supposed was forgotten by the Archbishop, were taken out and preserved ; according to Dr. Ducarel, Archbishop Herring made Mrs. Ibbott, the widow of Dr. Ibbott, formerly librarian, a present of five guineas for the book.

to be known, which of them shall remain there :*

“ A wanscott box, of his arms, accounts, and revenues.

“ A black buckrom bagg, concerning the business of the late Earl of Essex.

“ A black leather bagg of records touching the Dutchy of Cornewall, and creation of Earls, 2 Edward third.

“ A great buckrom bagg of the Powder Treason.

“ A black buckrom bagg of the proceedings against Sir Walter Rawley, Brookes, the Preests. Watson, and Copley, and others.

“ A bundle of matters of purveyance.

“ A bundle of instructions about the council of York.

“ A small bundle touching matters of bullion, and the Treasury.

“ A small bundle concerning the Lady Arabella.

“ A bundle of draughts, acts, and petition, touching the late Parliament.

“ A book of Pecham's business.

“ A bundle of letters to his Majesty, from my Lord Digby from Spain.

* Lambeth Library, 943, p. 371.

“ Two little pacquets of his Majestie’s letters, sealed up, whereof one hath but one letter in it.

“ A small bundle of Irish matter.

“ A bundle of instructions concerning the Presidency and Council of Wales.

“ A bundle of projects about alum and other business.

“ A small bundle about Acton’s counterfeit coin.

“ Ashfield and Wayman’s examination about his Majesty, when he was in Scotland.

“ A bundle concerning his Majesty’s title to diverse lands of Westmoreland, Hartford, Suffolk, Abergavenny, Dacres, and others.

“ A buckrom bagg, full of papers concerning the Earl of Somersett’s business.

“ Diverse bills signed by the King.

“ A great canvass bagg, containing diverse matters about the treason and other offences of Odonnel, Meade, Bywater, Lopez, Hassal, Lowther, Gerard, Blondville, Squire, Countess of Shrewsbury, Sturton, Mordant, Story, Walpole the Priest, Patricke Collen, Williams, Williamson, Smith, Yong, Frogmorton, Harrison, Duffield, Percy and Catesby, Middleton, a priest, Valentine, Thomas, and diverse more of like nature.

“ A little bundle about the intended marriage with France.

“ A Calender of the records of Richard the First, out of the Exchequer.

“ A note of such things as were found in a trunk taken from Pepy’s Sir Edward Coke’s servant, at London. This trunk I was commanded by his Majesty to bring to Bagshot, which I did, 9th of September, 1634, and there his Majesty broke it open.”

This trunk, from the list given, contained papers chiefly relating to Sir Edward Coke’s estates.*

ARCHBISHOP LAUD.

At the period of Coke’s decease, Archbishop Laud, Windebank’s friend and master was prime minister of England. It was therefore, at least, with his consent that Windebank proceeded in the seizure.

I have no evidence sufficient to account for so idle, so fruitless, and so iniquitous a proceeding ; there were no treasons then perpetrating, no plots carrying on in secrecy and in darkness,

* Lambeth Library, 943, p. 375.

to which Coke could by any probability be a party. His very age, I should have thought, would have protected him from the bare suspicion. There is not even a tradition in the Coke family that Sir Edward was suspected of anything of the kind. I confess myself totally unable to offer any grounds to excuse the issuing of the fruitless search warrant, under which Windbank acted.

The character of Laud may perhaps offer some ground for a suspicion that it was a whim of his own, founded perchance on one or two incidents or secret pieces of information, which in this case deceived this talented prelate.

The character of this extraordinary man may be read in the portrait which Vandyke has left us. The little sunk bright eyes, the contracted forehead, the fine pointed nose, indicate the probable character of his measures—that he would be arbitrary and tyrannical—full of dissimulation—an adept at intrigue.

He was very strongly suspected of having a decided leaning to popery, to have been in communication with the court of Rome, that he was twice offered a cardinal's hat by the Pope, even after he was a protestant bishop is very certain ; and it is very unlikely that his Holiness would

have deemed it worth while to make such a strange offer to a heretic, without he had some reason to hope for its acceptance.

Laud, therefore, used to intrigue and secret correspondence, in his deep suspicious cunning, naturally had his eye upon Coke as one of the great leaders of the opposition in former parliaments, and he might calculate that if any state libels, or secret treasonable papers, were in circulation among the popular party, that in no place were they more likely to be found than in the house of Sir Edward Coke.

But if they suspected treason, why seize his law books? If they expected to find novel legal doctrines, inimical to arbitrary governments, why take away his private papers? They surely could not dread the discovery of either in a last will and testament.

The havoc, too, made by those to whom the papers were committed appears to have been most wanton and iniquitous; for, although they were carried, some in a bag to Whitehall Palace, and some in a trunk to Bagshot, yet we find no farther notice taken of the robbery; even his will was never recovered: so that if they ever repented themselves of their violence, their sorrow certainly reached not to restitution.

It is not probable that Lady Coke, from whom he was separated at the period of his death, instigated the seizure; she had no apparent motive in such a proceeding; neither did she possess the power, for Cecil and Buckingham were long since dead. She had no interest with Laud, who, whatever were his other defects, did not make himself a party in family quarrels.

The whole proceeding, therefore, probably emanated from the idle suspicions of an unpopular and embarrassed administration, seeking for enemies in every one who was not the applauder of their measures, and expecting treason in every private communication. It was an action of which the Privy Council had all the credit; the law officers of the crown had probably no knowledge of Windebank's mission, for when Coke was on his death bed, Noy, the Attorney-General, was dying at Tunbridge Wells, and Banks his successor, hardly warm in his seat.

The fate of Laud is known to every reader of English history; that he was unpopular, arbitrary, intriguing and talented, posterity has long since decided. That he held the helm of state in a period of extreme difficulty, without any precedents to guide him, is equally certain. What to us is the result of practice, was offered to Laud as a novel experiment, of whose success he had

many misgivings. He had no faith in the wisdom and moderation of an independent and reforming House of Commons. It was a novel power, which no previous minister had admitted, and Laud was not the man to sacrifice a single regal prerogative, without the most anxious and determined struggle. He stood, therefore, boldly by his King, governed as long as he could by the most energetic and arbitrary means, and when these failed in their object, ineffectually tried milder, more indirect schemes to attain the same objects.

The cool, crafty, business-like habits of this great man, of necessity exposed him to the hatred of the republicans of that day. While Laud was at liberty and unmolested, they hardly regarded the liberty of their proceedings secure ; they resolved, therefore, upon his destruction ; and the Long Parliament had hardly met, before they impeached him at the bar of the House of Lords.

The folly and wickedness of this long continued persecution of Archbishop Laud must be imputed to the political ignorance of the age ; for, notwithstanding his accusers speedily discovered that by no law had he forfeited his life, that no capital charge could be substantiated against him, they yet proceeded in their work.

The dilatoriness of their proceedings demonstrated the weakness of their cause. If Laud had been guilty, it would not have been necessary to keep him for three years in the Tower ; it would not have been requisite for the Commons to have abandoned their impeachment, and then proceeded by a bill of attainder, which is, in fact, merely a way of punishing a criminal for actions which were not criminal at the time they were committed.

This long trial of Laud is perhaps the most faithfully reported of any in the English history ; for so slow were they in their proceedings, that the accused had ample time to write a history of his twenty days' examinations, the speeches of his accusers, and the trumpery evidence by which the charge was supported ; and this interesting detail he brought down to within a few days of his public murder on Tower Hill.

This long and able paper, which fills more than one hundred folio pages of the State Trials, was found among his papers in the Tower, after his decease.

The death of Laud operated, as it does in all cases where the punishment exceeds the offence, to render him an object of compassion, and thereby degraded the cause to which he was opposed.

The address of those who managed his trial,

did not compensate for the poverty of their proofs ; they had no arguments against him, save some paltry evidences of arbitrary conduct, popish pictures, and an illuminated cover to a bible, which some pious lady had presented to the Archbishop.

Pym, Maynard, and Prynne, therefore, were glad by violence of language and popular clamor, to hide the poverty of their proofs. Laud was ably supported by his counsel, of whom the great Matthew Hale was one, and spoke with an eloquence which never failed him, and a confident energy which supported him to the last. His defence was triumphant ; but had it been ten times more so, he would have been put to death ; for the Commons had determined he should die, and the then existing shadow of a House of Peers had not the courage to throw out an iniquitous bill, backed by the clamours of all the low-lived of the land.

And when the determination to punish him was so intense, and so violent it need not surprise us that the House disregarded the pardon which Charles the First immediately granted his fallen minister, and that Laud ineffectually pleaded it at the bar of the House of Lords.

Of the weakness of the House of Lords, Laud

himself left in his Diary some interesting notices;—thus he observes March 9th, 1644.

“ And tho’ my hopes under God 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 at 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 scarce present at my charge four days of all my long trial, nor three at my defence ; and which is most, no one Lord present at my whole trial, but the Right Honourable the Lord Grey, of Werk, the Speaker, without whose presence it could not be a House.

“ When my hearing came on, usually my charge was in giving till almost two of the clock ; then I was commanded to withdraw, and upon my humble petition for time to answer, I had no more given to me than till four the same afternoon, scarce time advisedly to peruse the

evidence ; my counsel not suffered to come to me until I had made my answer, nor any friend else, but my solicitor, Mr. Dell, to help me to turn my papers, and my warder of the Tower to sit by and look to this. At four o'clock, the House usually sat again, and I made my answer, and if I produced any witness, he was not suffered to be sworn, so it was but like a testimony at large, which the Lords might believe or not believe, as they pleased.

“ And after my answer, one or more of the committee replied upon me. By the time all was done, it was usually half an hour past seven.

“ Then in the heat of the year (when it overtook me) I was presently to go by water to the Tower, full of weariness, and with a shirt as wet to my back as the water could have made it, had I fallen in.

“ Yet I humbly thank God for it, for he so preserved my health, as though I were weary and faint the day after, yet I never had so much as half an hour's head ache, or other infirmity all the time of this comfortless and tedious trial.”*

Laud was seventy years of age when he was thus pleading for his life. His memory, he told the Lords, was failing him, but he betrayed no

* State Trials, vol. i, 817.

want of recollection or talent. He was the friend of learning and of learned men. Selden was his friend and visitor both at Lambeth, and at his house in Kent ; he granted to him the use of the Lambeth Library. Selden dedicated to him two of his works, in which he expresses himself full of gratitude for his kindness, and of admiration of his love of knowledge, expatiates upon his christian deportment, and his ardour for the observance of an admirable christian discipline.*

In the hour of his misfortune, Selden did not forget his obligations to his old friend ; he was named one of the committee to prepare the charges, and was one of the commissioners who were ordered to conduct the trial. But he attended not the first ; his voice was never heard during the progress of the proceedings under which Laud fell.

Laud demonstrated his love of learning by his benefactions of books and manuscripts to the University of Oxford, and in his notes and manuscripts still in the library at Lambeth. He was learned and devout himself, and loved similar qualities in others. If he was superstitious, and too earnest in favour of the church of England, and of the King's prerogative, he merely displayed a weakness which other and succeeding

* Selden's Works, by Bishop Wilkins.

ministers inherited, without partaking of his ill fortune. He was another great example of the many instances to be found in the English annals of great elevations from very low origins. He was the son of a clothier at Reading.

His old friend Judge Whitelocke, who knew him in his early days of the premiership, used to describe him almost in the spirit of prophecy, "that he was too full of fire, though a just and good man, and that his want of experience in state affairs, and his too much heat and zeal for the church, if he proceeded in the way he was then in, would set this nation on fire."*

There is little doubt but that his trial harrassed and wore the Commons out. They could make nothing of the charges, and one of the members very candidly confessed as much, when he said that "the Archbishop is now an old man, and it would be happy both for him and the Parliament, if God would be pleased to take him away."†

And it was farther allowed "that he an-

* Sir James Whitelocke was a judge of the Court of King's Bench. He died in 1632; he was, like Laud, of the university of Oxford, where their friendship first commenced. He was the father of Bulstrode Whitelocke, who shone in the impeachment of Strafford, as chairman of the committee who drew up the charges. See his memorials of English affairs from Brutus to James I, p. 31.

† Troubles and trials of Archbishop Laud, 414.

swered many things very well, yet he must suffer somewhat for the honour of the House.”

His conduct on the scaffold was cool, calm and meek. His language being that of a Christian prelate, whose thoughts were no longer occupied by the great temporal affairs of which he had so long been the chief actor. His address was in fact a sermon, and its effect must have been intense in the extreme. He took for his text parts of the first and second verses of the twelfth chapter of St. Paul's Epistle to the Hebrews.

In the delivery of this sermon, his self-possession was as perfect as when he used to address his flock in his own cathedral church, though, as he acknowledged, “this was an uncomfortable time to preach.” He impressed upon them “that though the weight of my sentence be heavy upon me, I am as quiet within as ever I was in my life, and though I am not only the first Archbishop, but the first man that ever died by an ordinance of Parliament, yet some of my predecessors have gone this way, but not by this means.”

He was particularly anxious that a short-hand writer, who was in attendance, should publish a correct version of his speech, and even interested himself, lest his blood should penetrate through the scaffolding on the people who were crowded beneath.

His remains were removed from London, after the Restoration and interred in St. John's College chapel, in Oxford.

The zeal of Archbishop Laud never suffered him to omit any opportunity for defending the church of England's discipline from the assaults of its enemies ; he seemed indeed a shepherd, who never slept over the interests of his flock on any occasion.

Others might in indolence and love of quietude, keep out of the fray, and leave to the more valiant all the danger of the assault, and all the glory of the triumph. Such were not the calculating motives of Laud ; as the storm thickened, he seemed to acquire fresh energy ; as danger increased, his courage ever appeared to keep pace with the difficulties with which he was environed ; he was cool, calm and collected even in his most trying hours.

He never shrunk from an encounter with the bold, the active and the talented of his opponents ; never compromised his opinions for the sake of courting the popular feeling, but having once persuaded himself of the correctness of his conclusions, he was driven from them with the utmost reluctance.

On the 14th of June, 1637, when Dr. Bastwick, Henry Burton, and for the second time, William Prynne, were tried in the Court of Star Chamber, for certain seditious libels on Laud

and other persons in authority, the Archbishop addressed the court at much length, for the evident purpose of answering the libellers' reasonings, but declining to say any thing as to the sentence, since he was a party concerned. An extract, which as an example of his style, I will give from this long and able address might be supposed, from some of its observations, to have been a more modern production than the age of Archbishop Laud.

“ Our main crime is (would they all speak out as some of them do) that we are Bishops ; were we not so, some of us might be as passable as other men.

“ And a very great trouble it is to them that our calling of bishops is, *jure divino*, by divine right. This I will say, and abide by it, that the calling of bishops is *jure divino*, by divine right, although not adjuncts to their calling ; and this I say in as direct opposition to the church of Rome, as to the puritan humour.

“ And I say farther, that from the apostles' times in all ages, and in all places, the church of Christ was governed by bishops, and that lay elders were never heard of until Calvin's new fangled device at Geneva.

“ Next suppose our callings as bishops could not be made good, *jure divino*, by divine right, yet, *jure ecclesiastico*, by ecclesiastical right it cannot be denied.

“ And in England the bishops are confirmed, both in their power and in their means, by act of Parliament. So here we stand in as good a case as the present law of the land can make us. And so we must stand till the laws shall be repealed by the same power that made them.”*

The public measures of Laud and Wentworth, during the interval which elapsed between the dissolution of the Parliament in 1628, and the death of Coke, exhibited the lamentable picture of two men of superior talents and of the highest integrity, immersed and overpowered with public difficulties which they knew not how to surmount.

The want of revenue was the rock on which they split, the foundation of all their troubles. The detail of the various means to which they had recourse to surmount them, is at once ludicrous and lamentable.

The Star Chamber fines ; the rapacity of the court of wards and liveries ; monopolies, and selling of places were in vain employed instead of a Parliamentary grant to supply the urgent necessities of the King. The revival of the old forest laws was effected for the sake of their arbitrary royalists and rents. The fines upon

* State Trials, vol. 1, p. 465.

those who refused to be knighted were strictly enforced, and many persons appointed sheriffs who were expected to pay the fine rather than serve. Places of all descriptions, even judicial offices, were openly sold. Thus Sir Julius Cæsar paid fifteen thousand pounds for his office of Master of the Rolls. The pay for the militia was strictly levied upon the counties, and the names of all the defaulters reported to the Privy Council.

But still the King's expenses far exceeded his ordinary revenue. His servants were ill paid, and consequently discontented. His army and navy ill-provided, weak, and ill-disciplined.

Neither was Laud careful to render the despotic power of the court more tolerable to the English by the mildness of its administration. His persecution of Prynne, of Bastwick, of Burton, and a host of puritan non-conformists to the Church of England, kept alive a spirit of dissatisfaction ; warmed and elevated the sect into an importance, to which the talents, respectability and hypocrisy of the party would not otherwise have elevated them.

The high church section of the protestants with whom Laud acted, were then supposed to have a decided leaning towards the exercise of arbitrary power. They certainly enjoyed the smiles of the court to an extent that Bishop

Morley well described, when he exclaimed in answer to his friend's inquiry as to their tenets,—
“ What do the Arminians hold ? Why they hold all the best bishoprics and deaneries in England.”

These jokes, however, were by no means agreeable to Laud. Clarendon tells us, that he was highly incensed at Morley for indulging in such kind of sarcasms ; ever the more annoying, since they are arguments which no one can refute.

Laud, however, was sensible of Morley's merits, for he would have employed and promoted him, if he would have accepted his tempting offers. George Morley, however, was made of different materials. He loved peace, quietude, and toleration, and the society of the learned, and the good. He formed one of the brilliant circle who used to assemble at the house of Lord Falkland, at Tew to hold their literary discussions. He was simple in his manners ; charitable and generous in the extreme. Charles I. made him a canon of Christchurch ; but when the parliamentarians gained the ascendancy, Morley being no friend of their violent and licentious proceedings, was stripped of his preferment and banished.

At the restoration, he was successively made Bishop of Worcester and Winchester ; to which last see, he was a great benefactor ; for to him it owes the palace at Chelsea, and his valuable

library left by him for the use of the clergy of the diocese.*

Thus worked upon by religious feelings, the puritans of England gladly availed themselves of any opportunity which offered to indulge their hatred to royalty and to Laud under the pretence of patriotism.

The occasion soon and often occurred, even in the year of Sir Edward Coke's death. The attempt to impose the tax called ship money being successfully opposed through their assistance by Hampden, fresh assistance was offered to the rising spirit of independence, which in the end, became too powerful to be successively opposed.

Of Sir Edward Coke's feelings during the political struggles of his last years, we have no account ; he had for his neighbour in his old age, the great Hampden, who made so successfully the resistance to ship money. As they were friends in their parliamentary career, it is most probable that as neighbours, living in the same county, they would be associates ; I have in vain, how-

* Of the palace I know nothing. The library is kept in a long damp room, belonging to the cathedral at Winchester. There are many valuable books on its shelves ; but their repose is apparently rarely interrupted by the visits of the classic or the general reader. I gained admittance through the politeness of Dr. Rennel, its venerable dean. Its keepers, according to Addison, would make excellent treasurers.

ever, searched for any proofs of their correspondence.

There are, in truth, very few of Sir Edward Coke's letters in existence; he probably did not cultivate the epistolary correspondence of his friends, and the dry style of the few I have discovered, does not lead me much to regret their absence.

That he associated in his last years, with the leading patriots of his country, we have no reason to doubt. His love of liberty was not a transitory feeling. The man whom the party seemed on so many occasions to put forward as their leader, was not likely to be forgotten in his retirement. Laud evidently thought so when he seized the dying patriot's papers.

Selden was the friend of Coke. They mutually were in the habit of quoting each other's writing, and complimenting each other's learning. It is more than probable that Selden was a visitor at Stoke Pogis, with Hampden, Sir John Elliot, Pym and Maynard; but all trace of their learned meetings has been lost by the progress of time; which has not only silenced their tongues, but buried with them most of their eloquence and witty sayings.

CHAPTER VII.

The grave of Coke—Tittleshall church in Norfolk—His monument—His epitaph—Nicholas Stowe—The church—The author's visit to it—Bacon's letter to Coke—Comparison of Bacon and Coke—The opinion expressed of Coke by contemporary authors—Coke's descendants ennobled—Lady Hatton survives Coke—Her letter during the civil war to Prince Rupert—Stoke Pogis Coke's seat—The subject of Gray's long story—Coke's religious feelings—His hatred of witches, conjurors and heretics — Coke's children — His descendants.

IN the quiet secluded church of Tittleshall in Norfolk, Coke was interred, on the fourth of October 1634; on that day, the grave closed over the greatest master of the common law which England ever produced. He descended

into the tomb full of years, and with a noble reputation of learning and patriotism, which time has exalted, and the progress of knowledge increased.

His end was peace ; prayers to his Creator, who had preserved him from injury, amid all storms, and exalted him among the great and noble of the land, were the last words which quivered on his lips.

If his last hours were disturbed by the efforts of faction, if his pillow was not smoothed by the attentions of his wife, they on the other hand were not embittered by the stings of conscience ; no one ever suspected him of any great crime ; the word bribery was never uttered in conjunction with his name ; no suitors had cause to complain of him ; no orphan denounced, no widow execrated the name of Coke, he had presided as a judge too uprightly, too fearlessly, to suffer from the condemnation of those to whom he administered justice.

Tittleshall church contains his monument, as well as his grave. The tombstone was erected according to Walpole, by Nicholas Stone, master mason, at the cost of four hundred pounds. It is of polished marble ; on the top, are his armorial bearings with the four cardinal virtues. On this tomb is also a full length effigy with an inscription, which I subjoin in

Latin and in English, the motto is affixed
 “*Prudens qui Patiens.*”*

* Nicholas Stone who erected this fine monument, was the most celebrated person in his day, for tombstones, and other memorials of the dead; he appears to have been very extensively employed, and to have obtained very great prices, when the value of money and other circumstances are taken into consideration. He kept an account in a pocket book of the work he performed, the prices he obtained, and the treatment he received from his employers. The book was in the possession of Virtue, and employed by Horace Walpole in his *Anecdotes of Painting*, who has given several extracts. Thus he tells us, that he erected the monument of Coke, at the church of Tittleshall in Norfolk, for which he was paid four hundred pounds; he had before been employed on a statue of Sir Edward Coke, for in the account of the various sums of money paid to his workmen for wages, is this entry,

1629. John Hargrave made a statue from Sir Edward Coke for £15.

For the Paston family from whom Coke had his first wife, he was exclusively employed, he tells us,

“ And in 1629, I made a tomb for my Lady Paston of Norfolk, and set it up at Paston, and was very extraordinarily entertained there, and payed for it £340. And in 1632 I made a chimney peece for Mr. Paston sett up at Oxnett in Norfolk, and for the which I had £80. and one statue of Venus and Cupid, and had £30 for it, and one statue of Jupiter £25, and the three-headed dog Cerberus with a pedestal £14, and Ceres and Hercules, and Mercury £50, and a tomb of my Lady Catherine his deer wife £200, and a little chimney peece in a banquetting house £30, and one rance marble table with a foot £15, and divers other things sent down to him from time to time, as painting of arms, &c., and in May 1641, sent

Deo optimo Maximo,
 Hæ exuviæ Humanæ expectant resurrectionem
 Piorum,
 Hic situs est
 Non perituri nominis, Edwardus Coke eques avrat
 Legum anima, interpres, oraculum non dubiam
 Arcanorum promi-condus mysteriorum,
 Cujus fere unius beneficio,
 Jurisperiti nostri sunt jurisperiti
 Eloquentiæ flumen, torrens fulmen,
 Sudæ sacerdos unicus.
 Divinos Heros,
 Pro Rostris ita dixit.
 Ut literis insudasse crederes non nisi
 humanis.

to him three statues, the one Apollo, Diana, Juno, agreed for £25 a pcece with pedestals."

The statues of Ceres, Hercules, and Mercury, according to Walpole, were, upon the extinction of the Paston family transferred to Lord Buckingham's seat at Blickling.

Stone also made the monument of Sir Edward Paston for which it appears he received £100.(a)

Rymer gives the writ by which Nicholas Stone was appointed by Charles I, master mason at Windsor Castle, at the wages and fee of twelve pence of lawful money of England by the day. (b)

(a) *Anecdotes of Painting*, vol. ii, p. 50. Edition 1786.

(b) *Fœdera*, xviii. p. 675.

Ita vixit ut non nisi Divinis
 Sacerrimus intimæ pietatis indagator.
 Integritas ipsa,
 Veræ semper causæ constantissimus assertor
 Nec favore, nec numeribus violandus
 Eximi misericors
 Charior erat huic, reus quam sibi.
 (miraculi instar est)
 Sic oculus sæpe ille audiit seentiam in se
 prolatam
 Nunquam hic nisi madidoculvus protulit
 Scientiæ oceanus
 Quique dum vixit, Bibliotheca viva,
 Mortuus dici meruit Bibliothecæ parens.
 Duodecem Liberorum tredecim librorum Pater.
 Facessant hinc monumenta
 Facessant Marmora,
 (nisi quod pius fuisse denotarint posteros.)
 Ipse sibi suum est monumentum.
 Marmore Perrennius
 Ipse sibi sua est æternitas.

Dedicated to the memory of Sir Edward
 Coke, knight, a late reverend judge, born at
 Mileham in this county of Norfolk. Excellent
 in all learning divine and humane, that for his
 own, this for his countries good, especially in
 the knowledge and practice of the municipal
 laws of this kingdom.

A famous pleader, a sound counsellor.

In his younger yeares, Recorder of the cities of Norwich and London, next Solicitor-General to Queene Eliza. and Speaker of the Parliament in ye XXXV yeare of hir raigne. Afterwards Attorneys General to the same Queene, as also to her successor, King James ; to both a faithful servant, for their Majesties for their safetyes. By King James constituted Chief Justice of both benches successively. In both a just, in both an exemplary judge. One of his Majesties most honorable privie counsell. As also of counsell to Queen Anne, and chief justice in eire of all hir forests, chases and parks. Recorder of the Cittie of Coventrye ; and High Steward of the University of Cambridge, whereof he was some time,

A Member in Trinity College.

He had two wives.

By Bridget his first wife (one of the daughters and co-heirs of John Paston Esq.) he had issue seven sonnes, and three daughters, and by the Lady Elizabeth, his second wife (one of the daughters of the Rt. Honble. Thomas late Earl of Exeter) he had issue, two daughters.

A chaste husband ; a provident father.

He crowned his pious life, with a pious and christian departure at Stoke Pogis in the county of Buckingham, on the Wednesday, the third day of September in the year of our Lord MDCXXXIII.

And of his age LXXXIII.

His last wordes,

Thy kingdome come, thye will be done.

Learn, reader, to live so that thou mayst so dye*

On the right hand of Sir Edward Coke's monument, is that of the first Lady Coke, with the following inscription

Bridget, daughter and one of the heirs of John Paston, Esq. first wife of Edward Coke Esq. Attorney, had issue by him, Edward, Robart, Arthur, John, Henry, Clement, Ann, and Bridgett.

Deceased the 27th of day June, Anno Domini 1598.

Over the kneeling figure of Lady Coke is inscribed :

* In the register of Goodwick cum Tittleshall, it is inscribed, " 1634 Sir Edward Coke, knt. sometime Lord Chiefe Justice of England, and Privy Counsellor to King James, was buredyed on the South side of the high altar, October ye fourth."

Thy daughters have done virtuously, yet thou
summonest them all.

In the same church opposite to the tombs of Sir Edward Coke, and his first wife, is a splendid marble monument, erected by Margaret Tuf-ton Coke, Baroness Clifford, and Countess Dowager of Leicester, who died February, 28, 1775, aged 75, to the memory of her husband and son.

Her husband was Thomas Coke, first Earl of Leicester and Baron Lovel, who died at Holkham, April 20, 1759, aged 61 ; and her son who married Lady Mary Campbell, youngest daughter of John Duke of Argyle, died at Greenwich August 30, 1753, aged 34 ; under *this* monument Lord Chief Justice Coke, according to the authority of the parish register, the late reverend Dixon Hoste, lies buried.

A little without the communion rails is a beautiful monument by Nollekens, to the memory of Jane the first wife of Thomas William Coke, Esq. now Earl of Leicester, with an inscription, which earnestly and eloquently describes her virtues and accomplishments. In the body of the church is suspended a large Russian banner, deposited by the gallant Sir W. Hoste, the son of the reverend Dixon Hoste late rector of Tittleshall.

A door on the left side of the church opens into a spacious room, in which are the coffins in niches, of various members of the Coke family, the first Earl of Leicester being the first person deposited there ; various escutcheons are emblazoned around.

When in July 1835, I paid a visit to the grave of the great Coke, at Tittleshall, I was attended to the church, with much civility, by the jolly landlord of the village inn, and the old, nearly worn out church clerk of the parish, poor Tom Raby. The first personage soon left me, when he found that I intended to take a copy of the epitaph on Coke's tomb, and sundry other inscriptions, together with a sketch of the various monuments, with which the chancel of the church is adorned. The patience of Tom Raby was evidently made of more lasting materials ; it had been schooled by time ; through many a long morning service ; tedious christenings ; melancholy funerals ; and awful drawling unintelligible sermons ; he therefore took his seat, with much demure church clerk's patience, without the chancel rails, and watched me as I copied away, with a feeling perhaps of some surprise, that I could see anything on these monuments worthy of such particular notice.

“ Had you not better Sir,” he asked “ walk into the room adjoining, and see the coffins of

the Coke family ? Farmer Drill who was here the other day, with two Lunnonors, said he never saw any thing like it before ; such a mighty awful room, and so many ends of coffins all of a row ; besides there are niches left for many more of the family.”—“ I will see them presently,” said I, “ but I have come many miles to see the grave of this great man, and I must copy the inscription first, and then I will attend you.”

“ Ay” rejoined poor Tom Raby, “ I know he was a very great man, for I have heard my old rector Mr. Hoste say so, and he knew everything ; but I never heard him say what he was ; but I believe he was Lord Mayor of Lunnun or something nearly as big.”

“ But,” he continued, as he saw me puzzled to decipher some of the fading words, “ I am afraid you do not see very well ; our church used to be much lighter, when I was first church clerk of Tittleshall ; but when Mr. Nollekens was here, erecting the monument of Mrs. Coke, he found that the light from one of the windows fell in a wrong way upon the figure, and he insisted upon its being stopped up.”—“ That was hardly correct,” said I. “ No ” rejoined Tom, “ all the old persons in the parish, especially those who had bad eyes, said it was a burning shame to darken the church of God, merely to put that ere figure in a better light.”

I felt that there was some truth in the remark ; but I continued my copying, without attempting to argue the point with Tom, who, after a long pause, opened on another theme. “ The grave of Sir Edward Coke, Sir, is not under his monument ; he was buried, as my old master told me, under the tombstone of Lord Leicester, that is directly behind you. And he said, Sir, that they brought him a great distance out of one of the shires to be buried in this church, which is the burying place of all the Cokes, I remember several of them being buried here ; the last was Mrs. Coke, a dear good soul ; everybody, continued Tom, as he wriggled about on the bench, every body was sorry when she died, and many a tear was shed when she was buried ; she was a dear good lady, and she is surely gone to heaven ; for my dear old master told me he had no doubt about that ; she was so kind to the poor ; so charitable ; and had a mortal little pride. Of the many years I have been church clerk of this parish, I never had such a funeral ; such a many people, and all so sorrowful ! ”

Have you many visiters to see this tomb of Sir Edward Coke ? I inquired.

“ Not to see *that* gravestone,” said Tom Raby ; “ but a great many come to see Mrs. Coke’s tombstone, and as many to see the room

in which the Cokes are laid, and not a few to see this large Russian flag, which my old master's son, gave to the parish to hang up in the church;* every body," added Tom, after a pause, "every body says, that is worth coming to see."

"These visitors then must be a regular harvest for you," said I. "Very well for that," said Tom. "It finds me 'bacco money, and in these hard times enables me to get a few comforts I should otherwise miss; for the parish do not give me much wages now, since corn became so cheap; and we old men are not able to lose those little comforts so cheerfully as the young uns. But now Sir, as you have done writing, perhaps you will take a look into the burial room, and see my Lord Leicester's coffin which is a very fine one?"

I took a short turn with Tom into the room of the dead, and again made a circuit around this truly interesting church, closely followed by my attendant, who was full of information with regard to all the funerals of the chief inhabitants of this rural parish, at which he had personally assisted. He had figured, too, at some

* This was a flag captured from the Russians, by the gallant Sir William Hoste, a son of the former rector of Tittleshall.

happy christenings, at many a jovial marriage, had even a glimmering of a suspicion that two or three fresh ones were not very far distant, and, upon the whole, I can safely recommend Tom Raby to any brother pilgrim to the grave of Coke, as a demure personage, that will wait upon him as soberly and as patiently, as a hired mute at a funeral, tell the same story he has told hundreds of other inquisitive travellers, and take off his every day hat, in the very best church-clerk style, when he receives his valedictory half crown.

The silence of Coke's enemies may be regarded as certain proof that no great crimes, and few errors of any magnitude could be laid to his charge. That he was displaced from his chief justiceship by one King, and that the succeeding monarch made great exertions to keep him out of parliament betrays at once the fact, that he was obnoxious and powerful in his opposition to the court of two monarchs. But the foundation of the hatred of Charles the First was laid in Coke's parliamentary opposition. The reasons for his removal from the Court of King's Bench by his father were equally paltry and disgraceful to the government.

Bacon, his most talented, and constant opponent, could make nothing of these charges, when after his disgrace, he thought fit to send him a

long letter, reminding him of his crimes, and proffering advice, which was neither remarkable for its necessity nor its justice. And where Bacon is silent, we may reasonably conclude that no other person could establish any material charge. This letter is given in the "Cabala," v. ii. 61 ; it is much too long to give at any length, although it contains little I would willingly omit. To this able paper, from which the following extracts are made, there is no date.

" My very good Lord,

" Though it be true, that he who considereth the wind and the rain, shall neither sow nor reap, Eccles. 9. 15, yet there is a season for every action ; and so there is a time to speak, and a time to keep silence. There is a time when the words of a poor simple man may profit, and that poor man in the Preacher, which delivereth the city by his wisdom, found that without this opportunity the power both of wisdom and eloquence, lose but their labour, and cannot charm the deaf adder.

" All men can see their profit ; that part of the wallet hangs before. A true friend, (whose worthy office I would perform, since I fear both yourself and all great men want such, being themselves true friends to few or none) is first to shew the other, and which is hid from your eyes.

“ First, therefore, behold your errors : in discourse you delight to speak too much, not to hear other men ; this some say becomes a pleader, not a judge ; for by this sometimes your affections are entangled with a love of your own arguments, though they be the weaker, and rejecting of those which when your affections were settled, your own judgment would allow for stronger. Thus while you speak in your own element, the law, no man ordinarily equals you ; but when you wander (as you often delight to do) you then wander indeed, and give never such satisfaction as the curious time requires. This is not caused by any natural defect, but first for want of election, when you having a large and fruitful mind, should not so much labour what to speak, as to find what to leave unspoken ; rich soils are often to be weeded.

“ Secondly, you cloy your auditory when you would be observed ; speech must either be sweet or short.

“ Thirdly, you converse with books, not men, and books specially humane, and have no excellent choice with men, who are the best books for a man of action and employment, you seldom converse with, and then but with your underlings, not freely, but as, a schoolmaster with his scholars, ever to teach, never to learn.

“ But if sometimes you would in your familiar discourse, hear others, and make election of

such as know what they speak, you should know many of these tales you tell to be but ordinary, and many other things which you delight to repeat, and serve in for novelties, to be but stale.

“ As in your pleadings you were wont to insult over misery, and to inveigh bitterly at the persons, (which bred you many enemies, whose poison yet swelleth, and the effects now appear) so are you still wont to be a little careless in this point, to praise or disgrace upon slight grounds, and that sometimes untruly ; so that your reproofs or commendations are, for the most part, neglected or contemned, when the censure of a judge (coming slow, but sure) should be a brand to the guilty, and a crown to the virtuous. You will jest with any man in public, without respect to the person’s dignity, or your own. This disgraceth your gravity more than it can advance the opinion of your wit ; and so do all actions we see you do directly, with a touch of vain-glory, having no respect to the true end.

“ You make the law to lean too much to your opinion, whereby you show yourself to be a legal tyrant, striking with that weapon where you please, since you are able to turn the edge any way.

“ For thus the wise master of the law giveth warning to young students, that they should be

wary, lest while they hope to be instructed by your integrity and knowledge, they should be deceived by your skill, armed with authority.

“Your too much love of the world is too much seen, when having the living of ten thousand pounds, you relieve few or none. The hand that hath taken so much, can it give so little? Herein you shew no bowels of compassion, as if you thought all too little for yourself, or that God had given you all that you have, (if you think wealth to be his gift, I mean that you get well, for I know sure that the rest is not) only to that end you should still gather more, and never be satisfied, but try how much you could gather to accompt for all, at the great and general Audit day.

“We desire you to amend this, and let your poor tenants in Norfolk find some comfort where nothing of your estate is spent towards their relief, but all brought up hither to the impoverishing of your country.

“In your last, which might have been your best piece of service to the state, affectioned to follow that old rule which giveth justice leaden heels and iron hands, you used too many delays till the delinquent’s hands were loosed and yours bound. In that work you seemed another Fabius; here the humour of Marcellus would have done better. What needed you to have sought more

evidence than enough ? While you pretended the finding out of more, (missing your aim (you discredited what you had found.

[He alludes here to the trial of Overbury's murderers]

“ But that which we commend you for are those excellent parts of nature and knowledge in the law, which you are indued withal ; but these are only good in their good use, wherefore we thank you heartily, for standing stoutly in the commonwealth's behalf, hoping it proceedeth not from a disposition to oppose greatness (as your enemies say) but to do justice and deliver truth indifferently, without respect of persons ; and in this we pray for your prosperity, and are sorry that your good actions do not always succeed happily.

“ We desire you to give way to power, and so to fight that you be not utterly broken, but reserved entirely to serve the commonwealth again, and do what good you can ; since you would not do all the good you would, and since you are fallen upon this rock, cast out the goods to save the bottom, stop the leaks, and make towards the land ; learn of the steward to make friends of the unrighteous Mammon.

“ Those Spaniards in Mexico who were chased by the Indians, tell us what to do with our goods

in our extremities ; they, being to pass over a river in their flight, as many as cast away their gold swam over safe ; but some were covetous, keeping their gold, were either drowned with it, or overtaken and killed by the savages. You have received, now learn to give.

“ Trust not in reconciled enemies ; expect a second and a third encounter. They may change you at an instant, or death before them. Walk, therefore, circumspectly ; and if at length, by our good endeavours and yours, you recover the favour that you have lost, give God the glory in action, not in words only, and remember us with a sense of your past misfortune, whose estate hath, doth, and may hereafter, lie in the power of your breath.

“ Do not (if you be restored) as some other do, fly from the service of virtue, to serve the time, as if they repented their goodness, or meant not to make a second hazard in God’s house.

“ You have been a great a great enemy to papists ; if you love God be so still, but more indeed than heretofore.

“ The mind that is most apt to be puffed up with prosperity, is most weak and apt to be dejected with the least puff of adversity.”

Such were the angry, though half friendly admonitions of the great Bacon to his talented

rival. He could find in Coke's character but two causes of accusation—he was avaricious, he was talkative.

The man who, with an immense professional income, buried himself in his chambers, could have had but few sources of expenditure. Coke's income, from his studious habits, would of necessity largely exceed his expenditure; and if he did talk occasionally at too great a length, it is a crime which other great judges have committed with perfect impunity; and their sovereigns, far greater monarchs than James the First, never thought they ought, in consequence, to be removed from the bench. And if Coke did not always write or talk in the language of a philosopher, neither did he use to his sovereign the language of the convicted betrayer of justice, or write receipts for the wages of his corruptions.

It is little surprising, that if these were Coke's greatest crimes, that it should be said of him by his master, King James, "Whatever way that man falls, he will alight upon his legs."

Sir Edward Coke, and Francis Lord Bacon, were by far the most extraordinary men of their age. England had never before seen two such legal rivals in her courts, and time has not since produced any two lawyers who can be compared to these great opponents in her Augustan age.

Widely differing, however, as these two great men did, in character, they yet resembled each other in many circumstances of their splendid career. They were both elevated by the smiles of the court ; they were both, in some measure, sacrificed to propitiate the clamours of a party.

They both trusted too much to the friendship of the regal favourite ; both courted the favour of Villiers, Duke of Buckingham, with an earnestness equally intense and disgraceful.

They had each dark shades in their character. If Coke was proud and avaricious, Bacon was meanly subservient, and unblushingly took bribes, miscalled presents, from the suitors in his court. If Coke was economical, and even parsimonious, he died rich ; if Bacon was generous and liberal, he died in debt.

They differed, too, in the nature of their attainments. Bacon excelled in general knowledge — was profound in the highest walks of philosophy.

Coke had paid little attention to these noble researches ; his philosophy made him believe in witches, conjurors, and in the promises of the alchemist ; but in history, in all the deep readings of the common and statute law, he left his great opponent at an immeasurable distance.

Bacon had the greater genius, Coke the most industry and application ; the first had a mind

the most comprehensive and capable of the highest flights ; the last had the greater power of application and of exclusive attention. The mind of the one was as utterly incapable of producing the *Novum Organum* as the other was to luxuriate among the dry immortal sections of the *Commentaries upon Littleton*.

Queen Elizabeth decided in this spirit, when Essex so perseveringly advocated Bacon's interests for the vacant solicitor-generalship ; she admitted his philosophy when she doubted the depth of his law.

Their rivalry, too, was remarkable both for its intenseness and its long duration. They were rivals as pleaders, competitors for the same law offices under the crown, and even struggled to obtain the same lady in marriage.

Both of these two great men attained the highest legal situations. Bacon became the head of the court of equity, Coke held the highest common law office in the gift of the crown. Both were charged with malversation in the administration of their official duties, one with the unsoundness of his law, the other with the badness of his equity. The King removed his chief justice, the parliament impeached and disqualified the chancellor.

Both died in disgrace, though they had partially recovered the smiles of royalty. Bacon was

at the house of a stranger in which he had taken refuge, when he was suddenly attacked with his mortal malady, and Coke had hardly a more peaceful death ; for, in his last hour, his house was searched, and his papers seized by the officers of the crown.

Coke was ten years of age, when Bacon was born ; they had both the advantage of powerful connections ; both married well. Bacon had the most brilliant, Coke the most lengthened career, for he survived his great opponent about eight years.

Time, which sobers the contentions of political parties, has assigned to each, their respective meed of praise, and of condemnation. The general reader has long since yielded to both their equal mixture of praise and reprobation. The name of Coke to such students of England's history brings to mind his immortal Comments, his Reports, and the way in which he bullied poor Raleigh at Winchester. Bacon's name he associates with all that is triumphant in modern experimental philosophy, and disgraceful in the conduct of a chief judge in equity. They were both great men, both had their weak points, and are both entitled to the grateful plaudits of posterity.

Twenty-six years only after the death of Sir Edward Coke, appeared the "Justice Vindi-

cated," of Roger Coke. In this work, which was published in the year of King Charles' restoration, 1660, the author enters zealously into the charges, which had been adduced against his great relative, and mentions all those which were then considered to be the gravest of these paltry accusations.

Roger Coke spoke the language of an affectionate relative, at a period when the passions of politicians were entirely cooled after the excitement of seasons of anarchy and bloodshed, and years of erroneous experimental republicanism. Men could now begin to see even the errors of their own party, and could now suspect that their bitterest opponents were not entirely destitute of political virtues. Coke's was a fate far less fortunate; he lived in the days of England's wretchedness, when the spirit of faction knew not how to reform and to conciliate at the same time, and when those in power could not instruct; for they suffered the monarch to be energetic without dignity, and subservient without sincerity; to commit himself with his subjects for paltry ends, and then allowed him to retire from the parliament house without the satisfaction of even such a miserable triumph.

"Having thus," says Roger Coke, p. 266, "treated of all the causes of society, of the laws of my native country, it will not ill become me surely to add a word or two in vindication of Sir Edward

Coke, (my most honoured ancestor) since he is not able to speak for himself.

“ His care of the church sufficiently appeareth, by his endeavouring the passing of a law that every patron should be sworn, as well as the incumbent, against simony, and also that that patron who should simoniacally promote any clerk, should not only forfeit that avoidance, but the advowson to the King, as also when upon pretence of concealment, the dean and chapter's lands of Norwich were begged of the King, he did not only proffer the chapter to have defended their cause in person, though then very aged, but stated it, and gave it them in writing to be kept for the future, in case any after pretence might be made, which was preserved by the dean and chapter among their archives, until the general deluge of our late dissension swallowed up this among their other things ; and so grateful an acknowledgment did the society make, that upon his next coming into Norfolk, they considered that he would lay his bones in that cathedral, whose right he had so defended.

“ So devout a son he was of the church of England in the observance of the rites and ceremonies thereof, that I am confident that in near forty years before his death, if sickness or public employment, or something extraordinary did not divert him, scarce one day passed wherein he was not twice a devout assistant in the offering up of

the public service of the church ; nor was he less severe to himself in his person, than just to his public employments, being never so much as suspected of any notorious or scandalous vice. These virtues and his learned labours (wherein he has as well deserved of his country as any man before him) shall erect him a monument of fame to posterity, when the malice and ignorance of his enemies shall be forgotten.”

David Lloyd, who wrote his “ Statesmen and Favourites of England,” not thirty years after Coke’s decease, gives us in that work, p. 593, the words of the testimonial presented to him by the dean and chapter of Norwich, under their common seal, in grateful remembrance of his zealous defence of the interests of that church, to which, says Lloyd, he was “ a grand benefactor.” This paper tells us that “ Sir Edward Coke often, and in many difficult cases assisted our church, and again lately against the enemies of our temples ; who, under an obscure title (which they called concealments), would have devoured our lordships, manors, and hereditaments of his own accord, and without other reward, ably defended us.

“ He constantly,” continues Lloyd, p. 596, “ had prayers said in his own house, and charitably relieved the poor with his constant alms. The foundation of Sutton’s Hospital (when indeed but a foundation) had been ruined before it

was raised, and crushed by some courtiers in the hatching thereof, had not his great care preserved the same. The free school of Thetford was supported by his assistance, and he founded a school at Goodwicke in Norfolk."

Bloomfield, however, shews this last assertion to be a mistake; for, when speaking of Goodwick, he says, "In this town is the old seat of Sir Edward Coke.* Mr. Glover founded a school here, depositing money in the hands of Sir Edward Coke for that purpose, who bought a piece of copyhold land and a house, which had but one single room, valued at five shillings per annum, and Mr. Wood, the late rector, has built another room to it, for the master to dwell in."†

Lloyd further tells us that Coke "fore-designed" to poverty and misery, five classes of persons, monopolizers, concealers, promoters of law-suits, alchemists, and rhyming poets; that he used very complacently to give solemn thanks to God for three things, that he never gave his body to physic, his heart to cruelty, nor his hand to corruption. For three things also, he was wont to commend himself, in obtaining so fair a fortune with his first wife, in his successful study of the laws, and in the independent manner in

* History of Norfolk, vol. 5, p. 1012.

† Ibid, vol. 5, p. 1041.

which he obtained all his public employments, *nec prece, nec pretio*, without either prayers or pence.

Of his personal appearance, the same biographer tells us "The jewel of his mind was put into a fair case, a beautiful body with comely countenance; a case which he did wipe, and keep clean; delighting in good clothes, well worn, being wont to say, that the outward neatness of our bodies, might be a monitor of purity to our souls."

Of the personal friends of Coke I have little account; they were probably few in number, his habits were too studious, his application too unvaried to allow him much time for the relaxations and friendly intercourse of life. That he lived in a very plain manner is also very certain.

And his grandson, Roger Coke, tells us that he rose at three o'clock in the morning, and retired to rest at nine; he had probably no taste for the dissipations, he practised none of the vices of life. If he indulged in any amusement, it was in the game of bowls.*

Lord Bacon tells us that he was wont to say, when a great man came to dinner with him, and gave him no knowledge of his coming, "Sir, since you sent me no notice of your coming, you must dine with me, but if I

* Lloyd's Worthies, vol. 2, p. 297.

had known of it in due time, I would have dined with you.”* “ He loved,” says Collins, “ modesty and sobriety, lodging within their boundaries, saying, ‘ If a river swells beyond its banks, it loseth its channel.’ ”†

The great Lord Burleigh was ever his most constant friend and patron ; and, when he died, his son, Robert Cecil, was just as warmly his friend.

His illustrious contemporary, the great Camden, speaks of him in his history of Norfolk, with much approbation.‡ Coke had spoken in his Law Reports of Camden very handsomely, as an authority in a case of dignity, and he was not used to quote names without he had a good opinion of their learning and integrity.§

The learned Spelman, who was another of Coke’s illustrious cotemporaries, and who survived him seven years, thus speaks of his deceased friend “ that ever honourable judge, and oracle of law, my Lord Coke.”¶

His brother judges in the Court of King’s Bench, were probably his personal friends. The testimony of Croke, the most learned and up-

* Apothegms, 112.

† Peerage, vol. 3, p. 681.

‡ Bitania, p. 392.

§ 12 Reports 111.

¶ Posthumous Works, p. 14.

right of the number, which was noted for his own personal satisfaction, and probably without any view to publication, certainly not for flattery's sake, since when the great Croke wrote his note, Coke was in his grave, described him as a "prudent, grave, and learned man, in the common law of this realm, and of a pious and virtuous life."*

I have elsewhere noticed the noble refusal of Sir John Walter, when Attorney General, to hold a brief against Sir Edward Coke. Walter naturally felt a becoming indignation at the ingratitude and baseness of the court. And when in after days he himself fell under the displeasure of Charles I, he behaved just as firmly in his office of Lord Chief Baron of the Court of Exchequer.

Walter died in disgrace in November 1630; but in possession of his Chief Baronship, for he held his patent office "during his good behaviour," and although, by the King's command, he forebore the exercise of his office, yet he would not give up his place, says Croke, "without a *scire facias* to show what cause there was to determine his patent or to forfeit it, so that he continued Chief Baron till the day of his death. The judges, however, of the King's Bench and Common Pleas, were in those days made only "during the good pleasure of the

† Croke's Reports, vol. 3, p. 375.

King, and consequently were removable at the King's discretion. Sir John Walter, according to Judge Croke, was "profoundly learned, and of great integrity and courage."*

Coke had a great theoretical admiration of that brevity in his pleadings and discourse, which his biographer, Lloyd, felt he rarely practised, for he tells us in a note that "his digressions marred his reputation, and had broke his neck, had he lived in any other King's reign but King James's;" not but he was fully aware of the immense value of Coke's legal writings, for he tells us "his most learned and laborious works on the laws will last to be admired by a judicious posterity, while fame hath a trumpet left her, or any breath to blow therein."

The five classes whom Coke predestined, he mentions in his Institute, c. 21, when he says "The fatal end of these five is beggary."

The occasion of this observation was his comment upon the act of the 5th of Henry IV, c. 4, against "the craft of multiplication," which as Coke remarked is the shortest act of Parliament upon record.†

* Croke's Reports, vol. 3, p. 208.

† "None shall hereafter practise the art of transmuting metals, or use the art of multiplication, and if any the same do, they shall incur the pain of felony."

This act was repealed in 1688 by the 1. W&M. c. 30. at the suggestion of the illustrious Boyle.

In his comments upon this brief act of Parliament, Coke gives us some of the chemistry of his age, explains the meaning of the elixirs and quintessences of the alchemists, and, with regard to metals, gravely tells us, that "these several kinds of metals proceed originally from sulphur and quicksilver as from their father and mother."

Bulstrode Whitelocke, who was another of Coke's great cotemporaries, when he was noticing the death of his old friend, thus portrayed his character, "Sir Edward Coke died this year (1634), who was of greater reputation with the people, but of less at court; whose illegal actions he earnestly opposed in Parliament, being usually chosen a member of the House of Commons, after he was out of his public offices. He was a man of great learning and industry, and had the value of a just and impartial magistrate."*

* Memorials, p. 22. Whitelocke was born in 1605. In his public career he was invariably opposed to extreme measures, and though he accepted office from Cromwell, and acted both in the senate and the camp with the opponents of Charles, yet he was always in favour of a limited monarchy and of the Restoration; he opposed the assumption of the crown by Cromwell, and endured in consequence an embassy, but really a banishment to the court of Sweden.

Charles viewed him as really friendly to the cause of monarchy, and although he unquestionably occasionally erred by supporting men who were republicans, he as undoubtedly did

Hamond Lestrange, who was another of the cotemporaries of Coke, wrote his *Life of Charles I.* while Coke was yet alive. He thus depicted his character :

“ This year, fell in England, two great favourites of different parties of the Commonwealth, one of the King’s, another of the commonalties. Sir Edward Coke died about the latter end of this summer, full of days. His abilities in the common law, whereof he passed for the great oracle. His advancement he lost in the same way he got it, by his tongue ; so rare it is for a man very eloquent not to be over-eloquent. Long lived he in that retirement to which court indignation had remitted him, yet was not his recess inglorious, for at improving his disgrace to the best advantage, he was so excellent, as King James said of him, ‘ he was like a cat : throw her which way you would, she will light upon her feet.’ ”

so with the impression that it was to save the country from a worse despotism.

Lord Clarendon describes 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 in 1675.

Johnson’s *Life of Selden*, 20. Clarendon’s *Autobiography*, vol. 1, p. 60. Wood’s *Athenæ* by Bliss. vol. 3, p. 1046. See also his own “ *Memorials*.”

“ And finding a cloud at the court, he made sure of fair weather in the country, applying himself so devotedly to popular interests at a succeeding Parliament, that the prerogative felt him as her ablest, so as her most active opponent.”

The other great favourite to whom Lestrange alludes, was the Lord Treasurer, Weston, Earl of Portland.

Sir Edward Coke died a commoner ; his name was not enrolled amongst the peers, and his descendants are still numbered with the great and leading commoners of England. It is true that one branch of his descendants was for a generation elevated to the peerage ; that they have had one Earl of Leicester in the family, but it was for one generation only, the holder of the title long outliving his talented and only son.

To the family, the name of Coke is sufficiently honourable, for amongst lawyers and legislators the name would derive no additional lustre from his being created a peer. It is true that William Pitt, “ the boy minister of England,” was willing to wipe away the reproach that the peers of England did not have a Coke amongst their number ; it is true that he tendered a peerage to the present Mr. Coke, an offer which was certainly declined.

A vague rumour is prevalent in the east of England, that the reason for the refusal arose from the hesitation of Mr. Pitt to grant the title of Leicester. But this report I know to be erroneous. Mr. Coke himself told me, that he refused a peerage from William Pitt, because he could not support the minister who proffered him the honour. That he should in such case have had to oppose the man who gave him his seat in the Upper House.

The feelings of these two great men were equally honourable; they felt, as men of their minds should feel, above the little paltry calculations of every day life. Pitt through life had but one great object, the greatness and glory of his country; for this he laboured the live long day: for England he pleaded by the light of the midnight lamp before her assembled Commoners: for her he was a martyr. Coke has had a more limited sphere it is true, but what he had to do he did well. He refused his peerage rather than incur any suspicion of political ingratitude. And principally through his noble exertions, the agriculturists of England have taken a rank among the scientific cultivators of the earth, which they never before attained.

Yet I confess I would rather witness the representative of the Coke family sitting in the same House, which numbers amongst its mem-

bers the descendants of so many other great lawyers, and that the Fortescues, Littletons, Somers, Kings, Mansfields, Hardwickes, and a host of other great names should derive still greater honour by the addition to their number of the descendants of the greatest lawyer which their country ever produced.*

Of the adventures of Lady Elizabeth Hatton after her husband's decease, I have few memorials; I have in vain searched for some particulars of her life. I am equally ignorant of the period of her birth and her decease; that she was rich, heartless and overbearing, there is abundant testimony; contemporary authors attest, that she was courageous and eloquent, high spirited and enterprising. Only eight years after the decease of her husband, I find her living at Stoke Pogis, having immediately taken possession of the mansion at his death, an event of which she was evidently impatient.

At this period, the civil war was convulsing the kingdom from one end to the other. The Lady Coke had no taste for its horrors, was sensibly alarmed at the unruly conduct both of the

* I rejoice to be able to add, as this sheet is going to press, that our noble Queen has again ennobled the Coke family, that "the Coke of Norfolk" is now (1837) Viscount Coke, and Earl of Leicester.

royalists and parliamentarians, and as naturally anxious for peace, for any accommodation, in fact, which would lead to a cessation of the dangers and miseries of civil commotions.

On the approach of Prince Rupert's army, in October 1642, to the neighbourhood of Stoke, she thought it prudent to retire from her house, and at the same time, address to the Prince a letter, which was printed by the friends of the parliament, a copy of which is preserved in the British Museum, among the printed broadsides.

In this letter, she strongly recommends a reconciliation with the parliament as the only means of saving the sovereign and his dominions from destruction. She probably, in this respect, expressed not only her own feelings, but the opinions of the great body of the people of England, who were equally afraid of the success of the King or the triumph of the parliament. The first was sure to be arbitrary, and a stickler for his prerogative; the other party were just as certain of being tyrannical and despotic. The nation saw very clearly the danger of either an irresponsible King, or an unrestrained parliament. It was an agonizing period of England's history, when good men were afraid to act, since they saw only a choice of difficulties.

This letter is entitled :

“ A true copy of a letter from the Right Honourable the Lady Elizabeth Hatton, left at the remove of her honour’s household from Stoke, near Windsor, (upon hearing of Prince Rupert’s approach towards those parts) to be delivered to his excellencie.

“ Sir,

“ The great honour and comfort I (though unworthy) have had, in the knowledge and favour of that most excellent princess, the Queen, your mother, made me often joy in my constant resolution to serve her Majesty, and all hers, by the best ways and means in my power, and therefore must be infinitely or most heartily sorry to fly from this dwelling, even when I hear your excellency is coming so near it, which howsoever with all in and about it, is most willingly exposed to your pleasure and accommodation, in particular as it must also ever be commanded by his Majesty. But, Sir, let me humbly offer what my age and experience of others’ wisdom and observation hath afforded my understanding, which concludes that the parliament is the only firm foundation of the greatest establishment, the King, his posterity, or the allies can wish and attain, the defence or conservation whereof is no way to be effected but by its own body.

“ And therefore, if you should persist in the unhappiness to support any advice to break the parliament, upon any pretence whatsoever, you shall concur to destroy the best groundwork for his Majesty’s prosperity, whereon there is so great dependance as makes my apprehension withdraw my pen from your farther trouble, that gains me leave to rest,

“ Excellent Sir,

“ A true beades-woman

“ For his Majesty’s prosperity,

“ And your most humble servant,

“ ELIZABETH HATTON.”

Stoke, the 24th of
October 1642.*

Stoke House, from whence this letter is dated, was granted, according to Lysons, about 1621, by James I to Sir Edward Coke, in fee ; he held it previously of the crown under lease, for in 1601, being then attorney-general, he entertained Queen Elizabeth at this place, in a very sumptuous style, presenting her with jewels to the amount of £1000 or £1200. The house and estate were settled upon Lady Hatton, and formed part of

* This letter printed on one side of a folio broadside is in the British Museum, and stated to be “ London, printed by R. B. for William Ley, 1642.”

the marriage portion of her daughter, Frances Coke.*

In 1647, Stoke House was the temporary prison of Charles I, when in the power of the parliament, and, after the death of Lord Purbeck, in 1656, it was sold to the Gayer family, then to the Halseys, and is now in the possession of the Penn family,† by one of whom a pillar has been

* Lyson's *Magna Britannia*, vol. i, p. 686.

† The mansion house at Stoke, which is about two miles from Slough, was the scene of the poet Gray's "Long Story." Its antique chimnies still remain, although the house of Coke has long since been rebuilt. Gray wrote this "odd composition" when on a visit to Lady Cobham, who then occupied the place. The parish church of Stoke Pogis was the place where Gray wrote his elegy, and in the same churchyard he was buried in 1771. The most learned of poets here sleeps the sleep of death, on the same spot where, a century and a half before, the most learned of lawyers used regularly to attend the worship of God.

Gray alluded to the former inmates of Stoke House and to the Lord Keeper Hatton, in his "Long Story," when he says, in its commencement,

In Britain's isle, no matter where,
An ancient pile of building stands
The Huntingdons and Hattons there
Employed the power of fairy hands

To raise the ceiling's fretted height,
Each panel in achievements clothing,
Rich windows which exclude the light,
And passages that lead to nothing.

erected to the memory of Coke, in the grounds of which he was once the owner.

I am not aware of the period of Lady Elizabeth Coke's decease. She had been dead some time previously to 1658 ; for it is so stated in a trial in which her grandson, Robert Wright Villars was concerned to defend the possession of the Buckinghamshire estates, which formed a portion of her settlement*, and in which he succeeded.

A pillar in the park at Stoke, erected by the brother of its present possessor, Granville Penn, Esq. announces to the passenger that the great Coke was once the possessor of the estate. I had deemed it probable that some vestiges of Coke,

Full oft within these spacious walls,
 When he had fifty winters o'er him,
 My grave Lord Chancellor led the brawls,
 Though seals and maces danced before him.

His bushy beard and shoestrings green,
 His high crowned hat and satin doublet,
 Moved the stout heart of England's queen,
 Though pope and Spaniard could not trouble it.

In these verses Gray alluded to the well known fact that Sir Christopher Hatton owed his Lord Keepership to his graceful dancing. "Brawls" were a kind of figure dancing once much in fashion, in which he had probably often figured before his mistress queen.

* Sidifin's Reports, vol. ii, p. 64, 98, 129, 157.

some traditionary stories regarding him, might be found in the neighbourhood ; but the following obliging communication from Mr. Penn, in answer to my inquiries, shows that my hopes were entirely unfounded.

“ My late brother, about forty years ago, erected a column in the park, as an historical memorial of that eminent person having formerly possessed the estate ; but that is the only point in which we have any contact with his name, and there is no other vestige in the parish, or neighbourhood, of his existence ; no monument or inscription in the church, nor any traditional stories concerning him.

“ Indeed, such is the oblivious power of time, that if it were not for the column in this park, Sir Edward Coke’s name would have been wholly lost to the present generation of the common population of Stoke and its vicinity.”*

Coke’s religious feelings as regards the Roman catholics appears to have been bitter and uncompromising ; on no occasion does he appear to have let any opportunity escape where he could vilify and denounce them.

In his pleadings against Raleigh, throughout

* Stoke Park, Nov. 12, 1835.

his Institutes, his speeches in parliament, and his charges to the juries, he was ever towards them full of bitterness.

Coke lived in other days than those of modern liberality ; he dwells, in his law writings, upon the burning of heretics with his usual minuteness, exhausts all legal learning that can illustrate the subject, but no expressions of condemnation escape him while detailing the barbarity of such sentences, although their glaring absurdity peeps out at almost every sentence.

This merciless feeling towards heretics was, unfortunately, not confined to one sect of christians, or class of politicians. Mary of England committed protestants to the flames without compunction ; her sister Elizabeth did the same by the catholics. James the First had no doubt of the correctness of this practice ; he condemned to death, with equal facility, heretics, conjurors, and witches. Charles the First did not deviate from the custom ; the bishops of his day still condemned to the flames those they could not convert ; they yet destroyed, if they could not convince.

The commonwealth men were the last who perpetrated these enormities, for although they eloquently and energetically denounced all interference with political rights, yet they could not at the same time extend their liberality to religious

feelings; that was by far too great an effort; they even made use of the authority of King James as an excuse for their persecutions.

There is, in the Plumian Library, a tract printed in 1651, for Michael Spark, "by Authority," with this curious title :

"A true relation of the commissions and warrants for the condemnation and burning of Bartholomew Leggat, and Thomas Withman, the one in West Smithfield, London, the other at Lichfield, in the year 1611. Signed with King James's own hand. In which is laid open the most blasphemous heresies and false opinions, being part of the very same which our Ranters in these times profess to be their new lights."

In this warrant, which thus met with the approbation of these liberty-loving republicans, James tells the sheriffs of London with equal wisdom and humanity :

"Whereas, the Reverend Father in Christ, John, Bishop of London, hath signified unto us that when he in a certain business of heretical depravity against one Bartholomew Leggat, our subject of the city of London, of the said bishop's diocese and jurisdiction, rightfully and lawfully, proceeding by acts, enacted, drawn, proposed, and by the confessions of the said Bartholomew

Leggat, before the said bishop, judicially made and acknowledged, hath found in the said Bartholomew Leggat very many wicked errors, false opinions, heresies, and cursed blasphemies, and impious doctrines, expressly contrary and repugnant to the catholic faith and religion, and the holy word of God, knowingly and maliciously, and with a pertinacious and obdurate plainly incorrigible mind, to believe, hold, affirm, and publish ; the same reverend father hath therefore, &c. &c. The same Bartholomew Leggat is therefore pronounced, declared, and decreed to be an obdurate, contumacious, and incorrigible heretic, and upon that occasion as a stubborn heretic, and rotten contagious member, to be cut off from the church of Christ, and the communion of the faithful. And whereas the holy mother church hath not further to do and prosecute in this part, the same reverend father hath left the aforesaid Bartholomew Leggat as a blasphemous heretic to our secular power, to be punished with condign punishment. We therefore, &c. deeming that such an heretic ought to be burned with fire, do command you, that the said Bartholomew Leggat being in your custody, you do commit publicly to the fire, before the people in a public and open place in West Smithfield. And you cause the said Bartholomew Leggat to be really burned in the same fire, in detestation

of the said crime, for the manifest example of other christians, lest they slide into the same fault.”

It may be urged, in excuse for Sir Edward Coke's hatred of the catholics, that he lived in days full of the most atrocious, the most revolting scenes of religious depravity. He was only twenty-two years of age, at the massacre of the French protestants on St. Bartholomew's eve, in August 1572. A story, which the schoolboy yet reads with unqualified horror, and which in the age, in which it occurred, must have rendered the very name of catholicism odious throughout protestant Europe.

The events of his after life, the gunpowder plot, and others of an inferior importance, could not but still farther render Sir Edward Coke an enemy to the professors of such a religion.

Coke, too, lived in the days of papal splendour, when Rome was powerful, the popes almost omnipotent ; a papal excommunication then rendered a sovereign an object of pity ; even Elizabeth was disturbed by such a decree. We cannot perhaps believe in half its terrors, although we can readily imagine what roars of laughter would now be caused by a repetition of such buffoonery.

It naturally followed, therefore, that the lan-

guage and demeanour of the protestants of that age towards their catholic brethren became harsh and despotic. They hated, because they feared them, dreaded their power, cruelty and bigotry as much as they despised their ignorance.

Had Coke lived in the nineteenth century, he would have seen, by other massacres of St Bartholomew, perpetrated daily for months and years in the very same city of Paris, that a national depravity and a love of bloodshedding, are not to be attributed to the members of any particular sect of christianity. He would have seen by the result of a long series of melancholy national revolutions, that even the abolition of all sectarianism, or even of christianity itself, did not add to the refinement, the honour, or the glory of those who ventured on so fearful, and so degrading an experiment.

He would have seen, to his astonishment, that the loss of the catholic religion did not tend to the decrease of national depravity, that though priestcraft was banished, that a love of bloodshedding and of revolution still remained; and that even in the most refined and philosophical period, that another gunpowder plot, another infernal explosion could be arranged as readily and with more success, than that of the English conspirators, an attempt too, in which religious motives had no influence.

Hence Coke would perhaps have been led to

conclude that the attributing to any religion the crimes of its professors was a mode of proceeding neither warranted by philosophy, nor supported by the results of experience.

By his first wife, Sir Edward Coke had ten children, seven sons and three daughters. Of the daughters,

1. Elizabeth died in her infancy.*

2. Ann, who was baptized at Huntingfield, March 7, 1584, married Ralph, son and heir of Sir Thomas Sadler, the grandson of Sir Ralph Sadler, Chancellor of the duchy of Lancaster; she died without issue.†

3. Bridget, married William, son and heir of Sir Vincent Skinner.‡

Of the sons,

1. Edward, baptized at Huntingfield, Dec. 5, 1583, died an infant.

2. Robert, baptized at Huntingfield, Oct. 3, 1587, received the honour of knighthood; he married Theophila, daughter of Thomas Lord

* On a flat stone with a brass plate before the altar of Huntingfield church in Suffolk, is inscribed,

Here lyethe the bodye of Elizabeth Cooke, daughter to Edward Cooke and Bridget his wyfe, who deceased the 11 daye of November in the yeare of our Lord 1586.

† Chauncey's Hertfordshire, vol. ii, p. 180.

‡ Collins, vol. iv, p. 353.

Berkeley, by whom he had no issue. He died July 19, 1651, aged 67.*

Through this Robert Coke, the London Library of Sir Edward Coke came into the possession of the Berkeley family, and was by George, the fourteenth Earl Berkeley, presented, in 1680, to the corporation of Sion College in London. The corporation marked its sense of the value of this noble present by sending a deputation, of which Archbishop Tillotson was one, to thank Lord Berkeley for his munificence. This library consisted of about five hundred and sixty different works, according to the list preserved by the librarian.

I once entertained an expectation that some of Sir Edward Coke's papers and books might have been retained in the possession of the Berkeley family, but upon application to Lord Segrave he very obligingly informed me, May 14, 1836,

“I certainly have many original letters, ancient deeds, grants, &c. forming a source of great curiosity and information to the historian and the antiquary; but I am tolerably confident that I have nothing that ever belonged to, or was written by Sir Edward Coke.”

3. Arthur, baptized at Huntingfield, March 7, 1588, who married Elizabeth, daughter and

* Monument in Epsom Church.

heiress of Sir George Walgrave, by whom he had four daughters.

4. John, baptized at Huntingfield, March 4, 1590, who was seated at Holkham, he married Meriel, the daughter of Anthony Wheateley, Esq. by whom he had six sons and nine daughters.*

The estate, however, descended to his youngest son John, and he dying unmarried, the property descended to the heirs of Henry Coke.†

5. Henry, who was baptized at Huntingfield, August 30, 1592, was seated at Thurrington in Norfolk. He was elected member of parliament in 1623 for Wycomb, twice in 1625 for the same

* In the chapel on the south side of Holkham church is a marble monument on which is inscribed :

“ To the reviving memory of William Wheateley, Esq. and Martha Skinner, his wife ; and Anthony Wheateley, Esq. and Ann Armiger, his wife ; and also of Meriel Coke, late wife of John Coke of Holkham in the county of Norfolk, Esq. the fourth son of the Right Honourable Sir Edward Coke, knight, late Chief Judge of the Court of Common Pleas, and afterwards Chief Judge of the King's Bench &c. &c. Her loving husband, John Coke, Esq. to whom she bore six sons and nine daughters, and lyeth here buried, erected this to her memory. She died the 4th of July, 1636.

In the chancel of the same church is a gravestone, on which is engraved :

“ In memory of John Coke Esq. fourth son of Sir Edward Coke, &c. &c. who married Meriel, daughter of Anthony Wheateley, Esq. of Hill Hall, in Norfolk,”—Bloomfield's History of Norfolk, vol. v, p. 810.

† Collins, vol iv, p. 155.

borough, and in 1640, for Dunwich.* He married Margaret, daughter and heiress of Edward Lovelace, by whom he had a son, Richard, who espoused Mary, daughter of Sir John Rous, Bart., by whom he had a son Robert, who succeeded, on the death of John Coke, to the Holkham estates, and the greatest part of Sir Edward Coke's property.†

Robert Coke married Lady Ann Osborn, daughter of Thomas Duke of Leeds, by whom he had only one son, Edward. Robert Coke died January 16, 1679, in the twenty-ninth year of his age, and was buried at Titleshall, where there is a monument to his memory.

His son Edward married Carey, daughter of Sir John Newton of Gloucestershire. He died on the 13th of April, 1707, and his widow soon afterwards; they had three sons and two daughters.

1. Thomas. 2. Edward, who died at his seat at Longford in August, 1733 unmarried.

It was on this Edward Coke's behalf, that the celebrated Sarah Duchess of Marlborough pretended to have been offered six thousand pounds for a peerage. "And how easy and inoffensive a thing," says the Duchess "would it have been at that time, for he was a gentleman of an estate

* Willis's Notitia Parl. vol. ii, p. 198, 208, 286.

† Monument in Titleshall church.

equal to the title desired, and was grandson to the Duke of Leeds, and in that interest which hitherto carried all before it at court."*

But dying, as I have stated, unmarried, he left his estate to his youngest brother Robert.

This Robert Coke was vice-chamberlain to Queen Caroline, and married in June, 1733 Lady Jane, daughter and co-heir of Philip Duke of Wharton, and relict of John Holt Esq. of Redgrave in Suffolk.

The daughters were 1. Carey, who married Sir Marmaduke Wyville bart., of Burton Constable, in Yorkshire, and 2. Anne, married to Major Phillip Roberts of the 2nd Life Guards.

Thomas Coke Esq., however, their elder brother, succeeded to the family estates; he was made Knight of the Bath in May 1725, in 1728 Lord Lovell of Minster Lovel in Oxfordshire, and in 1747 Viscount Coke, and Earl of Leicester.

He married in 1718, Lady Margaret Tufton, one of the daughters and co-heiresses of Thomas Earl of Thanet, to whom George II confirmed her right by descent to the barony of Clifford. By this lady, he had a son, Edward, who married Lady Mary Campbell, daughter of Field Marshal the Duke of Argyle, and died at Green-

* Account of her own conduct, p. 346.

wich, in the life-time of his parents, without issue.

This promising young nobleman represented in Parliament, the county of Norfolk, and in 1747 the town of Harwich. The burgesses of this port are indebted to Sir Edward Coke for their privilege of electing members. It was originally made a borough by Edward II. in 1319, but it had only made one return, which was in 1343. Through the interest of Sir Edward Coke, James I., in 1604, again empowered the town to send members, a privilege, which it has ever since retained, although I believe, now possessing a smaller number of electors than any borough in the united kingdom.

The magnificent seat of Holkham, perhaps the finest mansion in the east of England, was erected under the direction of Lord Leicester, who, when he had finished his work, placed an inscription over the hall door to inform the spectator that the ground on which the house now stands he had found a barren waste.

6. Clement, the sixth son of Sir Edward Coke, who was baptized at Huntingfield, September 4th, 1594, married Sarah, daughter of Alexander Reddiche, by whom he had two sons and two daughters, his descendants were all extinct in 1727.

He represented the borough of Heydon, in 1614,* and committed himself by using in the House some rather rash expressions, which the government of Charles I. sorely resented.†

7. Thomas, the youngest son of Sir Edward Coke, died young.

By Lady Hatton, his second wife, Sir Edward Coke had two daughters.

1. Elizabeth, who died unmarried.

2. Frances, who married Sir John Villiers, brother of Villiers Duke of Buckingham, and afterwards created Viscount Purbeck, but by whom the House of Lords decided she had no children.

On the death of Lord Leicester in 1759, the earldom of Leicester etc. became extinct, but

* Willis's Not. Parl. vol. 2. p. 169—171.

† His monument is in the Temple church, with this inscription, "Here resteth the body of Clement Coke, of Langford, in the county of Derby, Esq. youngest son of Sir Edward Coke knt., late Chief Justice of England, and of Bridget, his wife, daughter and co-heir of John Paston, of Paston, in the county of Norfolk, Esquire.

This Clement married Sarah, daughter and co-heir of Alexander Redicke of Redicke, in the county of Lancaster, and of Catherine, his wife, sole daughter and heir of Humphrey Dethick, of Newall, in the county of Derby, Esqr., and had issue by the said Sarah, living at his death, Edward, Robert, Bridget, and Avise. He in the Inner Temple, being a fellow of the house, christianly and comfortably, in his flourishing age, yielded up his soul to the Almighty, the three-and-twentieth of May, A.D. 1629." Stowe's London, p. 763.

his estates devolved upon his nephew, Wenman Roberts Esq. (the son of Lord Leicester's sister Ann) who assumed the name of Coke and died in 1776. He married Miss Elizabeth Chamberlayne, and had by her

1. Thomas William, his heir.
2. Edward, and two daughters.

On his death in 1776, he was succeeded by his eldest son, Thomas William Coke Esq., the present possessor of Holkham Hall, who has been recently (1837) created Viscount Coke, and Earl of Leicester.

This nobleman, married first, Jane daughter of James Dutton Esq. of the county of Dorset, by whom, who died in June 1800, he had three daughters, viz.

1. Jane Elizabeth, who married first in 1796 to Charles Nevisen, Viscount Andover, who was killed by the bursting of his fowling piece in 1800. And secondly, in 1806, to Vice Admiral Sir Henry Digby, by whom she has issue, 1. Edward. 2. Kenelm. 3. Jane married in 1824 to Lord Ellenborough, but which marriage was dissolved in 1830.

2. Ann Margaret married in 1794 to Viscount Anson, by whom she had, with several other children, the present Earl of Lichfield.

3. Elizabeth Wilhelmina, married in 1822 to John Spencer Stanhope Esq. of Cannon Hall in Yorkshire, and has issue.

In February 1822, Lord Leicester married secondly Lady Ann Amelia Keppel, daughter of the present Earl of Albemarle, and has issue

- | | | | | |
|---|-----------------------------------|------|-------------|-------|
| 1 | Thomas William, Viscount Coke, | born | December 26 | 1822. |
| 2 | Edward Keppel, | „ | August 20 | 1824. |
| 3 | Henry John, | „ | January 3 | 1827. |
| 4 | Wenman Clarence Walpole | „ | July 13 | 1828. |
| 5 | Margaret Sophia | „ | March 7 | 1832. |

CHAPTER IX.

Coke's works—His reports—Notice of the early reporters—Their dryness—Poetical reports—Coke's literary contemporaries—Shakspeare—Camden—Beaumont and Fletcher—Ben Jonson—Harvey—Notice of Harvey and his grave—Coke's first Institutes—The Parliament restore his papers—Notice of Strafford—Coke's second, third, and fourth Institutes—His minor works—Manuscripts of Sir Edward Coke—Portraits of Sir Edward Coke—Engraved heads of Coke.

It is by his published works that Coke has been best known to posterity. He was too decided in his politics ; exposed himself in the reigns of James and Charles, by far too much to the hatred of the court, to escape the praises and animadversions of politicians ; one party degrading him as the mere tool of a profligate faction ; the other praising him as the patriot legislator, devoid of factious motives, and presenting the rare example of a lawyer, yet a legal reformer, a counsellor pleading only for truth.

It is hard to determine by which party Coke's reputation was most injured, but the general result was certainly unfavourable. The character of any one is rarely elevated in the eyes of posterity, whose public conduct and private affairs are continually scrutinized and examined by half his countrymen, with the sole view of exposing their errors.

As a lawyer, however, Coke had a happier fate. Men of all parties have here united in bearing testimony to the correctness of his reasonings, the immensity of his readings, and the faithfulness of his reports. His works, notwithstanding the progress of legal alterations, and the rapid abandonment of nearly the last relics of feudal law, are still the books over which the law student employs his midnight hours. The first he searches for his proofs, and the last which he ceases to cite, as undoubted authorities.

The thirteen books of Sir Edward Coke's Reports of cases, determined in the reigns of Elizabeth and James, are known among lawyers by the distinction of "The Reports." The reports of other lawyers have their names affixed when quoted, as Saunders', Hobart's, Yelverton's, etc. reports, and this, in the case of Coke's, to denote their superior excellence; for as there were valuable reports in existence long previous to the publication of his, so there

have been very many published since. The first part of these valuable reports was published about the year 1600, when Coke was Attorney-General to the Queen, under the title of, “ The first part of the Reports of Sir Edward Coke knt., her Majesty’s Attorney-General, of divers resolutions and judgments, given with great deliberation by the reverend judges and sages of the law, of cases and matters in law, which were never resolved or adjudged before ; and the reasons and causes of the said resolutions and judgments during the most happy reign of the most illustrious and renowned Queen Elizabeth, the fountain of all justice and the life of all law.”

In his Latin preface, he says :—

“ Reading, hearing, conference, meditation, and recordation, are necessary, I confess, to the knowledge of the common law, because it consisteth upon so many and almost infinite particulars ; but an orderly observation in writing is most requisite of them all. For reading without hearing is dark and irksome, and hearing without reading is slippery and uncertain ; neither of them truly yield seasonable fruit without conference, nor both of them with conference ; without meditation and recordation, nor all of them together without due and orderly observation.

“ Scribe sapientiam tempore vacuitatis tuæ,” saith Solomon. And yet he that at length, by

these means, shall attain to be learned, when he shall leave them off quite for his gain or his ease, soon shall he (I warrant him) lose a great part of his learning. Therefore as I allow the student no discontinuance at all (for he shall lose more in a month than he shall gain in many), so do I commend perseverance to all, as to each of these means an inseparable incident.

“ I have, since the 22nd year of her Majesty’s reign, which is now 20 years complete, observed the true reasons as near as I could of such matters in law (wherein I was of counsel, and acquainted with the state of the question) as have been adjudged upon great and mature deliberation.

“ To the reader, mine advice is that in reading these or any new reports, he neglect not in any case, the reading of the old books of years, reported in former ages ; for assuredly out of the old fields must spring and grow the new corn.”

In all his published works, Coke betrays the utmost anxiety for the welfare and progress of the legal student, not only in legal knowledge, but in the practice of virtue. Coke expressed himself, there is no doubt, in the true feelings of his heart, for his language is not that of the dry legal pleader. Thus in his preface to his second book of Reports, also published in the reign of Queen Elizabeth, he addresses the student :

“ For thy comfort and encouragement, cast thine eyes upon the sages of the law that have been before thee, and never shalt thou find any that hath excelled in the knowledge of the laws, but hath sucked from the breasts of that divine knowledge, honesty, gravity, and integrity, and, by the goodness of God hath obtained a greater blessing and ornament than any other profession, to their family and posterity. It is an undoubted truth, that the just shall flourish as the palm tree, and spread abroad as the cedars of Libanus.

“ Their example and thy profession do require thy imitation, for hitherto, I never saw any man of a loose and lawless life, attain to any sound and perfect knowledge of the said laws: and on the other side, I never saw any man of excellent judgment in the laws, but was withal (being taught by such a master) honest, faithful, and virtuous.”

His love of the common law was very great: he was ever ready to be its champion whenever he heard it abused; he had no idea that the common law was the common abuse, as has been often ignorantly said in our days; for adds Coke in the same preface: “ The greatest questions arise not upon any of the rules of the common law, but sometimes in conveyances and instruments made by men unlearned. Many times upon wills, intricately, absurdly and repug-

nantly set down by parsons, scriveners, and such other imperites ; and oftentimes upon acts of Parliament, overladen with provisoes and additions, and many times on a sudden, penned or connected by men of none or very little judgment in law.

“ If men would take sound advice and counsel in making their conveyances, assurances, instruments and wills, and counsellors would take pains to be rightly and truly informed of their client’s case, so as their advice and counsel might be apt and agreeable to their client’s estate ; and if acts of Parliament were after the old fashion penned, and by such only as perfectly knew what the common law was, as also how far forth former statutes had provided remedy for former mischiefs and defects discovered by experience, then should very few questions in law arise, and the learned should not so often and so much perplex their heads to make atonement and peace by construction of law, between insensible and disagreeing words, sentences, and provisoes, as they now do. In all my time I have not known two questions to have been made of the right of descents and escheats by the common law.”

The third part of his Reports was the last published during the reign of Elizabeth, Coke’s great mistress, “ than whom no sovereign was ever better served by great and learned ser-

vants," for Burleigh, her minister, had a thorough dislike to superficial men, and Elizabeth, but rarely indeed, preferred any such.

In the preface to this book, he went at some length into the history of reporting law cases, from their origin, by the paid government reporters of Edward III, who commenced the year books to his own period, and explained the object of such reports to be "To the end that all the judges and justices, in all the several parts of the realm, might as it were with one mouth, in all men's cases, pronounce one and the same sentence."

He warns his readers to beware of the law as laid down by historians and others not learned in the law. "Beware of chronicle law reported in our annals, for that will undoubtedly lead thee to error; for example, they say; Selden's *Epinomis*, 14, that William the Conqueror decreed, that there should be sheriffs in every shire, and justices of the peace to keep the counties in quiet, and to see offenders punished, whereas the learned know that sheriffs were great officers and ministers of justice, as they now are, long before the conquest, and justices of the peace had not their being, until almost three hundred years after, that is in the first year of Edward III."

After much learned detail of the origin and progress of the common law of England, which

he seems to be willing even to believe originated with Brutus, the first King of England, that he wrote, B. C. 1100, a Greek book of laws, compiled out of those of the Trojans, etc., and having brought down the history of law reporting to his own age ; which was in fact an easy task, for then, happily for the lawyers of that day, there only existed eleven volumes of reports, viz. the Nine Year Books, Plowden's Commentaries, and Dyer's Reports ; he gives an account of the inns of court, which as shewing the practice of calling to the bar two centuries and a half since, is rather curious.

“ As there are in the universities divers degrees as general sophisters, bachelors, masters and doctors, of whom be chosen men for eminent and judicial places, both in the church and ecclesiastical courts, so in the profession of the law, there are mootmen, (which are those who argue cases, propounded by the readers, in terms and in grand vacations.)

“ Of mootmen, after eight years' study or thereabouts, are chosen utter barristers, and of these readers in the inns of Chancery.

“ Of utter barristers, after they have been of that degree twelve years at the least, are chosen benchers or antients, of which one that is of the puisne sort, reads yearly in summer vacation, and is called a single reader, and one of the antients, which have formerly read, reads in

the Lent vacation, and is called a double reader, and commonly it is between the first and second reading, about nine or ten years.

“ And out of these, the King makes choice of the Attorney and Solicitor General, and of these readers are sergeants elected by the King’s writ, and are called *ad statum ad gradum servientis ad legem*, and out of these the King electeth one, two, or three as pleaseth him to be his sergeants, which are called the King’s sergeants. Of sergeants also by the King are constituted the honourable and reverend judges and sages of the law.

“ For the young student who most commonly comes from one of the universities, for his entrance or beginning were first instituted, and erected eight houses of Chancery, to learn the elements of the law—that is to say, Clifford’s Inn, Lyon’s Inn, Clement’s Inn, Bernard’s Inn, Staple’s Inn, Furnival’s Inn, Davis Inn, and New Inn, and each of these houses consists of forty or thereabouts.

“ For the readers, utter barristers, mootmen and inferior students, are four famous and renowned Colleges or Houses of Court, called the Inner Temple, to which the first three houses of Chancery appertain, Gray’s Inn to which the two next belong, Lincoln’s Inn which enjoyeth the two last, saving one of the Middle Temple, which hath only the last. Each of these houses

of Court consists of readers above twenty, of utter barristers, above thrice so many, of young gentlemen, about the number of eight or nine score, who there spend their time in study of law, and in commendable exercises fit for gentlemen. The judges of the law, and sergeants being commonly above the number of twenty, and equally distinguished unto two higher and more eminent houses called Sergeant's Inn."

Coke accounts for the old absurd practice of carrying on all law proceedings, and enacting Acts of Parliament, in the old law French which was adopted for several ages, subsequently to the Norman invasion, because "it was not thought fit nor convenient to publish either those or any of the statutes enacted in those days in the vulgar tongue, lest the unlearned, by bare reading, without understanding, might suck out errors, and trusting to their own conceit might endanger themselves, and sometimes fall into destruction."

Our author had a very justifiable suspicion, that the plain language of his learned reports, would be considered by the legal student, as by no means assisting the dryness of the detail; he therefore made it his business to decry what did not belong to him; and to very complacently undervalue that elegance of expression which no one ever suspected him to possess.

"Certainly," he observes, "the fair outsides

of enameled words and sentences, do sometimes so bedazil the eye of the reader's mind, with their glittering show, as they cause them not to see or not to pierce into the inside of the matter. And he that busily hunteth after affected words, and follows the strong scent of great swelling phrases, is many times (in winding them to show a little verbal pride) at a dead loss of the matter itself."

He published his fourth Book of Reports, in the first year of the reign of James the First 1603, while he was yet Attorney-General, and whom he characterises in the title pages as "The Fountain of all Piety and Justice, and the Life of the Law."

No one had a greater abhorrence of changes, and alterations in the common law, than Coke; he was quite decided in that opinion. "For any fundamental point of the ancient common laws, and customs of the realm, it is a maxim in policy and a trial by experience, that the alteration of any of them is most dangerous, for that which hath been refined and perfected by all the wisest men in former succession of ages, and proved, and approved by continual experience, to be good and profitable for the Commonwealth, cannot without great hazard and danger be altered and changed;" he supports his opinion by a multitude of proofs.

In another part of the same preface, he lauds

very highly the governors of the realm of England, who have uniformly taken such care in the choice of able and upright judges. "Never," he observes, "can a judge punish extortion that is corrupted himself, nor any magistrate punish any sin as he ought, that is known to be an offender therein himself. Therefore it is an incident inseparable to good government, that the magistrates to whom the execution of laws are committed be principal observers of the same themselves." It appears from this preface, that in the first year of James the First, he appointed a fifth judge, to each of the Courts of King's Bench and Common Pleas.

In the third year of King James 1605, appeared the fifth book of his Reports, while he was still Attorney-General.

This book commences with Cawdry's case, from whence he takes occasion to enter into a long and learned dissertation upon the King's Ecclesiastical Law. And this he does both in Latin and English, contrary to his usual custom, and for reasons which he in conclusion explains.

"This case is reported in the English and Latin tongues, to the end that my dear countrymen may be acquainted with the laws of the realm, their own birthright and inheritance, and with such evidence as of right belong to the same, assuring myself no wise or true-hearted

Englishmen, that hath been persuaded before he was instructed, will refuse to be instructed in the truth, (which he may see with his own eyes), lest he should be dissuaded from error, where-with blindfold he hath been deceived; for miserable is his case and worthy of pity, that hath been persuaded before he was instructed, and now will refuse to be instructed, because he will not be persuaded.”

To this Essay upon the King's Ecclesiastical Law, Parsons the Jesuit published a reply; to which, though it has been praised by Bishop Nicholson, no answer was made, except the short notice which Coke took of it, in the preface to the sixth volume of his Reports, published in 1607. In this he says, “The cause that I cannot reply for is, that I have only reported the text, and as it were the very voice of the ancient laws of the realm proved and approved in all succession of ages, as well by universal consent in Parliaments as by the judgments and resolutions of the reverend judges and sages of the common laws, in their judicial proceedings, which they gave upon their oaths and consciences. In the end, I found the author utterly ignorant, (but exceedingly bold, as commonly these qualities concur) in the laws of the realm, the only subject of the matter in hand.”

He again dwells upon the plain, homely, style in which his Reports were made; he felt that they

were by no means to be classed with light easy readings ; they are not remarkable for their brevity, and he probably had no time to make them shorter ; he therefore desires the reader, “ In reading these and other of my Reports, that he would not read (and as it were swallow) too much at once, for greedy appetites are not of the best digestion.

“ The mind the more it suddenly his receiveth the more it loseth and freeth itself. A cursory and tumultuous reading, doth ever make a confused memory, a troubled utterance, and an uncertain judgment.”

In 1608 appeared the seventh book of his Reports when he was Chief Justice of the Court of Common Pleas.

In the preface to this book, he warns his readers against the legal errors of the books, then publishing by the Catholics in great abundance. “ This,” exclaims the Chief Justice, “ is a writing on a scribbling world, *quotidie plures quotidie pejus scribunt.*” (I know not what he would have said in our age, when law reports are reckoned by the hundred.) “ These books have glorious and godly titles, which promise directions for the conscience, and remedies for the soul ; but there is *mors in olla*, they are like to apothecaries’ boxes, whose titles promise remedies, but the boxes themselves contain oison.”

It was about this time that some secret enemy had published a pretended report of a charge delivered by Coke at Norwich Assizes, which he thus notices : “ Little do I esteem an uncharitable and malicious practice, in publishing of an enormous and ill-spelled pamphlet, under the name of Pricket, and dedicating it to my singular good lord and father-in-law the Earl of Exeter, as a charge given at the Assizes holden at the city of Norwich, August 4, 1606, which was not only published without my privity, but (besides the omission of divers principal matters) there is no one period therein expressed in that sort, and sense that I delivered it.”

He again alludes to his Reports with all the anxiety of a parent who felt he was ushering into the world an offspring of no ordinary promise. “ I have as much as I could, avoided obscurity, ambiguity, jeopardy, novelty, and prolixity. For 1. obscurity is like darkness wherein a man for want of light, can hardly, with all his industry, discern any way. 2. Ambiguity when there is light enough ; but there be so many winding and intricate ways, as man for want of direction shall be much perplexed and entangled to find out the right way. 3. Jeopardy either of publishing anything, that might rather stir up suits and controversies in this troublesome world, than establish quietness and repose between man and man, (for a commentary should not be like

unto the winterly sun, that raiseth up greater and thicker mists and fogs than it is able to disperse,) or in bringing the reader by any means into the least question of peril or danger. 4. Novelty, for I have ever holden all new or private interpretations, or opinions which have no ground or warrant, out of the reason or rule of books, or former precedents to be dangerous. 5. Prolixity, for a report ought to be no longer than the matter requireth."

The eighth book of his Reports was published in 1611, being the 9th year of James I.

In none of his prefaces, and no man ever published better, did Coke's profound knowledge of the history of the common law appear more clearly than in this. He unanswerably pleads for its remote antiquity with all the deep reading for which he was so distinguished. He there traces it far beyond the age of William of Normandy. And thus says the venerable judge:—

"I have of purpose done as plainly and clearly, and therewith as briefly as I could; for the laws are not like those things of nature, which shine much brighter through crystal or amber than if they are beheld naked; nor like to pictures, that ever delight most when they are garnished and adorned with fresh and lively colours, and are much set out and graced by artificial shadows."

His love of his country, which never deserted him at any period of his long and varied career,

breaks out very often in the course of his works. As age stole on, he felt his bodily power on the decrease ; but still that had not affected his mind, his patriotism still shone as brilliantly as ever.

“ And whether it be in respect of the matter, or my years going fast on, being now in the 60th year of mine age, or for what other respect soever it be, sure I am, I have felt this eighth work much more painful than any of the others have been to me. And yet has Almighty God, of his great goodness, (amidst my public employments) enabled me hereunto. And as the naturalists say that there is no kind of bird or fowl of the wood or of the plain that doth not bring somewhat to the building and garnishing of the eagle’s nest, some cinnamon and other things of price and value, and some juniper, and such like of less value, every one according to their quality, power and ability, so ought every man, according to his power, place, and capacity, to bring somewhat not only to the profit and adorning of our dear country (our great eagle’s nest) but therein also, as much as such mean instruments can, to express their inward intention and desire to honour the peaceable days of his Majesty’s happy and blessed government to all posterity.”

The ninth book of his Reports appeared in 1612, in his preface to which he continues his historical notices, following out at great length “ a very ancient and learned treatise of the laws

and usages of this kingdom." "The mirror of Justices."

In this he touches upon the origin, history, and powers of the courts, from the high court of Parliament, down to Manorial Courts, Baron and Leet; and this he did with too much zeal and ability to require any such concluding modest assurances as the following:

"In this, as in the rest of my works, my chief care and labour hath been for the advancement of truth, that the matter might be justly and faithfully related, and for avoiding obscurity and novelty, that it might be in a legal method, and in the lawyers' dialect plainly delivered; that no authority cited might be willingly omitted or coldly applied, no reason or argument made on either side willingly impaired, no man's reputation directly or indirectly impeached, no author or authority cited, irreverently disgraced, and that such only as (in my opinion) should hereafter be leading cases for the public quiet, might be imprinted and published. Almighty God (who hath of his great goodness enabled me hereunto) knoweth that I have not taken these labours either for vain glory or upon presumption of any persuasion of knowledge, but true it is that I have been ever desirous to know much, and do acknowledge myself to owe much more to my profession than all my true and faithful labours can satisfy.

In his tenth book of Reports, published in 1813, he styles himself "Chief Justice d'Angleterre. He thus piously opens his valuable preface:

"Deo. Patriæ Tibi. At my times of leisure, after my public services (cheerfully taking industry, my old acquaintance, for my consort) and aiming at the good of my dear country for my comfort, beginning with this continual and fervent prayer—'The glorious majesty of the Lord our God be upon us! oh, prosper thou the works of our hands upon us! oh prosper thou our handy works.' I have by the most gracious direction and assistance of the Almighty, brought forth and published this tenth book."

He was, indeed, an ardent lover of truth; no man could dislike more than he did the needless disputation of long settled cases, which he expresses in a manner that if he had always preserved would have rendered needless all apologies for dryness of style, or redundancy of words.

"Truth is lost by too much altercation, *nimia altercatione veritas amittitur*. She takes small delight with varnish of words, or garnish of flowers, for *simplex est servio veritas*. Her place being between the heart and the head, doth participate of them both: of the head for judgment, and of the heart for simplicity."

In this paper, he gives the history of most of the old law books, such as the "Register," "the Mirror of Justices," "Glanvil," "Briton,"

“Fleta,” &c. and applauds the old method of pleading.

“In those days, few cases in law were cited, but very pithy and pertinent to the purpose ; and those ever pincht most ; and now in so long arguments, with such a farrago of authorities, it cannot be but there is much refuse, which ever doth weaken or lessen the weight of the argument.”

He speaks at much length of the antiquity of sergeants at law, shews that Thavies Inn in Holborn “had been of ancient time before the 23rd of Edw. III, 1349, a house of court, wherein the apprentices of the law were wont to inhabit.

“Of these sergeants, as of the seminary of justice, are chosen judges ; for none can be a judge, either of the court of King’s Bench or Common Pleas, or Chief Baron of the Exchequer, unless he be a sergeant ; neither can he be of either of the Sergeants’ Inns, unless he hath been a sergeant-at-law, for it is not called Judges’ or Justices’ Inn, but Sergeant’s Inn ; for I have known barons of the exchequer (that were not of the coif, and yet had judicial places and voices) remain in the houses of court whereof they were fellows, and wore the habit of apprentices of the law.”

The eleventh book of Reports, the last published during his life time, appeared in 1615.

He styles himself again Chief Justice d'Engleterre, but he now qualified this by the addition, "of Pleas, appointed to be held before the King himself." He also added his office of "Privy Councillor."

He appears to have been apprehensive that his readers would consider his Reports as endless, for he begins his preface :

"Of writing many books, saith Solomon, there is no end, which is understood of such as are written to no end. I mean, therefore, (learned reader) by way of preface, to propose unto you, in few words, the substance of the cases in this eleventh book, whereby you will easily collect the end and scope of the same."

He then gives a rapid sketch of the principal cases, and concludes, by telling the learned reader :

"This eleventh book I have published in the tempest of many other important and pressing business, and therefore could not polish them as I desired.

"The end of the edition, is that God may be glorified, his Majesty honoured, the common good increased, the learned confirmed, and the student instructed."

The period of two years, which elapsed between the publication of the tenth and eleventh books probably comprehended "the tempest" to which Coke alludes in this preface; it included

his trials of the murderers of Overbury, his disputes, his arguments with the attorney general Bacon, with regard to the propriety of judges giving private legal advice to the King.

These were the last reports published by Sir Edward Coke; he was now in his sixty-fifth year, and in a few months afterwards, he was removed from his office of judge. Five years previously, in the preface to his eighth book, he had very feelingly complained of his years growing fast upon him, and of the work of reporting becoming more painful. Five additional years had not, most probably, rendered him more able to undergo the toil of writing. He had no added incentive to labour; he was treated ungratefully by the court, was insultingly told to review his own admirable Reports, to correct and improve them, and, when he had found their errors, to consult with the King, before he republished them! If anything could disgust the learned, laborious, legal reporter, such scandalous indignities would certainly effect the object; and this, be it remarked, was said to be the most profound lawyer of his age—to him whose Reports, to denote their superior excellence, are always quoted by the learned counsellor as “the reports,” works, whose merits time has exalted, and discussion illustrated.

The very learned King, who was thus anxious to be consulted by Coke upon abstruse difficult

points of law, was himself an author ; he dived into all mysteries, wrote upon and believed in ghosts and demons, had an equal horror of liberty, drawn swords, tobacco and witches, actually murdered Sir Walter Raleigh, and saved the two Somersets from the scaffold, merely because one of these two murderers, (as the pardon of the infamous Countess says), confessed the crime.

In 1655, twenty one years after Sir Edward Coke's death, the twelfth book of his Reports was published, with a certificate from Sir Edward Bulstrode, declaring his belief in their being authentic reports. But they were certainly not accurate, wanted entirely the finishing hand of Coke, had not been left by him for publication, and when in 1657, two years afterwards, Sir Edward Bulstrode published his own Reports, he thought fit, in his address to his readers, to explain what share he had in the publication :

“ I must confess the book was brought to me, after it was fully printed, and not before, with a desire that I would read and peruse it, and give the party that brought it my judgment, whether I conceived they were the collections of Sir Edward Coke. I did accordingly carefully read and peruse it, but found therein so many gross mistakes, omissions, misprintings and imperfections, that I told the party that brought it, that

it was not fit for public view, with so many defects in it; but that I did conceive that they were the collections of Sir Edward Coke, and that there were many good and useful cases in them, but never fitted nor prepared for the press.”

“The 13th and last book of Coke’s Reports was published in 1658, with an an attestation, signed J. G. of their being the genuine Reports of Sir Edward Coke. The same remarks which apply to the twelfth Reports, apply to these; they are unfinished, they were not fitted by the author for publication, being merely the rough notes of important cases kept by Coke for his own private use.

These were the last of the published reports of the great Coke; they collectively constitute a mass of legal information, to which no lawyer is a stranger, and of whose importance it would be difficult to give the general reader an adequate conception. They comprehend an immense mass of decisions in cases in which the ablest lawyers pleaded, the greatest judges presided, and which the greatest lawyer of his age reported, and that too with an industry that never wearied, and an accuracy which hardly ever failed. Many succeeding reporters have excelled him in fluency of language, in elegance of expression, but none have rivalled him in the immense legal knowledge with which his Reports abound.

It could hardly be expected of Sir Edward Coke that the language of his law writings would be remarkable for their elegance of diction ; the subject he had to treat of required too much attention to the legal import of every sentence, to allow him to pay much regard to the poetry of his prose.

His writings, therefore, are more distinguishable for their learning, and closeness of reasoning, than for their flow of eloquence. He kept closely to his subject, and if he did wander, his digressions were always illustrative of his subject, rarely indeed, merely curious, and never entirely ornamental.

His Reports were published in the law French, then employed by the English lawyers in all legal proceedings, an inelegant mixture of Norman, French, Latin, and cant phrases, of whose barbarisms the general reader can hardly have a tolerable conception ; it was, in consequence, a very necessary legal axiom, to which all the courts paid respect, that "bad grammar shall not vitiate a deed."

The few reporters who went before Sir Edward Coke all wrote in this Babylonish language, and no one had hitherto attempted to combine with accuracy of detail, the slightest approach to elegance of style.

In more than two centuries, which had inter-

vened, since Edward the Third had caused the publication of his official reports of cases argued and determined in the courts at Westminster, few law reporters of any kind had appeared.

The first reporters were men learned in the law, chosen and paid by the King ; the results of their labours are contained in eleven folio volumes, known among lawyers as the Year Books, but the very names of their authors, and even their Inns of court, are lost to us, although their labours extended through a period of nearly two centuries, beginning in the first year of Edward the First, and concluding in the twelfth year of Henry the Eighth.

Coke, however, bears testimony, in several parts of his writings, to their learning and accuracy ; they were diligent and laborious, brief and cautious, never adding in their reports an unnecessary word.

The first English lawyer who published Reports, with his name attached, was Edmund Plowden, 1599, and two years afterwards appeared those of Sir James Dyer, and these were the only reports which appeared in the eighty years which intervened from the last of the Year Books to the first of Coke's Reports in 1601.

In that year, however, those of Kielway were also published.

In the nineteen years which were employed in the publication of Coke's Reports, no others

appeared, and it was twenty-two years after the appearance of the last of them, that those of Hobart were sent to press.

Coke did not live to see the use of the Norman French discarded, and again restored for a short period in the law reports ; as happily for him, he did not witness the war between Charles the First and his parliament.

Sixteen years only after Coke's death, the parliament, in 1649, decreed " That from and after the 1st of January, 1650, all the report books of the resolutions of the judges shall be translated into English. And all writs, &c. shall be in the English tongue only, and every of them shall be written in an ordinary intelligible hand and character, and not in the hand usually called court hand."*

This decree of the parliament by no means pleased the reporters ; it was a novelty at once dangerous and disagreeable.

Styles, who published his Reports about eight years after this decree, and who is the only reporter of the cases, decided during the period of the usurpation, had a great horror of " English " reports ; he told the sturdy republicans of that day in his preface :

" I have made these Reports speak English ; I have done it in obedience to authority, and to

* Scobell's Collection, p. 142.

stop the mouths of such of this English age who, though they be as confusedly different in their minds and judgments as the builders of Babel were in their languages, yet do they think it vain to speak or understand more than their own mother tongue.”

Bulstrode published his Reports the year before Styles ; he equally hated this new language for law reports ; although he says much less about his dislikes. He tells us however, in his preface to the second book :

“ I have been induced to proceed in the work which I had, many years since, perfected in French, in which language I did desire it might have seen the light, being most proper for it, and most convenient for the profession of the law, who indeed are the only competent judges thereof.”

At the restoration of Charles the Second, the law French was again partially employed in law reporting ; but it was finally abandoned before the termination of the seventeenth century.

The reader may readily see an excellent specimen of the law French in the fictitious case of *Stradling v. Stiles*, in Pope's *Memoirs of Martinus Scriblerus*. The case is supposed to have been furnished to Pope by Judge Fortescue.

Among the many editions and abridgments of Coke's Reports, none appears more difficult than to give them a poetical form, and yet

the attempt was made in 1742, to express the chief point determined in each case in two lines, as thus :

Hubbard, If lord impose excessive fine,
The tenant safely payment may decline.—4 Rep. 27.

Snagg, If a person says “ he killed my wife.”
No action lies, if she be yet alive.—4 Rep. 16.

Gaudry, 'Gainst common prayer if parson say
In sermon aught, bishop deprive him may.—5 Rep. 1.

Equally difficult appears the task of converting these dry law reports into songs, and yet even this has been done, as instanced in the following :*

A woman having a settlement,
Married a man with none.
The question was, he being dead,
If that she had was gone.

Quoth Sir John Pratt, her settlement
Suspended did remain,
Living her husband, but him dead,
It doth revive again.

Cowper the poet, who has himself given a poetical version of a fictitious law case, *Eyes v. Nose*, in one of his admirable letters, very playfully proposes the publication of a poetical ver-

sion of the law reports, which he advocates as possessing sundry great advantages over the dullness of legal prose. He further informs us, that a friend actually made the attempt with Coke's Institutes, a book so rugged in its style, that an attempt to polish it seemed an Herculean labour, and not less arduous and difficult than it would be to give the smoothness of a rabbit's fur to the prickly back of a hedgehog." But his intrepid friend "succeeded to admiration," as may be seen from the following specimen of Coke's Littleton, sec. 1. "Tenant in fee simple, is he which hath lands or tenements to hold to him and his heirs for ever, &c. for these words, (his heirs) make the estate of inheritance &c." compared with the poet's version of it :

Tenant in fee
Simple, is he,
And need neither quake or quiver,
Who hath his lands,
Free from demands,
For him and his heirs for ever.

Coke himself would frequently quote this description of law verse.

The dryness of Coke's style need not be attributed to the taste of the age in which he flourished ; for in his days lived some of the most illustrious characters that ever appeared in the walks of literature ; he had, therefore, an abun-

dance of excellent examples before him, models which his great rival Bacon far more successfully followed.

Shakspeare was born when Coke was fourteen years of age, and yet the immortal bard died long before the judge. I have no account of their coming into contact, although the dissolute habits of the first render such an event by no means impossible. It was certainly fortunate for Coke that he was Shakspeare's contemporary : had he lived in a prior age, Coke would most probably have figured as a chief character in some tragedy founded on the Raleigh Plot.

Coke long outlived Beaumont and Fletcher ; " Fairy-Queen " Spenser ; his friend, the great Camden ; his opponent, the immortal Bacon ; his patrons Burleigh and Robert Cecil. Ben Jonson survived him three years ; Harvey, the discoverer of the circulation of the blood, was for sixty-five years his contemporary.

These great names are now become part and parcel of the inheritance of the land ; never was there a more splendid constellation of literary and learned stars assembled in any nation than those which adorned the Augustan age of Elizabeth, men whose works all after ages will reverence.

The last surviving member of that splendid circle, the great Harvey, was perhaps the most extensively useful member of the list I have thus

given of Coke's great scientific and literary contemporaries. He lies buried in the church of the obscure village of Hempsted in Essex, not far from the residence of the author of this work.

Of such a man, the reader will hardly deem any lengthened notice a digression.

The church of Hempsted, which is much too large in proportion to the number of the parishioners, has a goodly tower of brick apparently of Norman architecture, probably of the period of Henry II. It has a middle pace, and two aisles ; the roof is leaded ; the chancel has only one pace, and a tiled roof. A small chapel projects on the north side of the church, communicating both with its body and chancel. It appears to be now used as a school room, but was evidently in former years the aristocratic pew of the lord of the manor—a distinction too often adopted, but which no universality of practice can justify. Around, within its walls, are inserted several monuments to the memory of individuals of the Harvey family, among whom are merchants who were “of the honourable of the earth,” who flourished and were gathered in peace ; a warrior, who in the prime of life, died in the onslaught of battle ; but, above all, of him who founded, as it were, anew, the most benevolent of the sciences. It was to the tomb of this man, this glory of our country, that

my pilgrimage was made ; and no worshipper of genius ever stood before its idol with a warmer feeling of regard, a more ardent desire of emulation, or with a more willing tribute to excellence, than I now did before the bust of the demonstrator of the blood's circulation. That brow seems wrinkled by age and thought, but high and indicative of intellect ; the pointedly arched nose and curled lip characterize the sanguine penetrating man of genius ; the stern expression of the deep-set eye is tempered by a general open expression of countenance, altogether impressing upon the beholder that the possessor of that physiognomy was a man of no common intellect, sanguine, ardent, and benevolent ; who might sometimes act wrong, through rashness, but much oftener did well by design. The bust is of white marble, in the niche of a tablet monument, surmounted by the family arms, and above the following inscription :

“ Gulielmus Herveivus cui tam colendo nomini assurgunt omnes Academiæ qui diurnum sanguinis motum post tot annorum milia primus invenit orbi salutem, sibi immortalitatem consequutus. Qui ortum et generationem animalium solus omnium a pseudophilosophia liberavit. Cui debet quod sibi innotuit humanum genus seipsum medecina. Sereniss. Majestat. Jacobo et Carolo Britanniarum Monarchis archiater et charissimus. Colleg : Med : Lond : Anatomes

et Chirurgiæ Professor assiduus et foelicissimus quibus illustrem construxit Bibliothecam suoq. dotavit et ditavit patrimonio. Tandem post triumphales contemplando sanando inveniundo sudores varias domi forisq. statuas quum totum circuit microcosmum Medicinæ Doctor ac Medicorum improles obdormivit. III Junii. Anno Salutis CLXIXCLVII. Ætatis LXXX. Annorum et famæ satur.”*

The monument is of mingled white and black marble, with florid scroll work round it; not more tasteless than was usual with such erections at this period.

* “ William Harvey, to the reverencing of whose name all universities so unanimously rise,—who first discovered, though it had continued so many thousands of years, the unceasing motion of the blood, for the benefit of the world and his own immortality— who alone set free from a false philosophy the production and generation of animals—to whom medicine itself is indebted for being esteemed among the human race,—chief and best beloved physician to their most illustrious Majesties James and Charles, monarchs of Britain,—the assiduous and most beneficial Professor of Anatomy and Surgery to the London College of Physicians, for whom he erected an admirable library, and endowed and enriched it with his own patrimony. At length, after many triumphant labours in contemplating, in healing, and in discovering its weak idols both at home and abroad, and when he had compassed the whole microcosm of medicine, this tutor of physicians fell asleep on the 3rd of June, in the year of salvation 1657, of his age 80, full of years and renown.”

The original is neither very elegant nor correct, and this translation is as close as was thought necessary, without being literal.

He was the eldest of the seven sons of Thomas Harvey, Esq., of Folkestone, in Kent, by Joan Halke, his wife, and born on the 2nd of April, 1578. When ten years old, he was placed in the foundation grammar school at Canterbury; but four years subsequently was moved to Gonville and Caius College, Cambridge, with the design of prosecuting his studies in Physic. After five years, he proceeded thence through France and Germany to Padua, at whose then celebrated school he took the degree of Doctor of Physic in 1602. He immediately returned to England, and acquired the same degree at Cambridge, as he afterwards did at Oxford in 1642. In 1603, he began practising in London, was admitted a candidate of the College of Physicians, and, in 1607, one of its fellows, and Physician to St. Bartholomew's Hospital; about three years previously to which he had married. He never had any issue by this marriage. In 1615, he was appointed Lecturer of Anatomy and Surgery to the College, and it was examinations, rendered necessary in the discharge of the duties of his office, which led to his demonstration of the true circulation of the blood. The treatise which detailed this grand discovery was completed in 1618, or the following year, but it was not published until 1628, and was then printed at Frankfort, in 4to., under the title of "*Exercitatio Anatomica de*

Motu Cordis et Sanguinis.” He was a steady loyalist, was physician to James I. and Charles I.; obtaining the latter appointment in 1632. He attended the last-named monarch at the battle of Edge-hill. In 1645, he was made Warden of Merton College. When Oxford was taken by the parliamentary forces, he moved to London. In 1651, he published “*Exercitationes de Generatione Animalium.*” In 1654 he was elected President of the College of Physicians, but, probably feeling himself decaying, he declined the honour. He, however, during his life, built a hall of convocation, a library and museum, richly stored with books and instruments, which he gave to the College, and endowed it with his paternal estate in Kent. He likewise instituted an annual oration, with a stipend of £10., and a dinner to the fellows on the days of its delivery. He died, as stated on his monument, on the 3rd of June, 1657.

“ Dr. Harvey,” says John Aubrey, the antiquary, his contemporary and friend, “ was always very contemplative, and the first that I hear of, that was curious in anatomie in England. He had made dissections of frogs, toads, and a number of other animals, and has curious observations on them ; which papers, together with his goodes, in his lodgings at Whitehall, were plundered at the beginning of the Rebellion ; he being for the King, and with him at Oxon ; but

he often said, that of all the losse he sustained, no grief was so crucifying to him as the loss of those papers, which, for love or money, he could never retrieve.

“ In London, he lived with his brother Eliab, a rich merchant, opposite St. Lawrence Poulteney church, where there was a high leaden steeple, (there was but two such, viz., this and St. Dunstan’s in the East.) This brother bought, (1654.) Cockaine-house, now (1680,) the Excise office, a noble house, where the Dr. was wont to contemplate on the leads of the roof, and had his several stations in regard of the sun or wind. He did delight to be in the dark, and told me he could then best contemplate.

“ He was, as all the rest of the brothers, very choleric; and, in his younger days, wore a dagger, (as the fashion then was—nay, I remember my old schoolmaster, Mr. Latimer, at 70, wore a dudgeon, with a knife and bodkin; as also my old grandfather Lyte, and almeman Leete, of Bristowe, which, I suppose, was the common fashion in their young days.) But the Dr. would be apt to draw out his dagger upon every slight occasion.

“ He rode on horseback, with a foot-cloth to visit his patients, his man following on foot—as the fashion then was, which was very decent, now quite discontinued. The Judges rode also with their foot-clothes, to Westminster Hall,

which ended at the death of Sir Robert Hyde, Lord Chief Justice. Anthy, Earl of Shaftesbury, would have revived it, but several of the Judges being old and ill horsemen, would not agree to it.”*

The discovery of the circulation of the blood was of vital importance ; it let in more light, says an historian of science, upon the animal economy in one day, than whole ages had admitted before. All the disputes about phlebotomy, some of which ran very high, especially in the early part of the fifteenth century, and in short the theories of the ancients upon the subject were displayed in all their error by this single discovery. “ The circulation of the blood, and the *ductus thoracicus*,” exclaimed the delighted Gassenidus, “ are the two poles upon which all physic for the future must turn. It is one of the few discoveries which, being demonstrable by unvarying experiments, was at once forced into belief, and procured unbounded fame to the discoverer. Unable to confute the fact, or diminish its importance, the only mode of

* Coke in common with other Judges then went his circuits on horseback, the state of the roads rendering any other mode of conveyance impossible, hence they were said to “ ride the circuit.” The exhibition of two grave, learned Judges riding into a country town on prancing steeds, would now very readily excite the laughter of the bystanders.

lessening the merit of Harvey, is to deny that it was an original observation. It is to be regretted that even so great a man as Dr. William Hunter is to be found among the number of his detractors. A plain statement of facts will put the subject in its true light.

Hippocrates, Aristotle, Plato, Apuleius, the Alexandrian anatomists, and others have been cited as having been aware of the blood's circulation; but these declare in their writings that they believed the blood to ebb and flow like the tides of the ocean; and that the blood was confined to the veins, whilst the arteries contained merely air. Galen denied that the latter did not contain blood, but he was as ignorant as his predecessors of its circulation. Servius subsequently was aware that the blood passed through the lungs; and Fabricus ab Aquapendente, the tutor of Harvey, demonstrated the valves of the veins; but it was his pupil who first discovered, or even guessed, that the blood flows from the heart through the arteries, and returns to it through the veins.

Some have declared that the circulation of the blood was known to St. Ambrose; and others that Solomon had this knowledge among his other stores of wisdom. But these, at the furthest, were mere noticers of the fact that the blood moved; which could have escaped the observation of no living person. When the

course of that motion came to be accounted for, we have seen nothing was offered but surmises, and those erroneous. Harvey's discovery was the legitimate result of anatomical research; a fact which might be further illustrated, but which has not been, cannot be, changed.

The marble monument is not the only memorial which is to be seen of Harvey in this church. The funeral vault of the family extends beneath the building which contains their monuments. The vault is spacious, and lighted by three strongly barred windows, the tops of which are just apparent above the surface of the churchyard without. Against the further end, with their feet to the wall, are arranged ten leaden cases, with the faces and outline form of human beings; in the seventh of which are the remains of Dr. Harvey, as is apparent from the inscription on its breast. He was evidently rather below the middle size.

COKE'S INSTITUTES.

Had Sir Edward Coke left no other memorials of his legal lore than his Reports, they would have been sufficient to establish his claims to the gratitude of posterity. Lawyers would have

still felt astonished at his industry, and would yet have been surprised, how the first barrister of his days could find time to write so accurately, and so completely; for at no period of his career was he otherwise than employed either in an extensive practice, or presiding in one of the Courts of Westminster; it is true that we are told that he rose every morning at three o'clock, that his industry never tired, that his love for his profession was excessive; but, with all these facts fully acknowledged, we feel that it is but a very natural question, how could this man find time to write so much?

But by the publication of his four volumes of Institutes, he acquired fresh claims to our gratitude and in a still greater degree excited the astonishment of lawyers; for they in a yet stronger manner demonstrated his profound knowledge of the Common Law of England, and his matchless industry.

Time had not clouded his faculties; age had not subdued the energies of this unrivalled old lawyer, when in his eighty-second year, he published the first edition of his Comments upon Littleton's Tenures; a treatise written by Judge Littleton, about the year 1340, upon the various tenures &c., by which, in common law, land is held, and this he called;

“ The first book of the Institutes of the Laws of England, or a commentary upon Littleton,

not the name of the author only, but of the law itself, by Edward Coke, knight."

Why he calls the commentary the "first" Institute," he thus modestly and piously tells us in his preface, which contains, among other things, a biographical sketch of his favourite author.

" This work we have called the first part of the Institutes for two causes, first for that our author, is the first book that our student taketh in hand. Secondly for that there are some other parts of Institutes not yet published, viz. the second part, being a commentary upon Magna Charta, Westminster 1, and other old statutes. The third part treateth of criminal causes, and pleas of the crown, which three parts we have, by the goodness of God, already finished. The fourth part we have purposed to be of the jurisdiction of Courts, but hereof we have only collected some materials towards the raising of so great and honorable a building. We have, by the assistance of Almighty God, brought this twelfth book to an end; in the eleven books of our Reports, we have related the opinions and judgments of others, but herein we have set down our own.

" Before I entered into any of these parts of our Institutes, I acknowledging my own weakness and want of judgment to undertake so great works, directed my humble suit and prayer to

the author of all goodness and wisdom, out of the book of wisdom. ‘ Oh ! Father and God of mercy, give me wisdom, the assistant of thy seats, oh ! send her out of the holy heavens, and from the seat of thy greatness, that she may be present with me, and labour with me, that I may know what is pleasing unto thee.— Amen.’ ”

Littleton’s Tenures were written by that judge for the use of his son, in the Norman or law French of the age, a wretched mixture of French, Latin, English, and technical words, employed originally by the tyrannical will of the Norman conqueror, in all law proceedings, and continued for three centuries, until, by the 37 Edward III. c. 15, all pleas were directed to be debated, in English, but entered and enrolled in Latin. Four centuries more elapsed before the legislature had the courage to get entirely rid of this absurdity ; at last, however, by the act of the 4th of George II. c. 26, which was explained by another act two years afterwards, even the Latin language was banished from all legal proceedings whatever. This use of a nondescript language speedily gave rise to many gross absurdities. It was a very early and necessary legal axiom, that bad grammar shall not render a deed void, *Mala grammatica non vitiat cartam*.

Coke, however, was no enemy to this legal

jargon ; he stood boldly in defence of his author's adopted language ; he tells us that,

“This kind of French that our author hath used, is most commonly written and read, and very rarely spoken, and therefore cannot be either pure or well pronounced ; yet the change thereof, (having been so long customed) should be without any profit, but not without great danger and difficulty ; for so many ancient terms and words drawn from that legal French, are grown to be *vocabula artis*, *vocables of art*, so apt and significant to express the true sense of the laws, and are so woven in the laws themselves, as it is in a manner impossible to change them ; neither ought legal terms to be changed.

“In school divinity, and in other liberal sciences, you shall meet with a whole army of words, which cannot defend themselves *in bello grammaticali*, in the grammatical war, and yet one more significant, compendious and effectual to express the true sense of the matter, than if they were expressed in pure latin.”

He speaks of the learned men who flourished in his youthful days, and of the great Queen, under whom he acquired his earliest honours with much gratitude and praise. In his old age, he had not forgotten either his teacher or his patron.

“Of worldly blessings, I account it not the least that in the beginning of my study of the laws of

this realm, the courts of justice, both of equity and of law, were furnished with men of excellent judgment, gravity and wisdom. As in the chancery, Sir Nicholas Bacon, and after him Sir Thomas Bromley. In the Exchequer chamber, the Lord Burghley, Lord High Treasurer of England, and Sir Walter Mildmay, Chancellor of the Exchequer. In the King's Bench, Sir Christopher Wray, and after him Sir John Popham. In the Common Pleas, Sir James Dyer, and after him Sir Edmund Anderson. In the court of Exchequer Sir Edward Saunders, after him Sir John Jefferey, and after him Sir Roger Manwood, men famous, (among many others) in their several places, and flourished and were all honoured and preferred by that noble and virtuous Queen, Elizabeth, of ever blessed memory.

“Of these reverend judges, and others their associates, I must ingenuously confess, that in her reign I learned many things which in these Institutes I have published ; and of this Queen I may say, that as the rose is the queen of flowers, and smelleth more sweetly when it is plucked from the branch, so may I say and justify that she by just desert was the queen of queens, and of kings also, for religion, piety, magnanimity, and justice, who now by remembrance thereof, since Almighty God gathered her to himself, is of greater honour and renown, than when she was living in the world ; you cannot

question what rose I mean, for take the red or the white, she was not only by royal descent and inherent birthright, but by rosial beauty also heir to both.

“ And though we wish by our labours (which are but *cunabula regis*, the cradles of the law) delight and profit to all the students of the law in the beginning of their study, (to whom the first part of the Institutes is intended) yet principally to my loving friends, the students of the honourable and worthy societies of the Inner Temple, and Clifford’s Inn, and of Lyon’s Inn also, where I was sometimes reader, and yet of them more particularly to such as have been of that famous University of Cambridge, *alma mea mater*, and to my much honoured and beloved allies and friends of the county of Norfolk, my dear and native county, and to Suffolk, where I passed my middle age, and of Buckinghamshire, where, in my old age, I live; in which counties we, out of our former collections, compiled these Institutes.”

The first edition of this first Institute was published in 1628, and is by far the most inaccurate of the numerous editions through which it has since passed. In 1629, it was reprinted and revised, as is very probably conjectured, by the author. It is needless to follow the work through the subsequent editions; it has been

last edited by Hargrave and Butler, with much care and abundance of illustration.

Of the style and character of these comments, there is but one opinion, and that feeling is well expressed by the late Charles Butler, in his preface to the 13th edition which he helped to prepare, in fact finished, after the death of its first editor, the late learned Francis Hargrave, who may be said to have perished a martyr to the work.

“ The reputation of Sir Edward Coke’s Commentary is not inferior to that of the work which is the subject of it. It is objected to it, that it is defective in method ; but it should be observed that a want of method was, in some respects, inseparable from the nature of the undertaking.

“ During a long life of unremitting application to the study of the laws of England, Sir Edward Coke had treasured up an immensity of the most valuable common law learning.

“ This he wished to present to the public, and chose that mode of doing it, in which, without being obliged to dwell upon those doctrines of the law which other authors might explain equally well, he might produce that profound and recondite learning which he felt himself to possess above all others.

“ In adopting this plan, he appears to have

judged rationally, and, consequently, ought not to be censured from a circumstance inseparable from it.

“It must be allowed that the style of Sir Edward Coke is strongly tinged with the quaintness of the times in which he wrote; but it is accurate, expressive, and clear. That it is sometimes difficult to comprehend his meaning, is owing, generally speaking, to the abstruseness of his subject, not to the obscurity of his language.

“The most advantageous, and perhaps the most proper point of view in which the merits and ability of Sir Edward Coke’s writings can be placed, is by considering him as the centre of modern and ancient law. The modern system of law may be supposed to have taken its rise at the end of the reign of King Henry VII, and to have assumed something of a regular form about the latter end of the reign of King Charles II.

“The principal features of this alteration are perhaps the introduction of recoveries (lately abolished) conveyances to uses, the testamentary dispositions by wills, the abolition of military tenures, the statute of frauds and perjuries, the establishment of a regular system of equitable jurisdiction, the discontinuance of real actions, and the mode of trying titles to landed property by ejectment.

“ There is no doubt but that during the above period a material alteration was effected in the jurisprudence of this country ; but this alteration has been effected, not so much by superseding as by giving a new direction to the principles of the old law, and applying these to new subjects. Hence a knowledge of ancient legal learning is absolutely necessary to a modern lawyer. Now, Sir Edward Coke’s Commentary upon Littleton is an immense repository of every thing that is most interesting or useful in the legal learning of ancient times.

“ Were it not for his writings, we should still have to search for it in the voluminous and chaotic compilation of cases contained in the Year Books, or in the dry though valuable abridgments of Statham, Fitzherbert, Brooke, and Rolle.

“ Every person who has attempted it, must be sensible how very difficult and disgusting it is to pursue a regular investigation of any point of law through those works. The writings of Sir Edward Coke have considerably abridged, if not entirely taken away, the necessity of this labour.

“ But his writings are not only a repository of ancient learning ; they also contain the outlines of the principal doctrines of modern law, and equity.

“ On the one hand, he delineates and explains

the ancient system of law, as it stood at the accession of the Tudor line ; on the other, he points out the leading circumstances of the innovations which then began to take place. He shews the different restraints which our ancestors imposed on the alienation of landed property, the methods by which they were eluded, and the various modifications which property received after the free alienation of it was allowed. He shows how the notorious and public transfer of property by livery of seisin, was superadded by the secret and refined mode of transferring it, introduced in consequence of the statute of uses.

“ We may trace in his works the beginning of the disuse of real actions, the tendency in the nation to convert the military into socage tenures, and the outlines of almost every other point of modern jurisprudence.

“ Thus, his writings stand between and connect the ancient and modern parts of the law ; and, by showing their mutual action and dependency, discover the many ways by which they resolve into, explain, and illustrate one another.

“ The first edition of Sir Edward Coke’s Commentary upon Littleton, was published in his lifetime in 1628, the second in 1629. The subsequent editions to the eighth inclusively, seem to have been printed from the second without much variation ; the ninth edition includes

Sir Edward Coke's reading on fines, and his treatise on bail and mainprise; to the tenth edition are added, the complete copyholder with many references; in the eleventh, the book entitled *Old Tenures* is added.

At the end, both of the edition by Letton and Machlinia, and of that by Machlinia only, Littleton's Work is called the "*Tenores Novelli*," to distinguish it, it is presumed, from the treatise of *Old Tenures*. The eleventh edition has also several notes and additions tending principally to show the alteration of the law since the time of Littleton and his commentator."

The twelfth edition was published in 1738; the thirteenth, by Hargrave and Butler, in 1787.

There is in the library at Holkham, an edition of Littleton's *Tenures*, in two volumes duodecimo, the margins of which are covered with the short referential notes of Sir Edward Coke, in his own hand writing, many of which the modern rebinder has mutilated.

Poor Hargrave, when he visited Holkham Hall, pored over these relics of Coke with an enthusiasm to be expected from his devotion to their author. This probably must have been posterior to the abandonment of his duties as editor of the *Commentaries*, for he no where mentions them in his preface.

These books, borrowed from the Holkham

Library, were some time in the possession of Lord Brougham.*

Hargrave proceeded in his annotations, which were laborious in the extreme, as far as folio 190, when increasing ill health, arising from his anxious sedentary pursuits, compelled him, reluctantly, to discontinue his labour, and to announce the fact to his readers in an affecting parting address, in which he anxiously apologises for breaking down in a work which he had illustrated to a much greater extent than he had originally promised.†

Sir Edward Coke regarded his author with a commentator's very natural enthusiasm. The gigantic labours he had bestowed in the illustration of the Tenures, showed the high opinion he entertained of his author's work. In his preface to his tenth book of Reports, having occasion to mention it among other law books, he seized the opportunity to defend Littleton from some harsh observations of Francis Hotman, a learned French civilian, and described it as a book of sound and exquisite learning, comprehending much of the marrow of the common law. I

* Mr. Coke to the author, July 7, 1835.

† This address was dated in January 1785; he died shortly after, when his valuable papers and law library, purchased after his decease by a parliamentary grant, were deposited and shewed to the public in the British Museum.

affirm," he added, "and will maintain it against all opposition, that it is a work of as absolute perfection in its kind, and as free from errors as any book that I have known to be written of any human learning."

In all his learned and laborious works, Coke never appeared to forget that he was writing for the student of the law, and no man ever expressed himself more anxious for the student's success than the author of the *Institutes*, a truth but ill according with the following character given of him by Arthur Wilson, in his *Life of James the First*, p. 97.

"Truly, he was a man of excellent parts, but not without his frailties, for as he was a magazine and storehouse of the common law, for the present times, and laid such a foundation for the future, that posterity may for ever build on; so his passions and pride were so predominant that boiling over, he lost, (by them) much of his own fulness, which extinguished not only the valuation, but the respect to his merit."

If Coke was overburthened with pride, it was of a nature which rarely showed itself in his writings; certainly not in his anxiety for the legal progress of the student; for whose welfare he never let slip any opportunity to proffer his assistance, to tender the most parental advice; he does not tell us in all the pedantry of authorship that his works will be read by the great, the

learned of the land, but he does tell us, that these his Institutes are intended for the student of the law, for those who at every turn met with difficulties and discouragements : obscurities of expression ; and legal barbarisms ; and to such as these tottering in the first steps of their profession, this profound lawyer voluntarily descended from the height on which he stood to support and to advise. It was in such a spirit he wrote his Reports, it was in language such as this that he concluded his introduction to his first Institute.

“ Mine advice to the student is, that before he read any part of our commentaries upon any section, that first he read again and again our author himself in that section, and do his best endeavours first of himself, and then by conference with others, (which is the life of study) to understand it, and then to read our commentary thereupon, and after to meditate thereon, and no more at any one time, than he is able with a delight to bear away, which is the life of reading.

“ And albeit the reader shall not at any one day (do what he can) reach to the meaning of the author, or of our commentaries, yet let him in no way discourage himself, but proceed, for on some other day, in some other place, that doubt will be cleared.”

This was the only volume of his Institutes which Coke lived to see published ; he died four years afterwards.

THE SECOND, THIRD AND FOURTH INSTITUTES.

Seven years elapsed from the death of Coke in 1634, and the seizure of his papers, before these valuable documents were restored to his family. Among them were the manuscripts of his second, third, and fourth Institutes. The government restored them to his family on a motion made by one of his sons in the House of Commons.

The Commons when they performed this act of justice to the heirs of Coke, followed it up by the following resolution :

12th of May, 1641.—Upon debate this day had in the Commons House of Parliament, the said House did then desire, and hold it fit, that the heir of Sir Edward Coke, should publish in print the Commentary upon Magna Charta, the Pleas of the Crown, and the Jurisdiction of the Courts, according to the intention of the said Sir Edward Coke, and that none but the heir of the said Sir Edward Coke, or he that shall be authorized by him, do presume to publish in print any of the aforesaid books or any copy hereof.

On the seventh of the following March (1642)

a bill was ordered to be brought in, and was actually read a first time soon after, in furtherance of the above resolution, and on the third of June it is stated in a resolution on the journals, that the Comment upon Magna Charta is already printed, and ready to be published, and the other two are ready for the press.

The second part of the Institutes was published in 1642, the third and fourth in 1644.

The noble act of the Commons in doing justice to the memory of Coke and to his despoiled family, will redound to their honour, when future historians are condemning them for other parts of their conduct; they felt that the works of such a man were national property, too valuable to be the spoils obtained by the illegal warrant of an arbitrary Privy Council.

It would be highly gratifying to find the same Parliament only tolerably consistent in their ardour for justice, and in their acute love of equity; but they made wretched mistakes; thus, on the very twelfth day of May, when they were thus doing tardy justice to the memory of one great man, they were murdering another, for on the morning of that day, Thomas Earl of Strafford was executed through their violent threats and illegal attainder on Tower Hill.

Wentworth and Sir Edward Coke long sat and contended in Parliament on the same side; but Wentworth at last left his party, accepted office

under the Crown, was made a peer, Lord Deputy of Ireland, and held other honorable offices ; his desertion exasperated the popular party more than that of any other person ; the loss of Banks, Saville and Noy, was very annoying to the popular interest, but the defection of Wentworth enraged them beyond measure. Pym, when Wentworth first intimated to him his intention of leaving his old friends, openly threatened to bring him to the block ; and he certainly well performed his promise.

Wentworth had hardly taken his seat in the House of Lords in 1640, when the Commons impeached him ; Pym led in the impeachment. His opening sentences remind the reader very strongly of a modern Irish oration, “ This great cause,” said Pym, “ is the cause of the kingdom ; it concerns not only the peace and prosperity, but even the being of the kingdom. We have that piercing eloquence, the cries and groans, the tears and prayers of all the subjects assisting us. We have the three kingdoms, England, Scotland, and Ireland, in travail and agitation with us, bowing themselves like the hinds spoken of in Job to cast out their sorrows.”*

The managers in the memorable trial, Pym, Maynard, Glyn, St. John, and others were no

* Rushworth's *Strafford*, 103.

match for the simple, touching eloquence of Strafford, who spoke with additional effect from his modest professions, in his apologies to the House, for the errors in his defence, reminding the House, “ I am standing for my life, and what is dearer my honour, and my children.”*

His crimes, which were contained in twenty-eight long articles, or charges, did not, as supported by the evidence, amount to any thing very important ; they were ill in keeping with the magnificence of Pym’s opening denunciations ; or with his winding up address, when he told the Lords, “ We have proved through our evidence, and the result of all this is, that it remains clearly proved, that the Earl of Strafford hath endeavoured by his words and actions and counsels, to subvert the fundamental Laws of England and Ireland, and to introduce an arbitrary and tyrannical government.”†

The noble defence of Strafford, which fills many pages of Rushworth’s account of the trial, would in any other day have been as triumphant as it was complete, but the most base and profligate arts were employed to cause, and keep up an intense popular excitement ; it was in vain that Charles himself addressed the Parliament

* Rushworth’s Strafford, 143.

† Ibid, 661.

and pleaded earnestly for Strafford's life. Rumours of the most dreadful conspiracies against the liberties of the subject were spread in all directions, and on the most ludicrous occasions ; for instance, on the fifth of May 1641, Sir Walter Earl being on his legs in the House, making a report of some imaginary plot and design to blow up the House of Commons, the House was rather crowded with members, and in consequence several stood up in the gallery, the better to hear what was said ; two very heavy men standing upon a thin board, it being unable to bear their weight, in breaking made a loud crack, upon which Sir Robert Wray exclaimed, " I smell gunpowder," and the members rushed out of the House in the greatest confusion, imparting their fears to others in the lobby, who in their turn carried the news into the city, upon which the London Train bands and a multitude of people actually marched to Westminster to protect the Parliament from the horrors of a second gunpowder plot.

Through such a system of agitation, by such iniquitous means, was Strafford murdered.

Their victim saw how anxious they were for his blood, how they thirsted for his execution ; he calmly in his prison surveyed the difficulties which environed his King ; and in the perfect spirit of devotion, which Rome's most heroic days never excelled, he addressed his mas-

ter, offering himself as the willing sacrifice to reconcile the difficulties and dissensions between the King and his Commons. In this admirable letter, which is dated from the Tower, May the 4th, 1641, he thus affectingly expresses himself :

“ I understand that the minds of men are more and more incensed against me, notwithstanding your Majesty hath declared, that in your princely opinion, I am not guilty of treason, and that you are not satisfied in your conscience to pass the bill.

“ This bringeth me in a very great straight ; there is before me the ruin of my children and family, hitherto untouched in all the branches of it with any foul crime ; here are before me the many ills which may befall your sacred person, and the whole kingdom, should y^ourself and Parliament part less satisfied one with another than is necessary for the preservation both of King and people ; here are before me the things most valued, most feared by mortal man, life or death.

“ To say, Sir, that there hath not been a strife in me, were to make me less man, than God knoweth my infirmities make me : and to call a destruction upon myself and young children, (where the intentions of my heart at least have been innocent of this great offence) may be be-

lieved, will find no easy consent from flesh and blood.”

“ But with much sadness I am come to a resolution of that which I take to be best becoming me, and to look upon it as that which is most principal in itself, which doubtless is the prosperity of your sacred person, and the commonwealth, things infinitely before any man’s private interests.”

Then, after desiring the King to sign his bill of attainder, for Charles was hesitating, he thus affectionately concluded,

“ Sir, my consent shall more acquit you, herein to God, than all the world can do besides; to a willing man there is no injury done, and as by God’s grace, I forgive all the world, with a calmness and meekness of infinite contentment, to my dislodging soul ; so, Sir, to you I can give the life of this world with all the cheerfulness imaginable, in the just acknowledgment of your exceeding favours ; and only beg that in your goodness you would vouchsafe to cast your gracious regard upon my poor son, and his three sisters, less or more, and no otherwise than as their (in present) unfortunate father may appear more or less guilty of this death.—God long preserve your Majesty.”

Charles the First laboured hard to save his minister, and so noble, so affecting a letter,

added to his difficulties, and to his anguish of mind ; he again addressed a letter by the hands of the Prince of Wales to the Parliament ; he again granted the Lords an audience; in his agony of mind he consulted his ministers, the majority of whom temporized and disgracefully advised him to sign the bill. Bishop Juxon alone took a higher and holier ground ; he advised the King as a christian minister should do, he told him to be “ guided by his conscience.”

The fate of this great and good bishop was worthy of his intrepid virtue. The man who dared thus advise his sovereign on his throne, was not the courtier likely to abandon him in his misfortunes. When Charles was, in after days, a prisoner in the Isle of Wight, Bishop Juxon was in attendance ; and when the last dread scene occurred on the scaffold at Whitehall, Juxon was there also, among a few noble Englishmen, who were not yet willing to abandon their sovereign. And finally, when the grave closed over Charles in St. George’s Chapel at Windsor, Juxon was not absent ; he had the charge of his funeral, and laboured to arrange its quiet details with much care and industry.

The very lowest republicans respected this great man. He lived during the usurpation unmolested in his own native county of Sussex, and died two years after the restoration, having as Archbishop of Canterbury, had the satis-

faction of placing the crown upon the head of Charles II, at his coronation in Westminster Abbey.*

The portraits of this great bishop are preserved at Lord Bath's, at Longleat, and in the noble library which he built at Lambeth Palace. "Even the haters of prelacy," says Grainger, "could never hate Juxon."†

Charles I alluded to Bishop Juxon, in the paper which he left behind him, containing reflections upon the Earl of Strafford's death, when he observed :—

"Nor hath God's justice failed in the event and sad consequences, to shew the world the fallacy of that maxim, 'better one man perish, (though unjustly) than the people be displeased or destroyed, ' For in all likelihood, I could never have suffered with my people greater calamities (yet with greater comfort) had I vindicated Strafford's innocency, at least by denying to sign that destructive bill, according to that justice which my conscience suggested to me, than I have done since I gratified some men's unthankful importunities with so cruel a favour, and I have observed that those who counselled me to sign that bill, have been so far from receiving the rewards of such ingratiations with

* Wood's Athenæ, vol. 1, p. 1146.

† Biographical Hist. vol. 2, p. 334.

the people, that no men have been harassed and crushed more than they ; he only hath been least vexed by them who counselled me not to consent against the vote of my own conscience. I hope God hath forgiven me and them the sinful rashness of that business.

“ And that after act vacating the authority of the precedent for future imitation sufficiently tells the world that some remorse touched even his most implacable enemies, as knowing he had very hard measure, and such as they would be very loath should be repeated on themselves.”*

The preamble to the act of reversal of Straiford's attainder tells the story with more clearness than is usual, in an act of Parliament. It is worthy of a perusal as betraying the anxiety of a succeeding Parliament to get rid of so odious an act from the statute book of England.

“ Thomas, late Earl of Strafford, was impeached of high treason upon pretence of endeavouring to subvert the fundamental laws, and called to a public and solemn arraignment and trial, before the peers in Parliament, where he made a particular defence to every article objected to him : insomuch, that the turbulent party seeing no hopes to effect their unjust

* Rushworth's Trial of Strafford, p. 776.

designs by any ordinary way and method of proceeding, did at last resolve to attempt the destruction and attainder of the said Earl by an Act of Parliament, to be therefore purposely made to condemn him upon an accumulative treason, none of the pretended crimes being treason apart, and so could not be so altogether, if they had been proved, which they were not; and also adjudged him guilty of constructive treason, that is, of levying war against the King; though it was only the commanding an order of the Council Board in Ireland, to be executed by a sergeant at arms and three or four soldiers, which was the constant practice of the deputies there for a long time. To the which end, they having first presented a bill for this intent to the House of Commons, and finding there more opposition than they expected, they caused a multitude of tumultuous persons to come down to Westminster, armed with swords and staves, and to fill both the Palace Yards and all the approaches to both Houses of Parliament, with fury and clamour, and to require justice, speedy justice, against the Earl of Strafford; and having by these and other undue practises obtained that bill to pass the House of Commons, they caused the names of those resolute gentlemen, who in a case of innocent blood had freely discharged their consciences (being fifty-nine) to be posted up in several places as enemies to their

country ; hoping thereby to deliver them up to the fury of the people, whom they had endeavoured to incense against them, and then procured the said bill to be sent up to the House of Peers, where it having some time rested under great deliberation, at last, when a great part of the Peers were absent, by reason of the tumults, and many of those who were present protested against it, the bill passed the House of Peers.

“ And at length his Majesty, Charles I, granted a commission for giving his royal assent thereto, which nevertheless was done by his Majesty with exceeding great sorrow then, and ever remembered by him with inexpressible grief of heart, and out of His Majesty’s great piety he did publicly express it when his own sacred life was taken away by the most detestable traitors that ever were.

“ For all which causes, &c. And to the end that right be done to the memory of the deceased Earl of Strafford, be it enacted that all records and proceedings of Parliament relating to the said attainder be wholly cancelled and taken off the file, or otherwise defaced and obliterated, to the end that the same may not be visible in after ages, or brought into example to the prejudice of any person whatsoever.”

The charges against Strafford, which are given at length in Rushworth’s account of his trial,

involved no great crime ; they were supported by the very suspicious testimony of Sir Henry Vane, and were voted sufficient by a very small majority of the House of Lords.

The fate of Strafford was indeed hard ; and after ages did ample justice to his memory and to his children : his bill of attainder was wiped away from the Statute Book as too disgraceful and unjust to remain there ; and moreover his fate was not forgotten in later and happier days, for it served, as it still serves, as a memorable warning to English sovereigns to beware of treachery to their servants and a cowardly desertion of those who are honestly and courageously serving their King and their country.

The death of Strafford was totally unattended with benefit to Charles I ; it conciliated no one : his enemies were just as implacable—just as unrelenting as before. It only served to encourage his opponents and to dishearten his friends ; some of his most faithful servants, on the death of Strafford, quitted him in disgust.

Wentworth, Lord Strafford, was born in 1594 ; he died on the scaffold on the 12th of May, 1641, amid the tears of the spectators, and regretted even by his enemies, leaving to his descendants, who still flourish among the nobles of England, an example which they have since followed on many important national occasions.

The three last Institutes of Coke bear evident

traces of the want of care in their correction, which is so apt to distinguish posthumous works ; many errors crept in, particularly in his discourse upon treason and in the Treatise of Parliaments.* But in spite of these minor blemishes, they will ever be regarded as a most valuable mass of legal knowledge.

The second part of the Institutes contains his treatise upon Magna Charta, and many other ancient and important statutes ; the object of which we cannot better describe than in his own language.

“ Our expositions or commentaries upon Magna Charta and other statutes, are the resolutions of judges in courts of justice, either related and reported in our books, or extant in judicial records, or in both, and therefore being collected together shall (as we conceive) produce certainty, the mother and nurse of repose and quietness.”

He truly describes the work in his epilogue to it, as “ a large and laborious volume, of a description never before attempted ;” and he therefore thinks very justly that if some errors are discovered in it, that he is not without “ some kind of excuse.”

In the third part of his Institutes, published in 1644, he treats at great length of “ high

* Kelling's Reports, p. 21.

treason and other pleas of the crown, and criminal causes," which he very properly describes in his preface as "a work, arduous and full of difficulty." He speaks of his own native language being discarded in the reigns of the Norman line, from the legal proceeding of England, and of its own real merits, as an English judge should do.

"But the statute 35 Edward III hath taken these edicts of a conqueror away, and given due honour to our English language, which is as copious and significant, and as able to express any thing in as few and apt words as any other native language that is spoken at this day; and to speak what we think we would derive from the Conqueror as little as we could."

In the conclusion of his laborious work, he thus reviews the criminal laws of England, which he applauds for its law of treason, but decries for its want of preventing justice. "It is not frequent and often punishment that doth prevent like offences. Better is preventing justice, than that which punishes severely; agreeing with the rule of the physician, caution is better than medicine. Those offences are often committed which are often punished, for the frequency of the punishment makes it so familiar, that it is not feared.

"This preventing justice consisteth in three things: first, in the good education of youth,

both by good instruction of them in the grounds of true religion, and by learning some knowledge or trade in their tender years, so as there should not be an idle person or a beggar, but that every child, male or female, whose parents are poor, might at the age of seven years, earn their own living.

“ Secondly, in the execution of good laws : thirdly, as many do offend in hopes of pardon, that pardons be very rarely granted.

“ The consideration of this preventing justice were worthy of the wisdom of a Parliament. Blessed shall he be that layeth the first stone of this building, more blessed that proceedeth in it, most of all that finisheth it to the glory of God and to the honour of our King and nation.”

After reading these enlightened remarks of Coke on criminal jurisprudence, we should hardly expect that he had, in this very book, devoted a chapter to the crimes of “ conjuration, witchcraft, sorcery or enchantment,” that he had gravely described then their imaginary crimes. That he would tell us of enchanter, that

By rhimes they can pull down full soon,
From lofty sky the wandering moon,

or that he would applaud the legislature for punishing with death such “ great abominations.”—2 Inst. c. 6.

Coke, however, was not the last judge who believed in witchcraft ; thirty years after Coke's death, the great Sir Matthew Hale condemned Amy Duny, and Rose Cullender at Bury assizes, and left them for execution. The wretched evidence, which was given at great length against these poor women almost defies belief. One John Soanes, a farmer of Lowestoff in Suffolk, actually proved the bewitching of his dung cart ! The learned Sir Thomas Brown, the author of "Vulgar Errors," thought them guilty. Sergeant Keyling alone ridiculed this trumpery case with becoming indignation.

A century even elapsed, after the death of Coke, before the legislature had the good sense to banish witchcraft from the statute book. In 1786, this however was effected by the 9th George II, c. 5, which repealed the act of the 1st of James I. c. 12, which was wisely entitled, "an act against conjuration, witchcraft, and dealing with evil and wicked spirits."

The fourth part of his Institutes, which was published with the third, relates to the English courts of justice from the highest to the lowest, their jurisdiction, power and history.

This was a work of no inconsiderable labour and research ; he tells us in his preface that it was "a labour of as great pains as difficulty ; for, as in a high and large building, he that beholds the same after it is finished and furnished,

seeth not the carriages, and scaffoldings, and other invisible works of labour, industry, and skill in architecture, so he that looketh on a book full of variety of important matter, especially concerning sacred laws, after it is printed and fairly bound and polished, cannot see therein the carriage of the materials, the searching, finding out, and digesting of authorities in law, rolls of parliament, judicial records, warrants in law, and other invisible works.”

He again addresses the student with his usual anxiety :

“ Herein, as in the rest of our works, you shall observe, that in the course of our reading, we took all in our way, and omitted little or nothing ; for there is no knowledge, (seemeth it at the first of never so little moment) but it will stand the diligent observer in stead, at one time or other.”

In this Institute he takes a very rapid survey of all the courts of England, Scotland, Ireland, and the channel islands, tracing their power, authorities, and history, in a manner the most accurate and laborious.

In his epilogue or conclusion to this his last Institute, he speaks of the principles of action which guided him through his work with his usual energy :

“ We have dealt clearly and plainly concern-

ing some pretended courts, which either are no courts warrantable by law, as we conceive them, or which without warrant, have encroached more jurisdiction than they ought, wherein, if any of our honourable friends shall take offence, our apology shall be *amicus Plato, amicus Socrates, sed magis amica veritas*, having ever in memory that saying of the kingly prophet, 'Keep innocency, and take heed to the thing that is right, and that will bring a man peace at the last.'” Psalm xxxvii, 38.

This venerable judge, now between eighty and ninety years of age, felt, as he was taking his last leave of the student, and the reader of his Institutes, that he had undergone much toil, and worked hard in the service of his country, which he thus modestly avows :

“ Whilst we were in hand with these four parts of the Institutes, we have often having occasion to go into the city, and from thence into the country, did in some sort envy the state of the honest ploughman, and other mechanics ; for one, when he was at his work, would merrily sing, and the ploughman whistle some self-pleasing tune, and yet their work both proceeded and succeeded ; but he that takes upon him to write, doth captivate all the faculties and powers, both of his mind and body, and must be only attentive to that which he collecteth, without any expres-

sion of joy or cheerfulness whilst he is at his work.”

In a self review of his long and varied career, it is evident that Coke had no crimes with which he could reproach himself. Conscience accused not ; a memory, excellent to the last, disturbed not his repose. The snows of more than eighty winters had not chilled his ardour for even-handed justice, when he thus eloquently and earnestly closed his last Institute, perhaps his last public address :

“ And you, honourable and reverend judges and justices, that do or shall sit in the high tribunals or seats of justice, fear not to do right to all, and to deliver your opinions justly according to the laws ; for fear is nothing but a betraying of the succours which reason should afford ; and if you shall sincerely execute justice, be assured of three things : first, though some will malign you, yet God will give you his blessing ; secondly, that though thereby you may offend great men and favourites, yet you shall have the favourable kindness of the Almighty, and be his favourite ; and lastly, that in so doing, against all scandalous complaints and pragmatic devices against you, God will defend you as with a shield ; For thou, Lord, will give a blessing unto the righteous, and with thy favourable kindness wilt thou defend him as with a shield.” Psalm v. 13.

It is impossible not to perceive, that in this exhortation to his brethren, he glanced very steadily to his own career, the equity of his decisions, the ill usage he had encountered from kings and from favourites ; but far from regretting the course he had run, he exhorts, in this admirable address, his more fortunate brother judges to do likewise, to imitate his example undismayed by his fate. This surely was not the courage of a man conscious of guilt ; it was not the address of the executioner, the unjust, who whatever may be their stubbornness, generally repent at the close of life, when their sins, like their lands, can be no longer retained.

COKE'S MINOR WORKS.

A little Treatise on Bail and Mainprise,* by Sir Edward Coke.

This book, according to a note in a copy in the Bishops Library at Norwich, was written at the request of Sir William Haydon, Knt.

The value of this little book to the lawyer has been much lessened by the alteration of laws and rules of court ; it was written principally for the use of the lawyers of the age it appeared.

* From *bayer*, to deliver ; *mayne*, a hand and a prize taken.
—Coke.

Our author himself explains its object at the end of the work.

“The end and scope of this little treatise is (under correction of those of better judgment) to set forth what the law of this realm doth require touching bail and mainprise, a necessary thing, in my opinion, for such as be justices of the peace, to be known; for he that standeth on plain and low ground, although he should be borne, by rage of tempest, to the ground, yet might he without danger rise of himself again.

“So he that hath the administration of justice and in all his actions is guided and directed by the rule of the law, neither abusing his authority nor exceeding his commission, standeth on a sure ground, which will bear him up at all seasons.

“To conclude, the Author of all wisdom and true knowledge, thought it requisite that those that were judges of the earth should be both wise and learned, whom I beseech to bless all those that on earth he hath set on his own seat, with his true knowledge and wisdom.”

The Complete Copyholder, being a learned discourse of the antiquity and nature of manors and copyholds, with all things thereto incident, by Sir Edward Coke, Knt.

Sir Edward Coke thus concludes his book :

“And so I conclude with copyholders, wishing that there may ever be a perfect union betwixt

them and their lords, that they may have a feeling of each others' wrongs and injuries, that their so little commonwealth, having all its members knit together in complete order, may flourish to the end."

"Charge delivered at the Norwich Assizes." This was a spurious edition, and disowned by Sir Edward Coke in the preface to his seventh book of Reports.

"A Book of Entries," &c. This work, entirely of a practical nature, was never very extensively employed, and has long since been supplanted by alterations in rules of practice, and by other more popular works.

MANUSCRIPTS OF SIR EDWARD COKE.

There is in the Library of Queen's College Oxford, a manuscript No.2440, by Sir Edward Coke, on the power of the church to make canons. The original manuscript was found by Dr. Bailey, Dean of Salisbury, in Archbishop Laud's study, with the title above named, signed with Bishop Laud's own hand.

In the Bodleian Library, in the same University, No. 8489, is a paper entitled, A Demurre about the Burgesses for both the Universities, drawn up by Sir Edward Coke.

In the Bishops library at Norwich is a Law common place book, believed to be made by the Chief Justice Coke, and to be written in his own hand, in quarto 2 vols. No. 462.

I am unable to say in whose possession Coke's household book, for 1596—7, remains ; it was sold at Mr. Craven Ord's sale to Mr. Madden for £56, and is described in the catalogue as being signed throughout by Bridget Coke.

ENGRAVED HEADS OF SIR EDWARD COKE.

Of engraved heads of Sir Edward Coke, Grainger gives a list of twelve.*

1. By Houbraken, in the possession of Robert Coke Esq.

2. In small quartos, "Edovardus Cokus." with six Latin verses, annexed by S. Passœus.

3. Sir Edward Coke, "Prudens qui patiens," 1629, by J. Payne with a whistle hanging at his breast, 4to.

4. Edwardus Coke copied from the last mentioned, in 4to. and another in 12mo.

5. Edwardus Cokus, six Latin verses.

* Biographical History, vol. 2, p. 93.

6. Sir Edward Coke, by Loggan.
7. Edwardus Coke, by R. White.
8. Sir Edward Coke, by J. Cooper, in mezzotinto.
9. Sir Edward Coke, copied from Houbraken in mezzotinto, by Millar of Dublin.
10. Sir Edward Coke, Cross 1664, in the title page to the Conveyancers' Guide.
11. Sir Edward Coke, 8vo. by Trotter.
12. Sir Edward Coke by A. Millar, 1774, mezzotinto.
13. Coke by Posselwhite, from a picture in the Hall of Sergeant's Inn. In the portrait gallery of the Society for the diffusion of useful knowledge, 1836.

And there is one by J. F. Coombs from the painting in the possession of T. D. Bayley Esq. of Gray's Inn, this was engraved for Mr. Bayley's private distribution, and is by far the finest engraving of Sir Edward Coke, in existence.

PORTRAITS OF SIR EDWARD COKE.

There is a portrait of Sir Edward Coke, in his robes as a judge inscribed "Recorder of Norwich, 1587," in the council chamber of the Guildhall of that city, holding in one hand a

death's head, and the right a glove.* This I have seen.

There is another portrait ascribed to him in the south dining room, at Melton Constable the seat of the Ashby's in Norfolk. This I have not seen.

In the saloon at Holkham Hall, the seat of the Earl of Leicester, there is a three quarter picture of Sir Edward Coke, by Cornelius Jansens.

And in the yellow dressing room, a full length by Casati. In this room is also a full length portrait of Bridget Paston, first Lady Coke by the same artist ; she is represented seated at the table with a flower in her hand, and must have been a very lovely creature. These I have seen.

According to Grainger*, there is a full length portrait of Sir Edward Coke at Lord Egremont's seat at Petworth.

There is a half length of him in his judges robes, by Cornelius Jansens, at the Hall at Sergeant's Inn.

And there is another very excellent portrait by the sane painter, in the possession of T. D. Bayley Esq, of Gray's Inn.

* History of Norfolk.

† Biographical History, vol. 2, p. 93.

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