

Statutes again present materials for history.—Long Parliament declared to be dissolved.—Tonnage and Poundage.—Excise.—Knight service and Purveyance abolished.—The Army disbanded.—Church Livings.—Church Lands and Crown Lands.—Act of Indemnity.—Exceptions of the regicides, and of others.—Executions.—Insults to the dead.—Episcopacy.—King's Declaration.—Convention Parliament dissolved.—Anabaptist Insurrection.—Conferences at the Savoy.—New Parliament.—Marriage of the Duke of York.—Prerogatives of the Crown.—Corporation Act.—Act of Uniformity.

## CHAPTER VI.

WE can once more open the ponderous "Statutes of the Realm," and therein find the most important materials for the history of the State and the history of the People. The last Statute of Charles I. bears the date of 1640. The first Statute of Charles II. bears the date of 1660. During these twenty years of Civil War, and of the Commonwealth, there were Ordinances and Acts of Parliament which had the force of Laws—many directed to temporary objects, but many, also, of permanent utility. Some of the Statutes of the Restored Monarchy were founded upon these,—often without the slightest reference to them. But occasionally, when a wise law of the Long Parliament or of the Protectorate had become an established principle, it was recognised in a new Statute, in which it was called "a pretended Act." The royalist theory of the Constitution was, that there was no vitality in any legislative body not called into being by the Crown—that all laws were a dead letter that had not received the assent of the Crown. The royalists maintained that from the 30th of January, 1649, Charles the Second had been king *de facto* as well as king *de jure*; that although kept out of the exercise of his authority by traitors and rebels, he had been for twelve years the sole governor of England; that 1660 was the twelfth year of his reign, as the dates of Acts of Parliament, and of other instruments set forth.\* The Parliament of the Restoration, which was begun to be holden on the 25th of April, 1660—the Convention Parliament, as it is called—in their first

\* "This had not been the usage of former times.—Edward IV., Richard III., Henry VII., had dated their instruments either from their proclamation, or at least from some act of possession."—HALLAM.

Statute declared the Long Parliament to be dissolved, and enacted that the Lords and Commons then sitting at Westminster were the two Houses of Parliament "notwithstanding any want of the King's Majesty's Writ or Writs of Summons."\* They had recalled the legitimate heir of the Crown; but this their first Act virtually acknowledged that they had no constitutional power to do so. The next Parliament, which was duly summoned by the King's writ, always termed this Convention Parliament "the last Assembly;" for the second Parliament was far more servile in its royalist fervour than the first; and many of its members regarded Charles Stuart simply as the heir who had come to take possession of his estate of England, together with five millions of people, his lawful chattels. In a few years this so-called loyalty put on more offensive shapes; and the people began to see that the old battle against arbitrary power had to be renewed, with full benefit of a bitter experience.

The Parliament of 1660, in the exuberance of its devotion, but not altogether unwisely, resolved to make such an ample provision for the executive power as should place it beyond the pretended necessity of raising money by unlawful means. They settled the yearly revenue of the Crown at an amount considerably beyond the supplies voted to Charles I., and they voted the subsidy of tonnage and poundage, for the term of the king's life.† One stipulation, of great importance to the owners of landed property, was associated with this liberality of the Commons. When the king and the Parliament came to the fatal issue of Civil War in 1641, the feudal revenues of the Crown were necessarily set aside. There was an end to the ancient claims of the Crown upon tenures by Knight-Service, with all their oppressive conditions of fines for alienation, of forfeitures, and of wardship. There was an end, also, of the more generally obnoxious demands of purveyance.

\* 12 Car. II. c. i.

† *Ibid.*, c. 4. The duties of Tonnage and poundage, or, as we now term them, Customs, as settled by the Schedule of Rates of Merchandise in this Statute, continued with little variation, through the reigns of Charles II., James II., William III., and part of the reign of Anne. Reduced to one-half, they continued till George III. had reigned twenty-seven years. This Statute of the Convention Parliament was thus the foundation of that system of taxing at a separate rate the smallest as well as the largest article of Merchandise—a system which embarrassed all commercial operations almost up to the present day. In the table of Rates of 1660, there are about fourteen hundred articles of import upon which, there is a varying duty. Looking at the value of money at that time, the duties were enormous, and their effect in retarding all manufacturing and commercial progress for half a century cannot be over-estimated.



These relics of prerogative would have revived with the re-establishment of the monarchy. The Parliament made a bargain to relieve the landed proprietors; but this bargain was completed at the expense of the Commonalty. Charles surrendered the Court of Wards, and Purveyance, and the Commons granted him and his successors the Excise of beer and other liquors,\* a tax first introduced during the Civil War. It was originally a temporary tax. The two great sources of modern revenue were thus placed absolutely in the king's hands. Charles was rendered more independent of Parliament for the ordinary expenditure of the Crown than his father, or grandfather, or Elizabeth, had been. No one seems to have dreaded that the money destined in great part for the proper dignity of the sovereign, and the due administration of all executive authority, was likely to be wasted in the most unblushing profligacy. The character of the king, and the habits of his associates, were not unknown; but men deceived themselves into the belief that long years of exile and poverty would have taught their lessons of prudence and moderation; that Adversity, "stern, rugged nurse," would have inspired some thoughts of honour and justice. But with Charles "self-pleasing Folly's idle brood" had not been scared at Adversity's frown. The House had voted an especial sum, to be raised by an especial mode of taxation, for disbanding the army. In his speech at the close of the Session the king said, "I do promise you, which is the best way I can take to gratify you, I will not apply one penny of that money to my own particular occasions, what shift soever I make, till it is evident to me that the public will not stand in need of it." † He seems to think that there is something magnanimous in this declaration;—that he might do what he liked with the sum which was considered as entrusted to him for a specific purpose, but that he would abstain from exercising his right of doing what he pleased with his own as a gracious condescension to "the public." In six years more the Parliament discovered the value of his majesty's self-denial; and in the bill for a poll-tax introduced a clause that a commission should be appointed to inspect all the accounts of the money supplied, and the expenses incurred, during the war. Pepys records that in the lord treasurer's accounts there was a sum unaccounted for of more than two millions; and that it was thought that £400,000 of the money voted for the war had gone to the Privy Purse. He then says that the notion of a commission to inspect the accounts

\* 12 Car. II. c. 24.

† "Parl. Hist." vol. iv. p. 122.

"makes the king and court mad; the king having given order to my lord chamberlain to send to the playhouses and brothels, to bid all the parliament-men that were there to go the parliament presently."\* To the playhouses and brothels to search for the parliament-men! The times were altered since they were to be sought for in the churches and conventicles.

At the period of the Restoration, the Army, which had been the instrument of effecting that great change, as it had effected so many other great changes, consisted of fifteen regiments of horse, and twenty-two regiments of foot, besides garrisons. That army was supported by monthly assessments of seventy-thousand pounds. An Act was passed "for the speedy provision of money for disbanding and paying off the forces of this kingdom both by land and sea." † A contribution was to be raised from all ranks and degrees, under a commission in every county; and large sums were voted for the complete disbanding, in subsequent Acts. ‡ The Act for the speedy disbanding of the Army and garrisons, and also for paying off twenty-five ships, § was followed by "an Act for enabling the soldiers of the Army now to be disbanded, to exercise Trades." This salutary Statute provides that the disbanded men, who would willingly employ themselves in the trades they had formerly been accustomed to, or those who are apt and fit for trades, might exercise their employments in corporate cities and towns, without being restrained by any bye-laws; and that those who had been apprenticed to trades, but had not served the seven years required by the Statute of the 5th of Elizabeth, should be qualified to labour in their vocation as freely as if they had completed their legal term. The industry of the country absorbed this formidable Army. It was composed of a higher order of men than were usually found in military service; and they became the most industrious of citizens as they had been the best disciplined of soldiers. The revenue assigned to the crown did not contemplate the continuance of any standing army; but Charles retained two regiments of horse in his pay, who were called his guards. Upon this narrow foundation was the present regular army of the United Kingdom established. In 1662, the king had five thousand troops in his service. A few years afterwards he began to talk of making the Commons "a courageous speech," for that he was "master of an army." ||

\* "Diary," December 8, 1666.

† 12 Car. II. c. 9.

‡ *Ibid.*, c. 26, and c. 21.§ *Ibid.*, c. 15.

|| Pepys, October 4, 1666.



The great question of the Church Establishment was not brought forward in the Convention Parliament. The Presbyterian members were too strong in that Assembly to render it safe to propose such a sweeping change as would again make the Anglican Church supreme in endowments and political power. Amidst all the sectarian violence of the Civil War and of the Commonwealth, the legal provision of the Clergy had never been disturbed, and the private rights of presentation to benefices had been uninterruptedly exercised. The pulpits were, indeed, for the most part filled with ministers of Puritan principles, Presbyterian or Independent; and the Liturgy, with the ceremonial observances connected with it, had been abolished. These ministers, although they were not encouraged to believe that the Presbyterian form, which had never been universal, would be adopted, hoped for some compromise that would ensure them the quiet possession of their livings, and free them from any obligations repugnant to their consciences. "Because," said the king's Declaration from Breda, "the passion and uncharitableness of the times have produced several opinions in Religion, by which men are engaged in parties and animosities against each other (which, when they shall hereafter unite in freedom of conversation will be composed, or better understood), we do declare a liberty to tender consciences, and that no man shall be disquieted, or called in question, for differences of opinion in matters of Religion, which do not disturb the peace of the kingdom." In the Convention Parliament no attempt was made to contravene the spirit of this Declaration. The imposition of the Covenant upon all the beneficed Clergy had ejected large numbers of conscientious men from their livings.\* Seventeen years had intervened; and another large body of conscientious men, differing as to Church government, had succeeded to the duties and emoluments of the Episcopal Clergy. The Parliament of 1660 enacted that all the ejected ministers who survived should be restored to their benefices, but without the right of claiming any past emoluments. By the same Statute those who were in actual possession of those livings for which there was no claimant as previous possessor, were confirmed in their titles. This measure, apparently so just, was in reality a delusion. Clarendon, the ruling minister of the first years of the Restoration, although infinitely superior in honesty and ability to the profligate courtiers and unprincipled politicians with whom he was associated, seldom scrupled

\* See vol. iii. p. 488.

pled to "palter" with "the word of promise," when he had a long-cherished hope to realize, or a deliberate revenge to gratify.

The settlement of the Church establishment was only one amongst the complicated questions that arose, of necessity, out of the Restoration. Many of the Crown lands and the Church lands had been sold under the authority of the Long Parliament. The title seemed so safe that in many cases they had been sold at fifteen, and even eighteen years' purchase. A Bill was brought in to determine this matter, which involved so many adverse interests. It was strenuously debated by the Commons, in 1660; and the only agreement that the House came to was, that the Crown lands should be left out of the proposal for sales to be confirmed or indemnity to be given. One member declared himself against the purchasers of the Crown lands by quoting a proverb that "he that eats the king's goose should be choked by its feathers." The House was disinclined to such an unconditional restoration of Church property. But the discussion was at length cut short by the dissolution of the Parliament; and the purchasers had no protection against the due course of law, under which their titles were defective. Unconditional restitution was the necessary result. The Declaration of Breda had said, "because, in the continued distractions of so many years, and so many and great revolutions, many grants and purchases of estates have been made to, and by, many officers, soldiers, and others, who are now possessed of the same, and who may be liable to actions at law upon several titles, we are likewise willing that all such differences, and all things relating to such grants, sales, and possessions, shall be determined in Parliament." By the adroit management of Clarendon, Parliament was relieved from the responsibility of the determination. Loud complaints, no doubt, were made by many who had been honest purchasers; but their complaints were neutralised by the louder murmurings of the Cavaliers, who, although some had returned to the possession of their estates, were deprived of any compensation for their sequestrations, and compositions for delinquency, during the authority of the Long Parliament. They were shut out from any legal process for relief by the Act of Indemnity. Bitter were their murmurings against the ingratitude of the king, from whom they expected the magician's power of annihilating all the natural and moral consequences of twenty years of vicissitude. Such are the mortifications and miseries to be endured by all parties when revolutions have run their course. During the conflicts



of great principles men are elevated above their merely selfish interests; but when the sword is sheathed there arise the bitterer animosities of changed fortunes and disappointed hopes. Then come the odious thoughts of revenge for the past,—schemes of insulting triumph or dangerous machination. The calm after a great revolution is more to be dreaded than its storms. Clarendon saw this danger, though, when his own passions and prejudices were concerned he yielded to the baser influences. At the adjournment of the Parliament, in September, after the Act of Oblivion and Indemnity had been passed, he thus spoke, as Chancellor:—"Shall we fold our arms towards one another, and contract our hearts with envy and malice to each other, by any sharp memory of what hath been unneighbourly or unkindly done heretofore? What is this but to rebel against the person of the king, against the excellent example and virtue of the king, against the known law of the land, this blessed Act of Oblivion? My Lords and Gentlemen, the king is a suitor to you, makes it his suit very heartily, that you will join with him in restoring the whole nation to its primitive temper and integrity, to its old good manners, its old good humour, and its old good nature;—Good nature, a virtue so peculiar to you, so appropriated by God Almighty to this nation, that it can be translated into no other language, hardly practised by any other people: And that you will, by your example, by the candour of your conversation, by your precepts, and by your practice, and by all your interest, teach your neighbours and your friends how to pay a full obedience to this clause of the Statute, how to learn this excellent art of forgetfulness." "This excellent art of forgetfulness" was not easy to be learnt. Certainly the government did not encourage its acquirement by the example of its own magnanimity; but, eager as the Court was for the exercise of some vengeance for the past, it was but a faint expositor of the passions of many of the Lords and Commons, who cried "havoc" with their loudest voices.

Three weeks before the return of Charles II., the House of Commons had decided that seven persons should be excepted from a proposed Amnesty; and that all who had sate upon the king's trial should be arrested, as well as some others who had been ministers of the Protectorate.\* After the Restoration it became evident that the Court was by no means satisfied with so limited an exception from a general pardon as that of seven who had been

\* *Ante*, p. 128.

engaged in the transactions of twelve years of revolution. The debates in both Houses on the Bill of Indemnity and Oblivion are very imperfectly recorded; but there is enough to show how the spirit of the country had been abased and demoralised—how completely the feeling of national pride had departed from the public men of England—how insensible the majority had become to those principles of honour, by which the evils of the Civil War had been mitigated on both sides. For three months this Bill of Indemnity was debated in both Houses. The Commons went on adding name after name to those of the seven who were originally excepted. The Lords voted that all who had signed the death-warrant of Charles I., as well as five others, should be excepted, either as regarded life or estate. They carried the principle of private revenge so far, that they declared that the surviving relations of four peers who had been executed under the Long Parliament, should nominate four to be put to death of the surviving members of the High Court of Justice by which those peers had been condemned. There was a difficulty, however, in the way of the sweeping proscription which the Lords desired, which became a touchstone of honourable feeling in both Houses. The king, shortly after his landing, had issued a proclamation, in which he commanded those who had sat as judges of his father to render themselves up within fourteen days, "on pain of being excepted from any pardon or indemnity as to their lives or estates." The Parliament had suggested this proclamation. Was it a trap to induce these men to surrender, or was it an indirect pledge that, so surrendering, they should partake of the benefits of a general pardon? The honour of the king was unquestionably committed to the most favourable construction of the proclamation. Some, such as Ludlow, had the prudence not to place confidence in ambiguous words; and they fled abroad. "Other poor gentlemen were trepanned that were brought in by proclamation."\* Clarendon, the chancellor, shuffled odiously about a document whose ambiguity was doubtless well studied by him. Southampton, the treasurer, with the high spirit of the old Cavaliers, maintained "that since it was not thought fit to secure the lives of those who had been ordered to surrender their persons upon the faith of the proclamation, they ought at least to give them the like number of days for saving themselves as were appointed by that paper for their coming in."† The Commons debated this point of the proclamation with a more moderate and honester feel-

\* Hutchinson, vol. ii. p. 279.

Ludlow, iii. p. 43.



ing than the majority of the Lords. Although one rabid member had the baseness to say "that these people's lives were but as a bucket of water in the ocean, in regard of so many more as were to receive benefit by the Act of Pardon;" and another had the effrontery to maintain that "their coming in upon the proclamation was, that God had infatuated them to bring them to justice,—" yet the general temper of the Commons was better represented by Hale, who pleaded "for the honour of the king and the two Houses;" and by Colonel Birch, who said "if he should give articles to a garrison, he should think himself very unworthy to break them." This matter was at last compromised between the Lords and Commons by a proviso in the Bill, that if the nineteen persons therein named should be legally attainted, then nevertheless the execution of the persons so attainted should be suspended until execution should be ordered by Act of Parliament.\* The most remarkable exceptions to the Statute of Indemnity, in addition to all the regicides with few omissions, were Sir Henry Vane and General Lambert; but the Houses concurred in an address to the king that if these two leading men of the revolution were tried and attainted, their lives should be spared. The king assented.

The trials of the regicides and others in custody, who were excepted from pardon as to life and estate, took place in October. Twenty-five of those who had sat in judgment upon Charles I. were dead: nineteen had fled to foreign countries. Twenty-nine persons were brought to trial as traitors, before a Court of thirty-four commissioners; and they were all convicted. Of these, the nineteen who had surrendered under the proclamation were imprisoned for life. Ten were executed. These were Harrison, and five others, who had subscribed the death-warrant of Charles; Cook, who acted as leading counsel upon the trial; Axtell and Hacker, two officers who commanded the guard over the royal prisoner; and the famous Hugh Peters. These men died in the belief that they unjustly suffered for the discharge of a great public duty. In their strong religious principles, which approached to the enthusiasm of martyrs, in Harrison especially, they found support under the cruelties of the old law of treason, which was executed to the minutest point of its brutality. It is not creditable to Charles that he was a spectator of these scenes. Evelyn writes, on the 17th of October, "Scott, Scroop, Cook, and Jones, suffered for reward of their iniquities at Charing Cross, in sight of the place where

\* 12 Car. II. c. 11.

they put to death their natural prince, and in the presence of the king his son, whom they also sought to kill. I saw not their execution, but met their quarters, mangled, and cut, and reeking, as they were brought from the gallows in baskets on the hurdle." A more disgusting spectacle took place on the 30th of January, 1661, which Evelyn also records: "This day (O the stupendous and inscrutable judgments of God!) were the carcases of those arch-rebels, Cromwell, Bradshaw (the judge who condemned his Majesty), and Ireton (son-in-law to the Usurper), dragged out of their superb tombs in Westminster among the kings, to Tyburn, and hanged on the gallows there from nine in the morning till six at night, and then buried under that fatal and ignominious monument in a deep pit; thousands of people who had seen them in all their pride being spectators." On the 4th of December, the Parliament, upon the motion of colonel Titus—the colonel Titus who now claimed the honour of having written "Killing no Murder"—had voted unanimously that this revolting exhibition should take place. One Englishman has recorded his sentiment upon this vote as regarded Cromwell—"which, methinks, do trouble me that a man of so great courage as he was should have that dishonour."\* On the 12th of September, by a special order of the king to the dean of Westminster, these bodies had been taken out of their vaults, and thrown into a pit. On the same day, the body of Blake was removed from its honoured resting-place and re-interred in St. Margaret's churchyard. To our minds there is nothing in the whole course of this evil reign so prophetic of the coming national degradation, as the indignities offered to the remains of the greatest soldier and the greatest sailor that England had produced. Cromwell and Blake by their genius and their patriotism made their country the most honoured and dreaded of the nations. They bequeathed to the heir of the ancient kings, a national dignity which was more solid than the glories of the Edwards and Henries, and as dearly prized by the people as the triumphs of Elizabeth. This miserable heir of the grand English monarchy was utterly destitute of that nationality without which a sovereign is more degraded than the meanest of his subjects. The future pensioner of France was incapable of comprehending what England owed to the man whose corpse he hung up on the gallows at Tyburn.

The restoration of surviving bishops to their sees, with the consecration of new bishops, was a policy which the Presbyterian

\* Pepys' "Diary," December, 4, 1660.



party must have considered inevitable. That party had to a great extent become powerless; and was in no condition to renew the struggles against Episcopacy which had so materially interfered with any pacific arrangement with Charles I. For twenty years there had been no display of copes and surplices in the service of cathedrals. The young had never heard organs and choral voices in parish churches. Now, the bishops assembled in Westminster Abbey "all in their habits," as Pepys records; "But, Lord! at their going out, how people did most of them look upon them as strange creatures, and few with any kind of love or respect."\* The passion for the restoration of the monarchy did not extend to this necessary consequence of that restoration. The serious citizens of London and other towns had been accustomed to the ministration of the Puritan clergy, whether Presbyterian or Independent; and they looked with apprehension and dislike to any change that would interfere with their old habits. Their spiritual welfare had not been neglected; nor had they been committed to the guidance of ignorant or unlearned men, looking at the majority of the Puritan ministers. The serious portion of the community were sufficiently represented in the Convention Parliament to render some caution necessary in the measures of the Court. On the 25th of October the king published a Declaration, in which he avowed his own attachment to Episcopacy, but expressed his opinion that it might be so modified as to remove all reasonable objections; and he declared that the reading of the Liturgy, certain ceremonial observances, subscription to all the articles, and the oath of canonical obedience, should not be pressed upon those who had conscientious scruples. Calamy, Baxter, and other Presbyterian ministers, had been appointed Chaplains in ordinary to the king, in the month after his restoration. The Puritans appear to have deceived themselves into the belief that a happy concord would be established; and the Court, whether from duplicity or weakness, appears to have fostered the delusion. Some of the leading Puritan ministers, amongst whom were Calamy, Baxter, Ash, and Reynolds, were introduced to the king; and declared "their large hope of a happy union among all dissenters by his means." Baxter records that the king gave them a gracious answer; professed his gladness to hear their inclinations for agreement; suggested that both sides should abate somewhat of their pretensions; nay, that he was resolved to see this agreement brought to pass;—with

\* "Diary," October 4, 1660.

much more to the same effect; "insomuch that old Mr. Ash burst out into tears with joy, and could not forbear expressing what gladness this promise of his majesty had put into his heart."\* In less than a year the value of his majesty's promise was to be better understood, when the Act of Uniformity was passed. In two years non-conformity was made penal. We shall have briefly to notice these healing measures. Their general effect is set forth with all the bitterness of disappointed hope by the most eminent interpreter of the feelings of the Puritan divines—those who, "in times of usurpation had mercy and happy freedom," but who, "under the lawful governors which they desired, and in the days when order is said to be restored, do some of us sit in obscurity and unprofitable silence, and some lie in prisons, and all of us are accounted as the scum and sweepings and off-scourings of the earth." †

The king's Declaration, and his promises to the Presbyterian ministers, were looked upon with satisfaction by honest men of both parties. There was a possibility of such an agreement upon points of discipline as would have made the Protestant Church of England a real barrier against the revival of Popery, which was not altogether a frivolous apprehension; and, through the concord of earnest men who had long exercised an important spiritual influence, would have opposed a sober religious spirit equally removed from indifference or fanaticism, to the profligacy which was fast becoming fashionable. To render the king's Declaration effectual a Bill was brought into Parliament by Sir Matthew Hale. It was opposed by the united power of the courtiers in Parliament, and was rejected. This was the test by which the royal professions were to be tried. "Such as were nearest the king's councils well knew that nothing else was intended by the Declaration than to scatter dust in men's eyes, and to prevent the interference of Parliament." ‡ Whilst the Convention Parliament lasted, all such awkward questions were tided over. It was dissolved on the 29th of December.

Amongst the non-political Acts passed in this Parliament was the Navigation Act, which was in substance a re-enactment of the famous measure of the Long Parliament in 1651. § An Act for the establishment of a General Post Office in London was also framed upon the model of the Postal establishments of the Protectorate.

\* Baxter, "Life," Part II, p. 231; folio.

† Hallam, Chap. xii.

‡ *Ibid.*, Part I, p. 84.

§ *Ante*, p. 20.



the points which gave offence to "tender consciences" were left untouched. The Anglican Church felt its power; and the notion of conciliation, if ever seriously entertained, was soon supplanted by the readier and simpler principle of coercion.

The altered character of the House of Commons was very soon indicated by its proceedings. The Parliament met on the 8th of May. On the 17th it was voted that every member should receive the sacrament according to the forms of the Anglican Church. It was also resolved that the Solemn League and Covenant should be burned by the hands of the common hangman. There was no hesitation now in proclaiming that the Presbyterians were a crushed and degraded party. In the common hatred of all Puritans, the Independents were necessarily included. The one great principle of the policy of Clarendon was to re-establish the Church of England in its ancient splendour; and this desire would have been as commendable as it was natural, could it have been accomplished without a violation of those principles of religious freedom to which the royal word was pledged. But Clarendon, who in exile had been surrounded by suffering dignitaries of the Established Church, had contracted a violent hatred of the entire body of the Puritan Clergy; and he constantly speaks of them in terms of contempt, which only indicate his real ignorance of the condition of the people during the long period in which he was shut out from any intercourse with the great majority of his countrymen. With him the whole body of the non-conforming ministers were "fellows." He bitterly opposed the inclination of the king to mitigate some of the evils which the temper of the Cavaliers was ready to inflict upon them. This temper is thus accounted for by our constitutional historian: "The gentry, connected for the most part by birth or education with the episcopal clergy, could not for an instant hesitate between the ancient establishment and one composed of men whose eloquence in preaching was chiefly directed towards the common people." The gentry did "not for an instant hesitate" to deprive "the common people" of the spiritual instructors to whom they looked up with reverence; and to thrust upon them a new set of ministers who had little sympathy with their religious or political convictions. The inevitable consequence was that the indifference of "the higher classes" to all earnest principles gradually spread through the whole community; that the clergy were more intent upon preaching the doctrine of passive obedience so as to produce a nation of slaves and sycophants, than desirous of

setting forth the great truths of Christian doctrine and Christian morals, so as to separate "the common people" from the contagion of the horrible profligacy of the Court. Lauderdale related to Burnet that the king told him to let presbytery go, "for it was not a religion for gentlemen." The religion which the king and his courtiers desired, was something that would be as kind to their merits as blind to their faults; and their wishes were gratified to an extent which makes the most sincere friend of the Church of England look back with loathing at the servility, the intolerance, and the cowardice with which its hierarchy so long grovelled at the feet of tyranny and sensuality. But if Clarendon went beyond all the bounds of honest and wise statesmanship in his zeal to replace the Church in the position which it had occupied before the days of the Long Parliament, he manifested both wisdom and integrity in firmly clinging to the Act of Indemnity and Oblivion. At the opening of this Second Parliament he put the king forward to desire the confirmation of that Act, in stronger terms of entreaty than were usually placed in the mouth of the sovereign. Clarendon himself says, "This warmth of his majesty upon this subject was not then more than needful; for the armies being now disbanded, there were great combinations entered into, not to confirm the Act of Oblivion, which they knew without confirmation would signify nothing. Men were well enough contented that the king should grant indemnity to all men that had rebelled against him; that he should grant their lives and fortunes to them who had forfeited them to him: but they thought it unreasonable and unjust that the king should release those debts which were immediately due to them, and forgive those trespasses which had been committed to their particular damage."\* One example of the extent to which the passions of the Cavaliers carried them away from the high feeling which was their general characteristic is very striking. The pen of the novelist has made us familiar with the real or fancied wrongs of the house of Stanley; and there is another record not quite so enduring as the laments of Scott's Charlotte de la Tremouille: "At the earl of Derby's seat of Knowsley in Lancashire, a tablet is placed to commemorate the ingratitude of Charles II., in having refused the royal assent to a bill which had passed both Houses for restoring the son of the earl of Derby, who had lost his life in the royal cause, to his family estate. This has been so often reprinted by tourists and novelists that it passes"

\* "Continuation of Life."



current for a great reproach on the king's memory. It was however, in fact, one of his most honourable actions. The truth is, that the Cavalier faction carried through Parliament a Bill to make void the conveyances of some manors which lord Derby had voluntarily sold before the Restoration, in the very face of the Act of Indemnity, and against all law and justice. Clarendon, who, together with some very respectable peers, had protested against this measure in the Upper House, thought it his duty to recommend the king to refuse his assent.\*

The firmness of the great minister of the Restoration in maintaining the Act of Indemnity made him as unpopular with the extreme Royalists, now all-powerful, as his somewhat extravagant zeal for the Church of England rendered him odious to the Puritans, now all-humiliated. His position was one of extreme difficulty. He was an object of dislike and ridicule to Charles and his courtiers because, from his age and his character, he looked disapprovingly upon their excesses. He had become connected in a remarkable way with the royal family, by the marriage of his daughter with the duke of York. Unless he conducted himself with the most extreme duplicity, the possible injurious consequences to himself of this unequal union appear to have terrified him beyond the bounds of sanity. The mother of two future reigning queens of England, had indulged the passions of the king's brother under an alleged betrothal. Six months after the king was placed on the throne, a private marriage was avowed, and, soon after, the lady gave birth to a son. Clarendon has himself recorded that he proposed to send his daughter to the Tower; and he maintained that an Act of Parliament should be passed for cutting off her head, which he was ready himself to propose. The passion, real or feigned of the chancellor, received on encouragement from the king; and the licentious courtiers, after an attempt had been made to blacken the character of Miss Hyde, in the relation of circumstances which only the basest natures could have detailed, accepted the lawyer's daughter as a properly qualified duchess of York. The story is told in the "Memoirs of Grammont" with a dramatic force worthy of the imitation of "the dignity of history." Hamilton, the author of these Memoirs, which so completely exhibit the character of the courtiers of Charles II., in their perfect unconsciousness of their degradation, tells how the earl of Arran, Talbot, Jermyn, and Killigrew, at the desire of James himself,

Hallam, chap. xi.

each related "the particulars of what he knew, and more than he knew, of poor Miss Hyde." The duke then went into his brother's cabinet, and continued there a long while in secret conversation. The scandal-mongers remained without, in eager expectation; and when the duke came forth with marks of agitation on his countenance, they had no doubt of the result of the conference. "Lord Falmouth began to be affected for her disgrace, and to relent that he had been concerned in it, when the duke of York told him and the earl of Ossory to meet him in about an hour's time at the chancellor's. They were rather surprised that he should have the cruelty himself to announce such a melancholy piece of news: they found his royal highness at the appointed hour in Miss Hyde's chamber: a few tears trickled down her cheeks, which she endeavoured to restrain. The chancellor, leaning against the wall, appeared to them to be puffed up with something, which they did not doubt was rage and despair. The duke of York said to them, with that serene and pleasant countenance with which men generally announce good news: 'As you are the two men of the court whom I most esteem, I am desirous you should first have the honour of paying your compliments to the duchess of York: there she is.'"

Clarendon, really strengthened in power and influence by the high marriage of his daughter, met with little opposition in leading a willing Parliament to trample upon all dissent from the Episcopal Church; to restore those prerogatives of the Crown which had been set aside by the Long Parliament; and to keep alive the spirit of revenge against the republican party. The Act for the preservation of the king and government increased the strictness of the law of treason; and declared that no legislative power existed in the Parliament, except in conjunction with the king.† The Act for the command of the militia went rather beyond the constitutional principle of recognising the sole power of the Crown to command the forces by land or sea. It declared not only that neither House of Parliament could pretend to such power, but could not lawfully levy any war, offensive or defensive, against the king.‡ "These last words," says Mr. Hallam, "appeared to go to a dangerous length, and to sanction the suicidal doctrine of absolute non-resistance." Tumultuous petitioning was provided against by limiting the number to ten who should present a petition to the king or the Parliament; with some stringent regulations as to the mode of

\* "Memoirs of Grammont," Sir Walter Scott's Edition.

† 13 Car. II, c. 1.

‡ *Ibid.*, 2, c. 6.



signing petitions.\* The Corporation Act went much farther than justly attempting to restore the executive power to its due authority in the state. Mingling the political and religious principles of coercion, it required that all persons elected to corporate offices should have received the sacrament, according to the rites of the English Church, within one year before their election; and it required an oath from such officers that they believed it unlawful, on any pretence whatever, to take arms against the king; and required them to abjure the traitorous position of taking arms by the king's authority against himself or his officers.† In the municipal boroughs the supporters of the contest against Charles I. had been principally found—men equally resolved in their love of civil liberty and their hatred of prelacy. The Corporation Act put as strong a restraint upon them as an oath could effect. The restoration of the bishops to the House of Lords was accomplished without any opposition by this Parliament, in which the Presbyterians had lost all influence. The crowning measure of ecclesiastical polity was the Act of Uniformity.‡ By this Statute it was required that all the beneficed clergy, all fellows of colleges, and all schoolmasters, should declare their unfeigned assent and consent to all and everything contained in the Book of Common Prayer, as amended in Convocation and approved by the king. By another clause in this Act, episcopal ordination was required of all persons holding ecclesiastical preferments. Those of the clergy who, previous to the Feast of St. Bartholomew, 1662, had not declared their acceptance of the Book of Common Prayer, in the terms of the Statute, were to be absolutely ejected from their livings. On that day more than two thousand ministers of religion went forth into the world without any provision for their future support. They had received a striking example of conscientious integrity in the refusal of the episcopal clergy to take the Covenant in 1643.§ In that revolutionary crisis the ejected incumbents had not been wholly unprovided for; one-fifth of the income of the new incumbents having been allotted to them. Such a merciful consideration for men of piety and learning—and most of the Puritan clergy were zealous in their callings and pure in their lives—was not granted by this revengeful Parliament. Measures of absolute persecution against the ejected ministers were subsequently enacted—measures which, in their application to all non-conformity, it required a long and arduous struggle to obliterate from the Statute-book.

\* 13 Car. II. c. 5. † *Ibid.*, Session 2, c. 1. ‡ 14 Car. II. c. 4. § See vol. iii. p. 488.

## CHAPTER VII.

Scotland.—The Scottish Parliament.—Execution of Argyle.—Episcopacy restored in Scotland.—Temper of the English Parliament.—Trial of Vane and Lambert.—Execution of Vane.—Catherine of Braganza.—Marriage of the King.—Profligacy of the King and his Court.—Insurrection in the North.—Conventicle Act.—Repeal of the Triennial Act.—Dutch War.—The Plague.—The Five Mile Act.—The Settlement Act.

THE real spirit of the Restoration is more clearly illustrated by the proceedings of the government in Scotland than by its actions at corresponding periods in England. Practically, since the victory of Dunbar, Scotland had ceased to be an independent kingdom. For the true prosperity of both countries it was desirable that this union should have been continued. To give the Stuart a fair field for carrying matters with a high hand in his ancient kingdom, it was expedient again to isolate the smaller and poorer portion of the island from the larger and wealthier. Of course, when the survivors of the Committee of Estates, that had been nominated by Charles in 1651, were again called to resume the government of Scotland; when a Lord Commissioner and other high officers were appointed; when a parliament was summoned to meet at Edinburgh,—the national pride was abundantly gratified, and Charles the Second was the best of kings. The people soon found that they had to pay a heavy price for this nationality, which was to involve the loss of the civil and religious rights which were dearest to the nation.

The Parliament which met at Edinburgh on the 1st of January, 1661, has been honoured with the name of “the drunken parliament.” Burnet says, “It was a mad roaring time, full of extravagance; and no wonder it was so, when the men of affairs were almost perpetually drunk.” In England, the passions of the Cavaliers were less fierce, and were held more in subjection by the obvious danger of provoking another Civil War. In Scotland, the dominant party had no thought beyond that of keeping its opponents under its feet. Argyle, as the great leader of the Covenanters, was now to offer the satisfaction of his head for the fall of