

THE PARLIAMENTS OF GLOUCESTER.¹

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ON various occasions when I have addressed the members of the Archæological Institute upon the subject of those national councils that have been held in the cities where our own body has met, the attention has been directed rather to an examination of the particular parliaments that were convened there, and the business they transacted, than to the steps progressively leading to the formation of those important assemblies. In one instance, as at Oxford, the celebrated provisions exacted by the barons from Henry III. in the forty-eighth year of his reign (1264), naturally induced some observations upon the influence which these provisions exercised in preparing the way for a more popular kind of representation than had hitherto existed. But, beyond this, little has been said about the principle and the origin of the early conventions themselves. These assumed different powers at respective periods, and just as the crown, the nobility, and the representatives of the people possessed influence, they were termed *curiæ*, *concilia*, *colloquia*, and parliaments.

The present is a favourable occasion for taking a cursory view of these peculiar phases in our Constitutional history, inasmuch as under these different appellations the collective wisdom of the nation was at various times summoned to deliberate at Gloucester. Moreover, a difficulty that has very recently arisen with respect to the virtual jurisdiction of each house of parliament will make the examination of these questions not altogether irrelevant or unworthy of our present consideration, since it appears that in the two last parliaments held at Gloucester disputes arose of an illustrative and not very dissimilar character.

¹ Communicated to the Historical Section, at the Meeting of the Institute in Gloucester, July, 1860.

By the general class of readers of English history the earlier portions are seldom referred to after their first perusal, in consequence of many of the events recorded before the Conquest being either vaguely described, or, on examination, found so frequently resting on tradition, or doubtful authority. Besides these discouragements to its study, the interest is considerably lessened by the brief, and sometimes by the confused, manner in which transactions are recorded, though in their consequences these transactions exercise an important influence centuries later. In tracing out the origin of a law, or a custom—in searching into a question of right, of privilege, or of liberty—the slightest gleam of light is gratefully viewed. Under the hope of faintly gaining it, we gladly refer even to the obscure testimony of bygone ages, and to those monkish narratives that are perused with so much suspicion and languor. The thoughts, however, become concentrated on some particular fact, and, though the detail is contradictory, and statements of each writer at variance, we endeavour to sift the doubtful assertions of each, and then consign the obsolete authorities to their former neglect.

This is not an unfaithful representation of the manner in which the earliest assembly convened at Gloucester may be freshly investigated, and the circumstances occasioning it once more brought to our recollection. Like many other incidents in English history before the Conquest, the first perusal usually satisfies the curiosity of the reader. The minor facts soon become forgotten.

In taking a glance at what passed in England a few years before the Conquest, it will be perceived that the intimate connection that had existed betwixt the Saxons and the Danes had been severed by the death of Hardicanute, whilst the elevation of Edward the Confessor to the throne had introduced the influence of the Normans in its place. One of the chief actors in the transactions of this particular period was the celebrated Godwin, Earl of Kent. He was a person of ignoble birth, but of undoubted talents. He was acute, persuasive, and unscrupulous. As to these characteristics there will be found little difference of opinion amongst those who have examined his conduct, though it has in other respects been so very oppositely estimated by different writers that it would not be easy to pronounce upon it any

accurate judgment. Even William of Malmesbury, who lived near the period, confessed that he found great difficulties in writing his narrative, from the fact of the mutual dislike and jealousy entertained by the English and the Normans to each other. Therefore it would be useless trouble to sift the conflicting evidence that may be adduced from this and other sources. Nor is it indeed necessary to scrutinise the causes, whether just or otherwise, that placed Earl Godwin under the suspicion of the monarch he had so materially assisted.

Yet notwithstanding the important services he had undoubtedly rendered to the Confessor, by forwarding his title to the throne, and although the King had married his daughter, we find them in constant hostility. On weighing the conduct of each, it is evident that if the Earl was an aspiring, unfaithful leader, bent on the advancement of his own family, and perhaps regardless of the means by which their aggrandisement was effected, Edward, on the other hand, was a man of abject superstition, a feeble ruler, a treacherous friend. True it is that the asceticism of his life won for him the respect of his subjects, and even gained him a place in the calendar of reputed saints, though his heartless robbery and harsh imprisonment of the fair Editha, his queen, show that he had no just claims to this distinction. He was weak and unforgiving, surrounded by sycophants and Norman favourites, and so completely under their influence that on one occasion he perverted in their behalf the justice undoubtedly due to Earl Godwin.

It is owing to this circumstance that the first Witan assembled in 1048 at Gloucester.

The occasion of this assembly being called together arose from an affray that accidentally happened between the English and some Normans who were passing through Kent to their own country. Eustace Earl of Boulogne, father of Godfrey and Baldwin, Kings of Jerusalem, had married Goda, King Edward's daughter, and returning home from a visit to his father-in-law of somewhat doubtful import, a tumult broke out in consequence of the insolent way his followers behaved in demanding provisions and lodgings at Dover. One of the Earl's people was slain, and the Earl being informed of the fact, hastened with his retinue to avenge his fall, when he killed the perpetrator and eighteen others. The citizens flew to arms, and revenged themselves by the death of

twenty-one of the Normans, others being severely wounded, Eustace himself with great difficulty escaping with his life.

He immediately presented his complaints before the King, who as readily received them, since the affray had taken place in Earl Godwin's territory. The Earl of Kent was summoned before the monarch to explain, if not to atone for the assault committed by his people. Acting with more discretion than his royal master, instead of bringing his vassals to justice without hearing their own statement of the affair, he declined to proceed into Kent with an army to punish them, suggesting that only one party had been heard, and no doubt feeling, that his own people had a claim upon him for protection. Moreover, because he saw with displeasure how much the Normans were gaining in influence with the King. They separated ; the Earl of Kent paying little attention to what he too confidently imagined would be merely momentary anger. But the Norman influence had more weight with the regal anchorite, than a sense of gratitude or equity. Hence, after the conference broke up, the King commanded the whole nobility of the kingdom to meet him at Gloucester, in order that the matter might be examined by a full assembly of the Witan.²

Earl Godwin and his sons, who knew they were suspected, not deeming it prudent to come unarmed, halted with a strong force at Beverstone, near Tetbury, giving out that they had gathered their army for the purpose of checking the Welsh. But the Welsh coming before them to the Witan accused them of conspiracy, and thus exasperated the whole court against them. Upon carefully examining the narrative of William of Malmesbury, and the account as given in the Saxon chronicle from which he copied its main facts, it does not appear that Earl Godwin and his sons had any real intention of attacking the King, but had taken up arms solely for their own protection. Moreover not deeming it safe to trust themselves in his power, as well as being unwilling to place themselves in open hostility. That their intentions were misrepresented by the Welsh there can be no doubt, the measures they adopted being intentionally directed against their perfidy, and only precautionary as regarded their liege lord. This at last seems to have been under-

² Will. Malmesb. vol. i. p. 338, &c.; Hen. Hunting. l. vi.; Sax. Chris. Sub. 1048.

stood, and the Witan advised either side to abstain from violence, the King giving the peace of God and his own full friendship, as it is averred, to both parties. The royal promise, however, was not very long regarded, as a few months later in the year another Witan was summoned to London, when the Earl Godwin and his sons were banished the kingdom.

There have not been preserved any particulars as to the precise constitution of the assembly whose proceedings have just been noticed. But we may gather from similar meetings some correct idea of the principle on which the Witan was formed, and what were its functions.

The origin of these councils may be clearly traced to those meetings in the open air of which Tacitus has given so vivid a description in his *Germania*. Meetings in which he says the chiefs take counsel together, sitting down in arms, the King, the Prince, or any one, whose eloquence and authority permitted to speak, persuading, rather than commanding his hearers. There was little change from this Teutonic mode of discussion in the reign of Charlemagne, or even at the period when the Confessor summoned the Witan to meet at Gloucester. The same class of people met together, the King, the great ecclesiastics, the nobility, and the chief warriors of the realm, royal servants, and officials. No one below these ranks had a voice in the councils, nor does there appear to be any reason for the admission of inferior orders to the Gemot, when they must have been equally unfitted by want of intelligence and by their condition to take part in its deliberations. It may, therefore, be presumed that it was framed in a way most suitable to an infant state of society, and virtually embodied the germ of what in this day constitutes a Parliament. The Witan, though differing in many respects, virtually discharged several of its functions. It possessed for instance the power of enacting laws ; it had a consultative voice, declared war, formed alliances, levied and abolished taxes, as it resisted Danegeld in the reign of the Confessor, elected and deposed kings, as we see this monarch himself, chosen by the influence of Earl Godwin, whilst Sigeberht, King of the West Saxons, was removed by the Witan of Wessex in 755, from the sovereignty.³ It appointed Bishops to vacant sees,

³ Flor. Wigorn, vol. ii. p. 18 ; Kemble, vol. ii. p. 219.

as Ælfric and Dunstan to Canterbury. It passed judgment upon offenders, as the Witan convened at Gloucester to inquire into the political offences of Earl Godwin, subsequently decreed his banishment with that of his sons.⁴

Such were the powers exercised by the Witena-Gemot, during a period of upwards of 500 years. It existed when Ethelbert, King of Kent, in 596, issued his law, "*cum consilio sapientum*," was in full force in 627,⁵ when Edwin, King of Northumberland, discussed, at York, the reception of Christianity and the relinquishment of Paganism, (the Gemot embracing its doctrines as preached by Paulinus,) and continued up to 1066, when the Witan elected Harold King. It was modified, rather than entirely abrogated, when William I. occupied the throne.

At this time there undoubtedly arose, a manifest change, and very shortly the Conqueror, surrounded by his own countrymen and supporters, naturally listened rather to their counsels than to those of the people he had subdued. There still remained a deliberative body, presided over by the King, but it was formed rather out of the Royal favourites than from persons like the independent leaders who had constituted the Witan. The Anglo-Saxon influence had passed away, and we can no longer with its original force use the name they gave to their public assemblies.

A vast alteration had been made by the transfer of lands from the former possessors to the new comers. Their tenure, too, was entirely changed, so that although in reality the ancient liberties were exercised, they were exercised under considerably restricted conditions, and by a different race. The monarch assumed higher authority than his Saxon predecessors, and in lieu of the meeting of the Witan, henceforward we find him holding what Florence of Worcester more correctly designates a *curia*, or court. This court usually transacted its business on some solemn periods of the year, as at Easter, Whitsuntide, and Christmas, and usually met in the palace or royal residence. Hither resorted a confluence of prelates, barons, justiciars, and the great tenants in capite. In the sixth year of William's reign he held his court at Easter, at Winchester, when

⁴ Bedæ Hist. Eccles. i. ii. c. 5 & 9.

⁵ Illustrations of these different functions of the Witena-Gemot are given by

Mr. Kemble in his Saxons in England, vol. i., and in various parts of his Codex diplomaticus.

the dispute betwixt Lanfranc and Thomas Archbishop of York, regarding the primacy, was considered. At Whitsuntide following it was decided at Windsor. In the 19th year (1084) he held it at Gloucester. Here he kept his Christmas in great state, wearing his crown. The fact of the Conqueror wearing his crown on these three festivals is always dwelt upon by the author of the *Saxon Chronicle* and other historians as a subject worthy of note. We constantly meet with such a remark as this :—"This year the King held his court at Winchester, at Easter, and wore his crown."⁶ When, however, the *curia* met at Gloucester, in the Christmas of 1084, attended as the Conqueror was by the great men of England, archbishops, bishops, abbots, earls, thanes, and knights, we find him occupied with important business affecting both the church and the general state of the country. The court sat for five days, when no doubt that decision was taken which a few days afterwards was carried into effect. As soon as its consultations were ended the archbishop and clergy held a synod for three days more, when the Conqueror's chaplains were appointed to the sees of London, Thetford, and Chester.⁷ And this meeting being over, the King held, says the Saxon chronicler, a great consultation, and spoke very deeply with his Witan concerning this land, how it was held, and what were its tenantry. He then sent his men all over England, into every shire, and caused them to ascertain how many hundred hides of land it contained, what lands the King possessed therein, what cattle there were in the several counties, and how much revenue he ought to receive yearly from each. So very narrowly did he cause the survey to be made, that there was not a single hide or rood of land, nor, adds the writer, it is shameful to relate that which he thought no shame to do, was there an ox or a cow or a pig passed by, that was not set down in the accounts, and then all these writings were brought to him.⁸

We shall scarcely concur in the sentiments of humiliation expressed by the simple chronicler, knowing as we do from the experience of its use that the return then ordered by the Conqueror at Gloucester was in reality that record of Domes-

⁶ Madox Hist. Excheq. vol. i. p. 7.

⁷ Hoveden.

⁸ Sax. Chron.

day, so indescribably valuable. It was by far more complicated and searching than the Inquisition for Ecclesiastical Taxation of tenths by Innocent IV. or that of Pope Nicolas in the reign of Edward I., or that for the quindimes at Colchester in the first year of the 14th century, or that for the ninths in the reign of Edward III. Undoubtedly, the survey decided upon at Gloucester was, like all other enquiries of a fiscal kind, unpopular at the time, but Englishmen of the present day will not scrutinise too closely an enlightened effort to ascertain the revenues of the kingdom, when they find the history of the land they dwell upon described by its means with such remarkable detail and fidelity. They will not share the rude indignation of their forefathers, or misjudge the motives of the Conqueror's policy, when they consider its results. They will rather exult that, after a lapse of very nearly eight hundred years from the Christmas when the Conqueror, sitting enthroned in royal splendour in this city, decreed a national survey, they should still possess, even in the original freshness that bloomed on the vellum when it left the hands of the transcribers, a document that makes them familiar with the early condition of their own country. With a spirit of curiosity—nay, rather with reverent enthusiasm—the real student of history will here strive to make out the ancient divisions, jurisdictions, and franchises of his native soil, learn the various ranks of its former inhabitants, observe the different stages of feudalism and slavery, separate the waste of woodlands and forests from the spots of cultivation and fertility, discern its embryo commerce in its rough workings of the precious metals, identify the sites where the Norman church and castle were first placed, and trace the germ of liberty amongst its scattered tribes and thinly-peopled cities.

In the succeeding reign we read of the King holding his court on two occasions at Gloucester, both of them, after the custom of his father, on Christmas-day. When he came here in Lent, on his first visit in 1093, he lay so seriously ill that it was universally reported he was dead, and, being himself under the conviction that this event would soon happen, he made many resolutions how, if he were spared, he would live for the future—how he would protect the Church and enact righteous laws. But it appears that on his recovery all these religious vows were forgotten. The

lands he had granted to monasteries were resumed, and the promises neglected he had so solemnly sworn. Amongst other acts of bad faith, it may be noticed that upon Malcolm, King of Scotland, remonstrating against the encroachments of William on his territories in Northumberland, Rufus proposed that he should meet him at Gloucester to make an arrangement to settle their disputes, but when the Scottish monarch repaired thither, on the 24th of August, besides demanding that he should perform homage, he denied him an interview, and refused to ratify the conditions he had proposed.⁹ Malcolm, in fact, obtained nothing more than permission to return home uninjured.¹

The Anglo-Saxon Chronicle opens the year 1100 with these words:—"This year, at Christmas, King William held his court at Gloucester; and at Easter, in Winchester; and at Pentecost, in Westminster." But what business was transacted at Gloucester is unknown.

We pass on to the next reign, and find Henry I. holding his court here in 1123. The King sent his writs all over England desiring his bishops, abbots, and thanes to attend the meeting of his Witan at Gloucester on Candlemas-day. The first business to which they were commanded to direct their attention was the election of an Archbishop of Canterbury. After conferring amongst themselves whom they should choose, they went to the King and entreated that they might select one of the clergy for the primacy, resolving never again to have an archbishop out of any monastic order. To this Henry willingly consented. The election, however, was not effected without considerable discussion and difficulty, as the prior and monks of Canterbury, besides all the monastic orders, resisted the proceeding for two days. But being at length out-voted, the selection of William of Corboyl, a canon of St. Osyth's, was confirmed by the King and all the bishops. The monks, earls, and almost all the thanes who were there refused however to acknowledge him.

It would seem from this ecclesiastical controversy that the King did not interfere to control the proceedings of the great assembly he had called together, leaving the matter to be settled by a general ecclesiastical council. When this, however, had arrived at a decision, he gave it his approval.

⁹ Sax. Chron. sub anno; Sim. Dunelin. 218; Hoveden sub anno; Hailes, Annals

of Scotland, vol. i. p. 23.

¹ Will Malmesbury.

To the same meeting came a papal legate from the Court of Rome to demand Rome Scot, a yearly tribute of a penny from every family or household. This exaction of Peterpence arose out of a voluntary offering made by King Ina in 680 towards the maintenance of an Anglo-Saxon school in Rome. As it annually grew larger the Pope continued to demand it, till it was prohibited by the Parliament of 40 Edward III., 1366. It however existed till another Act forbade it, in the 25th of Henry VIII. (1533),² having existed upwards of 850 years; so difficult is it to abolish the payment of an obnoxious impost when it has once been established. Before the Legate took his departure from Gloucester he admonished the King for the assent he had given to the issue of the late ecclesiastical proceedings, and told him that a clerk had a right to be placed over monks, but for love of the Bishop of Salisbury, the King refused to cancel his approval. There will be no cause for surprise at the Legate's intrusive objection, when it is known that he himself was abbot of the monastery of St. Jean d'Angely, and would naturally favour his own order.

In the year 1175, Henry II. came to Gloucester, and held a great council of his nobility. William the Lion, King of Scotland, had recently done homage to Henry at York, and now he witnessed the same submission from Rees ap Griffith, Prince of Wales, which was perhaps the most important affair that marked the short sitting of the Curia.³

Passing over the intermediate reigns, as not presenting any circumstance connected with parliaments held at Gloucester, we come to the 18th of Henry III., when upon the Sunday after Ascension-day, June 4, 1234, a Colloquium was summoned. No particular change had as yet been made in the constitution of the King's Court. The great charter of liberties had indeed been both wrested from John, as well as confirmed and amplified in the present reign, and four knights had been specially summoned for a particular purpose in each of them, but as yet there had not arisen any alteration in the power, the judicature, or the formation of the Curia, or King's Court or Council. There is, therefore, no peculiar significancy in the appellation of Colloquium. It is found used on earlier occasions in the reign of Richard I.

² Parl. Hist. vol. i. p. 319.

³ Hody, Hist. Convoc. p. 233.

and implies nothing in itself beyond a convention or assembly.

It will be recollected that when Henry III. ascended the throne, he was a minor of no more than nine years of age, that William Mareschal, Earl of Pembroke, was appointed Regent, who dying three years afterwards, was succeeded in his important charge by Peter de Roches, Bishop of Winchester, and Hubert de Burgh, the Chief Justiciary. The wisdom and fidelity with which the latter minister performed his duties very soon excited the jealousy and dislike of the barons, and none of them were more active than his infamous colleague in striving to ruin him in the royal favour. He pursued his intrigues and accusations by every art that malice could invent until his purposes were accomplished. By the treacherous designs of the bishop the Justicier was stripped of his numerous manors, dismissed the court, and deserted by all the world, except two prelates and Hugh de Nevile, the Chancellor. He was even deprived of the government of Dover Castle, which he had so nobly defended against Louis IX. of France. His vicissitudes and disgrace are as remarkable, and perhaps were as little deserved as the misfortunes of any one we read of in history. Exhibiting in his conduct neither the imperiousness of Earl Godwin nor the priestly insolence of Becket, untainted by the cupidity of Beaufort, or the rapacity of Despencer, without the corruption of De la Pole, and the arrogance of Wolsey, he unjustly incurred the odium of some of their vices whilst he received their unmerited punishment in his own downfall and imprisonment. Yet his loyal attachment was undoubted, and his sense of mercy in refusing to obey the cruel behest of King John, rather an unusual virtue in the age when he lived, was celebrated, and has since formed a most touching subject in one of Shakspeare's plays.⁴

It was for the purpose of investigating the charges brought against this upright and distinguished man, that in 1234 Henry III. summoned his Colloquium at Gloucester. Few of his possessions were restored to him, but his eminent services so far received recognition that he was allowed to live without restraint, or any further dread of the King's displeasure.⁵

⁴ Carte. vol. ii. p. 43.

⁵ He passed his Christmas here this

year according to Roger de Wendover.
Flores, Histor. vol. iv. p. 289.

The next council summoned here in 24 Henry III., 1240, was mainly engaged in a convention betwixt the King and David son of Llewellyn, Prince of Wales, which, however, produced so little advantage that Henry invaded the country the following year.⁶

In the reign of Edward I. we find also two assemblies convened at Gloucester, each of which will require a few observations. Since the council of 1240 several important changes had been made in what at this time may with propriety be called a representative system. In proof of which may be mentioned the return of two knights from each county (38 Henry III.) in 1254 ; the first assembly called a Parliament, adopting a representation by twelve barons (42 Henry III.), in 1258, known as the Provisions of Oxford, the summonses of knights and burgesses (in 49 Henry III.), 1265, with other alterations that paved the way for the more comprehensive proceedings introduced by Edward I.

As those changes have been explained more fully in former contributions laid before the members of the Institute, it would be unnecessary, even if our time permitted, to pass them in review.

We will, therefore, at once consider the object and the business of the parliament Edward I., convened at Gloucester in the sixth year of his reign, 1278. The principle of extending the class of persons summoned to those assemblies had been adopted by his father in the instances just alluded to, but it was not until twenty years later that Edward, by joining the councils of the aristocracy with the intelligence and moral influence of the burgesses, strengthened the links that held society together, thus forming a union that has enabled England more than any other country in the world to keep continually improving its government, its institutions, and its laws. This wise monarch, very shortly after he returned from the Holy Land, directed his attention to correcting abuses in the administration of the criminal law, and for this purpose enacted a statute, known as the Statute of Westminster the First.⁷ In the following year he passed one relating to the office of coroner, and in 1278 turned his attention to the amendment of civil proceedings. When the parliament met here it passed the important Statute of

⁶ Rymer, *Fœder.* vol. i. p. 136 ; Carte. vol. ii. p. 72.

⁷ Printed in *Statutes of the Realm*, vol. i. p. 45.

Gloucester, which is the foundation of the present law of costs, and affects the law of England at this day. It would be usurping too much attention to analyse this celebrated act of parliament. It may be sufficient for the present purpose to say, that it forms the subject of Lord Coke's second Institute, has been examined by Barrington, and very ably commented upon by Russell in his treatise on the *Law of Costs*. Like Edward's three previous statutes, it is written in Norman French. All the rolls of the reign have been fully searched under the hope of gaining some fresh information upon the subject of this parliament, but the labour has not met with a single new illustration. All I am able to add from them to what was previously known, is that Edward I. came to this parliament from Clarendon. The Patent Rolls show, by his attestation of writs, that he was there on the 29th of July, and at Gloucester, according to the Close Rolls, on the 3rd of August, remaining here till the 16th, when he passed by way of Leominster and the intermediate places to Shrewsbury and Rhudland, being his first visit into Wales.

On the second occasion of a Parliament being held at Gloucester (15 Edward I.) in 1287, the object was to make arrangements for punishing the hostile incursions of Rees ap Meredith, Prince of Wales, but beyond this no business of importance was transacted.

A century must now be passed over before there is any notice of another Parliament being held at Gloucester; yet during this century the representative system had become completely determined. Some most important questions of right were settled in the reign of Edward II., as, for example, at York, all matters affecting the estate of the King, as well as of the realm and people, were ordained to be treated of and established in Parliament by the King and by the assent of the nobility and commonalty of the realm. In the reign of Edward III. the personal privileges of the peers were recognised.⁸ The Commons had gradually established the power of controlling the national expenditure, assessing tallages (6th Edward III.), and declining to grant subsidies for the King's necessities, without consulting those whom they represented. This was in full accordance with the law of the

⁸ Rep. Dign. Peer, vol. i. pp. 309, 322, 323.

kingdom as now established.⁹ Without expanding the inquiry into the constitutional advancement that had been reached by the close of this reign, it is sufficient to have stated these few important facts, as they will of themselves demonstrate the increased power of the Commons.

The independence, as well as the augmented authority, of this branch of the legislature were completely asserted in the two last Parliaments that remain to be examined.

This is very apparent in the one held at Gloucester in the second year of Richard II. (1378), when we find amongst the petitions¹ one from the Commons requesting the King to inform them in what manner the large sums had been expended during the wars of the late reign. Though the petition was answered in a manner that showed a disapproval of such kind of inquiry—answering, but, at the same time protesting against, the demand—yet the fact itself is very significant. It proves how completely the relative power of the highest and the lowest estates of the realm had become altered. There was, moreover, a difference of opinion betwixt the Lords and the Commons as to the way in which the accustomed wages of members of Parliament ought to be levied, the Peers answering very firmly that they would not depart from their ancient liberty and franchise.² On this occasion, the Commons met in the chapter house in the great cloister in the abbey, at eight in the morning.

The dispute which had thus commenced regarding the privileges and jurisdiction claimed by each house was still further extended in the last Parliament that sat at Gloucester.

When it met here in the 9th of Henry IV., 1407, the Commons besought the King to assign certain lords, whom they named, to commune with them on the business of the meeting, a request that had been made and granted on former occasions, but in addition to this, the Lords now evinced the desire of obtaining peculiar privileges, more particularly striving to control all the pecuniary grants to the Crown. The Lords being assembled in the royal presence, were desired to state what aid they deemed necessary for the public service, and having replied that it would require a tenth and a half from the cities, and a fifteenth and a half

⁹ At this time the Convocation of the Clergy formed no part of the legislative body, except the object of the King was

to obtain an aid from them. *Id.* p. 37.

¹ Rot. Parl. vol. iii. p. 35, No. 20.

² Rep. Dig. n. Peer, vol. i. p. 336.

from other laymen, besides a subsidy of wool and other duties for two years, the King then sent this message to the Commons. The Commons, however, did not feel disposed on their part so readily to entertain the Lords' proposition ; for the King having commanded them to send to himself and the Lords a certain number from their body to hear and report what he should ordain, and the Commons having received the communication they were greatly disturbed, and unanimously declared the proceedings were to the great prejudice and derogation of their liberties. Thus distinctly claiming as the representatives of the people that all grants for aids must originate with their branch of the legislature, and not with the upper house.

Whether this assumption of power was consistent with previous forms, whether it agreed with that clause in *Magna Charta* that decreed that no scutage or aid should be given excepting by the Common Council of the kingdom (the clause was omitted in the two subsequent confirmations),³ whether it was a departure from the provisions established at the Parliament of Oxford in 1258, will now be matter of little consequence as the authority of the Commons, either in making or in sanctioning pecuniary grants was by this transaction henceforward fully established.

This collision between the Lords and the Commons also gave rise to the ordinance that in all future Parliaments the Lords should have full freedom of debate amongst themselves ; in an equal way also that the Commons should discuss all matters relating to the realm without disclosing them to the King before they had arrived at a mutual decision, and that that decision should only be made known to the King through the voice of the Speaker.

A recent Report on Privileges⁴ has, after a lapse of four centuries and a half, invested this last Parliament that sat for six weeks at Gloucester with fresh value. It has been appealed to as the chief authority for passing Bills of Supply. Upon its practice have been founded a series of resolutions marked equally by their dignity and independence which have asserted the authority of the House of Commons to

³ Parl. Hist. vol. ii. p. 110. Stephens, vol. i. p. 136.

on Tax Bills : ordered to be printed 29th June, 1860.

⁴ Report from the Select Committee

impose and remit taxation. On the occasion referred to the Prime Minister moved the following resolutions :—

1. That the right of granting aids and supplies to the Crown is in the Commons alone as an essential part of their constitution, and the limitation of all such grants, as to the matter, manner, measure, and time, is only in them.

2. That, although the Lords have exercised the power of rejecting Bills of several descriptions relating to taxation by negating the whole, yet the exercise of that power by them has not been frequent, and is justly regarded by this House with peculiar jealousy, as affecting the right of the Commons to grant the supplies and to provide the ways and means for the service of the year.

3. That to guard for the future against an undue exercise of that power by the Lords, and to secure to the Commons their rightful control over taxation and supply, this House has in its own hands the power so to impose and remit taxes, and to frame Bills of Supply, that the right of the Commons as to the matter, manner, measure, and time may be maintained inviolate.

The proceedings of the Parliament itself are fully detailed upon its Rolls. They are not only the most important that occupied the time of the King, the Barons, and the Commons in any assembly that was convened here, but they may be deemed a noble, and it may be hoped not an imperfect and futile, completion of that fabric of constitutional liberty which we have seen progressively rising out of the ruins of absolute monarchy and feudalism. A fabric that has been built by the influence of public opinion—of opinion varying in its shades as much as the tones reflected by a crystal prism—and, like that translucent object, blending the rays of three distinct, and, it may be said, of three symbolical colours, into union and harmony. The very antiquity of this fabric, which renders it so venerable, consecrates it to our protection. Yet like other ancient structures, it ought to be repaired when decayed—extended to meet the increasing wants of the people—adapted to their growing intelligence—and rendered suitable to the improvements of a more enlightened period. Cautious and timely reforms will most effectually promote the best interests of liberty.⁵ It is only

⁵ The classical reader will hardly have forgotten what Cicero wrote on the kin-

by being thus vigilantly watched by the constituencies—guarded by the votes of unfettered members—and by being gradually amended, that it will escape the ruthless hands of tyranny and of violence. Thus protected by those whose duty it is to keep it alike untouched by the influence of corrupting agencies, and from the debasement of servile compliance, it will be continually fostered by the Divine care, and remain secure and stately through succeeding ages.

“Impartial justice from our throne shall shower,
All shall have right, and we our sovereign power.”

dred subject of improving the laws of a country, “Non vides,” says he, in his *De Oratore*, “veteres leges aut ipsa sua

vetustate consenuisse, aut novis legibus esse sublatas.”