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Opposition in the House of
Commons in 1610

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ABSTRACT

After three sessions in which other matters had obscured the growing differences between the King and the Commons, James I's first parliament reassembled in 1610. Opposition now had an opportunity to express itself and, although not yet organized on party lines, the coincidence of various interests united members. Notable advances were made in matters of procedure and freedom of speech while the King, the government, and the Church were forced on to the defensive. Inherent in all the reasons for opposition was the fear that arbitrary government might be extended, a fear which James' actions helped to increase. Though at first sometimes willing to compromise, the failure to obtain satisfactory redress of grievances hardened the opposition's attitude. Thus, although at the dissolution the opposition had had few obvious victories, they had gained experience, unity, and a sense of purpose which would be invaluable in their mounting struggle against the Crown.

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OPPOSITION IN THE HOUSE OF COMMONS IN 1610

by

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PREFACE

Ever since the appearance of Wallace Notestein's essay, "The Winning of the Initiative by the House of Commons," in 1924 historians have approached early Stuart parliaments with renewed interest. Following Professor Notestein's lead, D. H. Willson published in 1940 his masterly analysis of The Privy Councillors in the House of Commons, 1604-1629. Though including far more than just the role of the privy councillors, Professor Willson examined these parliaments from the point of view of waning government control rather than of waxing Commons' initiative, an adequate account of the latter remaining as yet unwritten. Not that this aspect of Notestein's essay has gone unnoticed. In fact, the idea of mounting Commons' opposition has been so accepted that the reasons behind it have been often examined. Despite the accumulation of new material published in the last forty years, however, the phenomenon itself continues to be but sketchily recorded.

Confined by the limits of the two sessions of 1610, therefore, it is the purpose of this paper to examine the phenomenon of opposition in that year. Attention is given to the scope and organization of

opposition which, in turn, leads to speculation on the reasons behind this development. Most important, it seems, was not one cause but the coincidence of several interests, notably religious, constitutional, economic, and legal, which provided unity among various groups in the Commons. Thus, although one cannot speak of an opposition party, the role of individuals is minimized, attention focusing first on the issues which consolidated opposition to the government and, second, on the ways in which this opposition expressed itself. If the other conclusions reached here are less definite than one might have hoped, this is only to be expected from a study of the early stages of a movement.

In trying thus to strike a balance between what happened and why it happened, two main methods are used. In Chapters II and III, where the recurrence of certain patterns suggests opposition tactics or mentality, an analytical approach is adopted. The interaction between different events is thus forfeited but it is hoped that the inclusion of key dates will remind the reader that these events were not taking place in a vacuum. The most important interactions, however, occur in Chapters IV and V, where the narrative becomes chronological, the emphasis there being not only on the organization and effect of the opposition

but also upon its marked increase after the summer recess.

A word should perhaps be added to explain the choice of the year 1610. After three sessions in which early loyalty, the Gunpowder Plot, and the debate on the Union with Scotland, had obscured the expression of a more general opposition, members reassembled in 1610 disillusioned by seven years of Stuart rule and with nothing to prevent them from making this clear. Opposition, therefore, had an opportunity to express itself and, as will be seen, it did so forcefully. This, however, is by no means an original choice. William Craig Metcalfe, for example, submitted a thesis on The Parliament of 1610, A Study in the Stuart Conflict in 1959. A new point of view, however, is never a bad thing, and the publication in 1966 of two volumes of documents relating solely to the parliament of 1610 completely justifies a new approach. Elizabeth Read Foster has made an excellent editor; well-indexed, amply annotated, compared with already published sources, her documents have filled many unexplained gaps and amplified enormously the information already collected. The documents are particularly revealing concerning work in committees and, although one may still regret the loss of the Commons' journals for the fifth session, the

destruction of the privy council records for this period, and the fact that the last volume of the calendar of Hatfield House manuscripts has not yet been published, one cannot but rejoice that so much new material and sources otherwise only available to the first-hand researcher, have been brought to light.

The Old Style of dating is used throughout this paper with only one exception: dates on dispatches from the Venetian ambassador are not altered, the abbreviation, N.S., being added to indicate that he computed dates by the New Style. To avoid possible confusion resulting from the fact that in the seventeenth century the year began on March 25, both years are given for dates from January 1 to March 24. Thus the fourth session of James I's first parliament which assembled on February 9, 1609 for the seventeenth century, but on February 9, 1610 in modern terminology, is said to have assembled on February 9, 1609/10.

Finally, a word of thanks to all those who have helped me to complete this thesis. The librarians of Redpath Library, especially those dealing with Inter Library Loans, have been most helpful when books have proved hard to find. Mrs. de la Ronde has typed the manuscript. My deepest debt, however, is to my

director, Dr. M. P. Maxwell, who has given me constant advice and encouragement. The faults, of course, are all my own.

TABLE OF CONTENTS

	<u>Page</u>
PREFACE.	ii
CHAPTER	
I INTRODUCTION.	1
II PRIVILEGE AND PROCEDURE	31
III RELIGION AND THE COMMON LAW	62
IV IMPOSITIONS AND LIBERTIES	116
V SUPPLY AND SUPPORT.	144
VI CONCLUSION.	190
BIBLIOGRAPHY	198

CHAPTER I

INTRODUCTION

The death of Elizabeth and the accession of James I undoubtedly mark a turning point in the history of English political development, yet it would be a mistake to trace the origins of the Commons' opposition of 1610 no further back than 1603. During Elizabeth's reign the Commons had become increasingly aware of their privileges, of the importance of procedure, and of the ways in which the government was trying to "manage" them. Like the Commons of 1610, they had attacked the prerogative, had organized themselves for the attack, and had refused to consider subsidies before grievances were redressed. Few, indeed, of the grievances raised in 1610 were new, many having been first introduced in Elizabethan parliaments. Moreover, the high point of Elizabethan Puritanism had passed long before James came to the throne, a predominantly secular attitude, such as was apparent in 1610, being noticeable after about 1593.¹ The purpose of this chapter, therefore, is to examine why opposition became overt in 1610, how the government

¹J. E. Neale, Elizabeth I and her Parliaments, I and II, paperback edition, London, 1965. See especially II, 434-439.

lost the initiative in the Commons, and, finally, having established the existence and convergence of different types of opposition by 1610, to ask whether this opposition was conscious and could, in any sense, be regarded as a party.

Although the Commons had begun to press for more power for themselves during Elizabeth's reign, three factors had acted as unifying forces upon the country: fear of foreign invasion was connected with fear for religion, and fear of a disputed succession combined both of the former with fear of civil war. Unluckily for James, his accession and early policy caused these factors to disappear; so completely, in fact, that one is surprised how little the Commons of 1610 were influenced by memories of the Gunpowder Plot, the Irish Rebellion of 1608, or even the assassination of Henry IV of France which occurred in 1610 itself. James' accession removed the fear of a disputed succession, his policy brought the war with Spain to an end, and, at least until about 1614,² trade was flourishing. Moreover, whatever one may think of the various theories concerning the position of the gentry,

²B. E. Supple, Commercial Crisis and Change in England, 1600-1642, Cambridge, 1959, Chapter I.

it is undeniable that this class was no longer content to play an inarticulate role where matters which directly affected it were concerned. Whether they were on the offensive or on the defensive, however, is another matter.

Some knowledge of the personnel of the House of Commons is important in any investigation of opposition, yet no detailed analysis will be offered here. In the first place, this subject deserves a study in itself; secondly, existing accounts demonstrate the pitfalls into which professional historians can fall when attempting to analyse personnel;³ thirdly, and more

³D. H. Willson, The Privy Councillors in the House of Commons, 1604-1629, Minneapolis, 1940, gives information on royalist supporters. W. M. Mitchell, The Rise of the Revolutionary Party in the English House of Commons, 1603-1629, New York, 1957, draws some interesting conclusions about opposition members, but his findings should be used with care. T. K. Rabb, The Early Life of Sir Edwin Sandys and Jacobean London, unpublished Ph.D. thesis, Princeton, 1961, and "Sir Edwin Sandys and the Parliament of 1604," American Historical Review, LXIX, 1963-64, 646-70, gives some interesting information on the influx of the gentry into trade, though his conclusions are questioned by R. Ashton, "The Parliamentary Agitation for Free Trade in the Opening Years of the Reign of James I," Past and Present, XXXVIII, 1967, 40-55. H. Hulme, A Study of the Personnel of the House of Commons, 1604-1629, unpublished Ph.D. thesis, Cornell, 1925, unfortunately uses his research to construct a composite life. The complications which Hulme encountered, however, lead one to conclude that exceptions are likely to be found to any generalization, and B. Manning, "The Long Parliament and the English Revolution," Past and Present, V, 1954, 71-6, points out some of the pitfalls into which professional historians can fall when dealing with personnel.

relevant from the point of view of opposition in 1610, this parliament had been sitting since 1604, with only some changes in membership brought about by bye-elections, and therefore personnel cannot account for the heightened opposition of 1610; fourthly, cursory observations make one question the validity of conclusions based merely on class or economic circumstances. In general, then, members of parliament represented the gentry, lawyers, merchants, and other prominent men in their localities. Neither class nor position at court proves an infallible guide to their behaviour. Sir Francis Bacon, for example, was a spokesman for the Crown -- he hoped for preferment under James and eventually got it, but his earlier failure might just as well have turned him to the opposition⁴ -- on the other hand, his half-brother Sir Nathaniel Bacon supported the opposition.⁵ The Montagues provide another example of brothers with different opinions: Sir Henry spoke for the government,⁶

⁴See the article on Bacon in The Dictionary of National Biography, II, London, 1885.

⁵Journals of the House of Commons, I, n.p., n.d., 424, 439; S. R. Gardiner, ed., "Parliamentary Debates in 1610," Camden Society, LXXXI, London, 1862, 135-6.

⁶Willson, Privy Councillors, 106.

Sir Edward usually for the opposition.⁷ Sir Robert Phelps, son of the Speaker Sir Edward, did not speak at all in 1610 but was later to become a recognized leader of the opposition.⁸ Lack of preferment may have induced some members to join the opposition in order to gain the attention of the government, Sir John Holles is an example;⁹ on the other hand, Sir George More, who seems to have supported the government in 1610, is called by D. H. Willson "a fine type of courtier-officeholder,"¹⁰ although W. M. Mitchell finds enough evidence to class him among the opposition.¹¹ Sir Edwin Sandys, who emerges as one of the leading opposition figures in James' first parliament, was the son of an Archbishop of York and seems to have lost government favour after -- not before -- he joined the opposition.¹² On the other hand, in 1614 Sir Edward Phelps was prepared to use his influence to procure a

⁷Eg. E. R. Foster, ed., Proceedings in Parliament 1610, II, House of Commons, New Haven, 1966, 84-5 [Add. 48119, fol. 152v.], 326 [Add. 48119, fol. 203], 392 [Portland 29/702, fol. 75]. This work will hereafter be cited as Foster, II.

⁸E. A. Farnham, "The Somerset Election of 1614," English Historical Review, XLVI, 1931, 580.

⁹Willson, Privy Councillors, 117; A. Thomson, "John Holles," Journal of Modern History, VIII, 1936, 150-1.

¹⁰Willson, Privy Councillors, 109.

¹¹Mitchell, Rev. Party, 27, 42, 44, 48, 54.

¹²Rabb, Thesis, 62-3.

seat for him.¹³ Clearly, therefore, much further investigation is necessary before anything definite can be said about the relation between a man's politics and his class, economic circumstances, or ambitions in 1610.

Taking into account, then, the fact that men in the seventeenth century, as in the twentieth, might be influenced by hope of preferment or feel sympathy for the aims of members of the same class, one must ask whether, after all, there were not more important ideals and issues which might cut across such considerations. Explanations of behaviour in such terms are on much safer ground for, while personnel was practically constant, the pressure of external events might be expected to influence or even change the attitudes of individuals. Moreover, a glance at the years preceding 1610 shows that there were reasons why opposition should have come to a head in that year. That some type of opposition to the Crown existed in 1604 is undeniable and, romantic as it sounds, there is surely much truth in the view that the Commons were waiting for the old Queen to die before asserting their position.¹⁴ On the other hand, early loyalty, the

¹³Farnham, "Somerset Election," EHR, XLVI, 1931, 281n.

¹⁴S. R. Gardiner, History of England from the Accession of James I to the Outbreak of the Civil War, 1603-1642, I, London, 1884, 170.

Gunpowder Plot, and the discussion of the Union with Scotland prevented a full-scale attack from being launched against the King in the first three sessions of this parliament. Meanwhile, the King's character and the financial crisis in which he found himself, two factors which will be discussed below, seriously aggravated the existing tendency towards opposition and the Commons' exasperation with, and distrust of, their King. Under these circumstances, it was natural that members would unite in common antagonism to the Crown and that certain attitudes of thought, with the principles which they implied, should have become more important.

First, and perhaps most obviously, is the question of the importance of religious ideals to members of parliament in and before 1610. The old view of an ever-expanding Puritan fervour from the days of Elizabeth has now been rejected.¹⁵ Some stalwarts, such as Nicholas Fuller and Sir Francis Hastings, still remained, but the tone of most speeches in 1610 was not fanatical. This is not to say that members were not religious, nor that they did not care how they worshipped, but the "enthusiasm" of earlier parliaments

¹⁵J. P. Kenyon, ed., The Stuart Constitution, 1603-1688, Documents and Commentary, Cambridge, 1966, 125.

is absent -- a change of attitude which Neale finds after about 1593¹⁶ and which was certainly obvious in 1604.¹⁷ Moreover, as the activities of Sir Herbert Croft demonstrate, opposition to prerogative could be linked with Roman Catholic as well as with Puritan sympathies.¹⁸ On the other hand, although most people had by this time accepted the established Church and thought in terms of reform from within rather than of the establishment of a new system, many members of parliament felt that this reform should be carried out by parliament, not by the bishops and convocation.¹⁹ This bid to usurp control of the Church, which was a legacy from Elizabethan parliaments, both became more important and won the support of members whose main interests were not religious because of Archbishop Bancroft's attempts to enforce conformity and to reform admitted abuses in the years after 1604. His efforts, which were opposed as much in the law courts as in the House of Commons, aroused both the supporters of common

¹⁶Neale, Eliz and her Parltts, II, 370-1, 436.

¹⁷Rabb, "Sandys," AHR, LXIX, 1963-64, 648.

¹⁸By 1615 Croft had become a Catholic recusant. J. E. Neale, The Elizabethan House of Commons, revised paperback edition, London, 1963, 32; Mitchell, Rev. Party, 52-3.

¹⁹Kenyon, Stuart Constitution, 128.

law and those with vested economic interests in the existing system of Church revenue, as will be seen in Chapter III. Thus, in 1610, in a parliament the majority of whose members were probably content to remain within the Anglican Church, the Commons united in a concerted campaign against the Church hierarchy.

If religious enthusiasm no longer swayed the majority of the Commons by 1610, the attitudes typical of common law thought provided a partial substitute for it. The importance of the lawyers as a special group in the Lower House is demonstrated by many orders for their attendance²⁰ and by the fact that the important debate on impositions was carried out almost entirely by them.²¹ Added to this, one should bear in mind that many members who were not actually practicing lawyers had probably spent some time in one of the Inns of Court,²² while no legal training was necessary for a man to realize that without the protection of common law his religion, rights, and more directly, his property might be threatened. Moreover, the reality of

²⁰CJ, 394, 403, 412, 420, 421, 428, 429, 437, 440, 441, 442, 443, 444.

²¹S. R. Gardiner, History of England from the Accession of James I to the Outbreak of the Civil War, 1603-1642, II, London, 1883, 75.

²²Hulme, Thesis, 97.

this threat had been emphasized in the years preceding 1610 when, for example, the bishops, through the ecclesiastical commission, enforced conformity by means illegal at common law, when the King used the decision of a prerogative court to justify unparliamentary taxation, or when he created new offences by proclamation.²³ The royal prerogative was admittedly extensive and it had already become unpopular under Elizabeth. Its use by the Stuarts, often as a means of raising money, seemed to threaten rights which Englishmen, fostered in the common law tradition, liked to think of as based on ancient and immemorial custom.²⁴

This brings one back to the problem of the King's views and character. It has become unfashionable to believe that character can change the course of history and, in deference to this opinion, one must admit that the problems of James' reign went much deeper than the personality of the King. On the other

²³Eg. by the ex officio oath. See M. H. Maguire, "Attack of the Common Lawyers on the Oath Ex Officio as Administered in the Ecclesiastical Courts in England," Essays in History and Political Theory in Honour of Charles Howard McIlwain, Cambridge, Mass., 1936, 216-7; F. C. Dietz, English Public Finance, 1558-1641, II, 2nd edition, London, 1964, 368-9; Foster, II, 259-261 [SP 14/56/part 2].

²⁴J. G. A. Pocock, The Ancient Constitution and the Feudal Law, Cambridge, 1957, 37.

hand, the task of the government was made doubly difficult because of the lack of confidence in the King which had accumulated in the Commons by 1610, and, for this reason, his character should be taken into account.

James was thirty-seven when he came to the English throne, already an experienced and successful king in his own country, and already a firm believer in the divine right of kings.²⁵ Unfortunately, although he was statesman enough to realize that his exalted theories of kingship could not always be put into execution, James had a passion for expounding his beliefs. As early as 1604 this had led to a clash between the King and his Commons. The Commons' Apology, although never presented, is an example of the type of claims which the Commons wished James to accept and which, as his earliest speeches had already shown, he had no intention of accepting. At the same time, this document mirrors a fear, far more obvious by 1610, that James would try to extend the prerogative for, so the Commons claimed: "The prerogative of princes may easily and do daily grow: the privileges of the subject

²⁵D. H. Willson, King James VI and I, paperback edition, London, 1963.

are for the most part at an everlasting stand."²⁶ Thus, from the beginning of the reign, there existed a misunderstanding between the King and the Commons which James' later declarations did nothing to allay. One of James' speeches in 1610, for example, has been called by a modern historian: "probably the most complete exposition of the King's views of the divine nature of kingship."²⁷ Another speech of that year caused a contemporary to report that

it bred generally such discomfort to see our Monarchiall Power and Regal Prerogative strained so high, and made so transcendent every way, that yf the Practise should follow the Positions, we are not likely to leave to our Successors that freedome we received from our Forefathers; nor make account of any thing we have, longer than they list that govern.²⁸

It is no wonder, therefore, that James' theories bred suspicion long after the practical concessions which accompanied them had been forgotten. Moreover, the King's theorizing encouraged others to follow his example; his supporters did so and, as the reaction in

²⁶G. W. Prothero, ed., Select Statutes and Other Constitutional Documents Illustrative of the Reigns of Elizabeth and James I, 4th edition, Oxford, 1913, 289. For a comment on the importance of the Apology in 1610 see G. E. Aylmer, "Americans and Seventeenth-Century Parliament-Men," History, LII, 1967, 289n.

²⁷C. H. McIlwain, ed., The Political Works of James I, Cambridge, Mass., 1918, xxxvn.

²⁸Chamberlain to Winwood, May 24, 1610, Sir Ralph Winwood, Memorials of Affairs of State, III, London, 1725, 175.

1610 to Bate's Case, Cowell's Interpreter, and the statements of the bishops show, this added fuel to the Commons' fire;²⁹ his opponents did so and, as the petitions of 1610 show, they thus clarified their position.³⁰

The conflicting natures of James' and the Commons' theories which had caused a misunderstanding in 1604, had, by 1610, produced a permanent attitude of mutual distrust -- the King believing that he must defend his prerogative against the encroachments of parliamentary privilege; the Commons believing that they must increase their powers against the encroachments of arbitrary government. Both sides have been seen as the aggressor by different historians.³¹ It seems nearer the truth, however, to say that each side was both aggressor and defender, each defending itself by increasing its claims at the expense of the other and thus perpetuating the vicious circle. Certainly in 1610, the Commons felt as threatened by the extension of arbitrary government as Lord Ellesmere did by the

²⁹See below, pp. 132, 98-100, 77.

³⁰CJ, 431-2; Foster, II, 254-71. [SP 14/20/57 and SP 14/56/part 2].

³¹See M. A. Judson, The Crisis of the Constitution, New Brunswick, 1949, 274.

Commons' encroachment on prerogative.³² At the same time, the Commons' attempt to control the Church was as unwarranted as the excessive use of prerogative. Moreover, since there was no arbitrator to judge between the two contenders, it became necessary to formulate a viable theory of sovereignty.³³ This had been unnecessary under Elizabeth, partly because of her skill in handling parliament, partly because the issues had not yet been defined; few were aware that the solution lay along these lines in the early years of James' reign. Nevertheless, by 1610, the problem was beginning to be recognized. James Whitelocke was an early exponent of a theory of the sovereignty of king-in-parliament,³⁴ and Thomas Wentworth, though suggesting no solution, realized the dilemma when he said: "If the king have a power over the laws, we cannot have

³²See below, especially Chapter IV; E. R. Foster, Proceedings in Parliament 1610, I, House of Lords, New Haven, 1966, 276-283, [Ellesmere 2599]. This work will hereafter be cited as Foster, I.

³³Compare the views of J. D. Eusden, Puritans, Lawyers, and Politics in Early Seventeenth-Century England, New Haven, 1958, 149-50, 155-60, 173; Judson, Crisis, 6-8; G. L. Mosse, The Struggle for Sovereignty in England, From the Reign of Queen Elizabeth to the Petition of Right, East Lansing, 1950, 6, 83, 88, on this much disputed topic.

³⁴Cobbett, Complete Collection of State Trials II, 1603-1627, London, 1809, 481-3 where the speech is incorrectly ascribed to Yelverton [Gardiner, Parl Debs, 85 n.b., 103 n.a.]; F. Thompson, Magna Carta; Its Role in the Making of the English Constitution, 1300-1629, Minneapolis, 1948, 254; Judson, Crisis, 86-7.

security, therefore we must see if the law can bind the king, then it may be."³⁵ At least one lord also understood the nature of the problem when he admitted: "the Kinge will not acknowledge his prerogative to be inferior to the lawe, and theirfore noe good assurance . . . can be made but his prerogative will be above it."³⁶

If James' theories, delivered in the irritating tone of a lecturer who believed himself to be the father of his people, gave ample cause for suspicion, his action, both before and even during 1610, gave more. It was unlikely that the Commons in 1610 would forget that in 1606 they had granted subsidies on the assumption that grievances would be redressed, only to find many of the answers to their petition unsatisfactory,³⁷ and, in some cases, no redress where redress had been promised.³⁸ In part, this was due to James' laziness, the same attitude being obvious after

³⁵Foster, II, 393-4 [Portland 29/702, fol. 76v.].

³⁶Historical Manuscripts Commission, 78, Report on the Manuscripts of the Late Reginald Rawdon Hastings, Esq., IV, London, 1947, 227.

³⁷James' answers to the grievances of 1606 are in CJ, 316-8. For the Commons' dissatisfaction in 1610 see especially the speeches of Sir Maurice Berkeley, Sir John Savile, and others on June 14 [CJ, 439; Foster, II, 146-7 (Add. 48119, fol. 182)].

³⁸The answers to complaints about Lord Danvers' suit and sealing of new draperies both contained promise of remedy which, the Commons claimed, had not been effected by 1610 [Foster, II, 146 (Add. 48119, fol. 182), 268-9 (SP 14/56/part 2)].

the Hampton Court Conference,³⁹ but there also seems to be some truth in the Commons' suspicion that James would make promises which he did not intend to fulfil to the letter. Such fear was particularly prevalent after the failure of the Great Contract in the fifth session, when the view that James had never intended the Contract to be concluded was widespread.⁴⁰ E. R. Foster goes so far as to say that "lack of confidence in the crown was perhaps the basic reason why the Contract failed."⁴¹ James' behaviour had certainly encouraged these suspicions for, apart from his other faults, the King was easily influenced both by people and events. Thus a loan from the City of London encouraged him to make impossible demands, financial worries caused him to give token support to the Contract, and general dissatisfaction with the Contract negotiations fostered his belief in alternative solutions.⁴² Indeed, as

³⁹M. Curtis, "Hampton Court Conference and its Aftermath," History, XLVI, 1961, 13.

⁴⁰Foster, II, 332 [Add. 48119, fol. 206v.]; More to Trumbull, Nov. 22, 1610, Historical Manuscripts Commission, Report on the Manuscripts of the Marquis of Downshire, II, London, 1936, 396; H. S. Scott, ed., "The Journal of Sir Roger Wilbraham," Camden Miscellany, X, London, 1902, 105.

⁴¹Foster, I, xx.

⁴²See below, pp. 156-7, 21-2, 174.

early as June 10, it was reported that James was "so distracted with variety of opinion, from a number about him, especially Scots, that though he would, he cannot resolve that he desires, which is the cause that, as often as he can, he absents himself the town."⁴³

Such behaviour in the King was not only an impediment to the government, who could neither rely on his presence in time of crisis, nor on his unfaltering support and leadership,⁴⁴ but it also encouraged the Commons in their mistrust and lent force to their complaints against the Scots -- complaints which had been raised in 1607,⁴⁵ and were renewed vigorously during the fifth session.⁴⁶ James was the type of

⁴³Calvert to Trumbull, June 10, 1610, HMC, Downshire, II, 489.

⁴⁴Contemporaries noted that nothing could be concluded because of the King's absence on May 2 [Beaulieu to Trumbull, May 2, 1610, Winwood, Memorials, III, 153] and on July 17 [Carleton to Edmondes, July 17, 1610, T. Birch, The Court and Times of James the First, I, London, 1848, 128]. His absence on May 11 caused the uproar about messages [CJ, 427], and Salisbury's task was made extremely difficult by the King's absence during the end of the fifth session [see James to Salisbury and Sir Thomas Lake to Salisbury, Calendar of State Papers, Domestic, 1603-1610, LVIII, London, 1857, 644-50; J. Nichols, The Progresses, Processions, and Magnificent Festivities of King James I, II, London, 1828, 370-1; Foster, II, 345-6n.; Willson, Privy Councillors, 111n.; D. H. Willson, "Summoning and Dissolving Parliament," American Historical Review, XLV, 1939-40, 282-3].

⁴⁵Gardiner, Hist., I, 330-1.

⁴⁶The French ambassador noticed this connection in November [Foster, II, 345n.]. The Commons had

person about whom rumours quickly spread -- his attitude towards proclamations, Cowell, the common law, and the Contract, all reached the Commons in unfavourable light in 1610⁴⁷ -- and his largess to the Scots⁴⁸ at a time when he was practically begging the Commons for money was extremely tactless. Thus the effects of the King's personal failings, which had bred suspicion before the opening of the fourth session in 1610, continued until the dissolution to have an adverse, and not surprising, effect on the Commons. The consequences, however, would not have been nearly so drastic if James had not been known to be in acute financial embarrassment. This factor not only gave the Commons an important weapon against the King, but had also been responsible for several of their grievances.

How far the dire financial circumstances in which the King found himself can be blamed on James is

complained about the King's extravagance as early as February 19 [Gardiner, Parl Debs, 11] but it was not until the fifth session that their anger with the Scots was openly expressed [Foster, II, 344 (Add. 48119, fol. 212), 344n., 345n., 346n.; More to Winwood, December 1, 1610, Winwood, Memorials, III, 236].

⁴⁷Foster, II, 22; [Harl. 777, fol. 10v.]; Edmondes to Trumbull, March 8, 1610, HMC, Downshire, II, 257-8; McIlwain, Works, 310; Edmondes to Trumbull, April 5, 1610, HMC, Downshire, II, 271; Beaulieu to Trumbull, April 19, 1610, HMC, Downshire, II, 279.

⁴⁸Correr to the Doge and Senate, July 14, 1610, N.S., Calendar of State Papers, Venetian, 1610-1613, XII, London, 1905, 12; Dietz, English Finance, II, 107; Gardiner, Parl Debs, xiii-xiv.

a question for economic historians to determine. Even after the price revolution, Elizabeth's debts, the extraordinary expenses resulting from the accession, the size of the royal family, and other mitigating circumstances have been taken into account, recent research substantiates contemporary suspicion that royal extravagance was largely responsible for James' financial predicament.⁴⁹ There can be no doubt, however, that the royal debts were large. As J. R. Tanner has pointed out, the King's plight was responsible for a vicious circle which developed between the Stuarts and their parliaments. Parliament traditionally only supplied money for extraordinary expenses; the Stuarts' need for money for ordinary expenses forced them to challenge this principle and to call frequent parliaments. The calling of frequent parliaments, in turn, enabled opposition to organize itself and, aware of the King's poverty, members could press for redress of grievances before granting supply. In order to prevent this, the King exploited all possible sources of revenue before summoning parliament, thus providing further grievances of which the Commons would complain.⁵⁰

⁴⁹Dietz, English Finance, II, Chapter 6; R. Ashton, "Deficit Finance in the Reign of James I," Economic History Review, second series, X, 1957, 18-9, challenges some of Dietz's figures but agrees with him on this point.

⁵⁰J. R. Tanner, English Constitutional Conflicts of the Seventeenth Century, 1603-1689, Cambridge, 1928, 9.

This had happened in 1610. During the previous four years, Dorset and especially Salisbury, who had become Lord Treasurer at the former's death in 1608, had tapped every resource in order to increase the revenue. Many of their solutions, especially impositions, had caused much annoyance throughout the land.⁵¹ To some extent their efforts had been successful for the debt was substantially reduced, yet this was done at the expense of using extraordinary revenue to balance the ordinary account.⁵² Moreover, all Salisbury's efforts could not solve the problem completely and he was forced to seek help from parliament.

Thus the fourth and fifth sessions, which met from February 9, 1609/10 to July 23, 1610, and from October 16, 1610 until, after several prorogations, James dissolved his first parliament on February 9, 1610/11, were recalled mainly to solve the Crown's financial difficulties -- a purpose which was freely admitted by the Lord Treasurer.⁵³ Salisbury, however,

⁵¹J. Spedding, Letters and Life of Francis Bacon, IV, London, 1868, 148-53; Dietz, English Finance, II, 116-26; Ashton, "Deficit Finance," Econ. Hist. Rev., 2nd series, X, 1957, 21.

⁵²R. Ashton, The Crown and the Money Market, Oxford, 1960, 38; Ashton, "Deficit Finance," Econ. Hist. Rev., 2nd series, X, 1957, 22.

⁵³Foster, II, 14 [Harl. 777, fol. 5].

anticipating that the Commons would ask for redress of grievances, worked out a scheme which, had it succeeded, would have reorganized the Crown's finances on a new basis, the last attempt at reform before the Restoration.⁵⁴ The Crown possessed many feudal revenues which were both difficult to collect and a burden to the subjects; in essence, Salisbury's Great Contract would have provided an annual parliamentary revenue in lieu of these feudal rights. The idea of composition was not new -- composition for purveyance and feudal tenures had been unsuccessfully discussed in the session of 1604 and 1606.⁵⁵ Salisbury's scheme, however, was far more inclusive than any earlier suggestion. Unfortunately, apart from the objections raised by the Commons and other interested parties,⁵⁶ Salisbury does not appear to have had the full support of the King.⁵⁷ It was even rumoured that he had "given the King hope of some real Assistance to be granted without any great materiall Retribution from his

⁵⁴Kenyon, Stuart Constitution, 56.

⁵⁵Gardiner, Hist., I, 173; Kenyon, Stuart Constitution, 54; Willson, Privy Councillors, 112.

⁵⁶See Foster, I, xvii-xviii.

⁵⁷H. E. Bell, An Introduction to the History and Records of the Court of Wards and Liveries, Cambridge, 1953, 143-4; W. C. Metcalfe, The Parliament of 1610, A Study in the Stuart Conflict, unpublished M.A. thesis, Minnesota, 1959, 82.

Majesty's part."⁵⁸ Whether or not Salisbury had been too sanguine, as Spedding suggests,⁵⁹ his intentions seem to have been entirely honourable and the Commons, as will be seen in Chapter V, showed a genuine desire that the Contract should proceed. On the other hand, James, whose financial embarrassment was too great to allow him to veto the scheme completely, vacillated. More important, his answer to the Commons' grievances was unsatisfactory. The Lower House could reply, therefore, by falling back upon the mediaeval theory that "the king should live of his own," which was quoted both before the Contract negotiations had begun and after they had failed.⁶⁰

The years before 1610, therefore, had given ample cause for the growth of opposition towards the King and, as has been indicated, events in the fourth and fifth session encouraged rather than alleviated this tendency. But, if royal tactlessness had reduced the position in which the monarch had been held and had given cause for fresh complaint, and empty royal coffers had provided members with a lever which long experience

⁵⁸More to Winwood, Dec. 1, 1610, Winwood, Memorials, III, 235.

⁵⁹Spedding, Letters and Life of Bacon, IV, 168.

⁶⁰Gardiner, Parl Debs, II, 404 [Harl. 4228, fol. 17].

had taught them how to use, how had this "opposition" gained such predominance in the Commons?

The loss of government initiative in the Commons has been ably investigated by Professor Willson⁶¹ and only the slightest summary of his conclusions is needed here. Initiative was lost and never really regained in 1604 when, the most effective government supporters including Salisbury having been called to the Lords, the House of Commons was left with two inadequate privy councillors and no government policy. Thereafter Salisbury tried to remedy the situation. Through bye-elections and lobbying, he built up a sizeable party of royal supporters who were dependent upon the court for employment, promotion, patronage, or bounty. Salisbury himself tried to manage the Commons from the Lords. By 1610 there were three privy councillors in the Lower House,⁶² of whom, however, only Sir Julius Caesar was of any importance in debate -- men who were not privy councillors, such as Sir Francis Bacon the Solicitor General, Sir Henry Hobart the Attorney General, and Sir Henry Montague the

⁶¹Willson, Privy Councillors, especially Chapter 4.

⁶²Sir John Herbert, Sir Thomas Parry, and Sir Julius Caesar [Willson, Privy Councillors, 99].

Recorder of London, being far more useful. As for the support of the other officials and courtiers who, Willson maintains, "were sufficiently numerous to become, with proper leadership, a political force in the house and the nucleus of a royal party,"⁶³ it was not dependable. Many sympathized with the opposition or were dissatisfied with the share of royal favour which had been allotted to them, while others probably sided with the opposition in order to gain the eye of the government with the hope of being bought over. Moreover, by 1610, previous experience had led the Commons to expect government management and they were prepared to avoid it. Thus, although Salisbury, seconded by Lord Ellesmere the Lord Chancellor, could rely upon the support of the Lords,⁶⁴ his attempts to take advantage of slender attendance in the Commons⁶⁵ or to influence the Lower House through conferences⁶⁶ were quickly foiled. Suspicious and determined to obtain redress of grievances before giving in to the King's wishes, the

⁶³Willson, Privy Councillors, 109.

⁶⁴See Aylmer, "Parliament-Men," History, LII, 1967, 288, for an account of the light which Foster's documents throw upon the Upper House.

⁶⁵Foster, I, 152 [Folger V.a. 277, fol. 100].

⁶⁶Foster, I, 90 [Folger V.a. 277, fol. 57v.].

Commons ignored the inducements,⁶⁷ concessions,⁶⁸ and even threats⁶⁹ of the government and, when government management was even less subtle than usual, found in it further cause for complaint.⁷⁰

By 1610, therefore, opposition was coming to a head. Though the government tried to use the position on the Continent as a unifying force, there was no real threat, either internal or external, which could prevent the Commons from stating their case. The expectations of previous years had not been realized, earlier events all adding to the Commons' exasperation. The King, himself, had acted and continued to act, as

⁶⁷The Great Contract itself was the largest inducement in this parliament.

⁶⁸The Book of Bounty [reprinted in J. W. Gordon, Monopolies by Patent, London, 1897], The Book of Rates [Dietz, English Finance, II, 371], and the proclamation against Cowell [J. L. L. Crawford, Bibliography of Royal Proclamations of the Tudor and Stuart Sovereigns, 1485-1714, I, Oxford, 1910, 128. This work is sometimes referred to as Steele's Tudor and Stuart Proclamations because of the incorporation in it of that author's historical essay; hereafter it will be cited as Crawford, Proclamations.] were all public concessions, while within parliament James' answers to the Petition of Right [Foster, II, 114-6 (Add. 48119, fol. 169-70)] and to their desire to present the grievances before granting supply [CJ, 438] yielded to the Commons' wishes.

⁶⁹Foster, I, 237 [Braye 61, fol. 40v.]; Pory to Winwood, July 17, 1610, Winwood, Memorials, III, 194.

⁷⁰See meetings with Salisbury and the King [below pp. 54-5] and messages [below pp. 56-7].

his own worst enemy, while the government had lost control of the Lower House. Worst of all, from the government's point of view, the King's financial straits were as bad as ever, despite Salisbury's efforts, and the Commons well knew how to use this for their own good. For these reasons the Commons were able to show, more clearly than before, their determination to obtain redress of grievances. In so doing, the incompatibility between prerogative and parliamentary claims -- the "Stuart dilemma" -- was clearly seen for the first time. Thus, although the issues were not new, the two sessions of 1610 have been seen,⁷¹ and deserve re-emphasis, as an important stage in the development of opposition to the Stuarts.

Thus far, "opposition" has been used in a general sense, and that such an attitude existed is undeniable. Moreover, that it could be expressed in systematic way without necessarily branding all members who reacted against the King as members of a "party", resulted from the procedure followed by the Commons, as will be seen in the following Chapter. Accepting this, one may still ask how conscious and how organized

⁷¹Gardiner, Parl Debs, v; W. Notestein, "The Winning of the Initiative by the House of Commons," Proceedings of the British Academy, XI, 1924, 154; D. H. Willson, "The Earl of Salisbury and the 'Court' Party in Parliament, 1604-1610," American Historical Review, XXXVI, 1930-31, 283; Mosse, Struggle, 88.

this opposition was.

The determination of the Commons to obtain redress of grievances was certainly conscious by 1610; both Salisbury and the Speaker expected it and the committee of grievances had been mentioned before Salisbury suggested that redress of just grievances might form part of the Great Contract.⁷² Whether from religious, legal, economic, or constitutional reasons members felt that they must be sure that their complaints would be answered and, ready to hand, they found a lever which they used quite consciously -- no supply without redress of grievances. Meanwhile, during the sessions themselves, the Commons reacted spontaneously to anything which might threaten the position which they had already won. Hence their touchiness about privilege and procedure and the indignation caused by the tactlessness of the King and his supporters. Similarly, the failure to obtain satisfactory redress of grievances affected the Commons' attitude towards the Great Contract, which had been greeted favourably when it was first discussed. Throughout the Commons' opposition to the King, however, whether long-standing or a spontaneous reaction to the new situation, ran the fear of arbitrary government -- fear not only of what the King was

⁷²See below, p. 50.

already doing but of what he might do in the future.⁷³ As will be seen, this apprehension was often expressed in 1610 and, unlike another much quoted excuse that the country was too poor to pay subsidies,⁷⁴ there is no reason to doubt that it was a genuine fear.

That there was a widespread distrust of James which manifested itself in opposition to the King's wishes is obvious from the records yet, in the following pages, the term "the opposition" must not be thought to refer to an organized party such as exists today. Bacon, looking back at the parliament of 1610, divided the opposition into that which arose "ex puris naturalibus" and that which was "out of party,"⁷⁵ and Lord Ellesmere's comments support the view that some members met privately in order to devise parliamentary strategy, especially where the Contract and the subsidy were concerned.⁷⁶ Such meetings were not new, however. Peter Wentworth had been imprisoned for no less in 1593,⁷⁷ but, soon after the first session of this

⁷³R. W. K. Hinton, "Government and Liberty under James I," Cambridge Historical Journal, XI, 1953, 60.

⁷⁴Northampton answered this excuse on Nov. 14 [Foster, I, 270-1 (Titus C.VI, fol. 461v.-462)] yet two days later Lewkenor pleaded it with renewed vigour [Foster, II, 402-3 (Harl. 4228, fol. 16v.-17)].

⁷⁵Spedding, Letters and Life of Bacon, IV, 370.

⁷⁶Foster, I, 279 [Ellesmere 2599, fol. 4v.].

⁷⁷J. E. Neale, "Peter Wentworth," English Historical Review, XXXIX. 1924, 186-95.

parliament, the anonymous author of Policies in Parliament wrote: "Before a man meane to move a matter in the house tis a good course to acquaynt some of his freends thearwithell and to desire them to second him, espetially such men as are gaatious with the house."⁷⁸ Moreover, the number of men who seem to have met in this way was too small to qualify them as members of an opposition "party" in the modern sense.⁷⁹ Rather, the opposition of 1610 represented a changing group of men who, for different reasons, and not always consistently,⁸⁰ found themselves united in their antagonism to the King, though not always in their solutions to the problem. Frequent sessions of James' first parliament had enabled these men to get to know each other and to act together in an organized manner,⁸¹

⁷⁸C. S. Sims, ed., "Policies in Parliament," Huntingdon Library Quarterly, XV, 1951, 47.

⁷⁹Ellesmere mentions more than six [Foster, I, 279 (Ellesmere 2599, fol. 4v.-5)]; Bacon names ten leading "party" men [Spedding, Letters and Life of Bacon, IV, 370]; and Willson gives some earlier examples in which two or three were involved [Willson, Privy Councillors, 121n.].

⁸⁰Carleton to Edmondes, June 17, 1610, Birch, Court and Times, I, 116.

⁸¹G. J. Amspoker, The Development of Procedure in the House of Commons in the Early Stuart Period, 1603-1629, unpublished Ph.D. thesis, Minnesota, 1959, 5.

and, undoubtedly, the major work in debate and committee, was carried out by a relatively small number of those attending.⁸² Nevertheless, although lobbying and organization may have helped to ensure the defeat of the Contract or the postponement of the subsidy, it seems more likely that the main unifying force among the opposition was the widespread dissatisfaction with the government which was felt as much by the silent back-bencher, as by the vociferous member, by the Puritan as by the indifferent Anglican, by the lawyer as by the layman, by the merchant as by the country gentleman, and by the "rising" as by the "falling" gentry.

How these various interests coincided in opposition and how successful this opposition was will be seen in the following chapters.

⁸²Mitchell, Rev. Party, Chapter 2.

CHAPTER II

PRIVILEGE AND PROCEDURE

Historians have been interested in the development of parliamentary procedure for many years.¹ Their findings deserve to be repeated and reconsidered in a study of the Commons in 1610 because, like attention to privileges, care of procedure is evidence of an awareness of the implications of events, a prerequisite for the growth of opposition. As members of the Commons demonstrated, procedure could be used to protect them against government pressure and to provide a weapon with which to support their own measures. Before examining instances which are obviously relevant to the development of opposition in 1610, however, something must be said of the attention paid to routine procedural matters.

Many of the procedural rules and suggestions made in 1610 seem petty and unimportant but the mere fact of their existence is evidence of the growing political consciousness of the seventeenth century.

¹J. Hatsell, Precedents of Proceedings in the House of Commons, 3rd edition, 4 volumes, London, 1796; J. Redlich, The Procedure of the House of Commons: A Study of its History and Present Form, 3 volumes, London, 1908; Notestein, Initiative, 1924; Amspoker, Thesis, 1959.

Both the dignity and the efficiency of the Lower House were to be increased and, lest evil precedent should be inadvertently set, the Commons began more and more to declare what was being done and what ought to be done. Hence great care was taken to ensure that grievances were gathered in an orderly manner² and exceptional procedure, such as giving two readings to a bill on the same day,³ were noted. This was accompanied by a general tightening up of procedure; old rules were reconfirmed and clarified,⁴ and members suggested new ones which were not always put into effect. Such, for example, was the fate of the suggestions that "no Committee to be named that shall not be present at the reading or naming,"⁵ and that lengthy speeches might be cut short.⁶ Although these motions were not implemented, they demonstrate a growing desire for efficiency. Similar attention was also given to the drawing up and passage of bills and provisoes,⁷ and

²CJ, 397, 415, 417.

³CJ, 444. For other examples of exceptional procedure see CJ, 420; Foster, II, 387 [Titus F.IV, fol. 130], 388 [Titus F. IV, fol. 130v.].

⁴CJ, 420; Foster, II, 364 [Titus F.IV, fol. 114v.]; CJ, 434; Foster, II, 377 [Titus F. IV, fol. 123v.].

⁵CJ, 442.

⁶CJ, 400.

⁷CJ, 396, 407, 434; Foster, II, 366 [Titus F.IV, fol. 115v.], 367 [Titus F.IV, fol. 116], 388 [Titus F.IV, fol. 130v.].

care was taken lest the Lords should initiate a new form of writing a bill.⁸ Not all orders were as innocent as they seemed: "No bill to be put to the question before nine of the clock,"⁹ for example, must have been intended to prevent the Speaker from putting the question before late-risers, who might alter the decision, had joined the House -- an example of the advantages to be gained by paying close attention to procedure.

One of the motions of 1610 which did not become a rule until 1614¹⁰ suggested "that a Question may be made of everything propounded, and not pass with a general opinion of Voice"¹¹ which, with the attention paid to the putting of a question¹² and decisions taken

⁸CJ, 425; Foster, II, 366 [Titus F.IV, fol.116].

⁹Foster, II, 361 [Titus F.IV, fol. 112v.].

¹⁰Amspoker, Thesis, 140-1.

¹¹CJ, 401.

¹²Foster, II, 90-2 [Add. 48119, fol. 155v.-157] is an example of how the House's desire for a particular question could curb the privy councillor's influence. For an example of how the Speaker might try to complicate a perfectly clear question see Foster, II, 319 [Add. 48119, fol. 199-199v.].

on whether to put the question or to continue a debate,¹³ is further evidence of attempts to curb the Speaker's influence. The Speaker, a royal nominee, had several opportunities to direct proceedings¹⁴ and one other example of attempts to prevent this belongs here. The fourth session illustrates the growing tendency of late Tudor and early Stuart parliaments to insist upon divisions, thereby preventing the Speaker from deciding which way vote by voice had gone.¹⁵ Fifteen divisions are recorded in the fourth session,¹⁶ and the fact that only one division seems to have been taken in the fifth session¹⁷ does not disprove the truth of this tendency since the Commons Journals (from which the other examples are taken) has not survived and, according to the records which exist, much of the fifth session was spent either in committee of the whole or in general disagreement as to what should be done.

¹³Foster, II, 95-6 [Add. 48119, fol. 159], 143 [Add. 48119, fol. 180v.]; Gardiner, Parl Debs, 57.

¹⁴Mitchell, Rev. Party, 11-2. For the loss of the Speaker's influence in Jacobean parliaments see Willson, Privy Councillors, 217-25.

¹⁵Amspoker, Thesis, 145-6.

¹⁶CJ, 403, 408, 411, 413, 417, 424, 432, 434, 439, 443, 445, 448 (2), 450 (2).

¹⁷Foster, II, 388 [Titus F.IV, fol. 130v.].

The divisions themselves provide interesting evidence concerning the attendance of members. Absenteeism had been recognized as a problem in Elizabethan parliaments¹⁸ and in the first parliament of James I the problem seems to have increased.¹⁹ With a potential membership of about 462,²⁰ the largest number present at a division in 1610 was 308 while the lowest was 30.²¹ Miss Amspoker notes four reasons for absenteeism: personal and business affairs in London might be combined with attendance; frequent afternoon sittings might be regarded as an encroachment on free time; personal problems and official duties might call some members to their counties; and, last, a normal amount of apathy and general negligence might be expected.²² An investigation of divisions suggests that attendance bore some relation to the importance of a bill. Only eleven days after a count of 64 had been recorded for the bill for outlawries in personal

¹⁸Neale, Elizabethan H of C, 397-400.

¹⁹Cf. Neale, Elizabethan H of C, 398, 400 and Amspoker, Thesis, 62.

²⁰This is the figure given by Neale for the parliament of 1593 (Neale, Elizabethan H of C, 398). Mitchell, however, states that the membership of James' first parliament was about 421 (Mitchell, Rev. Party, 49).

²¹CJ, 403, 450.

²²Amspoker, Thesis, 58.

actions, 232 members voted on the bill for better attendance.²³ The number was again high when subsidies were discussed though three days later it had dropped sharply when the bill for bishops' leases was debated.²⁴ At the same time the bishops' leases must have seemed far more important than the bill for gold-end men for, on July 14 when these two divisions were taken, the number of participants dropped from 113 to only 30.²⁵ Attendance at the beginning of the fifth session was so bad as to hold business up for a week²⁶ -- a very different state of affairs from that at the beginning of the fourth session when, only a fortnight after ordinary business had begun, the largest number recorded in a division was noted.²⁷ This delay in returning to

²³CJ, 439, 443.

²⁴CJ, 448, 450.

²⁵CJ, 450.

²⁶The House reassembled on October 16, on October 22 it was reported that "there were not 100" in the House [Foster, II, 296 (Add. 48119, fol. 184)] and nothing had been done about the Contract before Salisbury addressed the committees on October 25 [Foster, II, 278-302 (Add. 48119, fol. 185-187v.)]. Sir Maurice Berkeley maintained, however, that it was dislike of the Contract rather than lack of company that made them "so backward in this business" [Foster, II, 305 (Add. 48119, fol. 190)].

²⁷CJ, 403.

the House after the summer is evidence of the ordinary member's doubt that parliament would be able to achieve anything constructive -- especially the Great Contract -- and it is interesting, therefore, that vocal elements took this desertion very badly. Fines of £5 or even commitment to the Tower were suggested as a penalty for absenteeism.²⁸ Like the remedies of earlier sessions, these too were to fail, as did an order made as late as November 23, "that none should departe forthe of the towne, sub pena of committing to the Tower."²⁹

The Lower House had long possessed a limited power to discipline its members and, in a bid for exclusive power to control membership, in 1606 it had refused the King's offer of aid.³⁰ Officially, no member might depart without the permission of the House and, early in 1610, the Commons decided "no Order in this, because the Law provides."³¹ About a week later, however, the problem having presumably increased, this very order was agreed upon, and later repeated.³²

²⁸Foster, II, 296 [Add. 48119, fol. 184].

²⁹Gardiner, Parl Debs, 145.

³⁰Neale, Elizabethan H of C, 397-8; Amspoker, Thesis, 64-6.

³¹CJ, 398.

³²CJ, 403, 412, 429.

Despite this, only twelve instances of permission to depart³³ and one refusal³⁴ are recorded. The usual method of checking attendance was by making a call of the House, the committee of privileges later examining the excuses of those not present.³⁵ Although this expedient was used frequently,³⁶ it was to little avail, and the House supplemented it by sending messengers to summon the delinquents to return.³⁷ Absent members had to pay the fees of messengers sent to fetch them, fees which were apparently doubled if the erring member did not return.³⁸ Similarly, the House sometimes threatened that members who did not appear would have to answer for their absence at the Bar,³⁹ and it was particularly anxious that the lawyers should attend.⁴⁰ However, the fact that lawyers, both

³³CJ, 398, 407, 408, 413 (2), 416, 434, 444 (2), 448, 449 (2).

³⁴CJ, 403.

³⁵CJ, 405, 406, 407.

³⁶CJ, 398, 405, 409, 412, 416, 447. It is not always clear whether the proposed callings were carried out. Foster, II, 296 [Add. 48119, fol. 184-184v.] is an example of how an ordinary procedure such as the calling of the House could become means of extending the Commons' power.

³⁷CJ, 403, 406, 409.

³⁸CJ, 421, 428, 436, 437, 440; Foster, II, 379 [Titus F.IV, fol. 124v.], 384 [Titus F.IV, fol. 127v.].

³⁹CJ, 428, 429.

⁴⁰See above p. 24, note 65.

Crown and opposition sympathizers, were sometimes informed that they were required at committees,⁴¹ were ordered to meet in the Inns of Court,⁴² and were even summoned before an important debate could begin,⁴³ suggests that the House valued their services enough to forgive the fact that royal service or private practice often detained them from attendance in the Commons.

Although the House claimed disciplinary power over its members -- and not all incidents in these sessions related to absenteeism⁴⁴ -- it felt that power to fine members for non-attendance should be defined by statute. To obtain this the Commons passed "An Act for better Attendance and Trial of Causes, in the Commons House of Parliament."⁴⁵ This bill, which only just passed the Commons,⁴⁶ was rejected in the Lords,⁴⁷

⁴¹CJ, 407, 442; Foster, II, 366 [Titus F, IV, fol. 115v.]; Historical Manuscripts Commission, Manuscripts of the House of Lords, N.S., XI, Addenda, 1514-1714, London, 1962, 118.

⁴²CJ, 437, 443.

⁴³CJ, 444.

⁴⁴CJ, 423, 452.

⁴⁵Journals of the House of Lords, II, n.p., n.d., 633.

⁴⁶CJ, 443.

⁴⁷It had its first and only reading in the Lords on July 7 [LJ, 637].

probably because of its attempt to extend the Commons' jurisdiction in an ominous direction. The Commons' proceedings sometimes took a semi-judicial form, but the limits of their jurisdiction had not been clearly defined. Under certain circumstances, such as the appearance of an outsider in the House, the Commons had power to discipline non-members, and did so without hindrance.⁴⁸ On the other hand, complaints against the Lords' pages resulted in search for precedent.⁴⁹ Similarly, counsel was often heard on behalf of parties to private bills,⁵⁰ not a new development,⁵¹ but, when the Commons agreed that the witnesses presented by an informer named Udall might be summoned before the House, the judicial pretensions of members may be suspected. When the power of the House to administer an oath was raised in the Bridgenorth election case, however, the committee of privileges, then also discussing the power to fine for non-attendance, maintained "that the House had power in neither, or at least that it was doubtful and [they] added a law of declaration and confirmation."⁵²

⁴⁸CJ, 417, 452.

⁴⁹CJ, 404.

⁵⁰CJ, 398, 400, 403, 404, 406, and throughout.

⁵¹Neale, Elizabethan H of C, 377.

⁵²CJ, 446; Foster, II, 376 [Titus F.IV, fol. 123].

This recommendation resulted in the above-mentioned bill to which the Lords took exception.⁵³ Happily, Lord Ellesmere's opinion of it has survived.

Ellesmere's reaction to the bill, is most interesting. In the first place, he maintained that the Commons had no right to judge election returns because "the lower House is not any court of record, nor have the record of any writs or any other record remained with them, whereupon they may judge."⁵⁴ In fact, however, this right, with that of freedom from arrest in civil suits, had been secured in 1604⁵⁵ and was used responsibly in 1610. Secondly, he maintained that they had no "power or lawful jurisdiction to examine witnesses or to minister any oath at all to any person,"⁵⁶ and he concluded that they had passed this bill "to strengthen their pretended jurisdiction in like cases hereafter."⁵⁷ The number of attempts to exert jurisdiction over non-members in 1610, moreover,

⁵³Foster, II, 360-1 [Titus F.IV, fol. 112].
LJ, 633.

⁵⁴Foster, I, 277 [Ellesmere 2599, fol. 2v.].

⁵⁵G. W. Prothero, "The Parliamentary Privilege of Freedom from Arrest, and Sir Thomas Shirley's Case, 1604," English Historical Review, VIII, 1893, 734.

⁵⁶Foster, I, 280 [Ellesmere 2599, fol. 5v.].

⁵⁷Foster, I, 281 [Ellesmere 2599, fol. 6].

suggests that Ellesmere's suspicion that the Commons were trying to extend their powers was not merely the view of an over-sensitive royal servant.

The claim of the House of Commons to act as a court of record, put forward in 1592 and in the Apology of 1604 for example,⁵⁸ was much disputed in the seventeenth century. The Commons' right to commit for contempt had been established "upon the ground and evidence of immemorial usage"⁵⁹ but members do not appear to have had the right to pass and execute judgment against abuses not concerned with their privileges and, in 1621, they were prevented from taking action against Floyd for this reason.⁶⁰ The records of 1610, moreover, are not always clear and it is difficult to determine exactly what the Commons were attempting. In Cowell's case Bacon's timely interference ensured that the Commons would consult the Lords and that, having offended against the King as well as against parliament, Cowell would be punished by the King.⁶¹ Thus, although

⁵⁸T. E. May, A Treatise on the Law, Privileges, Proceedings and Usage of Parliament, 11th edition, London, 1906, 92.

⁵⁹T. E. May, Parliamentary Practice, 64.

⁶⁰T. E. May, Parliamentary Practice, 92-3.

⁶¹See below pp.99-100; S. B. Chrimes, "The Constitutional Ideas of Dr. John Cowell," English Historical Review, LXIV, 1949, 466-475.

the Lower House had originally decided to consider "wherewith to charge Dr. Cowell, being sent for,"⁶² it is impossible to know whether the Commons would have proceeded to punish him on their own authority. Proceedings against Sir Stephen Proctor, who was accused of abusing a royal patent, were complicated by the fact that Proctor was both a royal servant and the King's prisoner. It appears, though the evidence is not conclusive, that the Commons attempted to examine Proctor before gaining the King's consent,⁶³ and to punish him for his abuses against the commonwealth⁶⁴ -- both of which were contrary to the constitutional theory of the time. Unfortunately printed records are not clear and the case was further complicated by the fact that Proctor had slandered an M.P., thus committing contempt.⁶⁵ Finally, after the King had scolded the Commons for making Proctor their prisoner without his consent, all proceedings against him were done with the

⁶²CJ, 399.

⁶³On March 1, Beaulieu reported that Proctor was called to the Bar [Beaulieu to Trumbull, March 1, 1609/10, Winwood, Memorials, III, 125] but the King's permission was not received until March 8 [CJ, 408]. Beaulieu, who mistook Proctor's name, may have been mistaken. Cf. CJ, 399, 400.

⁶⁴CJ, 426; but cf. Foster, II, 368 [Titus F.IV, fol. 117v.].

⁶⁵CJ, 421.

King's permission.⁶⁶ The Commons were thus prevented from claiming to have set a precedent for independent jurisdiction, though they certainly seem to have been attempting to do this. The mood of the Commons is clear, moreover, from the fact that instead of accepting the Speaker's ruling that they might commit Proctor for his abuses to the House but must proceed by petition to the King against his other abuses, they had decided to dispute this ruling further.⁶⁷

The bill against Proctor failed to pass the Lords, although the Commons succeeded in excluding him from the general pardon,⁶⁸ which was traditionally passed at the end of each session. Another servant of the King, Henry Spiller, was also examined by the House,⁶⁹ but he appeared before the committees voluntarily.⁷⁰ Nevertheless, as Professor Clayton

⁶⁶May 14 and 15. CJ, 428; Foster, II, 374-5 [Titus F.IV, fol. 121v.-122v.].

⁶⁷CJ, 428.

⁶⁸CJ, 454. For the justice of the Commons' complaints against Proctor see Clayton Roberts, The Growth of Responsible Government in Stuart England, Cambridge, 1966, 11-2. Roberts maintains that the bill against Proctor was never called a Bill of Attainder [p. 13n.] but at least one member, Francis Moore, had urged the House "to attaynt hym of a premunire," giving mediaeval precedents [Gardiner, Parl Debs, 125].

⁶⁹CJ, 435, 437, 440, 446, 447, 448; Foster, II, 128-31 [Petyt 537/14, fol. 184v.], 377 [Titus F, IV, fol. 123v.]. See also Roberts, Responsible Govt., 12-3.

⁷⁰CJ, 437.

Roberts points out, when the Commons, surely prompted by their experiences with Proctor and Spiller, petitioned that the King's servants might be arrested and sued as other men, a "new epoch in the history of responsible government" had begun.⁷¹ The petition was refused and the Commons accepted this refusal gracefully,⁷² but, although they had won nothing constructive, they had started a trend which was to appear forcefully when the Commons revived impeachment and bills of attainder in the 1620's. On the other hand, these measures required the participation of both Houses and thus gave no scope for development of the Commons' tentative attempts to pass judgment on their own initiative. In the same way, the attempt to reverse a decision of the Admiralty Court by the bill entitled "An Act for the relief of Robert Pennington,"⁷³ of which Ellesmere also complained,⁷⁴ relied upon the Lords' consent, which it failed to get. It is not surprising, however, that under these circumstances Ellesmere felt that the Commons were trying to increase their power and

⁷¹Roberts, Responsible Govt., 1-2.

⁷²Roberts, Responsible Govt., 1; Foster, II, 283 [Harl. 777, fol. 60-61], 293-4 [Harl. 777, fol. 60-1].

⁷³See Foster, I, 280n.

⁷⁴Foster, I, 280 [Ellesmere 2599, fol. 5v.].

that the government was threatened.

The inquiry into impositions must have seemed like the final iniquity to Ellesmere for, although the Commons declared that they had no intention of reversing the judgment in Bate's case,⁷⁵ their debates represented a full-scale investigation of the case and the bill which they formulated would have had the effect of reversing the decision of the Barons of the Exchequer.⁷⁶ Not only was the King's prerogative endangered but, by examining ancient records in the Tower and the Exchequer, the Commons exerted powers not used since the Middle Ages. When it was urged that the Commons, on their own authority, might not search the records, Sir Roger Owen produced a precedent from the time of Edward III which was later verified⁷⁷ (although perhaps lest their order would not be obeyed, Mr. Chancellor produced a warrant authorizing search in the Exchequer).⁷⁸ The King's counsels who had vouched precedents in the arguments against Bate in 1606 were required to notify the House of these records,⁷⁹ and, when all the records had been

⁷⁵CJ, 431.

⁷⁶For the Bill against Impositions see Foster, II, 410-4 [Folger V.a. 121, fol. 13-13v.].

⁷⁷CJ, 422, 423.

⁷⁸Foster, II, 372 [Titus F.IV, fol. 120v.].

⁷⁹CJ, 424, 433; HMC, HL, N.S., XI, Addenda, 117, 118.

collected, they were read "in English" in committee.⁸⁰

Throughout, the House showed remarkable organization, swiftly dealing with such problems as how to arrange the reading, to obtain the help of the clerks, and to pay for the copying of records,⁸¹ and the mere fact that this investigation had received royal assent was, as will be seen, a triumph for the opposition.

Many investigations into the rapid procedural development in early Stuart parliaments have established the fact that these developments tended to weaken the influence of the government and to strengthen the hand of the opposition.⁸² Procedure in 1610 undoubtedly illustrated this trend. Although there was still a certain amount of flexibility,⁸³ the Commons took steps to control the order of business,⁸⁴ to set the opening time for business,⁸⁵ to establish the right to adjourn themselves,⁸⁶ and to supervise the records of the clerk.⁸⁷ Together with the general awareness of

⁸⁰CJ, 441, 442.

⁸¹CJ, 435.

⁸²Amspoker, Thesis; Mitchell Rev. Party; Notestein, Initiative; Willson, Privy Councillors.

⁸³C. So Sims, ed., "The Speaker of the House of Commons," American Historical Review, XLV, 1939-40, 91.

⁸⁴Amspoker, Thesis, 88-9, 91.

⁸⁵CJ, 408; Amspoker, Thesis, 83.

⁸⁶CJ, 392; Foster, II, 124 [Add. 48119, fol. 174-175v.]; Amspoker, Thesis, 99.

⁸⁷CJ, 392, 396; Amspoker, Thesis, 117-9.

procedure already noticed, this was a bad omen for government attempts to interfere. The question to be asked, therefore, is why this development took place, for, although the "struggle with the Crown" has become a cliché, one may still wonder how far it was an offensive rather than a defensive movement. As already suggested, these two strands were closely intertwined in several manifestations of opposition in 1610, and it will be seen that the same was true of the organization of the Lower House.

Important business in the House was dealt with in three main ways. Debate in the House still played a large part, as for example when the subsidy was under review.⁸⁸ Many conferences between the two Houses took place⁸⁹ both because of Salisbury's efforts to influence the Commons from the Lords, and because the Lords acted as mediator between Commons and King in the Contract negotiations. At such conferences, however, the Commons representatives were strictly controlled by instructions usually formulated by a sub-committee under the direction of a committee or of the House itself.⁹⁰ Third, and most important, was the

⁸⁸CJ, 438, 439, 448.

⁸⁹Willson, Privy Councillors, 125.

⁹⁰See below, p. 56.

work done in committees and especially in the committees of the whole.⁹¹ Committees gave several noticeable advantages to the opposition: they were less formal and therefore less frightening to the ordinary member; the Speaker, who either left the House or sat aside, lost his influence; members could speak more than once in one debate; and, if the committee was big, the ability of privy councillors to awe the assembly was negligible. Moreover, committees were efficient, and much time must have been saved in 1610 by referring all matters of doubt to the standing committee for returns and privileges.⁹² The device of the committee of the whole which originated in late Elizabethan parliaments but was first formally used in 1606⁹³ must originally have been introduced for the sake of efficiency -- indeed, the Lords often used it in 1610⁹⁴ -- but the

⁹¹On the importance of growth of committees see Willson, Privy Councillors, 236-44; Amspoker, Thesis, Chapters 5 and 6; Notestein, Initiative, 154, 160-1.

⁹²This committee was appointed on February 9 [CJ, 392; Foster, II, 3 (Petyt 537/14, fol. 1-lv.)] and was kept at work through both sessions.

⁹³See S. H. Zebel, "The Committee of the Whole in the Reign of James I," American Political Science Review, XXXV, 1941, 941-52; Amspoker, Thesis, 167n.

⁹⁴Eg. LJ, 573, 584, 587.

ease and frequency with which it was handled in the Commons in 1610 suggest that the opposition had appreciated its advantages and were making full use of them.

The committee for grievances seems to have been appointed for the sake of efficiency, the Speaker apparently expecting or even suggesting its establishment,⁹⁵ and it was probably for the sake of efficiency that "any of the House [were] to be admitted,"⁹⁶ thus enabling it to become a committee of the whole. Although this committee, through its chairman Sir Edwin Sandys,⁹⁷ had to receive the House's sanction for its decisions,⁹⁸ it became virtually the organizer for all matters of grievance. As a result the House's control over business was increased since when advisable, the committee, with its specialized knowledge, could prepare bills for the redress of grievances.⁹⁹ The grievances were dealt with in several ways: by bill, by petition, or by inclusion in the Contract. Early in

⁹⁵Foster, II, 7 [Petyt 537/14, fol. 5v.-6] but cf. Foster, II, 9 [Petyt 537/14, fol. 7], and CJ, 394.

⁹⁶CJ, 394.

⁹⁷Foster, II, 358 [Minn. MS., fol. 4v.].

⁹⁸Eg. CJ, 445.

⁹⁹CJ, 436, 447; Foster, II, 272 [SP 14/56/21], 382 [Titus F.IV, fol. 126v.].

the session the committee reported that the grievances fell into two categories, "damnum per injuriam and damnum sine injuria. In the first, they were to deal by petition; in th'other, by way of conference and contract."¹⁰⁰ Although this distinction seems to have been well kept as far as the Contract goes, the committee, and later the House which had the final word,¹⁰¹ discovered that some of their complaints were against things undeniably part of the royal prerogative. Hence the petitions of grievance of July 7 took two forms: the petition for spiritual grievances was a petition of grace, recognizing the King's right in these matters; the petition for temporal grievances was a petition of right, maintaining that these abuses against existing law -- a distinction also to be seen between the petition of right of May 24 and the petition for the King's safety of May 28.¹⁰² Similarly, bills were introduced either to back a particular petition or because an abuse was held to be against law.¹⁰³ Clearly

¹⁰⁰Foster, II, 32 [Harl. 777, fol. 14v.].

¹⁰¹CJ, 420-2.

¹⁰²Foster, II, 254-71 [SP 14/20/57 and SP 14/56/part 2]; CJ, 431-2; Foster, II, 118-9 [Add. 48119, fol. 171-171v.].

¹⁰³Eg. below pp. 78, 85 ; Foster, II, 381 [Titus F.IV, fol. 125v.].

this arrangement was the result of careful scrutiny of the grievances. Thus the organization of the committee of grievances may be held largely responsible for forcing the opposition to weigh its position and to consider it logically. Having won the right to discuss impositions, moreover, the whole investigation and the five days of debate were carried out in this committee of the whole.¹⁰⁴ Thus the King's supporters were put on an equal footing with the opposition, and the Speaker was prevented from interfering.

One other committee of the whole was of equal importance during the fourth session. Having obtained permission to treat for tenures and wardships after several conferences with the Lords,¹⁰⁵ the Commons turned to a committee of the whole for wards, chaired by Sir Henry Montague, the Recorder, in which details of the Contract negotiations were discussed.¹⁰⁶ The work of this committee was apparently later absorbed by the committee of the whole for support, chaired by Mr. Martin, a prominent opposition speaker, which was appointed to discuss Salisbury's points of retribution.¹⁰⁷

¹⁰⁴Carleton to Edmondes, July 13, 1610, Birch, Court and Times, I, 122; CJ, 443.

¹⁰⁵Foster, II, 54 [Petyt 537/14, fol. 169].

¹⁰⁶CJ, 411, 414.

¹⁰⁷CJ, 434.

Later still, Sir Edwin Sandys, chairman of the committee of grievances, reported matters concerning the Contract, which suggests that grievances and the Contract had become closely linked at the end of the fourth session.¹⁰⁸ In fact, of course, membership of committees of the whole would not have differed much since all members could attend, the only difference being that of the chairman. It was part of the opposition's strength, however, that they had earlier been able to keep the Contract separate from grievances, for in this way their concentration was focused on individual ends, and they were not delayed by confusion or red herrings.

The popularity of the committee of the whole is confirmed by proceedings in the fifth session. As soon as the Commons had anything of importance to discuss, they turned themselves into a committee of the whole¹⁰⁹ -- this time Sir Henry Montague replaced Martin in the chair because he "best understood it and was best able to give direction in the business or to solve any

¹⁰⁸CJ, 449. Cf. CJ, 451 where it was suggested, or perhaps ordered, that "the grand Committee to meet this afternoon, to consider of all Things past: -- Contract, Grievances."

¹⁰⁹Foster, II, 312 [Add. 48119, fol. 195].

doubt should be propounded."¹¹⁰ Later, when it was moved that a small committee should pen a message to the King, Sandys objected, voicing his own preference for a committee of the whole over debate in the House. It was, said he, "a matter of too great weight for a few to take upon them at the first, without the direction of the House . . . and therefore wished that it might first be debated by a committee of the whole House."¹¹¹ The majority must have agreed with him for this was accordingly done.

If the committee of the whole appears by 1610 to have become an instrument of offence in the hands of the opposition, there are also cases in which the Commons' action was clearly defensive. They guarded their right to initiate supply jealously, showing suspicion of the Contract lest it was an attempt to wrest this privilege from them.¹¹² When Salisbury, and later James, tried to influence select groups of members¹¹³

¹¹⁰Foster, II. 313 [Add. 48119, fol. 195].

¹¹¹Foster, II, 320 [Add. 48119, fol. 199v.].

¹¹²CJ, 397; Gardiner, Parl Debs, 9.

¹¹³Carleton to Edmondes, July 13, 1610, Birch, Court and Times, I, 123; More to Winwood, December 1, 1610, Winwood, Memorials, III, 235; Foster, II, 337-8 [Add. 48119, fol. 209v.].

the House immediately took umbrage. After much heated discussion following the King's attempt a committee was appointed to draw up an order to prevent a similar breach of privilege from happening again.¹¹⁴ The House then began to discuss supply but turned, instead, to the King's extravagance and his Scottish favourites, and a committee was appointed to investigate. Either for this reason, or, less likely, because of the order forbidding meetings of members with the King, Salisbury adjourned the House to November 29.¹¹⁵ On that day the Speaker arrived one hour before expected. He hastily adjourned the House again, "there then being but seven in the House."¹¹⁶ This trick caused a scene ominous in its implications for 1629. On December 6 members tried to prevent the Speaker from rising to adjourn parliament again before they had complained of his earlier action.¹¹⁷ They failed; they had not yet resorted to

¹¹⁴Foster, II, 342-3 [Add. 48119, fol. 211v.]. 389-92 [Titus F.IV, fol. 131v.]; Gardiner, Parl Debs, 138-40; Historical Manuscripts Commission, Twelfth Report, Appendix, Part IV, The Manuscripts of the Duke of Rutland, I, London, 1888, 425.

¹¹⁵Foster, II, 343-5 [Add. 48119, fol. 211v.-212v.], 345n.; Gardiner, Parl Debs, 145. For the suggestion that the adjournment resulted from the order against meetings see HMC, Rutland, I, 425; Foster, II, 390-1 [Titus F.IV, fol. 132]. But see Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 282.

¹¹⁶Foster, II, 345 [Add. 48119, fol. 212v.], 345n.-347n. For Salisbury's part in these adjournments see Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 281-3.

¹¹⁷Foster, II, 347 [Add. 48119, fol. 212v.].

violence; but they had set a precedent and they had had good reason for so doing.

They were also justified in their preparations for conferences. Salisbury had certainly hoped, through "free" conferences between the two Houses, to influence the Commons' committees, perhaps even to force them to commit the Lower House.¹¹⁸ By giving their committees power only to "hear and report,"¹¹⁹ to relay only certain messages,¹²⁰ or at most to discuss only certain "heads",¹²¹ the Commons (through sub-committees who prepared for the conferences) kept a careful check upon their representatives and must have caused much frustration among the Lords whose plans they had foiled.¹²² In the same way, the Commons were afraid that the Lords were being used to relay messages from the King which they regarded as a slight to their

¹¹⁸LJ, 587, 589; Foster, I, 92-3 [Folger V.a. 277, fol. 59v.]; Foster, II, 76 [Harl. 777, fol. 41v.], 77-8 [SP 14/55/58], 121-3 [Add. 48119, fol. 172-173v.].

¹¹⁹Eg. CJ, 394, 407. For the Commons' arguments against free conferences see CJ, 424; Gardiner, Parl Debs, 45.

¹²⁰Eg. CJ, 424; Foster, II, 52 [Petyt 537/14, fol. 167v.].

¹²¹CJ, 434; Gardiner, Parl Debs, 45.

¹²²CJ, 407, 443. For Salisbury's annoyance see LJ, 589.

dignity and a danger to their liberty,¹²³ and the Lords were forced to prevaricate to placate them.¹²⁴

In the issues caused by messages from the King and the prohibition of debate on impositions the defensive and offensive nature of the Commons' claims are difficult to define. In both cases they claimed that their privileges were being infringed and they probably sincerely feared an extension of royal influence. On the other hand, in both they were going farther and more successfully than ever before, and their speeches indicate that they realized this. Unfortunately, only a summary of these two incidents can be included here. The debates which resulted reveal several interesting facts. The King himself badly mismanaged the affairs -- he sent conflicting messages and was clearly losing his patience.¹²⁵ The influence of privy councillors and learned counsel was practically negligible -- their suggestions moved the House "no

¹²³Foster, II, 133-4 [Add. 48119, fol. 174v.-175].

¹²⁴Cf. Salisbury's explanation [Foster, II, 134-5 (Add. 48119, fol. 175-175v.)] and the instructions received from the King [Foster, I, 100-1 (Folger V.a. 277, fol. 65v.)].

¹²⁵Cf. the messages of May 14, 15, and 19 [HMC, HL, N.S. XI, Addenda, 122-4].

whit" and, although they walked out, taking "not near the half part" of the House with them, as one diarist notes with glee, their action merely delayed debate.¹²⁶ Moreover, members were apparently quite aware of the importance of their claims for, as Mr. Noy said, although former sovereigns had stopped debate, "if we may not say this is our right, if we may not complain, because we are commanded not to complain; then we must bear any apparent wrong, if a commandment come to us not to dispute it."¹²⁷

The dispute over messages resulted from the Speaker's delivery of a message, supposedly from the King, forbidding the House to debate his right to impose since this was a matter of prerogative and had been proved in the recent case in the Exchequer.¹²⁸ The Commons discovered that the message had come from the privy council and they prepared to draw up an order preventing this from occurring again.¹²⁹ The King

¹²⁶Foster, II, 92 [Add. 48119, fol. 157].

¹²⁷Foster, II, 93 [Add. 48119, fol. 157v.].

¹²⁸CJ, 427; Foster, II, 82 [Add. 48119, fol. 151]; HMC, HL, N.S., XI, Addenda, 119.

¹²⁹CJ, 427; Gardiner, Parl Debs, 32; HMC, HL, N.S., XI, Addenda, 119-20. In fact the privy council was acting on James' authority when they sent this message [Foster, II, 82n.].

immediately supported his council's message and asked whether the House would accept similar messages in the future.¹³⁰ After much wrangling in the Commons, the King had to be content with a propitiatory message from the Commons which, nevertheless, left untouched the question of future messages.¹³¹

James' defeat over the debate of imposition was even more gauling. Having eventually found it necessary to repeat his prohibition with a justification of his right to lay impositions, James nevertheless offered not to impose in future without parliament's consent. He ended his speech with a reminder that parliament had been called to grant money.¹³² Indeed, so great was his necessity that he was forced to give in when, three days later, the House presented him with a petition of right. The Commons had been no bit moved by the King's speech but rather determined to "let him know what by the laws of England he may do."¹³³ The

¹³⁰Gardiner, Parl Debs, 33; Foster, II, 87 [Add. 48119, fol. 154].

¹³¹Gardiner, Parl Debs, 34; HMC, HL, N.S., XI. Addenda, 124.

¹³²James' speech is in Foster, II, 100-7 [Add. 48119, fol. 161v.-165]; Foster, I, 87-9 [Folger V.a. 277, fol. 56-56v.]; Gardiner, Parl Debs, 34-6.

¹³³Foster, II, 109 [Add. 48119, fol. 166v.].

petition, therefore, claimed as "an ancient, general, and undoubted Right of Parliament, to debate freely, all Matters which do properly concern the Subject, and his Right or State."¹³⁴ Thus, after thirteen days, debate was resumed on financial matters.¹³⁵ This was a notable victory for the Commons whose claim that the prerogative "concerning directly the Subjects Right and Interest . . . [has] been ever freely debated, upon all fit Occasions, both in this, and all former Parliament, without Restraint"¹³⁶ was hardly justified.¹³⁷ Moreover, although they maintained that "we have no Mind to impugn, but a Desire to inform ourselves of, your Highness' Prerogative in that point"¹³⁸ -- only a subtle difference in any case -- the fact that the King accepted the petition set a notable precedent in the Commons' struggle for freedom of speech.

What, then, does the attitude towards privileges and procedure tell one about the state of

¹³⁴CJ, 431.

¹³⁵The offending message arrived on May 11 [Foster, II, 82 (Add. 48119, fol. 151)] and ordinary business was resumed on May 25 [Foster, II, 117 (Add. 48119, fol. 170v.)].

¹³⁶CJ, 431.

¹³⁷H. Hulme, "The Winning of Freedom of Speech by the House of Commons," American Historical Review, LXI, 1955-56, 833.

¹³⁸CJ, 431.

opposition in 1610? First, it confirms the existence of a politically conscious group of men in the Commons. Second, it suggests that this group was determined not to be "managed" by the government. Third, especially when the evident fear of arbitrary government shown throughout the sessions is taken into account, it indicates that these men genuinely, and sometimes not without reason, felt that the Crown was trying to increase the bounds of prerogative at their expense. On the other hand, rather than preserving the status quo, the Commons reacted by trying to enlarge their own powers even though this might be cloaked under the guise of precedent. Moreover, although the group of conscious Commoners may not have been a party in the modern sense of the word, the organization of the Commons definitely favoured the growth of opposition and the implication is that prominent leaders realized this, encouraged it, and took advantage of it whenever possible. The government had little hope when faced with opponents who not only were on the lookout for government manoeuvres but who had strategy of their own.

CHAPTER III

RELIGION AND THE COMMON LAW

It has been maintained in the Introduction that, in general, the Commons of 1610 displayed a lack of religious enthusiasm and yet, because of the union of religious and common law interests, a concentrated attack on the Church hierarchy ensued. In the following chapter these phenomena will be examined further and, it is hoped, the consequences of complementary interests among members of parliament will help to explain the consolidation of the opposition in 1610.

Attitude towards the Roman Catholics

After the discovery of the Gunpowder Plot in 1605 James had allowed new legislation against the Roman Catholics to be passed.¹ The most important of these laws was the Oath of Allegiance, a political weapon designed to drive a wedge between Catholics loyal to the King and those whose allegiance to the Pope came first.² As the memory of the threat to his

¹Gardiner, Hist., I, 286-9; R. G. Usher, The Reconstruction of the English Church, II, New York, 1910, 110-2.

²McIlwain, Works, xlix-liii; W. K. Jordan, The Development of Religious Toleration in England, II, From the Accession of James I to the Convention of the Long Parliament (1603-1640), London, 1936, 74-6;

life dimmed, James relaxed the execution of penal laws and it is surprising to find, therefore, that the only successful piece of legislation which might be expected to have been an "opposition" bill, "An Acte for administring the Oath of Allegiance and Reformation of married Women Recusantes,"³ had been fostered by the King. The passage of this and other anti-Catholic measures through the House of Commons is also suggestive. Not only was the King the first person to emphasize the Catholic threat, but the House, when told by its own members of the scandalous behaviour of priests and recusants, calmly relegated the matter to a committee, just as members refused to be stirred by the assassination of Henry IV of France until more important matters had been decided. Clearly, the fiery nature of Elizabethan Puritanism had burnt itself out, and the Commons of 1610, although willing and even eager to scotch popery, were determined not to allow themselves to be sidetracked by issues which did not primarily concern them.

Willson, James VI and I, 288. For the continuation of this principle in 1610 see Jordan, Toleration, II, 77n.

³⁷ Jac. I, c.6, Statutes of the Realm, IV, pt. 2, 1162-4.

The Catholics had been mentioned only twice⁴ before James raised the question in parliament.⁵ The lack of reaction to his assertions clearly demonstrates that the Catholics were no longer regarded as a serious threat and it is a sign of the maturity of the opposition that James' speech did not divert them from their criticism of the King and the collection of grievances. James was apparently genuinely scared by the spread of Catholicism, especially among women, and he came down hardest against converts who would be less likely to swear allegiance to him than those who had been born Catholic. On the other hand, he was also on the defensive against criticism from the Commons, and probably saw in the Catholic threat a means of turning attention away from himself. He maintained that it was not clear who ought to take the Oath of Allegiance, and authorized parliament to remedy this. For the failure to execute laws against papists, he blamed the judges

⁴February 19, Gardiner, Parl Debs, 10. Mr. Hyde suggested that the King's revenue could be increased if he enforced the penal laws, a point which he raised again on February 28 [CJ, 402]. During the same debate Bacon used "relapses daily to Rome" as an argument in favour of granting supply and support [CJ, 402].

⁵The account of that part of the King's speech of March 21 which dealt with religion is taken from the following sources: McIlwain, Works, 322-3; Foster, I, 50-1 [Folger V.a.277, fol. 31-31v.]; Foster, II, 62 [Petyt 537/14, fol. 175v.].

and bishops -- an unjust accusation since he himself was responsible for directions not to prosecute recusants harshly.⁶ Judging from the different accounts of the speech of March 21, James allowed some ambiguity to camouflage precisely what other action he expected parliament to take against recusants. The increase of Catholic confidence had caused many to fear that "they haue some new plot in hand"⁷ and, according to one account, James had heard the fact that "I myself have defended this cause" given as a reason for such confidence.⁸ No doubt James wished to forestall such accusations. Thus, although in the official version of the speech James insisted that the Catholics must be curbed not by new penalties but by the execution of the old ones,⁹ it is not unlikely, as one account reports, that he gave the impression that action might be taken "either by explanation or by making some other statute whereby they may be restrained."¹⁰

⁶Jordan, Toleration, II, 83; Wilbrahain, Journal, 97.

⁷McIlwain, Works, 322.

⁸Foster, II, 62 [Petyt 537/14, fol. 175v.].

⁹McIlwain, Works, 322.

¹⁰Foster, II, 62 [Petyt 537/14, fol. 175v.].

Such tortuous reasoning is not untypical of James, and the lack of eager response to his proposals supports the view that he was anticipating rather than answering often-expressed complaints. Whatever James' intentions, however, their failure was assured by the highly organized committee system of the Commons. By appointing a committee at which anyone might attend,¹¹ the House was free to continue its main business while anti-Catholic zealots could also have their say. Judging from the short time which elapsed before the committee had returned its recommendations,¹² there can have been few such fanatics. Moreover, the bill which became law at the end of the fourth session¹³ did little more than James had suggested. The penalties imposed by the act of 1606 were increased and it became compulsory for all subjects over eighteen to take the Oath of Allegiance but, like the act of 1606, the motives behind this act were political rather than religious.

One other piece of anti-Catholic legislation caused little fuss in the Commons. In fact, the bill

¹¹CJ, 413.

¹²The committee was appointed on March 22 (CJ, 413) and Mr. Fuller reported its recommendations on April 3 (CJ, 418).

¹³7 Jac. I, c.6, Statutes of the Realm, IV, pt. 2, 1162-4; McIlwain, Works, li-lii; Prothero, Documents, lii.

for the "Explanation of the Statute of 23 Eliz." was dropped in committee.¹⁴ The statute of 1581, to which this referred, condemned conversion to Catholicism accompanied by withdrawal of allegiance, thus changing a religious principle to the political one reaffirmed in 1610.¹⁵ Since the Oath of Allegiance had the same effect, this part of the statute did not need to be reconfirmed. On the other hand, if this bill, whose contents are unknown, was concerned with the penalties imposed in 1581, the Commons had dealt with such matters in their petition of May 28¹⁶ which will be discussed below. The proposed bill was superfluous, therefore, and, no longer terrified by the Catholics and realizing the importance of conserving their energies for more important matters, the Commons allowed it to sleep.

If the King's attempt to focus the Commons' attention on the Catholics had failed, so also had his attempt to blame non-enforcement of the penal laws on other shoulders. Far from blaming the bishops and

¹⁴CJ, 421, 426, 432.

¹⁵Neale, Eliz I and her Parltts, I, 388-9.

¹⁶Foster, II, 118-9 [Add. 48119, fol. 170-171v.].

judges and turning to other things, the committee of grievances reported the "not executing the Laws against Recusants" as its first grievance, and it was presented among the other religious grievances on July 7.¹⁷ When the King answered the grievances on July 23, he dismissed the clause concerning laws against recusants by saying that he had dealt sufficiently with them in his proclamation of June 2.¹⁸ Since the proclamation was made public more than a month before the grievances were presented,¹⁹ this answer must have been wholly unsatisfactory to the Commons. Nevertheless, the proclamation of June 2 was a victory for the opposition, as will be seen.

On May 8 Salisbury informed the Commons of the assassination of Henry IV of France who, though a Catholic, was the friend of England, and had been murdered by a Catholic.²⁰ Salisbury grasped this

¹⁷CJ, 420; Foster, II, 255 [SP 14/20/57].

¹⁸LJ, 658.

¹⁹Proclamation of June 2 [Crawford, Proclamations, 129; E. Cardwell, Documentary Annals of the Reformed Church of England, II, new edition, Oxford, 1844, 147-54]. Grievances presented on July 7 [Foster, II, 255 (SP 14/20/57)].

²⁰CJ, 426; Foster, II, 80, 81 [SP 14/54/29].

opportunity to urge the Commons to supply the King's wants but, apart from giving a first and second reading to the bill for administering the Oath of Allegiance,²¹ the Commons paid no attention -- they were otherwise engaged in a tussle with the King over their right to debate impositions. On May 21, James repeated his prohibition against debating his power to impose and, at the same time, reminded the Commons of the prophetic words about the Catholics in his last speech. He now suggested that he, as well as Henry IV, was the target of a Catholic conspiracy. Clearly frightened, James urged the Commons to prevent the increase of Catholicism by laws,²² but the Commons made not even a token of concern for his welfare until their petition for freedom of speech had been accepted. When its acceptance was reported on May 25²³ the House determined to show its thanks by considering not only impositions and support, but also the King's safety.²⁴

The latter was dealt with in a petition presented, after consultation with the Lords,

²¹CJ, 426, 428.

²²Foster, II, 106 [Add. 48119, fol. 165-165v.].

²³CJ, 432; Foster, II, 118-9 [Add. 48119, fol. 171-171v.].

²⁴Foster, II, 117 [Add. 48119, fol. 170v.].

independently by both Houses on May 28.²⁵ Although the petition was directed against the Catholics, it represented a substantial criticism of the King. It contained five points: first, all recusants should depart from London to the places where they were confined by law, remaining more than ten miles away from London or the court, "all license or toleration to the contrary notwithstanding;" second, recusants should be disarmed and their arms bestowed "as by law they ought;" third, no English subject should hear mass in the houses of foreign ambassadors; fourth, those recusants, priests, and jesuits already in prison should be guarded more closely; fifth, the Oath of Allegiance should be taken by all persons "according to the law."²⁶ A sixth point concerning the execution of laws seems to have been omitted,²⁷ probably because it was to be included in the main petition of religion of July 7. The petition of May 28, however, heavily emphasized that existing laws would solve the present threat to the King's safety, and for this reason the petition was a reflection upon the King. James' answer, which

²⁵Foster, II, 121 [Add. 48119, fol. 172v.].

²⁶Foster, II, 118-9 [Add. 48119, fol. 171-171v.].

²⁷Foster, II, 119n.

appeared in the form of the proclamation of June 2, included most of the Commons' suggestions and a declaration of his intention to enforce existing laws against recusants. Thus, although they had no power to compel the King to enforce his proclamation, the fact that James had conceded to their wishes was a real victory for the opposition.

Although the Commons had reserved discussion of the King's safety until freedom of speech was recognized, this had not prevented discussion of Sir William Bulstrode's stories of priests since the spread of popery could be regarded as a grievance against the King as well as a reason to protect him. Bulstrode raised the matter on May 18, declaring that priests conferred together in gaol, ladies and others resorted to them to hear mass, and their keepers had actually set some at liberty without warrant. He suggested that the Commons should examine these gaolers.²⁸ This shocking news caused no noticeable stir in the House itself but was referred to a committee.²⁹ Further revelations by Sir Francis Hastings, Mr. Recorder, Mr. Chancellor, and others³⁰ failed to divert the House, though the

²⁸Foster, II, 375-6 [Titus F.IV, fol. 122 v.]; CJ, 429.

²⁹CJ, 429.

³⁰CJ, 432-3.

inclusion of Montague and Caesar suggests that the Crown may have had such hopes. Once again the trap, if trap it was, failed; the Commons, well organized and sure of purpose, refused to be swayed by fanatics.

The examination of gaolers seems to have been deferred throughout June for, although a bill against "the keepers of Prisons" had been introduced before Bulstrode made his revelations and the committee was appointed to meet, no report was made.³¹ On July 5, however, Bulstrode, showing the persistence of an earlier generation of Puritans, raised the matter again, this time relating scandalous stories told to him by an informer named William Udall.³² Udall was examined by a new committee³³ and, on the following day in the House, he promised to prove his accusations if he might produce witnesses. After a heated debate on their power to do this, the House ordered the serjeant to warn those named by Udall to appear.³⁴ No record

³¹CJ, 426, 430, 432, 436, 443.

³²CJ, 446; Foster, II, 376 [Titus F.IV, fol. 123]. Udall was apparently a professional informer who had once been imprisoned by Bancroft [Cal SP, Dom, J.I, 1603-10, XXXV, 449]. See also P. R. Harris, "The Report of William Udall, Informer, 1605-1612," Parts I and II, Recusant History, VIII, 1966, 192-249, 252-84.

³³CJ, 446.

³⁴CJ, 446; Foster, II, 376 [Titus F.IV, fol. 123].

remains of the interrogation and the unconcern of the House can be seen from the jottings of a diarist who noted on July 21 that

at last the parliament drawing to an end, and other more weighty businesses putting off this, it was ordered that two lawyers of the House should draw a bill against the keepers to be preferred unto the Star Chamber, and Sir William Bulstrode to give them instructions.³⁵

Meanwhile, the bill for administering the Oath of Allegiance was passing through parliament and, on July 4, more than three months after James had complained of the audacity of women recusants, the House divided over the insertion of a clause for the reformation of married women recusants into this bill. The count was a close one, ninety-one in favour and eighty-eight against,³⁶ and the ingenious arguments of one member³⁷ suggest that reluctance came from men unwilling to pay for their wives' recusancy. Nevertheless, the act provided that married women recusants should be imprisoned until they conformed unless their husbands paid £10 a month or a third of their lands and tenements.³⁸

³⁵Foster, II, 376 [Titus F.IV, fol. 123].

³⁶CJ, 445.

³⁷Foster, II, 250-2 [SP 15/39/117].

³⁸Jac. I, c.6, Statutes of the Realm, IV, pt. 2, 1164.

Thus ended the matter of popish recusants in the fourth session and, as far as one can tell from the meagre records, papists were not mentioned at all during the fifth session. The Commons' attitude in 1610 makes it clear that they no longer regarded the Catholics as a major threat either to their own religion or to their country. In spite of their experience of the Gunpowder Plot, the assassination of Henry IV did not divert them from their own concerns, and the failure of James' attempts to distract them bears further witness to the effectiveness of the committee system as a means of preserving the single-mindedness of the opposition. Similarly, the success in turning the Roman Catholic question against the King shows the aim and ability of the alert opposition. The King, however, was not the only target of their attack for, as will be seen, another body now occupied the sinister position once held by the Roman Catholics.

Anti-Clericalism and the Attack on the Church Hierarchy

The new target for the Commons' opposition was the Church hierarchy -- a paradoxical state of affairs since, unlike their counterparts of twenty or thirty years earlier who dabbled with separatism and set up their own congregations, the majority of

"Puritans" in 1610 were content to remain within the Church of England while many members of the opposition had no Puritan leanings in a religious sense.³⁹ But although Martin Marprelate and the Classical Movement had been effectively broken under Whitgift, parliamentary opposition to the spiritual and secular policies of the prelates had increased under the new King and many of the bills of 1610 had been introduced again and again since the Millenary Petition of 1603 and even before. Moreover, most of these bills had a strongly secular flavour which suggests that the opposition could produce a united front against the Church because the interests of Puritans, lawyers and laymen, never mutually exclusive, had coincided.

Opposition to the hierarchy had existed in varying degrees ever since the Reformation, but the efforts of Whitgift and Bancroft to enforce conformity had widened the conflict from a mainly religious to a mainly legal one because of the methods which they employed. Thus, in 1610, the grievance against the ecclesiastical commission was given special treatment

³⁹Sir Edwin Sandys is a good example (Rabb, "Sandys," AHR, LXIX, 1963-64, 648). See also above, pp. 7-8.

while the bills against subscription, against the ex officio oath, and against the restraint of canons not confirmed by parliament were all attempts to prevent the commission from using methods prohibited by statute and common law. A third reason prompted laymen to support Puritan attacks on the Church. The "economic problems of the Church" led Bancroft to attempt reform by resuming tithes, preventing impropriations, and other expedients all aimed at the layman's pocket.⁴⁰ Thus, while one group in the Commons genuinely wanted reform for the good of the Church, another group wanted to wreck the bishops' schemes for economic reasons. As a result, both groups united against and used every means in their power to discredit the bishops.

Yet a fourth reason accounts for this union of interests -- this one constitutional. James came to the English throne full of theories of divine right and, although at first not unsympathetic to some Puritan demands,⁴¹ he soon realized that the bishops, who were

⁴⁰See C. Hill, Economic Problems of the Church from Whitgift to the Long Parliament, Oxford, 1956, for an account of the drastic situation in which the Church found itself. For Bancroft's scheme in 1610 see especially 149, 162, 246-7. Usher, Reconstruction, I, 352-4 shows how Bancroft's attempts to reform by legislation failed in 1604.

⁴¹W. H. Frere, The English Church in the Reigns of Elizabeth and James I (1558-1625), London, 1911, 293, 295, Curtis, "Hampton Court Conference," History, XLVI, 1961, 6-7. But Cf. McIlwain, Works, xc-xci.

entirely dependent on his prerogative for their power, were the natural supporters of his theories, and he gave them support in return.⁴² The Lower House's distrust of this alliance was intensified by the fact that the bishops interfered in non-spiritual matters. Bancroft, for example, infringed the Commons' right to initiate supply when he said that the "king must be relieved in his necessity."⁴³ The situation was also made worse by the bishops' tactlessness. Bancroft, indeed, went so far as to call James "our terrestrial God"⁴⁴ and he described the speeches of some members as "nothing else but froth."⁴⁵ Even Bancroft realized that an apology was called for,⁴⁶ but his outburst was not an isolated incident. Earlier, a bishop had preached that the "king hath power of life, of goods, of fortunes."⁴⁷ This caused James, himself, to admit to the Commons that the bishop should have added that they ought to "do as much for [the King] as you may

⁴²Judson, Crisis, Chapter V.

⁴³Foster, II, 79 [Add. 48119, fol. 183v.].

⁴⁴Foster, I, 81 [Folger V.a. 277, fol. 52].

⁴⁵Foster, I, 82 [Folger V.a. 277, fol. 52].

⁴⁶Foster, I, 82 [Folger, V.a. 277, fol. 53].

⁴⁷Foster, II, 60 [Petyt 537/14, fol. 173].

according to the laws of your country."⁴⁸ Such fair words, however, were in vain when, three days later, Dr. Grant could preach the Coronation sermon on the text: "redde Caesari, quae sunt Caesaris."⁴⁹ Thus the Commons' mistrust of the King grew and they hated the bishops not only for religious, legal, and economic reasons, but also because the prelates encouraged an arbitrary government inimical to their liberty.

Reaction to the Roman Catholic menace shows that the opposition was determined not to be deflected from its main aims, yet it is difficult to tell how far the campaign against the hierarchy was planned and how far only the result of an active, though unorganized, opposition. Certainly the amount of interrelation between grievance, bill, and petitions suggests a conscious strategy, for, as will be seen, every point concerning religion in the petitions of July 7 was reinforced by one or more bills. Some of these had been introduced before their subjects were discussed as grievances, others were introduced afterwards, but it was logical that a suitable bill should be prepared in anticipation of a favourable answer to a grievance -- although on only one occasion can the interrelation

⁴⁸Foster, I, 46 [Folger V.a. 277, fol. 28].

⁴⁹CJ, 414.

between religious bill and grievance be proved.⁵⁰ Whether planned or not, however, the intricate network of bill and grievance put great pressure on the bishops and, as such, it was a very effective opposition manoeuvre, although, in this session at least, not productive of tangible results.

The petition of religious grievances included four complaints: non-enforcement of recusancy laws; too frequent use of excommunication; pluralities and non-residence; and the silencing of non-conformist ministers. A fifth grievance, against the ecclesiastical commission, was included in the temporal grievances for reasons which will be discussed below. General disagreement with James' religious policy ensured that religious grievances were the first to be agreed upon. Royalist supporters, however, were able to persuade the Commons to proceed by petition rather than by bill on the grounds that religion belonged to the prerogative.⁵¹ For the same reason, the petition of religion was more respectfully worded than the petition of temporal

⁵⁰CJ, 447; Foster, II, 272 [SP 14/56/21], 382 [Titus F.IV, fol. 126]. This appears to be almost identical to a report made on June 9. Cf. CJ, 436.

⁵¹CJ, 420-1.

grievances. Thus, although the petition of temporal grievances complained of abuses against common law, where religion was concerned, the Commons relied on the argument that remedy would tend "to the glory of God, the good of His church, and safety of your most royal person."⁵²

James' answers, though propitiatory, satisfied few.⁵³ As noticed above, he maintained that his earlier proclamation satisfactorily dealt with the recusants. The answer to the clause concerning silenced ministers was also disappointing. These puritan ministers had been suspended or deprived in 1605 for refusing to subscribe to the canons passed by convocation in 1604. According to G. R. Usher, "only sixty were deprived and a hundred suspended, silenced, and admonished" out of about three hundred who felt in danger of being deprived.⁵⁴ Not numbers, however, but the principles involved won parliamentary support for the silenced ministers. There were, of course, those who sympathized with the ministers for religious reasons but support

⁵²Foster, II, 255 [SP 14/20/57].

⁵³LJ, 658-9.

⁵⁴R. G. Usher, "The Deprivation of Puritan Ministers in 1605," English Historical Review, XXIV, 1909, 239.

also came from common lawyers, who regarded a benefice as private property, and from upholders of parliament, who regarded the expulsions as illegal because the canons of 1604 had not received parliamentary consent. James, however, would only promise to consider petitions on the behalf of individual ministers, asking, and one may sympathize, how any church could harbour within it ministers who refused to subscribe to its doctrine. He also promised to ensure that the bishops would enforce existing laws against pluralities and to make certain that all non-residents would appoint a preacher during their absence, but he refused to revoke any of his dispensations, again asking, reasonably, what good this would do before each benefice was made a competent living for a learned minister. He did not add, as would have been justified, that the impropriations of the classes represented in the Commons were often responsible for the poverty of Church livings.⁵⁵ Finally, emphasizing that the Commons had previously rejected this proposal, James offered to accept a bill against the too frequent use of excommunication if the

⁵⁵Kenyon, Stuart Constitution, 128-9; Hill, Economic Problems, especially Chapter VI. The King fulfilled this promise for on July 27, Bancroft wrote a letter to the bishops ordering them, among other things, to enforce the existing laws against pluralism and non-residency [Cardwell, Doc Annals, II, 154-6].

Commons would provide other penalties -- but this was the only religious bill which got no further than the committee stage.

The earlier bill to which James referred had been "rejected, with much Distaste" as "mere Spleen" by the Commons in 1606.⁵⁶ James' answer, therefore, probably did more to remind them of earlier dissatisfaction than to remedy their present complaint. The Commons, however, clearly wanted to deal with this grievance by bill, for, soon after deciding to include the complaint against excommunication in their petition,⁵⁷ a committee was appointed to draw up a suitable bill.⁵⁸ Apart from searching for the old bill,⁵⁹ and deciding, after the King's answer, to draw a bill during the vacation,⁶⁰ no progress was made. One cannot tell what caused this delay, although possibly the committee found it difficult to decide on a suitable punishment for contumacy. What remains, however, is the

⁵⁶CJ, 311.

⁵⁷CJ, 421.

⁵⁸CJ, 424.

⁵⁹CJ, 446.

⁶⁰CJ, 451.

rather odd fact that, in the one case concerning religious grievances in which James professed to be willing to accept a bill and in which the Commons had consciously intended to proceed by way of petition and bill, the Commons were unable to prepare the necessary legislation.

In this instance, then, the Commons' organization seems to have failed, and the bishops were quick to pounce upon the illogicalities of the Commons' case when they discussed the bill against scandalous ministers.⁶¹ This bill, like those against common swearing in the name of God⁶² and for a preaching minister in parsonages appropriate,⁶³ would have brought Church matters under parliamentary control, hence, limiting the prerogative and the power of the Church hierarchy. During the debate, the Bishop of London pointed out that "though the lower House take exception if a man be excommunicated ipso facto,⁶⁴

⁶¹CJ, 415, 418, 443, 445, 446; LJ, 635, 637, 641; Foster, I, 123 [Folger V.a. 277, fol. 82v.], 128 [Folger V.a. 277, fol. 85-85v.], 134-5 [Folger V.a. 277, fol. 89-89v.].

⁶²CJ, 426, 434, 435, 441, 442; LJ, 620, 621, 629, 637; Foster, I, 111 [Folger V.a. 277, fol. 73], 121 [Folger V.a. 277, fol. 81], 129 [Folger V.a. 277, fol. 85v.-86], 247-8 [Petyt 537/8, fol. 232-232v.].

⁶³CJ, 412, 416.

⁶⁴Hyde had raised this objection during the conference on the restraint of canons [Foster, I, 126 (Folger V.a. 277, fol. 83v.-84)].

yet by this bill shall he be punished, though he be absent."⁶⁵ Abbott obviously felt, and no doubt he was right, that an attack on the bishops was more important to the Commons than to be consistent in individual legal points although, with the peculiar mentality of the age, it is possible that the Commons genuinely believed that for parliament to censure a scandalous minister without hearing him was justified though for a bishop to excommunicate under similar circumstances was not. Three types of thought combined in this attitude: the Puritan's conviction of his own righteousness; the lawyers' belief in statute law; and the general desire to limit the power of the bishops before it could be further extended against the individual's rights and liberties.

Meanwhile, other attempts to legislate had apparently met with similar failure. The silenced ministers were not actually mentioned in the title of a bill but both the bill of subscription, which confirmed the subscription appointed by the statute of 13 Elizabeth,⁶⁶ and the bill for restraint of canons not

⁶⁵Foster, I, 135 [Folger V.a. 277, fol. 89].

⁶⁶CJ, 408, 409, 410, 436, 441, 442; LJ, 620, 622; Foster, I, 110 [Folger V.a. 277, fol. 72v.], 112 [Folger V.a. 277, fol. 74].

confirmed by parliament, were directly related to them.⁶⁷

The latter, however, went further than a few hundred silenced ministers, for it struck at the King's power to regulate Church affairs without parliamentary consent, if rights of private property were thereby violated.⁶⁸ In a conference with the Lords on this bill, moreover, Mr. Tate's words clearly illustrate the attitude which made lawyers support Puritan measures for, said he,

we reverence so much your Lordships in respect of your spiritual places that whatsoever you do deliver unto us, we do receive it from God's Majesty by you as his ambassadors; but, my Lords, you have another power whereby you would take unto you temporal jurisdiction, but that we hope to have reformed by parliament.⁶⁹

The fact that the canons were accused of touching "men's lives, liberty, and goods"⁷⁰ won the support of several anti-clerical or Puritan lords⁷¹ and, although

⁶⁷CJ, 417, 418, 420, 421, 422; LJ, 584, 592, 611, 631, 636, 637-8, 640, 641; Foster, I, 85 [Folger V.a. 277, fol. 54v.], 100-4 [Folger V.a. 277, fol. 65v.-68, 124-7; Folger V.a. 277, fol. 83-84v.]; HMC, Hastings, IV, 222.

⁶⁸But see Usher, Reconstruction, II, 116-7.

⁶⁹Foster, I, 125-6 [Folger V.a. 277, fol. 83v.].

⁷⁰Foster, I, 101 [Folger V.a. 277, fol. 66].

⁷¹Foster, I, 102-3 [Folger V.a. 277, fol. 66v.-67].

both bills were lost in the Upper House, the opposition had succeeded in forcing the bishops onto the defensive. Indeed, the Bishop of Lincoln is reported to have said "that the lower House loved not the bishops,"⁷² while Salisbury was forced to admit that he had "ever since this parliament began observed that the lower House have very much called the King's prerogative in question."⁷³ Moreover, the reasons for the Commons' success were not lost on the Lords and, after a conference, the Bishop of Peterborough paid tribute to the organizational skill of the opposition when he pointed out that "the committees of the lower House come to stand and dispute all against us, but we there dispute one against another."⁷⁴

The bill against pluralities and non-residence arrived in the Lords with a special recommendation on March 2, about six weeks before it was agreed to include it among the grievances.⁷⁵ Its fate

⁷²Foster, I, 102 [Folger V.a. 277, fol. 67].

⁷³Foster, I, 103 [Folger V.a. 277, fol. 67v.].

⁷⁴Foster, I, 248 [Petyt 537/8, fol. 233].

⁷⁵CJ, 393, 396, 400, 403, 404; LJ, 559, 562, 584, 587, 609, 616, 621, 630, 637, 640; Foster, I, 340 (sub non-residence and pluralities).

illustrates very well the connection between religious and economic interests in the Commons. Those concerned with the state of religion wanted to abolish pluralities and non-residence which, even Bancroft admitted, were a great abuse. Those with economic interests in lay impropriations of Church revenue wanted to solve the Church's economic problem by preventing the hierarchy from having more than one benefice -- thus dividing the existing income among more clerics, rather than increasing revenue by the resumption of impropriated revenue. Even when these interests seemed to diverge, which, in practice, was less than might be expected since many laymen probably shared both attitudes, there were other reasons enough to prevent the possibility of the abolition of pluralism and non-residency from seeming desirable if it involved a strengthening of the bishops' hand.⁷⁶ And this, in fact, is what the alternative scheme which Bancroft proposed would have meant. The Archbishop and a committee of the Lords agreed to accept the Commons' bill with the proviso that every living be made capable of supporting a learned minister.⁷⁷ Bancroft maintained that

⁷⁶Usher, Reconstruction, II, 247-8; Hill, Economic Problems, 148.

⁷⁷LJ, 621; Usher, Reconstruction, II, 255-8. For Bancroft's opinion of the Commons' bill see D. Dalrymple, Lord Hailes, ed., Memorials and Letters relating to the History of Britain in the Reign of James I, 2nd edition, Glasgow, 1766, 18-23.

pluralities would be necessary until livings were made capable of providing a livelihood for ministers, and since, justifiably, he believed that lay impropriations had deprived the Church of its revenue, his suggestions were based on recovering lost revenue from laymen⁷⁸ -- which was naturally unacceptable to the Commons. Thus deadlock occurred. But, if the Commons had gained nothing constructive, by preventing economic reform they had unconsciously driven the bishops further towards the untenable position in which they found themselves before the outbreak of the Civil War.

The Commons struck again at the incomes of the higher clergy with the bill for leases to and from bishops which reached the Lords on June 21 and soon caused a furore.⁷⁹ The main part of the bill simplified the leasing of tithes and other Church holdings, and thus, presumably, won the approval of lay impropriators. The bishops, however, reacted strongly against the proviso which would have prevented the clergy from

⁷⁸J. Collier, An Ecclesiastical History of Great Britain, VII, new edition, London, 1852, 352-358; Usher, Reconstruction, II, 257. Hill, Economic Problems, 155-62, shows the reasons for dislike of any scheme for the reorganization of the Church's revenue from tithes.

⁷⁹LJ, 620. The bill is in Foster, I, 243-6 [Petyt 537/8, fol. 226v.-227v.].

occupying or keeping any lands other than those "for the only expenses of his household and the maintenance of hospitality or for his carriages and journeys,"⁸⁰ and they prevented its commitment.⁸¹ Their arguments again show their defensive attitude.⁸² Bancroft, for example, said that the bill would "benefit schismatics and contemptuous persons," while the Bishop of Rochester maintained that

if it should go forward, a minister could not provide a house during the time of parliament to lie in, which seems that he who preferred it did of malice, and if it should go forward, there would not be a church for him to practice against.

It is an interesting reflection upon the Lords, however, that the decision not to commit the bill only passed "by four voices."⁸³ The bill also had an interesting rider in the House of Commons. On July 14 a "Nova B Touching Bishops Leases" was given a third reading and rejected,⁸⁴ yet, on November 12, although a new proviso

⁸⁰Foster, I, 246 [Petyt 537/8, fol. 227v.].

⁸¹Foster, I, 242-3 [Petyt 537/8, fol. 226-226v.]; LJ, 630.

⁸²Foster, I, 121 [Folger V.a. 277, fol. 81-81v.].

⁸³Foster, I, 121 [Folger V.a. 277, fol. 81.].

⁸⁴CJ, 450.

was rejected, the bill passed.⁸⁵ What prompted these different decisions is impossible to say, perhaps the bills were different from each other, perhaps the decisions merely reflected different members in attendance. The first bill, too, is a mystery, for so harmful a proviso can hardly have been unintentional, even if its significance escaped the majority of the House. Someone, however, seems to have been persistent, although the first attempt alone had succeeded in forcing the bishops onto the defensive.

The most serious religious grievance was that against the ecclesiastical commission.⁸⁶ This was not included in the petition of religion but appeared, instead, in the petition of grievances among secular charges which, although preceded, were held to be against justice and inimical to the "common and ancient right and liberty" of the subject.⁸⁷ Once again, the

⁸⁵Foster, II, 323-4 [Add. 48119, fol. 201v.-203].

⁸⁶Usher maintains that the "commission occupies second place" in the petition of grievances [R. G. Usher, The Rise and Fall of the High Commission, Oxford, 1913, 205-6] but, in view of the special treatment accorded to it and the ramifications behind it, it is fair to say that it was as important to the Commons as any of the secular grievances and probably more important than the religious ones.

⁸⁷Foster, II, 257 [SP 14/56/part 2].

varying sections of the Commons united against the hierarchy and, in this case, the reasons were mainly legal. Indeed, the battle between the bishops and the common lawyers had been fought in the law courts for several years and the outcome, a new commission issued in 1611,⁸⁸ was a legal rather than a parliamentary victory. Nevertheless, the Commons must have congratulated themselves for they had forced the bishops onto the defensive, thereby placing them in a bad bargaining position.

It is tempting to enumerate all the clauses of this part of the petition for, not until the third, and least important, section is there any indication of religious objections to the commission. Lord Ellesmere maintained that the complaint was not even an attempt to reform abuse in the commonwealth but part of a deliberate move "to quarrel and impeach his Majesty's prerogative, and his regal jurisdiction, power, and authority."⁸⁹ Indeed, the major complaint against the commission was that it infringed common law. Thus, although in the petition the Commons admitted that the statute of 1 Elizabeth, "restoring to the crown the

⁸⁸Cf. Usher, Rise and Fall, 207; Kenyon, Stuart Constitution, 178; Cardwell, Doc Annals, II, 118n.

⁸⁹Foster, I, 279-80 [Ellesmere 2599, fol. 5].

ancient jurisdiction over the state ecclesiastical," authorized the King to give what powers he liked to the commission by his letters patent, they maintained that this was not what had been intended by the law-makers.⁹⁰ Basically, therefore, the Commons objected to the existence of a prerogative jurisdiction, unlimited by parliament or common law, which might be extended at any moment against their liberties and property.⁹¹ James, on the other hand, was unwilling to give up an iota of his prerogative and, although he agreed to reform some of the obvious abuses in the commission, he refused to accept any bill to limit his power.⁹² Such a bill, entitled "an Act to explain One Branch, contained in the Statute of Anno Primo Eliz.," had reached the Lords on May 25,⁹³ but had received only one reading, and the same fate met the bill against the oath ex officio which would have prevented the commission from forcing witnesses to incriminate themselves.⁹⁴

⁹⁰Foster, II, 263-5 [SP 14/56/part 2].

⁹¹Fuller, for example, maintained on November 3 that "by [the ecclesiastical commission] there may be an inverting of the fundamental laws" [Foster, II, 396 (Portland 29/702, fol. 79)].

⁹²LJ, 659.

⁹³CJ, 408, 409, 410, 428, 430; LJ, 598, 605.

⁹⁴CJ, 429, 430, 435, 438, 441; LJ, 620, 622; Foster, I, 110 [Folger V.a. 277, fol. 72v.], 112 [Folger V.a. 277, fol. 74]. HMC, HL, N.S., XI, Addenda, 125-6.

Thus, at the end of the fourth session, stalemate had resulted between the King and the Commons, and in the fifth session the failure to obtain redress of grievances was not overlooked when the Contract and supply were debated.⁹⁵ If the Commons had gained nothing tangible, however, they had succeeded in causing a split in the Lords, which, although not yet serious, was eventually to contribute towards the outbreak of the Civil War. Although such an outcome was probably far from the minds of the Commons, their attack on the bishops was surely not unconscious, for, as nearly all the debates on religious bills show,⁹⁶ the Commons forced the prelates onto the defensive. The bishops, moreover, had nothing to fall back upon but the support of prerogative. Similarly, just as Bancroft's outburst against the Commons had aroused the fury of the Commons, in the long run, the more the bishops were criticized, the more they had to fall back upon arbitrary measures, thus further prejudicing their cause. Finally, the repeated failure of bills in the Lords must have convinced waverers of the justice of the opposition's complaint against the hierarchy.

⁹⁵See especially Foster, II, 316-21 [Add. 48119, fol. 197v.-200v.], 392-400 [Portland 297702, fol. 75-84v.].

⁹⁶Eg. Foster I, 71-3 [Folger V.a. 277, fol. 45-46v.], 242-3 [Petyt 537/8, fol. 226v.].

Two violent speeches in the fifth session mark the new and dangerous mood to which the Commons had been driven. On November 14, Mr. Martin delivered a stinging tirade against the bishops.⁹⁷ His invective, however, was not couched behind particular abuses of the bishops' power, for now that the Contract seemed bound to fail, and "the King's wants may drive him to extremities," it was necessary to curb all those who encourage "the extent of the prerogative beyond the bounds." Martin maintained that this could be done only by two sorts of men. The privy councillors he exonerated completely, but, he added,

another sort there are more to be feared, which preach in pulpits and write in corners the prerogative of the king, and dare put into the king . . . that which hath made him do things here which he never did in Scotland, nor his predecessors in England.

The speech continued in this vein: bishops daily preached against the fundamental law of the kingdom; they encouraged the King to take from his subjects without parliamentary consent; they preached that prohibitions were against the law of God, and that the King is not bound by law. The ill-advised sermon was raised again; so was Cowell's book; and Martin reminded

⁹⁷Foster, II, 327-9 [Add. 48119, vol. 203v.-204v.].

the House of a final indignity: "did not I hear a hedge-priest say in a sermon that the trial by the common law was by 10 fools and 2 knaves?" To protect their liberties, Martin produced a bill which contained a series of punishments against such offences. One cannot tell how the House reacted to the speech, but apparently no action was taken against Martin, and it is probable that he was voicing the frustration and fear of a large portion of the Lower House.

The second speech of this kind was delivered on November 23 by Mr. Fuller, the Puritan lawyer who had been deeply involved in most of the religious bills during the fourth session.⁹⁸ Fuller's speech, in contrast to Martin's, was not directed pointedly at the bishops, but it was equally as crushing. In a tone of absolute conviction in the rightness of the cause, he showed how every attempt of the Commons to legislate against England's "sins" had failed. The purpose of the speech, as Fuller pointed out at the end, was to prove that "the good proceedings of this parliament have not been hurt at all, or hindered by us," as the King

⁹⁸Foster, II, 405-410 [Rawl.B. 151, fol. 8-9]. A somewhat different version appears in W. Scott, ed., A Collection of Scarce and Valuable Tracts . . . of the Late Lord Somers, II, 2nd edition, London, 1809, 151-4.

had tried to suggest. The speech, however, was far more than this, for its careful analysis of the bills which had been introduced was a condemnation of the bishops and the King, and it is proof that by the fifth session, at least, the Commons had taken stock of the situation and knew exactly where they stood.

Thus, in religious, as in other matters, the fifth session ended in complete failure. The proceedings, however, had enabled the majority of the Commons to unite, for the differences which would appear when the bishops were abolished were sunk in their common opposition to the hierarchy. The bishops, too, had been made very aware of this hostility, and James had wisely refrained from coming to their rescue by claiming religion as his prerogative. He had been worsted once over the question of freedom of speech and, by restraining himself, he probably prevented another defeat. At the same time, he allowed the bishops to take the blame for his theories, while not for one moment rejecting them. Though the King had survived this onslaught, however, the Commons had time on their side and, although they had gained nothing constructive, the advantage was certainly theirs.

Common Law versus Prerogative

One reason for the failure of the parliament of 1610, as has already been suggested, can be traced to the deep distrust between the King's supporters and the opposition. Lord Salisbury and Lord Ellesmere, for instance, both believed that the Commons were consciously attacking the King's prerogative,⁹⁹ but it is clear from the records that the Commons also genuinely feared the extension of arbitrary government. The core of this misunderstanding, which was as typical of the whole Stuart conflict as it was of 1610, lay in the lack of a clear conception of sovereignty although, as has been pointed out, the Commons in 1610 had no intention of claiming sovereignty for themselves.¹⁰⁰

While there remained unlimited areas of the King's prerogative, however, there was reason to fear that the King might attempt to extend his prerogative. In order to prevent this, it became necessary for the common law courts and parliament to limit the King's power by the enlargement of their own, thus creating a situation in which each side felt threatened by the

⁹⁹See above, p. 86; Foster, I, 276-83 [Ellesmere 2599].

¹⁰⁰Above, p. 14 . See also below, p. 141.

other. In many cases, the Commons' debates of 1610 merely mirrored the conflict between the common law courts, led by Sir Edward Coke, and the prerogative courts. Common law, standing as it did, as the bulwark against prerogative, had, in fact, become the guardian of individual rights, and an M.P., whether gentry, Puritan, merchant, or other, who wished to protect the liberties of the subject, or, more particularly, his own rights, was forced to support common law against the King's prerogative.

In such a situation James' well-advertised theories of divine right must have convinced the Commons that their suspicions were justified. On one occasion, James tried to enforce his prerogative, but, as will be seen below, his attempt was a failure.¹⁰¹ On the whole, however, James was not anxious to push his theories to their logical conclusion but, even when being conciliatory, his speeches tended to antagonize his audience. This was especially true in the case of Dr. Cowell, one example in the fourth session of the opposition's spontaneous reaction to a threat, and one in which their lack of preparation enabled royal supporters to gain an advantage.

¹⁰¹Below, pp. 125-33.

Dr. Cowell, reader of civil law at Cambridge, had published a law dictionary entitled The Interpreter in 1607. His purposes appear to have been purely academic,¹⁰² but his chapters on Subsidy, King, Parliament, and Prerogative, caught the Commons' attention since they placed the King above common law and parliament, and insisted that it was the Commons' duty to grant subsidies.¹⁰³ Professor Chrimes maintains that "the question of Cowell's book was brought up partly at least as a means of embarrassing the king in the midst of these disputes [over supply, grievance, and the Great Contract] and partly as a means of prolonging the uncertainty of their outcome,"¹⁰⁴ but it seems more likely that it was merely one of the many grievances which inundated the Commons in its early weeks. Mr. Hoskins, the common lawyer who raised the matter on February 23,¹⁰⁵ no doubt realized that a debate on Cowell's book would embarrass the King, but he did not pick a particularly strategic moment for his revelations which

¹⁰²Chrimes, "Cowell," EHR, LXIV, 1949, 464.

¹⁰³For the points in The Interpreter to which the Commons took exception see Prothero, Documents, 409-11.

¹⁰⁴Chrimes, "Cowell," EHR, LXIV, 1949, 466-7.

¹⁰⁵CJ, 399.

can, therefore, be regarded as no more than part of the general, though unorganized, campaign against arbitrary government.

On February 24 a sub-committee reported their perusal of The Interpreter which, the committees maintained, endangered their liberties and the power of common law;¹⁰⁶ and a debate began on what should be done. Here Bacon saw his chance to turn this to the King's advantage, pointing out that not only was the House affected but "the King, and the whole Body" of Parliament.¹⁰⁷ Thus, although Hoskins and Anthony Cope tried to widen the issue by producing similar treatises and saying that Cowell had "confederates,"¹⁰⁸ it was decided to consider Bacon's proposal to confer with the Lords. Thus, on February 27, the Commons asked the Lords for their co-operation against Cowell.¹⁰⁹

Bancroft, meanwhile, was again on the defensive for "he heard it was given out in the town that seeing the book was dedicated unto him he was

¹⁰⁶CJ, 399.

¹⁰⁷CJ, 400.

¹⁰⁸CJ, 400.

¹⁰⁹CJ, 400.

consenting thereunto,"¹¹⁰ and he believed that the conference would result in "a set discourse against the civil and ecclesiastical laws."¹¹¹ Indeed, he spoke in Cowell's favour and later wrote to Salisbury praying for his release;¹¹² luckily, however, the Commons did not know this, though they may have suspected it, and the Archbishop was spared another direct attack from the Commons. The King, however, also felt attacked. He had not acted immediately against Cowell, which would have pleased the Commons, and the Lords, too, "took . . . some time to deliberate upon the same."¹¹³ As a result, on March 8, the Commons began to discuss what should be done.¹¹⁴ Various suggestions were made, but it was decided only to "hear and report" what the Lords had to say. Thus, the initiative remained with the Lords, but this advantage was unnecessary since, in conference on March 8, Salisbury reported the King's decision. James utterly denied that he could "make laws without the 3 estates or that he hath subsidies of right," he "thinketh the common law as wise and safe a

¹¹⁰Foster, I. 18 [Folger V.a. 277, fol. 11].

¹¹¹Foster, I, 180 [Braye 61, fol. 3].

¹¹²Cal SP, Dom, J.I, 1603-10, LIII, 605.

¹¹³Beaulieu to Trumbull, March 8, 1609/10, Winwood, Memorials, III, 129.

¹¹⁴CJ, 407.

law as any in the world," and he promised to have the book suppressed.¹¹⁵

Cowell was called before the King and, was imprisoned.¹¹⁶ All would have been well had not James found it necessary to answer the Commons thanks for leave to treat of tenures with a explanation of his views on March 21.¹¹⁷ Not only did the King urge the Commons to grant him money on the strength of the suppression of The Interpreter, but he countered rumours of his dislike of common law with a full account of his beliefs. True, he agreed that the King must be subject to the laws of the land, but this concession must have been overshadowed by his allegations that the King is "God's lieutenant on earth," that it is "blasphemy to dispute what a king may do," and that kings "are justly called Gods." In practice, the King's views were not so very different from the Commons', but such phrases are easy to remember, and it is not surprising that the Lower House continued to fear the extension of the royal prerogative.

Another piece of tactlessness is to be

¹¹⁵Foster, I, 31 [Folger V.a. 277, fol. 18v.-19]; Crawford, Proclamations, I, 128-9.

¹¹⁶Edmondes to Trumbull, March 15, 1609/10, HMC, Downshire, II, 262.

¹¹⁷McIlwain, Works, 306-25.

observed in the King's speech. James had the effrontery to suggest certain sensible reforms of common law,¹¹⁸ such as the abolition of law French, codification of precedents, and the sifting of contradictory judgments. This seems to have been part of a general government attempt to reform the law, which included abolition of informers, of whom the country had long complained,¹¹⁹ and a thorough overhaul of statute law. The lack of attention which these suggestions received, however, emphasizes unconcern for anything which was not fundamental to the issues of 1610.

The execution of many penal laws rested on information supplied by informers who were entitled to a proportion of the fine which was imposed upon their victim, the other part going to the Crown. The system was manifestly corrupt and several attempts had been made to curb it,¹²⁰ but it provided James with a certain amount of revenue, gave him an opportunity for bounty, and provided a means of enforcing penal laws. The first two advantages were slight, however, and no doubt

¹¹⁸McIlwain, Works, 311-2.

¹¹⁹M. W. Beresford, "The Common Informer, the Penal Statutes, and Economic Regulation," Economic History Review, Second series, X. 1957, 232-4.

¹²⁰See Beresford, "Informer," Econ Hist Rev, 2nd series, X, 1957, 221-37.

Salisbury felt that they would be amply offset if the offer to give them up would propitiate the Commons. Thus, on February 24, Salisbury included among his ten points of retribution the offer to abolish informers.¹²¹ These ten points, as will be seen below, became part of the Contract on June 26,¹²² but, on June 20, "Mr. Alford preferreth a Bill against Informers, as Part of the Grievances; being so commanded."¹²³ This entry is puzzling since, late in April, the grievance "against private informers which make composition" was "laid asleep."¹²⁴ Perhaps, therefore, the bill was an attempt to support the relevant clause in the Contract,¹²⁵ rather than a grievance, although after its second reading on June 25 it was committed to the committee of grievances,¹²⁶ and was mentioned again on July 10 among bills for redress of grievances.¹²⁷ In any case, it was never given a third reading and,

¹²¹Foster, II, 36 [Harl. 777, fol. 17]; Gardiner, Parl Debs, 16.

¹²²See below, p. 169.

¹²³CJ, 442.

¹²⁴Foster, II, 71 [SP 14/53/121].

¹²⁵LJ, 661.

¹²⁶CJ, 443.

¹²⁷Foster, II, 272 [SP 14/56/21].

although James in his Book of Bounty promised never to receive "Graunts of the benefite of any Penal Lawes, or of power to dispence with the Lawe, or compound for the forfeiture,"¹²⁸ and, although on November 14, in a final attempt to offer retribution in return for supply, Salisbury again included the offer to abolish informers,¹²⁹ these inducements had no effect on the Commons.

The same fate met the government's attempt to reform the penal laws. Salisbury had suggested the reform of penal laws on February 15 as part of the retribution which the Commons might expect in return for contribution, and the Lords had already taken the first steps to this end.¹³⁰ Not until about April 25 is anything heard of this matter in the Commons. At that time, however, "obsolete laws to be repealed . . ." was committed as a grievance.¹³¹ Then, on June 26, a clause that "penal laws and Informers to be ordered for the ease and benefit of the Subject" was included as

¹²⁸Book of Bounty, 13-4; Beresford, "Informer," Econ Hist Rev, 2nd series, X, 1957, 234.

¹²⁹Foster, I, 254 [Petyt 537/8, fol. 267v.].

¹³⁰Foster, II, 27 [Harl. 777, fol. 14-14v.]; LJ, 551.

¹³¹Foster, II, 71 [SP 14/53/121].

part of the Contract.¹³² As for the full-scale reform which the Lords had instituted, no more was heard of it, and, the subject of penal laws seems to have been dropped for the time being in the Commons. Then, on July 16, presumably in an attempt to distract the Commons, the King sent a list of fourteen abuses in the commonwealth which should be reformed, all of which concerned the execution or scope of the laws.¹³³ This seems to have stimulated Edward Alford to move for the "Reformation of Laws and Judgments,"¹³⁴ and, on July 21, Salisbury reported the King's acceptance of the petition of July 19 for a survey of the penal laws,¹³⁵ which thus became part of the Great Contract.¹³⁶ A proclamation to this effect was issued on September 24,¹³⁷ but, after the Contract had failed, "penal laws to be reformed" and "all obsolete lawes to be taken away" appeared again in the list of retributions offered on November 14.¹³⁸

¹³²LJ, 661.

¹³³Foster, II, 279-82 [Folger V.a. 121, fol. 14-17].

¹³⁴CJ, 450. See Foster, II, 384 n.109.

¹³⁵Foster, I, 155 [Folger V.a. 277, fol. 101v.], 163 [Folger V.a. 277, fol. 107].

¹³⁶LJ, 661.

¹³⁷Crawford, Proclamations, 129.

¹³⁸Gardiner, Parl Debs, 133.

These episodes have been related in full because they emphasize the attitudes of both the Commons and the government. Presumably, the Commons would have welcomed the abolition of informers and the reformation of penal laws, but these matters were not vital to them. They seem, too, to have regarded both matters as grievances which ought to be remedied rather than as favours which might be bought from the King. Salisbury's persistence in offering these points as retribution for which contribution would be expected is, therefore, evidence of the government's unwillingness to recognize the scope of the problem facing parliament in 1610. In a situation of this kind, the King's suggestions for reform of common law were futile, and worse, dangerous, because they led members of parliament to believe that the King was the enemy of the common law.

On three other matters concerning the common law, however, the Commons showed far from passive objection. Of these three, prohibitions were connected with the religious grievances, the four shires were a regional concern, and the proclamations against which the Commons complained concerned unimportant matters. Yet, together with impositions and the ecclesiastical commission, these matters were of great legal significance and the failure of the petitions against

them proved to be the sticking point in the fifth session.

The battle between the common law and ecclesiastical jurisdiction, Coke versus Bancroft, had been raging for several years, one of the main weapons of the common law being writs of prohibition by which proceedings in the ecclesiastical courts could be removed to common law courts if proved to be outside the jurisdiction of the ecclesiastics.¹³⁹ Among other things, writs of prohibition had been issued to stay cases dealing with silenced ministers and tithes,¹⁴⁰ and even to prevent the ecclesiastical commission from forcing a witness to take the ex officio oath. The issue of such writs was, therefore, in the interest of Puritans, lay impropiators, and common lawyers, and any restraint would be likely to unite these elements in the Commons. Bancroft, however, had pointed out to James that, as head of the two branches of the law, it was in his power to settle disputes between ecclesiastical and common law courts, and James had restrained several of these writs.¹⁴¹ There must have

¹³⁹See Usher, Reconstruction, II, Chapter II, V, IX, X.

¹⁴⁰See Foster, I, 222-3 n.14.

¹⁴¹Kenyon, Stuart Constitution, 177, 180-1; Frere, English Church, 360.

been a good deal of opposition to the King's interference, though, apparently, it had not been raised in the Commons before the King's speech of March 21.¹⁴² On this occasion, James included a statement of his policy towards prohibitions.¹⁴³ Perhaps, by saying that he only disliked the abuse of prohibitions, James hoped to prevent the Commons from including this among their grievances. If so, he was too optimistic. Five days after his speech a sub-committee was at work upon the matter and it duly appeared in the petition of July 7.

The grievance against the jurisdiction of the Council of Wales over the four shires -- Gloucester, Hereford, Shropshire, and Worcestershire -- did not make its way into the petition so easily, even though a bill concerning this exclusion of common law had passed the Commons in the second session of this parliament.¹⁴⁴ In 1610, Lewkenor protested that this was not a general grievance,¹⁴⁵ but it was eventually included.¹⁴⁶ One

¹⁴²I have found no reference to prohibitions in the Commons before March 26 [CJ, 414] but it is possible that it had been raised in the committee of grievances and has escaped record.

¹⁴³McIlwain, Works, 312-3.

¹⁴⁴LJ, 447.

¹⁴⁵CJ, 425.

¹⁴⁶Foster, II, 262 [SP 14/56/part 2].

may conclude from this incident that the majority of members believed that prerogative government, even where "not 100 Men grieved,"¹⁴⁷ must be curtailed. Upon reflection, moreover, the matter apparently gained more significance, for on July 18, the Commons included the restoration of the four shires to "that their ancient Right"¹⁴⁸ among their latest demands in the Contract, although it was agreed that "the entertaining or preferring of this article may be no breach or prejudice to the main bargain."¹⁴⁹

The list of proclamations against which the Commons complained also seems, at first, to be trivial, for, as R. W. K. Hinton points out: "only nine proclamations were cited, in order to make sixteen items of grievance under . . . seven heads."¹⁵⁰ As Hinton realized, however, it was the heads rather than the fact that James had regulated such things as starch-making and the building of houses outside the walls of London, which was important to the Commons. Salisbury

¹⁴⁷CJ, 425.

¹⁴⁸LJ, 661; Foster, II, 286 [Harl. 777, fol. 54v.-55]; CJ, 451-2.

¹⁴⁹Foster, II, 286 [Harl. 777, fol. 55].

¹⁵⁰Hinton, "Liberty," Cam Hist Jour, XI, 1953, 58.

had tried to anticipate this grievance as early as February 15, by explaining that the collection of proclamations into a book,¹⁵¹ which had been ordered before the parliament reassembled, was not to give proclamations the force of law but merely to bring them more easily to attention.¹⁵² Although this book was mentioned, the fact that proclamations altered existing laws, enforced matters rejected by parliament, touched men's liberty and goods, and in other ways were contrary to statute or common law, was the main target of the Commons' protest. Moreover, in this case, the Commons' actually admitted in the petition that a fear had spread that proclamations would "grow up and increase to the strength and nature of laws" and that "the same may also in process of time bring forth a new form of arbitrary government upon the realm."¹⁵³

The King reserved his answer to these grievances to which, with the other grievances considered in this chapter, he referred as matters of "honour," until July 23.¹⁵⁴ As the debates of the fifth session

¹⁵¹Foster, II, 22 n.49.

¹⁵²Foster, II, 22 [Harl. 777, fol. 10v.].

¹⁵³Foster, II, 259 [SP 14/56/part 2].

¹⁵⁴Foster, I, 130 [Folger V.a. 277, fol. 86v.]; LJ, 659-60.

show, the results were far from satisfactory to the Commons. He agreed that "prohibitions may freely proceed" and promised that no future proclamations should be issued "but such as stand with the former laws or statutes of the kingdome" and "in Cases of Necessity" such as had previously been issued by his ancestors. Finally, he agreed to confer with the judges over the question of the four shires and he showed his willingness to accept an act of parliament which would prevent him from setting up other courts such as the Council of the Marches for Wales. His answer was clearly intended to meet the Commons' grievances, but, except in the last matter, he showed no desire to limit his power by act of parliament and, as has been seen, the Commons were already becoming suspicious of his promises. Even the proclamation of September 24, revoking his former proclamations, which was issued after consultation with Coke and the other judges, was no more than a temporary indication that the King was willing to abide by his promises.¹⁵⁵ Thus, by the fifth session, it is clear that the Commons' considered the failure of their

¹⁵⁵Cal SP, Dom, J.I, 1603-10, LVII, 634;
Crawford, Proclamations, 129; Kenyon, Stuart
Constitution, 8.

petitions an ample reason for further opposition to any government schemes for contribution and retribution. The Contract could not go on, Owen maintained, until the King's power to levy "any new burden or tools" by proclamation had been "provided sure."¹⁵⁶ "What heart can we have to go on with the business," asked Mr. James, "so long as an arbitrary power of government (of impositions, of proclamations) shall remain?"¹⁵⁷ while Mr. Duncombe believed that "the discouragement . . . we all took was from the answer to our grievances, and insisted particularly upon that for ministers, that of the 4 shires, that of proclamations, that of impositions, to which we had no answer."¹⁵⁸ James' excessive demands finally killed the Contract, but its chances of success were already practically nil, as were the chances of Salisbury's last attempt to obtain supply for retribution. The King's private meeting with members further jeopardized this scheme, for although the meeting may have convinced James that the House would not give in over "the four greavincis, Prohibitions, Proclamations, Wales four shyres, Impositions,"¹⁵⁹ and

¹⁵⁶Foster, II, 398 [Portland 29/702, fol. 82v.].

¹⁵⁷Foster, II, 319 [Add. 48119, fol. 199].

¹⁵⁸Foster, II, 321 [Add. 48119, fol. 200].

¹⁵⁹HMC, Rutland, I, 425.

although his audience may have been convinced by the King's pleas for money, all the influence which these thirty-odd members might have had was lost since the Commons objected vigorously to the meeting as a breach of privilege.¹⁶⁰ James followed up the meeting with a letter reaffirming his stand over impositions but offering to free the four shires¹⁶¹ -- yet another piece-meal offer of which it is almost kind to say: too little and too late.

Thus the fifth session trailed off into confusion and hard feeling. In the fourth session one can explain the unity of varying sectors of the opposition by pointing out their common interests; by the fifth session this is not necessary, for James' well-meaning but empty promises had produced a situation in which the Commons refused to compromise until all their grievances received satisfactory replies. In this chapter only those grievances concerning religion and the common law have been traced. Elsewhere, however, the same hardening attitude of the Commons in the fifth session will also be seen. Grievances before support and supply had been the catch word of the fourth session

¹⁶⁰See above, pp. 54-5; below, p. 183.

¹⁶¹Gardiner, Parl Debs, 137-8; HMC, Rutland, 425.

but many members expected favourable answers and the opposition was, therefore, less concentrated and more ready to find solutions. By the fifth session everyone was disappointed and few speeches in favour of the King's policies are recorded. Such opposition had no need of party lobbying or organization, rather it was the result of the dashed hopes and mounting exasperation which affected nearly the whole of the Lower House. It is difficult to see how any satisfactory solution could have been obtained. While grievances remained unsettled the Contract was doomed, and neither the King nor the Commons could afford to give in where principles were concerned. That both sides were willing to compromise over non-fundamental issues is shown by the Contract negotiations, as will be seen below, and the King could afford to capitulate graciously over the question of Cowell's Interpreter. But, where sovereignty was concerned, neither side would budge and, although as yet, the opposition was only just beginning to realize its potential as an obstruction to the King, eventually they would produce their own programme and civil war would result.

CHAPTER IV

IMPOSITIONS AND LIBERTIES

This chapter is concerned with those grievances which James called matters of "profit" as opposed to matters of "honour"¹ which have already been discussed. There were five grievances concerning the King's revenue, most important of which was the question of impositions. Indeed, this grievance shared many characteristics of the matters of "honour" since the King's prerogative was involved, and it ranked high among the other grievances against the extension of arbitrary government which became the stumbling-block in the fifth session. There were various objections to the matters of profit which, as in the case of the matters of honour, enabled different sections of the Commons to unite. On the most straightforward level, impositions were held to endanger trade. More important, for those who feared for the future of parliament, any extra-parliamentary revenue was a threat since it might be extended to make parliamentary grants unnecessary and hence endanger the power and even the existence of

¹Foster, I, 130 [Folger V.a. 277, fol. 86v.].

parliament. Upholders of common law, on the other hand, regarded unparliamentary taxation as an infringement of the subjects' liberty since there should be no taxation without consent. The most general, though probably the most effective, reason for opposition had nothing to do with the subject of each particular grievance, as long as it was regarded as an example of arbitrary government. Success in extending his prerogative in one direction would encourage the King to try elsewhere. It therefore behoved all members who feared the extension of prerogative in one sphere to support attempts to prevent this from occurring in another. The fact that these interests had coincided again enabled the Commons to oppose the King without wavering.

Of the five grievances concerning matter of profit, included in the petition of July 7, two, "imposition of one shilling the chalder upon sea-coal" and "tax upon alehouses,"² concerned unparliamentary taxes imposed upon goods which were neither imported nor exported and thus not subject to the King's power to tax for the protection of trade. In both cases the

²Foster, II, 267-8, 269-70 [SP 14/56/part 2].

Commons emphasized that these taxes had not received parliamentary consent and were illegal since they violated property rights. Significant, too, in both was the insistence that, if once allowed, such measures would spread, a point which explains why such relatively local grievances should have passed easily through the Commons. The King had little with which to defend these taxes and, after claiming misunderstanding and public good as his reasons, he agreed that both should be stopped.³ So far so good, for the Commons had gained what they asked, but it cannot have been long before members began to realize, as Sir Nathaniel Bacon openly declared on November 17,⁴ that the King had lost little by these concessions.

James surrendered even less by his answers to the two grievances concerning monopolies. It is somewhat surprising that this subject did not cause a greater stir in James' first parliament. Elizabeth's retreat before the Commons of 1601 had saved the royal prerogative, although many of the more obnoxious patents had had to be sacrificed.⁵ In 1602 the case of Darcy

³LJ, 639.

⁴Gardiner, Parl Debs, 135-6.

⁵Neale, Eliz I and her Parltts, II, 387.

versus Allen had set a precedent for legal procedure against harmful monopolies, at the same time leaving the extent of the prerogative unsettled.⁶ James, who at first had made genuine efforts to curb his grants, soon discovered their usefulness as an inexpensive means of royal bounty.⁷ The two grievances raised against monopolies in 1610, "exaction for sealing of new draperies" and "monopoly of license of wines upon advantage of obsolete and impossible laws,"⁸ had, moreover, formed part of the petition of grievances of 1606.⁹ Yet, despite the increase of grants and the failure to obtain redress in 1606, the Commons in 1610 did not challenge the King's right to grant monopolies but merely renewed their complaints against individual patents. In the case of the new draperies, they asked the King to fulfil his promise of 1606.¹⁰ At that time he had agreed to allow the validity of the Duke of Lennox's patent for sealing the new draperies to be

⁶Gordon, Monopolies, 2-3.

⁷W. H. Price, The English Patents of Monopoly, Cambridge, Mass., 1913, 25-6.

⁸Foster, II, 268-9, 270-1 [SP 14/56/part 2].

⁹CJ, 317, 316.

¹⁰Foster, II, 268-9 [SP 14/56/part 2].

tried at law,¹¹ but nothing had been done about it. Now he again agreed, though he maintained that no tales of abuses such as the Commons complained of had reached his ears.¹² Again, this answer was only satisfactory as far as it went and, in view of the long delay after James' previous promise, it is not surprising that Nathaniel Bacon also complained on November 17 that "the patent of New Drapery is not yet revoked." His further point that "if it shall be, it is sayd that it wilbe upon the poynt of misplinging; so that there shalbe no judgment for the right of the Subject,"¹³ is further indication of the way in which parliamentary opposition was developing by the fifth session.

In the case of license of wines the Commons admitted that this monopoly was based upon law, as James had maintained in 1606,¹⁴ but they argued that the law was obsolete and that they had hoped for its repeal. Furthermore, they denied that the King had a right to grant the benefit of a penal law passed by parliament to a private person -- an opinion not only

¹¹CJ, 317.

¹²LJ, 639.

¹³Gardiner, Parl Debs, 136.

¹⁴CJ, 316.

of the Commons, "but a full resolution of your Majesty's judges published among the late reports."¹⁵ This premise James ignored in his answer¹⁶ and, with caustic comments on the Commons' own regard for old laws, he insisted that the patent should remain in force. His final concession, that he would agree to a new law when the Lord Admiral's grant had expired, gave little satisfaction since it would not come into effect for many years. As well as these concessions, which certainly went further than the answers of 1606, James, in his Book of Bounty which was printed about this time, made effort to convince his subjects that his promises were genuine. As has been seen, among the suits for reward which James now refused to consider, was included the grant of the benefit of penal laws, the power to dispense with the law, and of compounding for the forfeiture.¹⁷ But, although James thus accepted the principle of the Commons' grievance and acknowledged one of the points of the Contract, this declaration, like his answers in the Commons, was dependent upon the

¹⁵Foster, II, 271 [SP 14/56/part 2], 270n. 20, 271 n.21.

¹⁶LJ, 639.

¹⁷See above, p. 105.

King's word and faith in James' sincerity was rapidly declining. The Commons wanted laws, and, until these were accepted, no concessions based on the King's word alone would be wholly satisfactory.

The grievances presented on July 7 represent only a part of the subjects raised in the committee of grievances. Some were too extreme for even the Commons to consider;¹⁸ others, such as the pre-emption of tin and the price of alum,¹⁹ both royal monopolies, seem to have been forgotten in the more general discussion of impositions; while others, such as the restraint of free trade, were dropped but not forgotten.²⁰ The general practice seems to have been agreed upon that, wherever possible, grievances, whether presented or not, should be accompanied by a bill,²¹ but the Commons was far too busy with more immediate issues to prepare piecemeal legislation and, in any case, the recommendation to

¹⁸See especially Foster, II, 71-2 [SP 14/53/121].

¹⁹Foster, II, 358 [Minn. MS, fol. 4v.].

²⁰Foster, II, 272 [SP 14/56/21].

²¹Several examples of this have been seen in the discussion of religion and this seems to have been the purpose of the report from the committee of grievances on July 10 [Foster, II, 272 (SP 14/56/21), 382 (Titus F.IV, fol. 126v.); CJ, 447].

do so came too late in the session for any practical purpose. Even the bill against impositions, to which James had agreed, failed to get through the Commons before the end of the fourth session for reasons which will now be investigated.

Impositions were those duties levied by the King, over and above customs duties, on imports and exports, theoretically for the regulation of trade. This principle and the King's right to levy such taxes had been confirmed by the judgment laid down in the celebrated Bate's Case of 1606.²² Having secured this satisfactory decision, James, and more especially Salisbury after he became Lord Treasurer, conveniently ignored the principle of trade regulation and began to use impositions as a source of revenue.²³ In 1608, after consultation with the merchants, but without parliamentary consent, Salisbury issued a new book of rates, the unpopularity of which must have been considerable since, in his speech of February 15, Salisbury anticipated this grievance and tried to prevent impositions from becoming an issue by suggesting that a

²²See Cobbett, State Trials, II, 371-94.

²³Dietz, English Finance, II, Chapter XVI; A. Friis, Alderman Cockayne's Project and the Cloth Trade, London, 1927, 196-200.

law should be passed against the abuses which accompanied them.²⁴

This suggestion, like the other attempts to forestall opposition on February 15,²⁵ had no results although it was not until April 24 that the committee of grievances turned from particular objections connected with impositions²⁶ to "the great Matter of Impositions" for which the presence of all the lawyers was required.²⁷ Before this, however, the King had made his position clear in his speech of March 21, although impositions were not specifically mentioned. Not only did he then forbid the Commons to question his "power of government,"²⁸

²⁴Foster, II, 26 [Harl. 777, fol. 13-13v.].

²⁵Foster, II, 18 [Harl. 777, fol. 8] Salisbury maintained that forced loans had been repaid but, although James' answer prevented the Commons from so doing, they had wanted to include this grievance in the Contract [Foster, II, 71, 273, 383, 279, 385, 286-7, 293-4]. Foster, II, 22 [Harl. 777, fol. 10v.] Salisbury insisted that the book of proclamations was not intended to give proclamations the force of law, but complaint against them was included in the petition of grievances [Foster, II, 258-61 (SP 14/56/part 2)]. Foster, II, 23 [Harl. 777, fol. 11] Salisbury also defended the King's bounty but complaints against this were as strong at the end of the fifth session as they had been at the beginning of the fourth [Gardiner, Parl Debs, 135, 144, 145, 11].

²⁶Eg. on February 21 it was decided to consider the decay of the cloth trade, which was increased by the new rates, "with help of merchants and clothiers" [Foster, II, 360 (Minn. MS, fol. 5v.); CJ, 398].

²⁷CJ, 421.

²⁸Foster, II, 61 [Petyt 537/14, fol. 174v.].

but he also insisted that "you must take heed that you account them not grievances that I have and enjoy from my predecessors, more maiorum,"²⁹ and, in James' view, impositions fell into both categories. On the other hand, James also showed himself willing to reform abuses so long as his rights were not questioned. This, with the failure of his later proposal for a bill to prohibit new impositions, suggests that, in this case, the Commons wanted to attack the very root of the prerogative and would not be satisfied with anything less.

All James' suspicions and fears must have been aroused as he saw the form that the Commons' investigation of impositions was taking, for an elaborate search for precedents in the Tower and Exchequer was quickly organized.³⁰ The searching of records was a slow business and before any report could be made the Speaker rose with a message applying the general statement of March 21 to the question of impositions. The Commons might complain of abuses and inconveniences arising from particular impositions but

²⁹Foster, I, 48 [Folger V.a. 277, fol. 29v.].

³⁰See above, p. 46.

they were forbidden to discuss the King's right to levy them, since this had already been proved by the decision in Bate's Case.³¹ Unfortunately, although this message seems to have originated from the King,³² James was known to be in the country at the time and the Commons, quick to seize every advantage, demanded to know from whom the Speaker had received it.³³ At last ascertaining that it had come from the Council, the House and then the committee of privileges debated the matter of messages, and refused to accept instructions from the Privy Council.³⁴ On the following day, a genuine message from the King confirmed these instructions,³⁵ and the Commons, though still involved in the quibble over messages,³⁶ turned to the much more vital question of freedom of speech.

³¹CJ, 427; Foster, II, 82 [Add. 48119, fol. 151], 365 [Titus F.IV, fol. 115v.]; HMC, HL, N.S., XI, Addenda, 119.

³²Foster, II, 82n.

³³CJ, 427; HMC, HL, N.S. XI, Addenda, 121.

³⁴CJ, 427; HMC, HL, N.S. XI, Addenda, 119-20; Foster, II, 84-5 [Add. 48119, fol. 152-3].

³⁵CJ, 427-8; Foster, II, 85-6 [Add. 48119, fol. 153-153v.]; HMC, HL, N.S., XI, Addenda, 121.

³⁶See above, pp. 58-9.

Elizabeth, though seldom by a direct commandment, had successfully prevented discussion of her prerogative³⁷ yet, in 1610, Wentworth was able to ask "Nay if we shall once say that we may not dispute the prerogative, let us be sold for slaves."³⁸ Unlike his father, who had been imprisoned by fellow M.P.s in 1576 and by Elizabeth in 1593 for his interference in the royal prerogative,³⁹ Thomas Wentworth won support in the House. What had provoked this change? In part, one may surmise that the very insistence laid by James upon his prerogative -- his speeches in 1610 are good examples and even the decision in Bate's Case was larded with theoretical explanation of the King's prerogative -- and the use to which he put and might extend it, had forced the Commons to consider their own position. Indeed, in a speech on May 18, rather different from the precedent-based speeches usual at this time, Mr. Noy admitted that it "hath been a practiced power in former parliaments to send messages not to

³⁷J. E. Neale, "The Commons' Privilege of Freedom of Speech in Parliament," in R. W. Seton-Watson, ed., Tudor Studies, London, 1923, 283-6.

³⁸Foster, II, 83 [Add. 48119, fol. 151].

³⁹Neale, "Freedom of Speech," Seton-Watson, Tudor Studies, 284-5.

dispute of this or that" and, although he realized that he might suffer for saying "no more than every man thinks,"⁴⁰ he declared that they must disobey the King's order or else "we must bear any apparent wrong, if a commandment come to us not to dispute it."⁴¹ Others, too, agreed that the prerogative was no reason to stay debate, for their liberty was as important as the King's prerogative.⁴² Moreover, although after another message from the King,⁴³ they obeyed his instructions,⁴⁴ this was the position which they fought for and finally vindicated.

On May 21, James tried to use a personal approach to break the stale-mate which was preventing discussion of supply and support. The effect of this speech, in which James complained that the House had

⁴⁰Noy was not the only one to anticipate action from the King [Travener to Trumbull, March 30, 1610, HMC, Downshire, II, 87; Foster, II, 319 (Add. 48119, fol. 199), 404 (Harl. 4228, fol. 17v.)]. Moreover, it was only with great difficulty that the Council persuaded the King not to punish members for their criticism of the Scots at the end of the fifth session [Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 283].

⁴¹Foster, II, 93 [Add. 48119, fol. 157v.].

⁴²Foster, II, 93-6 [Add. 48119, fol. 157v.-159].

⁴³Foster, II, 96 [Add. 48119, fol. 159v.]; HMC, HL, N.S., XI, Addenda, 123-4.

⁴⁴Foster, II, 98-9 [Add. 48119, fol. 160v.-161]; HMC, HL, N.S., XI, Addenda, 124.

done nothing to relieve his wants and renewed his prohibition against discussing his power to impose while, nevertheless, justifying his own action,⁴⁵ was immediate. Yet James must have been surprised by this reaction. He had said nothing new and had actually promised never to impose again without the consent of parliament. As Spedding points out, however, the King's defense of his power to impose "implied a pretention to tax not imports and exports only, but all other property,"⁴⁶ and, on this occasion, he did not take the precaution of adding that the King was under the law, emphasizing instead that the Commons might not question what the King can do. James was neither strong enough nor, probably, even wanted, to act as the fictitious tyrant who, he said, might be sent as a scourge from God, but it is hardly surprising that the Commons forgot his defence of impositions and began to imagine that their fears of arbitrary government were about to be realized.

⁴⁵Foster, II, 100-7 [Add. 48119, fol. 161v.-165v.]; Foster, I, 87-9 [Folger V.a. 277, fol. 56-57]; Gardiner, Parl Debs, 34-6.

⁴⁶Spedding, Letters and Life of Bacon, IV, 181.

The speeches which followed in the Commons on May 22 illustrate two basic, yet incompatible, points of view which made compromise between the King and the opposition virtually impossible.⁴⁷ Sir Francis Bacon and Caesar represented the royalist position, maintaining that the Commons could not debate the King's prerogative without his consent. Bacon tried to show that impositions fell into the same category as topics such as marriage and succession on which Elizabeth had prohibited discussion and to persuade the House "to present theise matters of Impositions as greevences to the Commonwealth (which the Kinge hath given us leave to doe), but not to question his power and prerogative to impose."⁴⁸ The opposition, on the other hand, maintained that impositions affected property and that parliament had always been at liberty to discuss matters concerning this basic right. Much was said about the

⁴⁷See CJ, 430-1; Gardiner, Parl Debs, 36-9; Foster, II, 107-12 [Add. 48119, fol. 165v.-168v.]; HMC, HL, N.S., XI, Addenda, 124-5.

⁴⁸Gardiner, Parl Debs, 39. The account in Foster, II, 110-1 [Add. 48119, fol. 167-168] is slightly different, but the suggestion there that Bacon came nearer the opposition's point of view is disproved by an earlier assertion in the same account that "to these cases [marriage, succession, etc.] he resembled the case in question as a matter concerning the Crown."

loss of liberty which the King's prohibition entailed, but Whitelocke probably best expressed the issues involved when he said:

One is that we are masters of our own and can have nothing taken from us without our consents; another that laws cannot be made without our consents, and the edict of a prince is not a law; the third is that the parliament is the storehouse of our liberties. All these are in danger to be lost by this power, for de modo et de fine non constat nobis. We know not how this may stretch.⁴⁹

Once again, it seems, the opposition was forced to consolidate its position lest it should lose it.

Since the Commons regarded impositions as a matter of commonwealth rather than of prerogative, they determined to inform James of their liberty to debate them not by "a petition of grace but a petition of right, showing how in all parliaments we had freely disputed of anything concerning ourselves."⁵⁰ The petition, which was presented on May 24, pointed directly to the crux of the matter:⁵¹ the Commons

⁴⁹Foster, II, 109 [Add. 48119, fol. 166v.].

⁵⁰Foster, II, 110 [Add. 48119, fol. 167.].

⁵¹The full petition is in CJ, 431-2.

maintained that they could not discuss impositions, debate of which was held as "an ancient, general and undoubted Right of Parliament" since it concerned the subject, without simultaneously discussing the King's prerogative. Moreover, the Commons declared that such prerogatives had always been freely debated in parliament "which being forbidden, it is impossible for the Subject, either to know, or to maintain, his Right and Propriety to his own Lands and Goods, though never so just and manifest." Highly annoying, in view of the King's assertion that "you ought not to question what a King may do,"⁵² the Commons also asserted that "your Highness' Prerogative in that Point . . ., if ever, is now most necessary to be known." For these reasons the Commons begged that the King would uphold their liberties, and though they promised not to reverse the decision in Bate's Case, they maintained that it only affected Bate himself and that any subject had the right to try to reverse it by a writ of error. Finally, they maintained that their full examination of impositions would be to the King's good since it would remove a source of "Fears and Jealousies from the loyal Hearts of your Subjects," a consideration which James, pressed as he was for money, must have appreciated.

⁵²Foster, II, 104 [Add. 48119, fol. 163v.].

The Commons insisted throughout the petition that they were merely upholding "the undoubted Right and Liberty of Parliament." Elizabeth would have thought very differently. Even during the debate on monopolies, a prerogative which encroached upon property, she had not recognized the Commons' right to legislate against the prerogative.⁵³ The Queen, however, had reformed the abuse and thus forestalled discussion of her prerogative. James, dependent for revenue upon the impositions, could not afford to do more than promise not to impose in future and, when faced by the petition of right, his hopes of improving his financial situation by parliamentary grant forced him to accept it completely.⁵⁴ Not only did he give in, but he did so graciously -- receiving and dining the Commons' representatives in an obvious, and not unsuccessful, attempt to win their good feeling.⁵⁵

⁵³Neale, Eliz I and her Parltts, II, 437.

⁵⁴Although Spedding maintains that "as . . . the King had never meant to put any restraint upon the liberty of their proceeding, but fancied on the contrary that he was offering them a very large and unusual indulgence, he was the more disposed to receive [the petition] graciously." [Letters and Life of Bacon, IV, 184].

⁵⁵Foster, II, 114-7 [Add. 48119, fol. 169-170v.], 372 [Titus F.IV, fol. 121].

Having received the King's permission to proceed, the search for records was continued and, after five days of concentrated debate, the clause against impositions was agreed upon⁵⁶ and the finished petition of grievances presented on July 7. The petition was a clear statement of the Commons' position and it explains why they refused to accept James' offer of a law against future impositions. According to "the policy and constitution" of England, they declared, laws and taxes upon the subjects' property were made by King and parliament and might not be altered without the subjects' consent. Having stated this principle, they pointed out that, although this law of property was preserved by the common law, previous kings had assented to acts of parliament which further declared and established "this old fundamental right." They, therefore, requested that all impositions set without parliamentary assent should be abolished and a law enacted to declare that any imposition, past or future, which had not received parliamentary consent should be void.⁵⁷

On July 10, the committee of grievances

⁵⁶CJ, 445.

⁵⁷Foster, II, 266-7 [SP 14/56/part 2].

recommended that a bill should be drawn against impositions,⁵⁸ and the Commons, therefore, must have been disappointed by the King's answer which, with the answers to the other matters of profit was delivered to the whole House on the same afternoon. After an introduction by the King, Salisbury spoke, defending impositions at great length, and James then agreed again to accept an act against imposing in the future.⁵⁹ James also promised to remove many of the new impositions, although those which provided much revenue must remain -- a promise which he actually fulfilled by publishing a new book of rates on September 5.⁶⁰ Salisbury took more immediate action by discussing impositions privately with eight prominent members of parliament, whom the Commons then accused of being "plotters of some new design,"⁶¹ although no storm was

⁵⁸Foster, II, 272 [SP 14/56/21], 382 [Titus F.IV, fol. 126v.]; CJ, 447.

⁵⁹Foster, I, 129-34 [Folger V.a. 277, fol. 86-88v.]; Foster, II, 273-5 [Add. 34218, fol. 112-113]; Gardiner, Parl Debs, Appendix B, 153-62.

⁶⁰"The rates of marchandizes, as they are set downe, etc," no. 7691 in A. W. Pollard and G. R. Redgrave, compilers, A Short-Title Catalogue of Books printed in England, Scotland and Ireland, 1475-1640, London, 1956, 171; University Microfilms, English Books, 1475-1640, reel 784.

⁶¹Carleton to Edmondes, July 13, 1610, Birch, Court and Times, I, 123.

raised such as greeted similar action by James in the fifth session.

Despite the dissatisfaction with which the King's answers were later regarded, the Commons' immediate reaction to the answers concerning matters of profit was to grant a subsidy and one fifteenth⁶² and, on July 17, the bill against impositions was passed and sent up to the Lords.⁶³ But the bill, which received its first and only reading in the Lords on July 20,⁶⁴ bluntly ignored the King's directions, saying:

all impositions . . . imposed or set at any time heretofore by the King's most excellent Majesty or any of his ancestors or predecessors, or to be hereafter imposed . . . without assent of parliament . . . are and shall be adjudged in the law void and to none effect.⁶⁵

This was, indeed, a sinister development and, although no official recognition seems to have been made, Lord Ellesmere regarded the bill, with its insistence on the inability of the King to tax property without the subjects' consent, as evidence of the Commons' attempt "to strengthen their pretended jurisdiction in like cases hereafter."⁶⁶

⁶²CJ, 448.

⁶³CJ, 450-1.

⁶⁴LJ, 653.

⁶⁵Foster, II, 411 [Folger V.a, 121, fol. 13v.].

⁶⁶Foster, I, 281 [Ellesmere 2599, fol. 6].

After the summer recess had given members time for consideration, abolition of impositions took on a more significant role. Whereas in the fourth session the Great Contract and impositions had been relatively unconnected, in the fifth session the Commons opposed the Contract and, later, the request for supply, because grievances, especially impositions, had not been remedied.⁶⁷ Similarly, finding the Contract and the petitions of grievance to have failed, the Commons renewed the excuse that the poverty of the merchants, induced by impositions, was one reason why the country could not supply the King.⁶⁸ The renewal of the King's offer to accept a bill against future impositions, in Salisbury's last offer of retribution on November 14,⁶⁹ only helps to point out the unrealistic position adopted by the government, and, if one sympathizes with the stand which the government had taken, one cannot help but sympathize also with the opposition's distrust of the government's sincerity.

⁶⁷Foster, II, 396-400 [Portland 29/702, fol. 79-84v.], 316-21 [Add. 48119, fol. 197v.-200], 336 [Add. 48119, fol. 208v.-209]; Gardiner, Parl Debs, 127, 129, 130, 142, 143.

⁶⁸Gardiner, Parl Debs, 135, 142; Foster, II, 334 [Add. 48119, fol. 208v.], 402-3 [Harl. 4228, fol. 16v.-17].

⁶⁹Foster, I, 253-4 [Petyt 537/8, fol. 267v.]; Foster, II, 330-ln.; Gardiner, Parl Debs, 133.

Why, then, had impositions assumed such an important role in 1610? There were, of course, economic reasons. James, as Salisbury explained on July 10,⁷⁰ could not afford to give up the existing impositions because of the substantial revenue which they produced. The Commons, on the other hand, could not afford to allow James to keep this profitable but unparliamentary taxation, since, if extended, it would make the calling of parliament unnecessary. Moreover, although impositions were accused of causing the decay in trade and of forcing up prices,⁷¹ these objections were not of primary importance to the majority of the House. Rather, impositions represented a tangible, and highly successful, example of what the Commons regarded as arbitrary government. By arbitrary government the Commons meant any infringement of the prerogative into the realm of the subjects' rights and liberties, and their fear of extension of prerogative rule provided another link between various types of opposition. To judge whether the King was exceeding the prescribed limits, however, presupposed a certain rule of law, and

⁷⁰Foster, I, 132 [Folger V.a. 277, fol. 87v.-88]; HMC, Downshire, II, 332-9.

⁷¹Foster, II, 360 [Minn. MS, fol. 5v.], 183 [Exeter 128, fol. 160], 334 [Add. 48119, fol. 207v.]. See also Salisbury's rebuttal of such arguments on July 10 [HMC, Downshire, II, 335-8].

it was the very diversity of such standards which made agreement between King and opposition unlikely. James was at a disadvantage, however, because the interests of common law and the Commons coincided. In the event of disagreement between King and parliament a sovereign power was necessary and, as the commons had not yet begun to claim sovereignty for themselves, the claims of the lawyers to such pre-eminence did not cause friction, and the common law appeared as the upholder of the subjects' liberty.

James had, unfortunately, come to the English throne when English political thought was dominated by an appeal to the past.⁷² The fact that their conception of history was often totally wrong, made no difference to this precedent-minded generation which constantly made innovations in the name of ancient right and liberty. James' assertions that he was responsible only to God, therefore, were anathema to his audience. The King probably sincerely intended to rule according

⁷²Pocock, Ancient Constitution, 46-7; Kenyon, Stuart Constitution, 56. Thomas Hedley aptly expressed the common lawyers' belief in the immemorial nature of the common law, during the debate on impositions, when he said: "I do not take Magna Charta to be a new grant or statute, but a restoring or confirming of the ancient laws and liberties of the kingdom, which by the conquest before had been much impeached or obscured." [Foster, II, 190 (Exeter 128, fol. 163v.)].

law and took great pains to justify his actions by appeal to precedent. His refusal to acknowledge the superiority of the common law, however, made it likely that the Commons, fearing extension of arbitrary rule justified by a form of law whose competence in such matters they could not accept, should try to limit and define the King's prerogative.

Indeed, this fear of the extension of arbitrary government was widespread; the Venetian ambassador was aware of it;⁷³ the King tried to forestall it,⁷⁴ and was, in fact, able to do so on at least two occasions when his previous actions had not given excessive cause for fear;⁷⁵ but, most of all, the records of debate show that this fear was openly talked of. Some examples will have been noticed in other chapters, but the very stress laid on this fear throughout the petition of grievances is proof of the overriding importance which it had assumed in the minds of members in 1610. Of the nine temporal grievances, only three

⁷³Correr to the Doge and Senate, April 1, 1610, N.S., Cal SP, Ven, XI, 1607-1610, 451; same to the same, May 6, 1610, N.S., Cal SP, Ven, XI, 1607-1610, 480.

⁷⁴Eg. speech of March 21, McIlwain, Works, 307.

⁷⁵CJ, 447-8, 453; Foster, II, 293-4 [Harl. 777, fol. 60v.-61], 383 [Titus F.IV, fol. 127]. Interesting, in view of developments under Charles I, on this occasion the Commons accepted James' promise that he would not imprison anyone for refusal to lend money to the King.

did not contain an overt declaration that these grievances, if not now remedied, would prove dangerous precedents for the extension of such power, and, surprisingly enough, two which contained no such reference concerned monopolies. The third one, impositions, was based solely on the question of right, not, presumably, because the Commons did not fear the extension of this form of arbitrary taxation, but because it was an example of excessive prerogative rule in the present which, so the common lawyers had persuaded the majority of the House to believe, was a major violation of common law and an immediate threat to the subjects' property rights.⁷⁶

The long debate on impositions has caught the attention of political scientists because Whitelocke is said to have been one of the first people at this time to emphasize the theory of the sovereignty of king-in-parliament which gained acceptance before a theory of the sovereignty of parliament won adherents.⁷⁷ From the

⁷⁶For the debate on impositions, see Gardiner, Parl. Debs, 58-120; Foster, II, 152-250 [various sources]; Cobbett, State Trials, II, 395-520.

⁷⁷See above, p.14; Eusden, Puritans, Lawyers and Politics, 156-7.

point of view of parliamentary opposition, however, Whitelocke stood alone with no supporters, while the other speeches illustrate the dilemma which faced early Stuart parliaments. Both sides appealed to law -- common, statute, and even fundamental law -- and until a final authority could be found, no solution was possible. Thus, although the concept of sovereignty was not yet being discussed, it was the absence of a sovereign body which created the greatest problem. The Commons, moreover, were no longer satisfied with the King's word and would not "trust upon a verbal strength,"⁷⁸ hence their insistence upon bills and their care to remove any precedent upon which the King could build. In a sense, the King had the upper hand, since he could always dissolve parliament and rule arbitrarily but, in the long run, the Commons had the advantage since the Stuarts had no adequate source of revenue. The sanctity of property was, moreover, a fundamental law to seventeenth century Englishmen and, present as it had been in many of the Commons' grievances, it caused the greatest stir in relation to impositions because of the other issues involved. Deadlock resulted in 1610 but,

⁷⁸Foster, II, 396 [Portland 29/702, fol. 79].

the more James refused to grant their requests, the more the opposition to prerogative must have grown, and every attempt to protect themselves from arbitrary government represented a step towards the Commons' claim to parliamentary sovereignty.

CHAPTER V

SUPPLY AND SUPPORT

As with most Stuart parliaments, the fourth and fifth sessions of James I's first parliament were assembled to help the King out of his financial embarrassment. It was seen in the Introduction that Salisbury approached these sessions with a new scheme -- the Great Contract -- by which he hoped to solve the pressing economic problem, but a discussion of the resulting negotiations has been avoided until this point. Throughout the foregoing chapters, however, the theme of the King's wants has never been far below the surface, for several reasons. First, the knowledge of the King's needs gave the Commons an effective lever in obtaining their own ends; secondly, the King's impecunity was often a reason for the extension of arbitrary government which the Commons feared so much; thirdly, if the King were solvent, the life of parliament itself would be endangered; and, fourthly, bargaining for the Contract added to the fear and distrust with which the King was already held. Indeed, the interrelation between the financial negotiations and other important issues was a natural aspect of

these sessions, and it is surprising how long the issues were kept distinct. In the following chapter, therefore, it is hoped that this general interaction will become clearer as the narrative of the financial dealings of the parliament of 1610 proceeds.

A retrospective look at the sessions of 1610 tends to give the impression that compromise between the King and the Commons was impossible, failure of the Contract inevitable. How, one may ask, could the Commons have contemplated providing the King with an annual revenue and thus jeopardizing their own existence? How could the King have agreed to their demands in the matter of grievances? How could the Commons proceed with their grievances unredressed? It is important to remember, however, that matters were not as clear-cut for the Commons when parliament reopened in February 1610. However much their opposition to prerogative, especially in the form of impositions and the ecclesiastical commission, may have been based upon a principle held from the beginning of parliament, their opposition to the Great Contract grew gradually as events unfolded themselves. Much of this opposition resulted spontaneously from the tactlessness of the King and the Lords, or was increased by suspicions aroused in other matters. Eventually, the whole House

seems to have realized the interdependence of supply and grievances. During the fourth session, however, the Commons showed a genuine desire to proceed with Salisbury's scheme.

Salisbury made his proposals to the Commons on February 15 and, in the following month, the Commons displayed interest, wariness, and a determination to proceed only on their own terms -- not "opposition" as such but, rather, self-interest, and an astute awareness of the bargaining nature of the deal. In Salisbury's original proposals,¹ the Commons were asked to grant "supply" to pay off the existing debts and an annual "support" to cover yearly expenses; in return, the Lords would support the Commons in asking for redress of grievances. Salisbury realized the revolutionary nature of the scheme and he clearly expected opposition. To forestall this he defended the King's bounty, and the book of proclamations, and emphasized that the King had no intention of hurting the subjects' liberties -- all, as has been seen, useless precautions.² He also

¹Foster, II, 9-27 [Harl. 777, fol. 2v.-14]; reported on February 17, CJ, 394-6; Foster, II, 28-30 [Add. 48119, fol. 149-150v]; Gardiner, Parl Debs, 1-9.

²Above, p. 124, n.25.

offered, as proof of the Lords' good faith, the reform of penal laws -- a gesture which he surely would not have made had he not anticipated the Commons' fear that the "contribution" demanded would be exacted before the "retribution" offered could be agreed upon. Salisbury's defensive attitude is also noticeable in his emphasis on the de jure nature of the rights which the King might give up. Some of these were inherent in the King's prerogative, such as tenures and wardship, others had been granted to him by statute, but both types were now burdensome to the subject. It was not clear, however, whether Salisbury was offering to support the Commons' attempts to remove both or only the latter. Perhaps he was using these items as bait while, by ambiguity, protecting himself lest the King should refuse. Thus, from the beginning, three typical aspects of the Contract negotiations were apparent: the probability of Commons' opposition; the inadequate nature of the government's offer of retribution; and the ambivalent position of the King.

The Commons' immediate reactions to Salisbury's proposals are also typical of their approach to other problems. Some criticized the King's extravagance, claiming that he should live of his own by enforcing recusancy laws and curbing his bounty. More responsible

members were anxious that the scheme for contribution should accompany the collection of grievances which was already underway.³ Before any details could be discussed, however, the House determined to settle a question of privilege which Salisbury's proposals had raised. By suggesting that the Commons should grant money to the King, the Lords had infringed the Commons' right to initiate subsidies⁴ and, since the Commons maintained that the "supply" could only be met by a subsidy, it was decided to postpone discussion of this part of the proposal until the end of the session, where debate on subsidies traditionally belonged.⁵ Thus, having preserved their privilege, the committee of grievances, to which this matter had been delegated, though other committees of the whole were later employed,⁶

³The proposals were debated in the House and in the committee of grievances. See Gardiner, Parl Debs, 9-13; CJ, 397, 398; Foster, II, 31 [Harl. 777, fol. 14-14v.], 358 [Minn. Ms, fol. 4v.].

⁴CJ, 397; Gardiner, Parl Debs, 9.

⁵Gardiner, Parl Debs, 9-10.

⁶On March 15, after receiving permission to treat for wardships and tenures, a committee of the whole for wards was set up [CJ, 411]. Later, the committee responsible for the investigation of the impositions was also ordered to consider support [CJ, 433]. When it had been decided to consider Salisbury's proposals of February 24 the committee became known as the grand committee for the seven heads (seven, not ten, because

began to discuss only half of Salisbury's scheme. Soon, too, they tried to limit this further. Despite sceptical members who believed that Salisbury's mention of tenures was merely "a lure to the subject to draw hym on to a greater contribucion,"⁷ it was eventually agreed that if the Lords did not offer tenures, then the Commons should ask leave to discuss it since "it was thought fit to be handled single of itself."⁸

On February 21 Sir Edwin Sandys reported the recommendations of the committee of grievances to the House.⁹ Grievances had been divided into two types, those under the heading "damnum per injuriam" were to be proceeded against by petition, no contribution being necessary to reclaim the subjects' rights, while those regarded as giving "damnum sine injuria" were to be dealt with "by the way of conference and contract." Meanwhile a conference with the Lords was recommended in order to learn what the King was willing to give and, if necessary, to ask for permission to deal with

three of the original proposals had been included in the offer of March 26) [CJ, 436]. Later still, as issues merged, all parts of the Contract seem to have been debated in a committee of the whole which prepared for conferences with the Lords [CJ, 450, 451].

⁷Gardiner, Parl Debs, 13.

⁸Gardiner, Parl Debs, 13.

⁹CJ, 398; Foster, II, 32 [Harl. 777, fol. 14v.].

wardships and tenures. The Commons accepted these suggestions but, before the conference could meet on February 24, at least one dissident voice was raised as Mr. Hoskins pointed out that "Many Grievances [were] unproper" and urged them "to consider, whether Things [were] exchangeable."¹⁰ Thus, before Salisbury had fully outlined his plan, the Commons had postponed the debate on supply, determined their attitude to wardships and tenures and, by classifying grievances, they had prepared a touch-stone by which they could prevent any attempt to gain contribution for the redress of abuses which they considered to be illegal.

Although Salisbury pretended to show surprise that the Commons should turn the debate on the Contract into a "quis mihi dabis"¹¹ he came to the conference on February 24 with full details of his plan.¹² He requested supply of £600,000 with which to pay off the debt, furnish the navy, and to build up a surplus, and annual support of £200,000 with which to meet annual

¹⁰CJ, 399.

¹¹Gardiner, Parl Debs, 13.

¹²CJ, 401; Gardiner, Parl Debs, 15-16; Foster, I, 13-6 [Folger V.a. 277, fol. 8-10]; Foster, II, 34-6 [Harl. 777, fol. 15v.-17v.].

expenditure. On behalf of the Commons, Sir Julius Caesar replied that supply, which could only be granted in the form of subsidies, must be postponed while support could not be discussed until they knew what would be conceded in return. As Salisbury said nothing, Sir Henry Hobart then delivered the Commons' request that "wee might treate concerning the dischardge of tenures"¹³ to which Salisbury replied that he must consult the Lords. Then, despite his earlier silence, Salisbury offered ten points of retribution -- later known as the "ten heads" -- all outworn and onerous parts of the King's prerogative and not including the coveted points of wardship and tenures. Finally, he emphasized that the Commons would not be expected to pay for "matters of justice and protection of [the King's] subjects, and redresse of all just greevances,"¹⁴ thus, implicitly, acknowledging the Commons' division of grievances and encouraging their belief that redress of grievances would form part of the Contract.

Although royalist supporters tried to use Salisbury's promises and the members' fears that the postponement of supply had been misunderstood to force

¹³Gardiner, Parl Debs, 14.

¹⁴Gardiner, Parl Debs, 15.

the Commons to promise subsidies,¹⁵ Sir Roger Owen reached the heart of the matter when he said, "when the Grievances are known to be relieved, then we may offer more largely."¹⁶ Thus the message sent to the Lords after the conference reflected both the Commons' intention of granting something eventually and their reluctance to commit themselves before grievances were redressed; as for support they refused to consider it until their request for tenures was answered.¹⁷ At this stage, therefore, the Commons had the advantage. They were not opposed to the Contract but their quick organization had enabled them to face the Lords with a unified front, and they could refuse to consider other proposals until they had obtained what they wanted. Having named their own terms, moreover, the government's delay in answering them made the Commons suspicious of the government's good faith and added momentum to the collection of grievances.

¹⁵CJ, 402.

¹⁶CJ, 402. See also Beaulieu to Trumbull, March 1, 1609/10, Winwood, Memorials, III, 125.

¹⁷CJ, 403.

On March 2 the Commons were informed that the King had begun to consider their request to compound for tenures which, since it concerned his honour, conscience, and utility, demanded careful scrutiny. Meanwhile, he granted permission to bargain for the ten heads of February 24.¹⁸ The Commons ignored this offer and, in another conference, insisted that the "taking away of tenures no ways to be against the King's honor, utility and conscience,"¹⁹ urging that they should soon receive an answer. If James and Salisbury had hoped to induce the Commons to discuss the ten heads alone, this speech must have convinced them that the Commons would wait until their own demands were answered. On March 12, therefore, Northampton, the Lord Privy Seal, reported the King's permission to proceed,²⁰ and the Commons had gained what they wanted. On the whole, their attitude to the Contract had been favourable but, although it cannot be labeled as "opposition", their

¹⁸Gardiner, Parl Debs, 20-2; CJ, 405-6; Foster, I, 25-6 [Folger V.a. 277, fol. 15v.-16].

¹⁹Foster, II, 52 [Petyt 537/14, fol. 167v.].

²⁰Gardiner, Parl Debs, 27-8; Foster, II, 53-6 [Petyt 537/14, fol. 168v.-171]; Foster, I, 35-6 [Folger V.a. 277, fol. 21v.-22.].

organization had enabled them to establish an independent stand and to insist that the bargain should be along their own lines. Moreover, although they later showed willingness to compromise, the Commons never surrendered the position which they had skillfully won during the first month of negotiations.

As details of the Contract came under discussion relations deteriorated rapidly. The Commons began well by thanking the King and acknowledging the Lords' help,²¹ and "for the more expedition of this great business of wards and tenures" they agreed to meet in committee of the whole every morning before normal business.²² On the other hand, it was at about this time that Sandys announced: "The great Committee for Grievances to sit all Day, Monday, Tuesday, Wednesday, Thursday, Friday, Saturday,"²³ a clear indication that grievances would not be forgotten while the Commons bargained for wardships and tenures. The King's speech of March 21,²⁴ moreover, can have done

²¹CJ, 411; Foster, II, 56 [Petyt 537/14, fol. 171].

²²Foster, II, 57 [Petyt 537/14, fol. 171].

²³CJ, 413.

²⁴McIlwain, Works, 306-325; Foster, I, 44-52 [Folger V.a. 277, fol. 27-32]; Foster, II, 59-63 [Petyt 537/14, fol. 172-176].

little to increase their confidence since, although the speech was intended to please, James's exposition of divine right must have astonished his audience. Most significant, from the point of view of the Contract, however, were his instructions concerning grievances. He warned the Commons against collecting grievances which were presented merely out of spleen and, once again, he emphasized that they might not meddle with the "maine points of Gouverment," "my ancient Rights and possessions," or include among the grievances anything "established by a settled Law."²⁵ Possibly James believed that he was thus qualifying earlier promises in his name to redress grievances. The Commons, however, preferred to ignore, or at least misinterpret, this warning, and the collection of grievances proceeded apace -- the Commons presumably being convinced that redress of just grievances was part of the Contract, the King probably sincerely believing that he had clearly limited acceptable grievances. Thus the first basis for their later misunderstanding had been laid.

Despite James' speech, which probably appeared more sinister as time passed, the Commons were ready

²⁵McIlwain, Works, 315.

with their first proposals for the Contract on March 26. This scheme dealt only with wardships and tenures for which the Commons offered an annual income of £100,000.²⁶ Though this was only half of Salisbury's original demand for support, it should not be regarded as their final offer, for the Commons added that the ten points of retribution "are not forgotten or deserted by us."²⁷ By sticking to their decision to deal with wardships and tenures alone, therefore, the Commons had not rejected Salisbury's proposals but, rather, had ensured that their own demands would be met first. The Commons now had to wait until after the Easter recess for the Lords' answer which, of course, depended upon the King. At this stage the relations between the two Houses were marked on both sides by consideration and patience. The King, on the other hand, was reported to be dissatisfied with the whole matter²⁸ and he was, moreover, on the verge of obtaining a loan of £100,000 from the Corporation of London, success which, as Ashton points

²⁶ LJ, 660-1; Foster, I, 53-4 [Folger V.a. 277, fol. 32v.-33v.]; Foster, II, 66 [SP 14/53/49].

²⁷ Foster, II, 66 [SP 14/53/49].

²⁸ Edmondes to Trumbull, April 5, 1610, HMC, Downshire, II, 271; Beaulieu to Trumbull, April 19, 1610, HMC, Downshire, II, 279.

out, "materially strengthened the royal intransigence," contributing to the failure of the Contract by enabling James to raise his demands to a sum which the Commons were quite unwilling to pay.²⁹

Thus, instead of an answer to their offer, the Commons were informed that the King was willing to give up his profits from tenures and wardships but that he would not give up his right to them,³⁰ and it was to their credit that they ignored the suspicious nature of the new demand, and again offered £100,000, this time on the King's terms.³¹ The reply to this, however, was too much for their patience. Salisbury announced that this deal would only be accepted if the Commons also agreed to fulfill the government's other demand.³² In other words, the Commons were to provide £600,000 supply in return for redress of grievances, £200,000 annual

²⁹Ashton, Money Market, 119. See also Spedding, Letters and Life of Bacon, IV, 172-3.

³⁰CJ, 420; Foster, I, 66 [Folger V.a. 277, fol. 42].

³¹Gardiner, Parl Debs, 147; Foster, I, 69-70 [Folger, V.a. 277, fol. 44]; Foster, II, 70 [Harl. 777, fol. 33].

³²Gardiner, Parl Debs, Appendix A, 147-52; Foster, I, 70-1 [Folger V.a. 277, fol. 44-45]; CJ, 422. See Spedding, Letters and Life of Bacon, IV, 169-73.

support for the ten heads, and £100,000 for wardships and tenures. This was certainly not what the Commons, or even the Lords, had been led to expect, but whether James and Salisbury had intended this all along but had waited until the loan was secure, or whether the loan had encouraged them to raise their price is still in doubt. The effect of the demand, however, is all too obvious. The Commons stuck in their heels and refused to consider any bargain other than the one which they had already offered.

Letters of this period reflect the consternation which the King's demands had aroused. The Venetian ambassador -- never a very accurate source -- reported that the Commons took the proposals "for a refusal, and fell into such a passion that they were on the point of adjourning Parliament without granting subsidies." This account is obviously somewhat garbled, but the ambassador's later comment that they were restrained by "members who belong to the King's party"³³ is interesting. Edmondes, too, noticed that the proposals had "very much disturbed the House" and he astutely remarked that the King's answer to the

³³Correr to the Doge and Senate, May 19, 1610, N.S., Cal SP, Ven, XI, 1607-1610, 486.

grievances would probably depend upon the relief of his financial necessities³⁴ -- yet another link in the vicious circle which made Contract and grievances interdependent.

If the King's demands had alarmed the Commons, the attitude of the Lords on May 4, when the Commons refused to continue on such terms, was to produce greater apprehension. The Lords had wanted the Commons' committees to "have free liberty to hear propositions and questions, to make answers and to ask questions, not concluding anything on either part,"³⁵ and when the Commons refused, realizing as Sir Nathaniel Bacon pointed out that they were "not wise alone, but together,"³⁶ some of the Lords gave vent to their annoyance. Salisbury went so far as to threaten that "their straitness might cause the King to take more benefit of his own things in point whereof no man could find a grievance."³⁷ Bancroft went even further,

³⁴Edmondes to Trumbull, May 2, 1610, HMC, Downshire, II, 284.

³⁵Foster, II, 76 [Harl. 777, fol. 41v.].

³⁶CJ, 424.

³⁷Foster, I, 237 [Braye 61, fol. 40v.].

infringing the Commons' right to initiate subsidies by insisting that it was their duty to supply the King, and grossly insulting them by describing some of their speeches as having "nothing but froth in them."³⁸ Bancroft had other reasons for his outburst³⁹ but his speech also reflected the exasperation felt by the Lords because nothing had been accomplished. How far this was the Commons' responsibility, however, is questionable. The Commons had indeed refused free conferences but they had made an offer and indicated that they would proceed further. Delay had come from the King who, having aroused the Commons' suspicions and precipitated their refusal, spent the next two months retreating from the position which he had so ill-advisedly taken.

Although the Commons had made their position clear on May 4, Salisbury used the opportunity of the assassination of Henry IV of France, which he announced on May 8, to urge them to grant supply and support.⁴⁰ James, too, reopened the way to negotiations in his

³⁸Foster, II, 79 [Add. 48119, fol. 183v.].

³⁹See above, p. 77. As has been seen, the main result of the Commons' religious measures had been to exasperate the bishops and to force them onto the defensive.

⁴⁰CJ, 426; Foster, II, 367-8 [Titus F.IV, fol. 117], 81 [SP 14/54/29].

speech of May 21⁴¹ and in his answer to the Commons' petition of right of May 24.⁴² It was not until James had conceded to the petition and allowed debate on impositions to continue, however, that the Commons again discussed support. Their refusal to consider the King's demands, moreover, was successful for, two days after James had given in to the petition, it was announced that these demands had been reduced.⁴³ As a result of these concessions, the Commons began to discuss the ten points of retribution offered on February 24,⁴⁴ but it was also at this time that they countered further attempts to induce them to accept free conferences with the Lords, by agreeing to discuss only certain "heads" for which instructions would be formulated in committee.⁴⁵

By the beginning of June, therefore, thanks to their skill in using the King's necessity and forms

⁴¹Foster, II, 106 [Add. 48119, fol. 165].

⁴²Foster, II, 116 [Add. 48119, fol. 170-170v.].

⁴³Foster, II, 120-4 [Add. 48119, fol. 172-174].

⁴⁴CJ, 432; Foster, II, 125-6 [Harl. 777, fol. 44].

⁴⁵CJ, 434.

of procedure for their own good, the Commons had succeeded in manoueuering the basis of negotiations to their advantage. On the other hand, the King's dubious behaviour was also beginning to have an effect and some members seemed to have turned against the whole idea of the contract. On June 2, Sir John Savill, Sir Roger Owen, and "others" refused to serve on a subcommittee appointed to reduce the ten heads into bargaining form.⁴⁶ Savill maintained that the ten heads were all "either the straying of the prerogative royall upon the libertyes of the subjects, or abuses of inferior officers" and he predicted that giving support would soon become as usual as granting subsidies, implying that the King would desire money for the discharge of all his old but outdated rights.⁴⁷ Clearly Savill distrusted the King. His speech also demonstrates the effect of Salisbury's threats, for Savill used Salisbury's warning that the prerogative would be stretched if the Contract did not proceed as an argument against the Contract itself. Other speeches followed, reflecting this new mood in the Commons. Tay, for example, maintained that abuses for which they were now bargaining would spring up again "and we be pleased to

⁴⁶Gardiner, Parl Debs, 46.

⁴⁷Gardiner, Parl Debs, 46.

redeeme theyme also," and he suggested that they should "buy out a general statute of explanacion of the King's Prerogative so farre as it might tend to the right and liberty of the subjecte in his body, lands, or goods"⁴⁸ -- yet another indication of the fear of arbitrary government discussed above,⁴⁹ and a suggestion that the discussion of the prerogatives among the grievances was indirectly affecting the Commons' attitude to the Contract.

Discussion of the ten heads continued, however, and the Commons were justifiably annoyed when the Lords tried to hurry them, on June 8, with a message⁵⁰ to which, although carefully worded, "greate exception was taken" since, in the words of one member, it urged them "to goe roundly about our busines."⁵¹ On June 11 another message arrived asking for conference in which they would be informed of something from the King.⁵² The Commons agreed but, cautious as they had become, after the fracas over impositions, they protested that

⁴⁸Gardiner, Parl Debs, 47.

⁴⁹See above, especially pp. 140-3.

⁵⁰CJ, 436.

⁵¹Gardiner, Parl Debs, 50.

⁵²LJ, 611.

if the Lords were being used as messengers from the King, they would have to reconsider since that was regarded as "against the privilege of parliament."⁵³ Salisbury, despite the fact that the Commons' suspicions were quite true,⁵⁴ hastily declared that the King had given the Lords liberty to choose whether or not to pass his message on to the Commons,⁵⁵ and thus patched up a misunderstanding which, with a little forethought on the part of the Lords, might have been avoided. He then proceeded to outline a plan which heralded a new departure in government strategy,⁵⁶ and which suggests that the King's needs were again becoming desperate. The Contract had raised many problems and, although the King would probably answer the grievances favourably, he must be given ample time to consider them, Salisbury suggested, therefore, that both should be postponed until the next session. Meanwhile, though carefully acknowledging that "whatever you do must come from

⁵³Foster, II, 134 [Add. 48119, fol. 174v.-175].

⁵⁴See Foster, I, 100-1 [Folger, V.a. 277, fol. 65v.].

⁵⁵Foster, II, 135 [Add. 48119, fol. 175-175v.].

⁵⁶Gardiner, Parl Debs, 52-5; CJ, 437-8; Foster, II, 135-41 [Add. 48119, fol. 175v.-179v.].

yourselves,"⁵⁷ he proposed that the Commons should consider supply, the second part of the original proposals.

These suggestions altered the original plan by making the composition to be granted in return for the abandonment of obsolete royal prerogatives dependent upon the redress of grievances. At the same time, Salisbury was ensuring that supply would proceed whether or not the grievances were answered. This was wholly unacceptable to the Commons -- they would receive nothing in return for subsidies, and the failure of their petition of grievances might result in the failure of the Contract -- and their reaction caused a complete reversal of government policy. The proposals were debated in the Commons on June 13 and 14.⁵⁸ Although the first speakers seemed in favour of granting something, this attitude changed when Sir Herbert Croft pertinently asked "whether now to give, or when we shall receive Satisfaction?"⁵⁹ At the end of debate on June 13, Sir Julius Caesar, "finding the Howse bent against

⁵⁷Foster, II, 141 [Add. 48119, fol. 179v.].

⁵⁸CJ, 438, 439; Foster, II, 142-8 [Add. 48119, fol. 179v.-183]; Gardiner, Parl Debs, 55-8.

⁵⁹CJ, 438.

subsidies,"⁶⁰ rose with a message from the King⁶¹ -- an interesting development since it gives a glimpse of the government's preparation. Clearly Salisbury's proposals had been a gamble, for Caesar's message shows that the government was prepared for an adverse reaction from the Commons. The King, said Caesar, was aware that the Commons feared that he would not recall parliament, that he had never intended to conclude the bargain over tenures, and that he would not redress the grievances -- an interesting reflection on the widespread distrust of the King. Caesar declared, however, that the King would recall parliament and that he also agreed to receive and answer the grievances before the end of the session. But although the main point of the message was that "Grievances shall go with Supply, and not with the Support,"⁶² Caesar tried to overcome the effect of this concession by suggesting that the Commons should grant two subsidies and four fifteenths. This ruse failed, however, for debate was postponed until the next day.⁶³

⁶⁰Gardiner, Parl Debs, 56.

⁶¹Gardiner, Parl Debs, 56; CJ, 438; Foster, II, 142-3 [Add. 48119, fol. 180-180v.].

⁶²CJ, 438.

⁶³Gardiner, Parl Debs, 56; Foster, II, 143 [Add. 48119, fol. 180v.].

Caesar then rose with yet another message from the King. In substance it was similar to that of the day before, urging subsidy, but with an odd addition. Once James had seen the grievances, reported Caesar, he would know what price to ask for, "which he cannot do till he know what you would take from him."⁶⁴ In this oblique and confusing way James apparently gave permission for the discussion of the Contract to continue and thus, within three days, the government had been forced to abandon the proposals of June 11.

Undoubtedly, too, the Commons had foiled a scheme aimed at obtaining money without obligations, for there seems to be no other explanation for Salisbury's volte-face of June 11. Yet it is difficult to assess how conscious the Commons' opposition had been. Many prominent members had spoken against granting subsidies but their reasons as well as their suggestions were different. The main unifying force in their decision to postpone subsidies seems to have been the fear that grievances would not be redressed, rather than active opposition to the Contract or even to subsidies. Moreover, although their decision was

⁶⁴Foster, II, 143-4 [Add. 48119, fol. 180v.]. See also CJ, 438.

relayed to the King in a conciliatory message,⁶⁵ the events of the last two days had undoubtedly helped to harden the Commons' attitude towards their sovereign.

Yet another message from the King, this time a mixture of threats, generosity, and promises,⁶⁶ made no apparent impression on the Commons, who continued their discussions of grievances, Contract, and impositions as if there had been no interruption. Thus, by June 18, they had agreed upon a message to the Lords which they regarded as an answer to the Lords' request of June 11 for free conference. They asked the Lords to be prepared to offer further points of retribution, name the King's lowest price, and make suggestions for the levying of the money.⁶⁷ After the Lords had consulted the King,⁶⁸ the conference assembled on June 26. Before this, however, another petty squabble between the two Houses had had to be settled. Despite the Commons' insistence that they were answering the Lords' request,⁶⁹ the Lords maintained that the Commons

⁶⁵CJ, 439.

⁶⁶CJ, 440; Gardiner, Parl Debs, 58.

⁶⁷CJ, 441.

⁶⁸LJ, 619.

⁶⁹CJ, 441.

had desired the conference,⁷⁰ and the Commons, suspicious as they were, were not satisfied until the Lords' messengers had conceded the point.⁷¹

Both sides came well prepared for the conference,⁷² but, although less formal than earlier meetings -- the Commons' spokesmen gave reasons for their attitude and Mr. Martin actually indulged in some witty repartee⁷³ -- the Commons committees could not answer the King's latest proposals without consulting the House. These proposals, far more acceptable than earlier ones, included a demand for £200,000, in return for wardships and tenures, the ten heads, and "whatsoever else you can think of that toucheth not the King, either in honor or profit," and the Lords offered "our best furtherance besides in your councils for the levy of the money."⁷⁴ Thus, by the end of June, although no commitments had been made, relations between the two Houses had begun to improve. The Lords' tactics had, at

⁷⁰LJ, 619.

⁷¹Foster, II, 151 [Harl. 777, fol. 49]; CJ, 442.

⁷²CJ, 443; Foster, I, 113-7 [Folger V.a. 277, fol. 74v.-78].

⁷³Foster, I, 117 [Folger V.a. 277, fol. 78].

⁷⁴Foster, I, 120 [Folger V.a. 277, fol. 80v.].

last, begun to show success, though their tactlessness had certainly increased the Commons' suspicions of their motives. The main advantage, however, had been won by the Commons, who had proved their determination only to grant money on their own terms. Renewed negotiations had been bought at the price of promising redress of grievances and the reduction of the King's demands. Moreover, not only had the Commons succeeded in making the King lower his demands but, instead of determining what they regarded as a suitable price, they had merely proceeded with their own demands, thus giving themselves the advantage of further delay. Time, as they must have realized, was on their side.

The last month of the fourth session was spent in reaching an agreement and, despite earlier clashes, both Houses showed a genuine desire to conclude the bargain and to remain on good terms. On July 11, the day after the King answered those grievances concerning his profit, the Commons voted one subsidy and one fifteenth⁷⁵ -- an unusual sum and not nearly as much as the government wanted⁷⁶ -- which one member said

⁷⁵CJ, 448.

⁷⁶Salisbury had asked for £600,000 supply on February 24 and Dietz maintains that the one subsidy and one fifteenth granted in 1610 yielded "£89,328 with some arrears collected later" [Dietz, *English Finance*, II, 393n.].

"would do the king much good, and serve as a subpoena ad melius respondendum."⁷⁷ Clearly suspicion would not be removed until all the grievances had been answered, but although this meager grant was a warning to the King it was also an acknowledgment of his first answer to the grievances. Meanwhile, too, the general committee on support had been considering the latest proposals. They presented their next offer to the Lords on July 16,⁷⁸ completely unimpressed by the King's fourteen suggestions which had arrived on the same morning.⁷⁹

Proposals and demands were exchanged rapidly between the two Houses in the next three days⁸⁰ until, by July 19, the Commons had raised their offer and the King had lowered his demand and both had agreed to £200,000 while the Commons had added certain demands, as well as reserving the important rights of "addendo, diminuendo, and explicando."⁸¹ How far the speed and

⁷⁷Carleton to Edmondes, July 13, 1610, Birch, Court and Times, I, 122.

⁷⁸LJ, 661; CJ, 450; Foster, I, 140-3 [Folger V.a. 277, fol. 92v.-94v.].

⁷⁹CJ, 450; Foster, II, 279-82 [Folger V.a. 121, fol. 14-17]; above, p. 106.

⁸⁰CJ, 450, 451, 452; LJ, 661-2; Foster, II, 283-7 [Harl. 777, fol. 53-55].

⁸¹LJ, 656.

ease of these negotiations was the result of the fact that many members had already left town -- knowledge of which Salisbury urged the Lords to take advantage⁸² -- it is difficult to tell. At any rate, the House was aware of its weakness and, when offering £200,000, it prevented the Lords from using this information by pointing out that, since so many members had already left, "your Lordships cannot expect we should make a final end of the business."⁸³ Nevertheless, the Lords wanted to make the agreement binding for they feared that a full House might later revoke these decisions. The Commons, fearing that the King might change his mind, readily agreed. How to do so was a problem, however, for there was no time for an act of parliament and an order of the House was not held to bind another session.⁸⁴ Eventually, after discussion both in the House and in committee,⁸⁵ the Commons agreed to draw up a memorial, or statement of the bargain, as Salisbury had suggested.⁸⁶ During the prorogation copies of the

⁸²Foster, I, 152 [Folger V.a. 277, fol. 100].

⁸³Foster, I, 154 [Folger V.a. 277, fol. 101v.].

⁸⁴Foster, II, 385 [Titus F.IV, fol. 128v.].

⁸⁵CJ, 453.

⁸⁶LJ, 651.

memorial were to be circulated in the counties and, in view of the problems involved in levying the money, members were to "take more Intelligence in the Counties."⁸⁷ These decisions which, with Sandys' ingenuous remark before the Lords that "the second comfort is in his Majesty's gracious answer unto our grievances, wherein we doubted not, because we desired nothing but grace and right,"⁸⁸ boded ill for the future of the Contract. But, despite these distant rumblings, the fourth session ended amicably. Agreement had been achieved, however, only by postponing two important questions: would the King answer the grievances favourably; how was the money to be levied? It was the answers to these and other disturbing questions which arose in the fifth session which were to doom the Contract to failure.

The fifth session started badly. Members showed great reluctance to return to parliament⁸⁹ and, after eight days in which the Commons had done nothing, the Lords took the initiative again as Salisbury threatened and remonstrated with the Commons for taking no steps. He warned them that the King was not "so

⁸⁷CJ, 453. See also Foster, II, 386 [Titus F.IV, fol. 128v.].

⁸⁸Foster, I, 160 [Folger V.a. 277, fol. 105].

⁸⁹Foster, II, 295-7 [Add. 48119, fol. 184-184v.].

enamored with [the Contract] as to yield to all your desires, and to cram the child is the way to choke the child," adding that James would break off negotiations if the Contract left him worse off than before.⁹⁰ Moreover, events during the prorogation had not augured well for the Contract. James' new attitude was probably produced by the arguments against the Contract found among Sir Julius Caesar's papers,⁹¹ and, although the two surviving accounts of reaction from the counties were favourable to the Contract idea,⁹² the fact that there was rejoicing "at the prospect of freedom from purveyance and tenures" did not mean that the country would accept any new demands from the King.

Instead of studying the memorial, as Salisbury had urged, the Commons obstinately insisted upon first investigating the King's answers to the grievances so that "if we find the answers satisfactory we may then with cheerfulness go on with the contract"⁹³ -- the first time that the connection between the grievances

⁹⁰Foster, II, 299 [Add. 48119, fol. 186].

⁹¹Gardiner, Parl Debs, Appendix D, 164-79.

⁹²Sir John Hollis to Salisbury, September 22, 1610, Cal SP, Dom. J.I., 1603-10, LVII, 633; Gardiner, Parl Debs, 130; Foster, II, 318 [Add. 48119, fol. 198v.].

⁹³Foster, II, 305 [Add. 48119, fol. 190v.].

and the Contract had been so clearly stated since Sir Roger Owen made his almost prophetic remark at the beginning of the fourth session.⁹⁴ So anxious were the Lords for the Commons to decide whether or not they would proceed with the Contract, that they agreed to overlook a breach of procedure committed by the Commons when obtaining a copy of the King's answers from the Lords.⁹⁵ Before the Commons had had time to debate the answers, however, they were called before the King.⁹⁶

The King's speech was yet another attempt to make the Commons say definitely whether or not they intended to proceed with the Contract and it was even more vitriolic than Salisbury's.⁹⁷ James was obviously nearing the end of his patience and, having blamed the Commons for the delay and the resulting rise of expenditure, he burst out angrily that he had every reason to dislike the Contract and sarcastically pointed out that he could offer no more security than the law could make "and that we have enough in our House cunning

⁹⁴See above, p. 152 .

⁹⁵LJ, 672, 673.

⁹⁶Foster, II, 308 [Add. 48119, fol. 192].

⁹⁷Gardiner, Parl Debs, 126-7; Foster, II, 308-11 [Add. 48119, fol. 192v.-194v.].

in that craft." He ended petulently by ordering that at their next sitting they should decide whether or not to accept the memorial, and added that as soon as he received an offer he would answer it -- an indication that he neither accepted, nor expected the Commons to accept, the present memorial.

This speech aroused two days of angry debate in the committee of the whole House in which three questions were involved: an answer to the King to clear up the misunderstanding which had arisen; decision on the memorial; and discussion of the King's answers to the grievances.⁹⁸ It was, at first, generally agreed that some answer should be made, but while courtiers insisted that this should include their decision on the memorial, opposition speakers pointed out that this decision could not be taken before the answer to the grievances had been discussed. Thomas Wentworth added another facet to the argument when he pointed out that "if the king have a power over the laws, we cannot have security, therefore we must see if the law can bind the king, then it may be."⁹⁹ The

⁹⁸Gardiner, Parl Debs, 127; Foster, II, 312 [Add. 48119, fol. 194v.-195], 392-400 [Portland 29/702, fol. 75-84v.].

⁹⁹Foster, II, 393-4 [Portland 29/702, fol. 76v.].

following day, as speeches became more heated, Sir Roger Owen added yet another dimension when, among a list of the usual objections, he included a demand for "Provision that the explanation of doubts may be by Parliament; and that wee may have Parliaments hearafter, thoe the king's wants be fully supplied."¹⁰⁰ Thus, not only were the common law arguments which had led up to the presentation of grievances now being used against the Contract, but Owen's argument, unlike earlier ones which were spontaneous or else based on the fear of extension of arbitrary government of which members already had some experience, was based on the possible result of the Contract, a result which even James had not threatened. How far this idea originated with Owen is difficult to say, for a suggestion that parliament should be called every seven years had been raised on two occasions in the committee of grievances.¹⁰¹ It was to Owen's credit, however, that he applied this argument at such a crucial stage, even though it was obscured by the more immediate problem of the failure of the petition of grievances.

During this debate the Commons rejected an

¹⁰⁰Gardiner, Parl Debs, 127.

¹⁰¹Foster, II, 71 [SP 14/53/121], 382 [Titus F.IV, fol. 126].

answer to the King proposed by Sir Maurice Berkeley¹⁰² which Professor Spedding maintained was significant because Berkeley "was not an adherant of the Court but one of the leaders of the popular party."¹⁰³ However, although it is beyond dispute that there were certain prominent opposition speakers, the extent of their influence over other members is questionable. As was pointed out above,¹⁰⁴ these men often had different opinions and suggestions, and it seems likely therefore, as this example indicates, that support was given to them not because they were the acknowledged leaders of the House but, rather, because their speeches expressed opinions already held by other members. Thus the fact that the debate ended with a decision not to answer the King but to perfect the memorial¹⁰⁵ should not be interpreted as a sign that men such as Wentworth and Owen were losing their influence but rather that the majority of the House still hoped that obstacles such as those which they had pointed out, could be overcome.

Such hope, however, was finally dashed when

¹⁰²Gardiner, Parl Debs, 127.

¹⁰³Spedding, Letters and Life of Bacon, IV, 225.

¹⁰⁴Above, p. 167 .

¹⁰⁵Foster, II, 312 [Add. 48119, fol. 195v.].

the Speaker announced James' last demands on November 6.¹⁰⁶ The King pointed out that he had never agreed to proceed with support without supply, which was quite true, although it had been obscured by the discussion of the Contract alone. He therefore demanded supply of £500,000 not including the last subsidy, before he would accept the Contract. This demand, though unwise in view of the Commons' obvious reluctance to grant money, was nevertheless in accordance with Salisbury's original proposals, since the subsidy and fifteenth plus £500,000 roughly equalled the £600,000 demanded on February 24. On the other hand, James' insistence that the levy of such money should not interfere with his present revenue, although again in accordance with his earlier demand, was interpreted as a refusal to give up impositions. His last demand, though relatively minor, increased the Commons' irritation. James insisted that the Commons should pension the officers who would lose jobs because of the Contract, since, although the Commons had stipulated before the end of the fourth session that the King should be responsible for this, their demand

¹⁰⁶Foster, II, 313 [Add. 48119, fol. 195]; Gardiner, Parl Debs, 128. There is some confusion as to whether this message arrived on November 5 or 6, but see Foster, II, 313.

infringed the King's profit, and was thus unacceptable.¹⁰⁷ The King's demands, therefore, did not contradict any earlier agreement but were a sharp reminder both of how much was required and that the grievances had not been answered satisfactorily. Moreover, although the King did not break off negotiations this message contained little which could be interpreted as desire to conclude the bargain. It is not surprising, therefore, that only one day later, the House, "not five voices excepted,"¹⁰⁸ decided to refuse the King's terms.

The arguments raised in the following two days' debates on how to word their answer to the King show how much opposition had developed and how issues which had originally be independent from the Contract had now become inseparable from it. Moreover, apart from some interference from the Speaker and a message from Salisbury saying that he would claim no compensation for losing his post as Master of the Wards,¹⁰⁹ royalist officials appear not to have attempted to curb the

¹⁰⁷Foster, II, 313-6 [Add. 48119, fol. 195-197]; Gardiner, Parl Debs, 128.

¹⁰⁸Foster, II, 319 [Add. 48119, fol. 199v.], though Gardiner, Parl Debs, 131 reports that the decision was made "una voce."

¹⁰⁹Foster, II, 319 [Add. 48119, fol. 199-199v.], 316-7 [Add. 48119, fol. 197v.].

Commons, though whether this was the result of the King's desire to end the Contract or of their own sympathy for the Commons, one cannot say. Of the eight speeches recorded on November 7,¹¹⁰ not one was in favour of the King, while the four major ones¹¹¹ all referred to impositions. Significantly enough, Beaumont and Brooke were not opposed to the idea of supply though Brooke's assertion that if the King "could not take it with the right hand, he would take it with the left"¹¹² is an odd reason for granting supply! Beaumont went even further when he asked that if the Contract did not proceed "what shall we think can become of us, when even as things now stand our liberties are infringed in such sort as we see they be?"¹¹³ Mr. James, too, referred to "an arbitrary power of government"¹¹⁴ which discouraged them from going on with the bargain, and similar speeches on November 8 reflected the deep distrust of the King which had been intensified by the disappointing answers to the grievances. Fuller probably summed up the general feeling of the House when he said: "I would

¹¹⁰Foster, II, 316-20 [Add. 48119, fol. 197v.-199v.]; Gardiner, Parl Debs, 129-31.

¹¹¹Horsey, Brooke, Beaumont, James.

¹¹²Foster, II, 317 [Add. 48119, fol. 198].

¹¹³Foster, II, 318 [Add. 48119, fol. 198].

¹¹⁴Foster, II, 319 [Add. 48119, fol. 199].

willingly give somewhat out of my estate; so as I might be assured to know what the rest were and enjoy that safely. But before those fears be cleared, I cannot for my part take any comfort in the bargain."¹¹⁵

Although the Contract negotiations thus came to an end, Salisbury had apparently not yet given up the idea of contribution and retribution and, on November 14, after receiving a message from the King accepting the end of the Contract but asking for supply,¹¹⁶ the two Houses met for the last time. The sum of the Lords' message, which was ably delivered by Salisbury, Northampton, and Ellesmere,¹¹⁷ was that the Commons should grant supply in return for eight points of retribution, including a promise not to impose in future without the consent of parliament.¹¹⁸ These proposals stirred more angry speeches in the Commons as members alleged that the King had never intended to conclude the Contract and that the points of retribution for which they had had granted the last subsidy had

¹¹⁵Foster, II, 321 [Add. 48119, fol. 200].

¹¹⁶Foster, II, 327 [Add. 48119, fol. 203v.].

¹¹⁷Gardiner, Parl Debs, 131-4; Foster, II, 329-30 [Add. 48119, fol. 205-6]; Foster, I, 259-75 [Titus C.VI, fol. 456-463v.].

¹¹⁸Gardiner, Parl Debs, 133.

turned out to be practically worthless.¹¹⁹ Others returned to their original complaint -- the King should curb his bounty and live of his own.¹²⁰ What would have been the outcome of this debate will remain unknown; it was at this point that James' meeting with thirty members caused an uproar.¹²¹ The thirty were apparently charmed by James, and seem to have convinced him that his answers to the grievances, especially those concerning prohibitions, proclamations, the four shires, and impositions, were unacceptable, but the good which this might have done was completely off-set by the fact that the other members regarded the meeting as a gross breach of parliamentary privilege. Thus further debate on supply merely brought forward the demand that "the Parliament may be restored to its ancient liberty."¹²² Even new concessions made no impression¹²³ and when the debate eventually returned to the question of supply,

¹¹⁹Foster, II, 332-6 [Add. 48119, fol. 206v.-209]; Gardiner, Parl Debs, 134-6.

¹²⁰Gardiner, Parl Debs, 135.

¹²¹See above, pp. 54-5.

¹²²Gardiner, Parl Debs, 138.

¹²³Foster, II, 340-1 [Add. 48119, fol. 211-211v.]; HMC, Rutland, I, 424.

impositions and the grievances were again the stumbling block. Fuller, in a vitriolic speech which managed to combine religion, law, and finance into one great issue, blamed the failure of parliament on the King and the Lords.¹²⁴ Further disquieting speeches were made as the Commons began to criticize the King's extravagance and to blame their frustration on his Scottish favourites.¹²⁵ On November 24, James, whose letters from Royston show that he was rapidly losing his patience,¹²⁶ adjourned the House.¹²⁷

The Contract had failed, the King had obtained only one subsidy, and the Commons had lost several coveted points of retribution. To what extent, it may be asked, was a parliamentary opposition responsible for this impasse and, if responsible, how justified was their opposition? It was the King who had technically broken off the Contract negotiations¹²⁸ but, although

¹²⁴Somers, Tracts, II, 151-3; Foster, II, 405-10 [Rawl. B. 151, fol. 8-9].

¹²⁵Gardiner, Parl Debs, 142, 143, 144; More to Winwood, Memorials, III, 236; Foster, II, 344 [Add. 48119, fol. 212], 344n, 345n.

¹²⁶Cal SP, Dom. J.I, 1603-10, LVIII, 644-7, passim.; Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 281-4.

¹²⁷Gardiner, Parl Debs, 145-6; Foster, II, 345 [Add. 48119, fol. 212v.].

¹²⁸Foster, II, 327 [Add. 48119, fol. 203v.], 339 [Add. 48119, fol. 210]; Gardiner, Parl Debs, 131; HMC, Rutland, I, 424.

the Commons tried to make out that failure was not their fault,¹²⁹ it is highly unlikely that they would have continued to bargain for much longer, and they were certainly as much responsible for the immediate reasons for disagreement as was the King. On the other hand, as the foregoing account shows, the majority of the House was in favour of the Contract at the end of the fourth session, in spite of the many setbacks and difficulties which had had to be overcome. Of these, the most important was the growing distrust of the King. Undoubtedly the King had acted suspiciously, and he and the Lords had been unnecessarily tactless. At the same time, the Commons had been over-sensitive, fearing an attack on their privileges where probably only an attempt to hasten proceedings had been intended. On at least one occasion, however, when Salisbury introduced his new proposals on June 11, the Commons' suspicions seem to have been justified, and, if one sometimes finds their precautions petty, one can nevertheless sympathize with their fears.

Important as distrust of the King was, however, it was only an indirect reason for the failure of the

¹²⁹Foster, II, 332 [Add. 48119, fol. 206v.], 410 [Rawl. B. 151, fol. 9].

Contract. Indeed, until the King had actually answered their grievances, the Commons had continued to have hope in his good faith. James' answers and the subsequent discussion of the Contract in the counties -- an interesting and unfortunately ill-documented aspect of this parliament -- seem to have altered the attitude of the Commons, but there were two other issues which, had there been need to air them, would probably have also doomed the Contract. First, the Commons, always reluctant to grant money, were bound to have difficulty in agreeing upon the manner of levying money for their part of the Contract. This difficulty, though not insurmountable, was complicated by the fact that not everyone would benefit equally from the terms of the bargain. Although this was recognized as a problem at the end of the fourth session, however, negotiations ended before it could become an important factor in the fifth. The second reason is more significant, although it, too, was never fully discussed. At least one member, however, had realized that the life of parliament would be jeopardized were the Contract to make the King solvent.

Lord Ellesmere believed that members had plotted outside parliament to carry the Contract "according to their own humor and drifts" and to

prevent the granting of subsidies.¹³⁰ Indeed, the ease with which the Commons manipulated the Contract negotiations and delayed and later prevented the granting of subsidies suggests that this may have been the case. On the other hand, the fact that opposition to the Contract did not become general until the fifth session and the form which this opposition then took indicates that such "plots" were not as influential as Ellesmere believed. Certainly they posed a threat to the government, possibly they helped to bring about the many delays with which the Commons protected their interests, but the opposition of the fifth session seems to have been a reaction against new developments rather than the culmination of "opposition" plots against the Contract or subsidy. The prorogation had given both King and individual members time to reconsider the bargain in practical terms of what it would mean to them. More important, the Commons had also had time to consider the King's answer to the petition of grievances. Here, indeed, lay the crux of the matter, for although the Contract had been treated independently, the redress of grievances had been assumed from the earliest days of the fourth session by

¹³⁰ Foster, I, 279 [Ellesmere 2599, fol. 4v.].

both Lords and Commons to be part of the Contract. The King's answers from his own point of view, were not ungenerous but, from the Commons' point of view, even his generous concessions were merely promises -- and they no longer trusted the King's promises. Thus, although they balked at the large sum demanded and questioned how it was to be levied, the most important objection to both Contract and supply was that the grievances had been unsatisfactorily answered. Behind this, moreover, as the insistence in the fifth session on impositions, proclamations, prohibitions, and the four shires shows, lay the fear of the extension of prerogative rule. Ellesmere maintained that their insistence on grievances was not so much an attempt to reform abuse as "to quarrel and impeach his Majesty's prerogative, and his regal jurisdiction, power and authority,"¹³¹ which is, of course, how a royal official would react. The Commons, however, genuinely feared the extension of arbitrary rule and, although it had not yet been realized, the fourth and fifth session had indicated that royal power could only be curbed by the extension of parliamentary control. The

¹³¹Foster, I, 279-80 [Ellesmere 2599, fol. 5].

only lever which the Commons had against the King was the power of the purse. Thus, although they genuinely wanted to compound for feudal rights, it did not need the lobbying of a few die-hards to convince the House that the only way to get what they wanted was to refuse to grant money. Owen had taken the argument to extremes when he had pointed out that there would be no need to call parliament if the King had enough money, but the Commons were instinctively working on this principle when they refused to consider the memorial before the answer to the grievances. The Commons wanted the Contract, would have granted something to the King, but both had to be sacrificed for what they now regarded as a fight for the survival of their liberties.

CHAPTER VI

CONCLUSION

Parliament was dissolved by commission on February 9, 1610/11.¹ Since November 24, however, the Houses had assembled only twice, on both occasions to hear that parliament had been further prorogued.² During these months, while the council was trying to find some means of breaking the deadlock which had occurred in the Commons, the King had obstinately refused to come to London, remaining in the country under the influence of his young Scottish favourite, Sir Robert Carr. James was thoroughly tired of parliament, and it was only with difficulty that the council persuaded him not to punish some of the more outspoken Commoners.³ Carr, moreover, encouraged the King's wrath, and he may even have had agents in the Commons who purposedly raised matters which would anger the King and thus end parliament.⁴ If Carr's agents

¹LJ, 684.

²LJ, 682, 683.

³Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 283.

⁴Willson, "Summoning and Dissolving," AHR, XLV, 1939-40, 283-4.

were used to such purpose, however, they can have done little more than encourage an already existent trend for, as has been seen, the King's anger at the end of the fifth session was matched by an almost unanimous opposition in the Commons.

Thus James' first parliament ended and, from the King's point of view at least, the fourth and fifth sessions had been complete failures. Parliament, which had been recalled in 1610 mainly to solve the Crown's financial crisis, had granted only one subsidy. The Great Contract, which would have benefitted both King and people had it been concluded, had actually discredited the Crown since it emphasized the fact that James was bargaining over rights which had originally been given to the sovereign for the good of the people.⁵ The royal prerogative had been questioned and James had had to recognize the subjects' right to debate a prerogative which touched private property. Bancroft's attempt to reform the Church had also been foiled, thus leaving an important section of the King's supporters in an increasingly vulnerable position.

In the long run, however, the most serious result of this parliament was the opportunity which it

⁵Hinton, "Liberty," Cam. Hist. Jour., XI, 1953, 61.

had given for the development and unification of opposition. Though the Contract had failed and grievances had not been satisfactorily redressed, the opposition had certainly gained the advantage in 1610, making positive advances where procedure and freedom of speech were concerned. Indeed, every obstruction to government plans, even when no constructive step was taken towards opposition aims, can be counted as an opposition gain since the government was left helpless and the King and his supporters were forced onto the defensive. That this had been the result of the fourth and fifth sessions is obvious from the narrative. The position of the bishops provides the most striking instance. From the first months, however, Salisbury and the King had addressed the Commons in propitiatory terms and, although James had lost his temper before the dissolution, this reaction was one of frustration rather than a prelude to attack. In fact, there was little that the King could do; the government had lost control of the Lower House and, as Notestein pointed out in 1924, the Commons were stealing the initiative for themselves.

Although the opposition had made great strides in 1610, it must be remembered that this was not a new development. Most of the grievances raised in 1610 were

old and members of parliament had a long tradition of mounting opposition dating from Elizabethan days on which to build. Opposition development became obvious in 1610 because, unlike the sessions of 1605-6 and 1606-7, these sessions were not dominated by single important issues. On the other hand, as has been emphasized, the years between the assembly of James' first parliament in 1604 and its dissolution in 1610/11 had given time, reason, and opportunity for the diversified strands of opposition apparent in the first session to unite, and for members to develop effective methods of thwarting the government.

The element of time is important in any study of the development of opposition. Some attention, therefore, has been paid to the background of certain areas of opposition. Conditions in 1610 would also bear fruitful comparison with earlier and later parliaments. The main purpose of this paper, however, has been to examine the scope, organization, and effect of the opposition in the House of Commons in 1610 alone. Apart from the success in the matter of freedom of speech, the effect of the opposition had been mainly negative, frustrating the King in his efforts to obtain money and hence preparing the way for a time when the Commons would demand a positive role in the formation of policy.

Early attempts in this direction, especially the Commons' effort to legislate on Church matters, could still be thwarted by the government. The King, however, had had to give verbal promises to redress their grievances and the fact that the government had tried to propitiate the Commons, inadequate as these attempts had been, is further evidence of the mounting importance of the opposition.

The answers to the other facets of this enquiry are, not surprisingly, far less definite. Whereas the effect of the opposition can be gauged by the King's reactions, its scope and organization must be inferred from the actions and speeches of members, the greatest difficulty being to decide how conscious the growth of opposition had become by 1610. The conclusion, that while becoming more and more aware of the implications and possible results of their actions, members united in opposition more from mutual interest than from a sense of party, is not unexpected when one considers that opposition was still in its early stages. Indeed, the coincidence of various types of opposition is felt to have been the key to the opposition's strength in 1610, and for this reason, little attention has been paid to individual members. Undoubtedly certain members, such as Sandys and Martin, assumed

leading positions in the Commons, but the vocal element in the House was both too large to have been dealt with individually, and too diversified to have warranted treatment as a "party" in the modern sense.

Succeeding historians have explained the growth of opposition in terms of constitutional, religious, economic, and legal interests. Each of these, as has been seen, was important in 1610. The strength of opposition, however, lay not in one but in the coincidence of them all. Moreover, the contention, re-emphasized forcefully by R. W. K. Hinton, that Stuart parliaments feared the extension of arbitrary government, is amply born out by an examination of speeches made in 1610. Freedom of speech might be curtailed, the power of the bishops might increase, further impositions might be levied, proclamations might create new offences not recognized by common law. Whether constitutional, religious, economic, or legal -- and in each of these examples, like the many others which might have been chosen, nearly all of these interests were involved -- these grievances also represented the fear that arbitrary government would be extended.

The question of whether the King was actually trying to extend his prerogative, is irrelevant here. The Commons clearly thought that he was, and James'

actions understandably increased their suspicions. Indeed, the effect of James' equivocal behaviour is easily seen during these sessions for, by November, the number of people speaking in his favour had diminished greatly. By 1610, therefore, the Commons had become conscious of the deeper implications of every event and, with their skill in manipulating procedure, were prepared for any attempt to sway them from their own aims. Individually, their grievances amounted to little, together they seemed to indicate a trend inimical to the liberty of the subject. Thus, conscious of the need for self-protection, though as yet having had little experience of arbitrary government, the Commons in 1610 were beginning to turn from the defensive to the offensive.

The opposition of 1610, therefore, shares the characteristics of both what had gone before and what was to develop in the 1620's. Sometimes unconscious, sometimes conscious, sometimes on the defensive, protecting old rights, sometimes on the offensive, claiming new ones, opposition was clearly progressing towards a new maturity and, although one can sympathize with the King and abhor the vicious circle which was intensified by the failure of this parliament, one cannot help but be impressed by the

strides taken by opposition in the House of Commons in
1610.

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