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SHAFTESBURY

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BY

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PREFATORY NOTE.

FOR a man who found so many outspoken critics in his lifetime, SHAFTESBURY has met with curiously few biographers. In our own day, the fact that he was so unsparingly assailed by his contemporaries would of itself be enough to attract the literary 'whitewasher.' But in the seventeenth and early part of the eighteenth century it was otherwise. Shaftesbury was left swinging on that lofty gibbet from which Dryden had suspended him, and no man—or none with the slightest capacity for essaying the feat—ever thought of attempting to cut him down. For many years after his death his biography was represented by such catchpenny little tracts as 'Rawleigh Redivivus,' the servile panegyric of some ultra-Protestant, Whig-and-something-more pamphleteer, who intersperses his thick-and-thin justification of all his hero's actions with tirades against the followers of 'that infallible fop, the Pope.' The work referred to in this volume as 'Martyn's Life' might, and ought to, have been a satisfactory biography, but is very

far from being so in fact. It is, in truth, a patchwork performance, composed at the instance of the fourth Lord Shaftesbury by a Mr. Benjamin Martyn, but so little apparently to his patron's satisfaction that it was withheld from publication during the whole of the latter's lifetime. His son, the fifth Earl, handed the MS. to Dr. Kippis, editor of the *Biographia Britannica*, for revision; after which it was printed, but derived so little advantage to the eye of the fifth Earl from its appearance in type, that he is said to have destroyed the whole of the impression, save two copies, one of which is at Wimborne St. Giles, while the other, finding its way some half-century ago into the hands of a London publisher, was re-edited with notes and additions by Mr. Wingrove Cooke. Its original basis having been a memoir from the hand of Shaftesbury's secretary, Stringer, of which only a fragment now remains, Martyn's Life might have been expected to be more valuable than it is. But Stringer seems to have taken much of his account of facts at second-hand from Shaftesbury's own statements; and while it is at least doubtful whether Shaftesbury always told Stringer the truth, it is eminently probable that Stringer, writing seventeen years after his patron's death, occasionally from failure of memory misstated such truth as was told him, and it is quite certain that Martyn was incapable of distinguishing between the true and the false. The result is a sort of 'Rawleigh Redivivus' in two volumes.

The late Mr. W. D. Christie's 'Life' is a work of a very different character—composed after long and careful study of original documents of a public and private nature, including all the Shaftesbury papers at Wimborne St. Giles, placed at his disposal by the late Earl. Mr. Christie's biography is invaluable as a record of the facts, but it was almost inevitable from the circumstances of its composition that it should partake rather of the forensic than the judicial character.

This exhausts the scanty list of Shaftesbury's apologists. His enemies are legion—Burnet, in his 'History'; Temple, in his 'Memoirs'; Roger North, in his 'Examen'; Dryden, in satire; Butler, in burlesque—these are only the best known of his contemporary assailants. In our own time Macaulay has made him the subject of one of his most vigorous 'studies in black'; and Lord Campbell has dedicated to him the most unfair and inexact biography of the most inexact and unfair of biographers.

On the whole, it seems to me that, if Shaftesbury's apologists sinned against the injunction to 'nothing extenuate,' the severest of his censors have no less certainly defied the prohibition to 'set down aught in malice.' I have striven to the best of my ability to steer a middle course between them.

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SHAFTESBURY.

CHAPTER I.

Birth and Parentage—Early Difficulties—Life at Oxford.

1621-1638.

'WHOEVER considers the number and power of the adversaries I have met with, and how studiously they have, under the authority of both Church and State, dispersed the most villanous slanders of me, will think it necessary that I in this follow the French fashion, and write my own Memoirs, that it may appear to the world on what ground or motives they came to be my enemies, and with what truth or justice they have prosecuted their quarrel; and if in this whole narration they find me false or partial in any particular, I give up the whole to whatever censure they will make.' Few prominent actors in the drama of English history have had stronger justification for self-exculpatory autobiography than the writer of the above-quoted words. So much will be readily admitted, whatever view he takes of Shaftesbury's character, by every student of his career. Subject, indeed, to the neutralisation of a single *ex parte* statement

contained in it, the whole passage might be accepted, by friend and enemy alike, without reserve. No one can question either the number of Shaftesbury's adversaries or the formidable power of some of them; and if for 'villanous slanders' we were to substitute 'damning accusations,' the whole sentence might stand unchallenged from any quarter, and its author's plea of the necessity of 'following the French fashion' be universally allowed. We may regard the accused as on the whole guilty or on the whole innocent; but everyone must feel that the charges against him are such as peremptorily call for a personal answer, and as indeed could never be adequately repelled, if repelled they were to be, by anyone but himself. The usual fate of statesmen's—perhaps of all busy men's—autobiographies has however befallen that of Shaftesbury. It was begun hopelessly too late, and it ends tantalisingly too soon. Its opening sentence indicates that he commenced writing it only when—and indeed only because—his public career was closed; and the interval between the close of his political and that of his natural life was extremely short. The Memoir extends but to his eighteenth year—covers but the period of his infancy and boyhood; and just at the moment when the youth is about to go forth into the stormy world of the mid-seventeenth century, its record comes abruptly to an end. There is nothing disappointing about it, however, except its brevity. It is, in truth, one of the most piquant fragments of autobiography in existence, valuable not merely for its personal details, but for its vivid and sometimes humorous sketches of the life and manners of the time. It is hardly likely, perhaps, that the tone of *naïf* and

complacent self-disclosure with which its author relates the freaks of his boyhood and the exploits of his youth would have been preserved, unless indeed for purposes of dissimulation, through his account of the fierce political struggles of his maturer years; but, with whatever proportion of candour to concealment it were written, it could not fail to have thrown light on many passages in the life of Shaftesbury which must now remain for ever obscure. The brevity of the record from which the facts of this chapter are mainly gathered, and on which such critical remarks on its hero's character as it may seem possible to hazard at so early a period of his history are founded, is to be regretted on an unusual variety of grounds by the biographer of later times.

Anthony Ashley Cooper was born, he tells us, 'at Wimborne St. Gyles, in the county of Dorsett, on the 22nd of July, 1621, early in the morning.' Of his parents he says that they were 'on both sides of a noble stock'—as, if we do not attach too modern a meaning to the word 'noble,' they undoubtedly were. The sense in which Shaftesbury uses the word appears in his next sentence, in which he further describes them as being of the first rank of gentry in those counties in which they lived. His father was John Cooper, of Rockborne, in Hampshire, who was, in the year after his son's birth, added by James I. to his newly-created order of baronets. Wimborne St. Giles, the house in which he was born, and afterwards his own abode and that of many generations of his descendants, belonged at that time to his grandfather, Sir

Anthony Ashley, himself created baronet the day after his son-in-law. The maternal descent was the more ancient and distinguished of the two. The Coopers, indeed, had been persons of consideration in the West of England for at least three generations back, the grandfather of Sir John Cooper having received the grant of a manor from Henry VIII., and his father having sat in Parliament as member for Whitchurch, in Hampshire, in 1586. But the Ashleys had been planted at Wimborne St. Giles since the reign of Henry VI., and their ancestors, traced through heirs female, had been lords of that manor from before the reign of Edward I. Old Sir Anthony Ashley was without male issue, and his daughter's son was designated by him, from birth, as the successor to his very considerable possessions. He had stipulated with Sir John Cooper that the name of Ashley should go with the estates; but Sir John, to 'make all sure with the eldest son,' resolved to give him the name of his grandfather at the font, and he was christened Anthony Ashley accordingly. When nearly fourscore years of age Sir Anthony took to himself a second wife in the person of Philippa Sheldon, a kinswoman of the 'favourite,' George Villiers, Duke of Buckingham, through whom, and through 'her children,' writes Shaftesbury, though surely as to this latter expectation with a touch of malicious irony, 'he expected great preferment; but he failed of his expectation in the first, and his age, with virtue of the young lady, could not help him to the latter, so that, recollecting himself, he resolved, and did accordingly, settle all his fortunes in his lifetime that they should come after his decease to my mother

and father for their lives, and after that to me, without his own or their power to alter it; for he grew every day more and more fond of me, being a prating boy, and very observant of him.'

It is probable that the old man repaid the observation of those keen childish eyes; for he seems to have been in every way a man of more mark and individuality than his son-in-law. 'Of strong sense and health, in spite of his advanced years,' says his grandson, 'he had been for wisdom, courage, experience, skill in weapons, agility, and strength of body scarce paralleled in his age; a large mind in all his actions, his person of the lowest.' In this latter respect his daughter resembled him, while her husband, we are told, was of a moderate stature, 'neither too high nor too low'; so that the 'pigmy body' of Dryden's satire seems to have been clearly an inheritance from the mother's side, as also, one cannot help thinking, was the 'fiery soul.' Sir Anthony Ashley had, at any rate, led a more active and energetic life than Sir John Cooper. He had served for many years as a Clerk of the Privy Council, he had taken an administrative part in the expedition of Essex and Effingham against Cadiz, and had been knighted among other recipients of that honour after the capture of the Spanish port; he had been charged on his return with peculation, and had suffered imprisonment and disgrace. He succeeded to the Wimborne St. Giles property late in life, through the death of a cousin, and no doubt came to it tolerably well enriched by a career spent, in those not too scrupulous days, in the public service. But, however acquired, he seems to have been generous enough in the distribution of his money.

He rebuilt the parish church, and was a liberal benefactor to the parish. Let it be recorded before taking final leave of him, that, according to a legend cited by Evelyn, he was the introducer into this country of the cabbage from Holland.

In 1628, when his grandson was in his seventh year, old Sir Anthony Ashley died, and his death was followed in six months by that of his daughter. Sir John Cooper shortly afterwards married again, his second wife being the widow of Sir Charles Morrison, a lady whom her stepson describes as 'beautiful, and of a large soul,' and who, he drily adds, 'if she had not given some jealousy to both her husbands, and confirmed it after by marrying the person, might have been numbered among the excellent.' Sir John's marriage with her caused the removal of the family to Cashiobury, in Hertfordshire, now the property of the Earls of Essex, to whom it came through the only daughter of Lady Morrison's first nuptials, who married the ill-fated Arthur, Lord Capel. At Cashiobury, in the year 1631, Sir John Cooper died, leaving his son, then a boy of ten, to grapple with the difficulties of an embarrassed though still handsome patrimony, and the still more formidable troubles preparing for him at the hands of grasping and unscrupulous kinsmen. His father's losses at play and general extravagance had caused him to bequeath a considerable legacy of debt; and, the son having become, as the heir of estates held by tenure of knight-service, a ward of the Crown, his great-uncle, Sir Francis Ashley, then king's serjeant-at-law, took advantage of the various suits instituted by creditors against the estates in the Court of Wards to

obtain from that court a collusive order of sale in which certain friends of his own were named commissioners, and whereby the properties were sold much under their value to Sir Francis Ashley and some of the commissioners themselves. The trustees appointed by Sir John Cooper very properly refused to convey the estates to the purchasers, and applied to the Court of Wards to set aside the transactions. Prolonged litigation ensued, from which young Cooper emerged a heavy loser. 'My estate,' he declares, 'was torn and rent from me, before my face, by the injustice and oppression of that Court, (and) near relations and neighbours who, I may truly say, have been twenty thousand pounds damage to me.' No doubt he still remained, even after these heavy losses, a wealthy man; the rental to which he actually succeeded has indeed been estimated at eight thousand a year, an even larger income of course for those days than it would be now. But these unhappy experiences of his youth could not have been improving to his adult disposition, and his latest biographer has justly urged that the unfortunate early history of the orphan, condemned in boyhood to a long struggle for his patrimony with dishonest relatives, should be taken into account in passing judgment on his subsequent career.

Of the character and progress of Cooper's home education nothing very definite is known. He had successively three tutors, the first of whom was chosen principally, it would appear, for his Puritanism by Sir Anthony Ashley. His youthful pupil has left on record of him that 'he was moderately learned, a great lover of money, and had neither piety proportionable to

the great profession he made, nor judgment and parts to support the good opinion he had of himself; but he served well enough for what he was designed for, being formal and not vicious.' Of the second, he remarks only that he was an excellent teacher of grammar. At the age of sixteen—not an unusually early one for those times—Cooper was entered as a gentleman-commoner at Exeter College, Oxford, where, however, he remained but little over a year. His account of his exploits at the university must be seasoned, as also indeed should most of his references to himself and his doings, at all times, with a grain or two of salt. Mr. Christie considers it to have 'all the air of truthfulness,' and it is not, of course, necessary to suspect Shaftesbury of sheer romancing. But a certain frank vanity was always surely one of the most striking features of the man, as perhaps it is also one of the principal charms of his autobiography, and it is difficult not to suspect that he has sometimes made himself play a more heroic and commanding part in the story than he actually bore in the events. The achievements on which he especially prides himself were those of putting a stop to 'that ill custom of tucking freshmen,' and of preventing a designed alteration in the 'size' of the college beer. This latter illiberal project had 'put all the younger sort into a mutiny,' and on their resorting to Cooper he gave the shrewd advice—an Achitophel of divine oracles even then—that 'all those who were intended by their friends to get their livelihood by their studies should rest quiet and not appear,' while Cooper and 'all the others that were elder brothers,' and therefore unconcerned in the anger of the dons, should

'go in a body, and strike their names out of the buttery book, which was accordingly done, and had the effect that the senior fellows, seeing their pupils going that yielded them most profit, presently struck sail and articled with us never to alter the size of our beer, which remains so to this day.' With the 'ill custom of tucking' it was a harder matter to deal. Tucking, a usage of great antiquity, was on this wise. One of the seniors in the evening called the freshmen to the fire in the hall and made them hold out their chins, whereupon 'with the nail of the right thumb, left long for that purpose,' he would grate off all the skin from the lip to the chin, and then 'cause them to drink a beer glass of water and salt. Against the perpetuation of this exquisite piece of pleasantry Cooper, he tells us, headed a revolt. It had happened that year that 'more and lustier young gentlemen had come to the college than had done in several years before,' and the freshmen were consequently a very strong body. At the instigation of the daring young innovator, they all cheerfully engaged to stand stoutly to the defence of their chins. Accordingly on their appearance at the fire in the hall, and, on 'my Lord of Pembroke's son' calling in Cooper first, he gave the preconcerted signal by administering to my Lord of Pembroke's son a box on the ear, and 'immediately the freshmen fell on, and we easily cleared the buttery and hall'; but bachelors and 'young masters' coming in (to their eternal disgrace be it recorded) to assist the seniors, 'we were compelled to retreat to a ground chamber in the quadrangle. They pressing at the door, some of the stoutest of our freshmen, giant-like boys, opened the doors, let in as many as they

pleased, and shut the door by main strength against the rest; those let in they fell upon and had beaten very severely but that my authority with them stopped them, some of them being considerable enough to make terms for us, which they did; for Dr. Prideaux being called out to suppress the mutiny, the old Doctor, always favourable to youth offending out of courage, gave us articles of pardon for what had passed, and an utter abolition in that college of that foolish custom.' With which act of redemption the university career of Sir Anthony Cooper comes to an end. In the course of the next year he quitted Oxford without taking a degree.

CHAPTER II.

First marriage—Life in Dorsetshire—Elected for Tewkesbury to Short Parliament—Returned for Long Parliament to Downton—Outbreak of civil war—Cooper takes service with the King—Deserts to the Parliament—His military service—Death of Lady Cooper—Second marriage.

1638–1653.

It is said of Shaftesbury by Bishop Burnet, no friend of the then departed statesman, that 'he had the dotage of astrology in him to a high degree.' 'He told me,' adds the Bishop, 'that a Dutch doctor had from the stars foretold him the whole series of his life.' More impartial critics than Burnet will probably agree that there was not much 'dotage' of any sort about Shaftesbury at any period of his career, and the next step—a most important one—of his life shows clearly enough that astrology had no very firm hold upon his mind. Dr. Olivian, the Dutch astrologer referred to, was very solicitous that the young baronet, whose early friend and companion he had been, should marry the sister of a Dorsetshire neighbour, a Mr. Rogers. He positively affirmed, writes Cooper, that 'he saw by his art there would be feuds and great danger to me if it was not a match, and if it were he could assure me she would prove a vast fortune; professing he had no concern in it above mine.' To these mystical

counsels Cooper made the eminently rationalistic reply that he could not see a possibility of the lady's acquiring so great a fortune or 'having considerable addition to her present portion, since her father had divers sons and some married.' Dr. Olivian solemnly answered that 'he was sure of the thing, though he could not tell me how it would be'—a condition of knowledge just one degree higher than that of the astrologer at the court of King Cole, who could only assure that monarch that 'a mole on the face boded something would take place, But not what that something would be.' The lady, we are told, did afterwards, by a concurrence of unforeseen circumstances, come 'to be a very great fortune indeed'; but Cooper married Margaret, second daughter of the Lord Keeper Coventry. Obviously he believed that, as the possessor of ample wealth already, and at the same time ambitious of political distinction, he could more effectually co-operate with the stars by allying himself with the family of a high officer of state than by marrying the sister of a Dorsetshire squire. In such reasoning there was certainly nothing 'astrological,' however accurately it may be described by the latter half of the word.

For a year after his marriage, which took place in February 1639, he lived partly with his father-in-law at Durham House, in the Strand, and at Canonbury House, in Islington, and partly at home in Dorsetshire, where, both on account of his original and, as one may suppose too, of his acquired position, he is an important personage. In his autobiography he has sketched the characters of several of the squires among whom he moved, and one of these sketches is at once so vigorous in its outlines, so humorous in spirit, and so finished in

its details, that, in spite of its length, I shall offer no apology for transcribing it entire. Perhaps, after all, one may get as much enlightenment upon a man's personal character, and so indirectly upon his public acts, from the inevitable self-disclosure of such a piece of writing as this as could be gathered from many times the amount of political oratory and state-paper disquisition. As regards, at any rate, the purely intellectual side of this remarkable man—his power of acute observation, his tenacious memory, and, above all, his unconquerable elasticity of spirit—we shall undoubtedly be better able to measure these qualities when we recollect that this masterly portrait was painted from the recollections of some forty years back, and not improbably by the hand of a shattered and dying exile.

Mr. Hastings, by his quality, being the son, brother, and uncle to the Earl of Huntingdon, and by way of living, had the first place among us. He was peradventure an original in our age, or rather the copy of our nobility in ancient days in hunting and not warlike times; he was low, very strong, and very active, of a reddish flaxen hair, his clothes always green cloth, and never all worth when new five pounds. His house was perfectly of the old fashion, in the midst of a large park well stocked with deer, and near the house rabbits to serve his kitchen; many fish-ponds, and great store of wood and timber; a bowling-green in it, long, but narrow, full of high ridges, it being never levelled since it was ploughed; they used round sand bowls, and it had a banqueting house like a stand, a large one built in a tree. He kept all manners of sport-hounds that ran buck, fox, hare, otter, and badger, and hawks long and short winged; he had all sorts of nets for fishing, he had a

walk in the New Forest, and the manor of Christchurch. This last supplied him with red deer, sea, and river fish; and indeed all his neighbours' grounds and royalties were free to him who bestowed all his time in such sports, but what he borrowed to caress his neighbours' wives and daughters, there being not a woman in all his walks of the degree of a yeoman's wife or under, and under the age of forty, but it was extremely her fault if he were not intimately acquainted with her. This made him very popular, always speaking kindly to the husband, brother, or father, who was to boot very welcome to the house whenever he came. There he found beef, pudding and small beer in great plenty; a house not so neatly kept as to shame him or his dirty shoes; the great hall strewed with marrow-bones, full of hawks' perches, hounds, spaniels, and terriers; the upper sides of the hall hung with the fox-skins of this and the last year's skinning; here and there a pole-cat intermixed, guns and keepers' and huntsmen's poles in abundance. The parlour was a large, long room as properly furnished. On a great hearth paved with brick lay some terriers, and the choicest hounds and spaniels; seldom but two of the great chairs had litters of young cats in them, which were not to be disturbed, he having always three or four attending him at dinner, and a little round white stick of fourteen inches long lying by his trencher, that he might defend such meat as he had no mind to part with to them. The windows, which were very large, served for places to lay his arrows, crossbows, stonebows, and other such like accoutrements; the corners of the room full of the best chose hunting and hawking poles; an oyster table at the lower end, which was of constant use twice a day all the year round, for he never failed to eat oysters before dinner and supper through all seasons: the neighbouring town of Poole supplied him with them. The upper part of the room

had two small tables and a desk, on the one side of which was a Church Bible, on the other the Book of Martyrs ; on the tables were hawks' hoods, bells, and such like, two or three old green hats with their crowns thrust in so as to hold ten or a dozen eggs, which were of a pheasant kind of poultry he took much care of and fed himself ; tables, dice, cards and boxes were not wanting. In the hole of the desk were store of tobacco pipes that had been used. On one side of the room was the door of a closet, wherein stood the strong beer and the wine, which never came thence but in single glasses, that being the rule of the house exactly observed, for he never exceeded in drink or permitted it. On the other side was a door into an old chapel not used for devotion ; the pulpit, as the safest place, was never wanting of a cold chine of beef, pasty of venison, gammon of bacon, or great apple pie with thick crust extremely well baked. His table cost him not much, though it was very good to eat at, his sport supplying all but beef and mutton, except Friday, when he had the best sea fish as well as other fish he could get, and was the day that his neighbours of best quality most visited him. He never wanted a London pudding, and always sung it in with 'My part lies therein-a.' He drank a glass of wine or two at meals, very often syrup of gilly-flower in his sack, and had always a thin glass without feet stood by him holding a pint of small beer, which he often stirred with a great sprig of rosemary. He was well-natured but soon angry, called his servants bastard and cuckoldy knaves, in one of which he often spoke the truth of his own knowledge, and sometimes in both, though of the same man. He lived to a hundred, never lost his eyesight, but always writ and read without spectacles, and got to horse without help. Until past four score he rode to the death of a stag as well as any.

The quiet days during which Cooper found such

employment for his faculty of humorous study were of but brief duration. Early in his married life his brother-in-law, Thomas Coventry (elder brother of two men destined to more distinction than himself, Henry, Secretary of State under Charles II., and one of the negotiators of the treaties of Breda, and William of the Admiralty, well known to the reader of Pepys), took Cooper down with him to his house on the Gloucestershire border of the county of Worcester, where the young man applied himself diligently to win the hearts of the neighbouring borough of Tewkesbury. It was eleven years since Charles I. had dissolved his last Parliament, but in 1639 the project of summoning a new one was known to be in contemplation, and it is no very speculative supposition that Cooper was taken down by Thomas Coventry to his country house for the express purpose of 'nursing' the constituency. And nurse it he did, to good purpose, according to his own highly characteristic account.

Seldom has the boy more distinctly proved his fatherhood than in this amusingly frank account of the arts by which the politician of eighteen set to work to court the worthy citizens of Tewkesbury. As their neighbour and my Lord Keeper's son-in-law, he had been invited to a hunting in the chase near there, and to a dinner afterwards, to which the neighbouring county magnates were also bidden. Cooper was prevented from following the hunt with much energy by reason of being taken with 'one of my usual fits, which for divers years had hardly missed me one day, which lasted for an hour, betwixt eleven and one, sometimes beginning earlier and sometimes later betwixt those

times.' This compelled him to fall behind the country gentlemen and other 'good goers' of the party, and led to his finding himself among the city fathers, who, 'being no hard riders, were easily led by their civility to keep me company.' To these good folks Cooper made himself so abundantly agreeable, that before the ride was over he had become the confidant of their grievances against a certain old knight then in the hunting field, 'a crafty, perverse, rich man in power,' Sir Harry Spiller by name, 'of the Queen's Privy Council, and a bitter enemy of the town and Puritans, as rather inclined the Popish way.' With Sir Harry's character and 'all his story,' including, it is to be presumed from the sequel, his private habits, Cooper made himself thoroughly acquainted, and at the dinner which followed he soon had an opportunity of turning his knowledge to account. For the knight, it seems, began the dinner 'with all the affronts and dislikes he could put on the Bailiffs or their entertainments, which enraged and discountenanced them, and the rest of the town that stood behind us; and the more, it being in the face of the best gentlemen of the country, and when they resolved to appear in their best colours.' This rough raillery continuing till the first course was near spent, 'I thought it my duty,' Cooper magnanimously says, 'eating their bread, to defend their cause the best I could, which I did with so good success, not sparing the bitterest retorts I could make him, which his way in the world afforded matter for'—here came in the useful gossip of the morning—'that I had a perfect victory over him. This gained the townsmen's hearts and their wives' to boot; I was made free of the town, and the

next Parliament, though absent, without a penny charge, was chosen Burgess by unanimous vote.' Surely we have here the unmistakable Shaftesbury of the Restoration period.

Thus launched into public life before completing the age of nineteen,[1] there commenced for Cooper a career of restless political activity which was to last for more than forty years. His first plunge into politics, however, was to be but brief indeed. He had been elected to serve in 'the Short Parliament,' which was dissolved three weeks after its meeting. There is no trace in the Journals of the House or other records of Sir Anthony Cooper taking part in the debates, neither do we know how he voted. As a son-in-law of the Lord Keeper—who, however, had died three months before Parliament met—he would no doubt be expected to support the Royal cause; his constituency, on the other hand, appears to have been Puritan. We may assume that even at that early age he understood how to accommodate himself with tact to this delicate situation.

Six months later, on November 6, 1640, met the ever-memorable Long Parliament, and in the election from which it issued Cooper did not again offer himself as candidate for Tewkesbury. He stood for Downton, in Wiltshire, a borough near his own seat at Wimborne St. Giles. The return was a double one, the other claimant to the seat being Mr. Gorge, eldest son of Lord

[1] It was not uncommon, though it was technically unlawful, in those days for minors to sit in Parliament. Mr. Christie notes that at one time in James I.'s reign the House of Commons contained no fewer than forty members under age, some of them only sixteen.

Gorge; but 'at the Committee for Privileges,' affirms Cooper, 'it was clearly decided for Sir Anthony, yet no report made of it.' That this statement is probably true is to be inferred from the two facts that Cooper's right to the representation was ultimately allowed many years afterwards, and that in the meantime the seat remained vacant — the fact of the other candidate taking no steps to claim it appearing clearly to indicate that he knew the decision had gone against him. Such abuses as the delay of the Committee's reports were not unknown in those days, either partisan or corrupt motives being usually, of course, at the bottom of this defraudation of personal and constitutional rights. Whatever the cause in Cooper's case, the obstruction to his entrance into the House may have exercised a determining influence on his career. We know not, of course, what part he might have played in this historic Parliament, but we do know that the postponement of his political ambitions impelled him, as it was sure to have impelled a man of his temperament, towards the only other possible outlet of his energies—military service; and we shall see reason to believe, I think, in spite of some suggestions to the contrary, that it was the disappointment of his hope of military distinction which urged him to the first great act of tergiversation in his public life.

In August, 1642, a year and a half after Cooper's second election, the civil war broke out. The King raised his standard at Nottingham, and Cooper, who was then staying at Rufford with his brother-in-law, Sir William Savile, father of the famous Halifax, was present at the ceremony, though only, he afterwards

alleged, 'as a spectator, having not as yet adhered against the Parliament.' To this date belongs the extraordinary story related by John Locke in the fragmentary memoir of Shaftesbury printed with his works. According to this account, Cooper is represented to have proposed to the King, in an interview at Oxford, to undertake the general pacification of the kingdom if the King would authorise him to treat with the Parliamentary garrisons and promise a new and free Parliament. The King is said to have observed, 'You are a young man and talk great things,' but to have given Cooper the authority he desired. Cooper's plans, however, were all spoilt by Prince Maurice, and on his complaining thereof to the King, his Majesty 'shook his head with some concern but said little.' It is further alleged that Cooper then started the idea of arming the counties and endeavouring to suppress both the contending armies, and that this was the origin of the 'Clubmen,' who, however, as Mr. Christie points out, did not appear on the scene till more than a year after Cooper had quitted the Royal cause. Of both which stories we may say briefly, but with tolerable safety, that, as Locke relates them thus in his memoir, they must have been told him by Cooper, and that, as Cooper does not relate them in his autobiography, they are not to be relied on.

In the spring of 1643 Cooper gave in his public and definite adhesion to the Royal cause, and, having raised at his own expense a regiment of foot and a troop of horse, received from the Marquis of Hertford, then in chief command of the Western army, commissions as colonel of the regiment and captain of the troop. He

was authorised, in association with other Dorsetshire notabilities, to treat for the surrender of Weymouth and Dorchester, and received a further commission from Hertford appointing him governor of Weymouth and Portland Island after their recovery for the King. On August 9 the town surrendered to Lord Carnarvon; but shortly afterwards Hertford was superseded by Prince Maurice, and Cooper, fearing with reason that the new commander-in-chief would not be disposed to respect his predecessor's commissions, appealed to the latter to obtain for him the Royal confirmation in his office. Hertford took up his cause with zeal, and the irresolute King, perplexed between the conflicting demands of the two applicants, ultimately determined on the compromise of allowing Cooper to retain his governorship, and requesting Hertford to prevail with him and others similarly situated to 'resign their commands after they have held them so long as that they may not appear to be put from them, nor your commission disregarded by us.' Cooper accordingly remained governor of Weymouth from this time (August, 1643) until the beginning of February 1644,[1] when he resigned his governorship and all his commissions under the King, and a few weeks after went over to the Parliament. He was succeeded in his vacated post at Weymouth by Colonel Ashburnham. Cooper's own account of these transactions is that the King sustained him in his commands, and that his resignation and change of side were due solely to awakened religious apprehensions. Clarendon, on the other hand,

[1] The Report of the Parliamentary Committee says January, but only, I think, by mere error.

declares that he was removed to make way for Ashburnham, and was 'thereby so much disobliged that he quitted the King's party, and gave himself up body and soul to the service of the Parliament with an implacable animosity against the Royal interest.' Mr. Christie, who, in his laudable desire to vindicate his hero against what he regards as the calumnies of Dryden, sometimes appears to me to run into the opposite extreme, accepts Cooper's story unreservedly as true, and peremptorily rejects Clarendon's as false. I cannot assent to his reasoning. He admits that, if Cooper had been pressed to resign the government of Weymouth in compliance with the King's wish, 'his resignation might have been a virtual removal.' But he adds, 'There is no trace of evidence of any endeavour made by Hertford or anyone else to persuade Cooper to resign.' There may be no trace of any endeavour on Hertford's part to do this, but is there no probability of an endeavour on the part of 'anyone else' to do it? Is there not, on the contrary, the highest probability that Prince Maurice would himself see to the execution of that part of the Royal compromise which was in his own favour, if Hertford declined to carry it out himself? Again, we find the King giving as his reason for desiring the resignation of Cooper and others that the places they had charge of might, for their security, be in the hands of more able soldiers, and this surely would be ground enough for Prince Maurice, who had supreme military responsibility for the whole Western district, to insist on the change being made. Mr. Christie dwells, as Cooper has himself dwelt, on the King's appointing him sheriff of Dorsetshire after the letter containing the suggested

compromise had been sent to Hertford; but this civil appointment looks much like a *solatium* for an intended military supersession.

The same may be said of the peerage which he declares to have been offered him, supposing such an offer to have been really made. Indeed, the passage in the autobiography (second sketch) in which this circumstance is mentioned appears expressly to indicate that this was its explanation; and it is singular that Mr. Christie, who cites the passage in full, should not have seen how strong a colour it appears to give to Clarendon's account of the matter. 'Notwithstanding, he now plainly seeing the King's aim' (Cooper in this fragment writes of himself in the third person) 'destructive to religion and the state, and though he had an assurance of the barony of Ashley Castle . . . . and that *but two days before he received a letter from the King's own hand of large promises and thanks for his service, yet in February he delivered up all his commissions to Ashburnham* and privately came away to the Parliament, leaving all his estate in the King's quarters, 500*l.* a year full stocked, two houses well furnished, to the mercy of the enemy, resolving to cast himself upon God and to follow the dictates of a good conscience.' There is nothing here about resigning all his commands in *January*, and going over to the Parliament 'some weeks afterwards.' On the contrary, he 'delivers up his commissions direct to Ashburnham' only two days after receiving a letter of thanks for his service from the King, accompanied, he declares, by promises of reward. Surely it is no more than reasonable to infer that the Royal letter (which is apparently not traceable),

contained an intimation that his services were no longer required.

On the whole, I see no reason to doubt that Cooper's resignation *was* 'a virtual removal,' and that Clarendon's charge against him of having deserted the King through pique is at least partially true. I cannot see how even the most favourable critic of Shaftesbury's career can deny that ambition was at all times his master passion, and that we need scarcely even look further than a disappointment of that ambition to find the adequate explanation of any important step in his life. No doubt the occasion was a favourable one for representing his motive to have been solely the discovery that the King's aim was destructive to religion and the state. Ormond's treaty with the Irish rebels had just been concluded, and had driven several others of the King's adherents in disgust into the Parliamentary ranks; and even during the brief interval of reflection between his resignation and his desertion Cooper may quite possibly have felt similar promptings. But I cannot help suspecting that, if he had seen the road open to political and military advancement—and at that time political almost presupposed military—he would not have turned his attention to the religious question at all. Unquestionably, however, he is fully entitled to the credit of being actuated by no meaner motive than political ambition. His material interests were without doubt imperilled by the step. Most of his property lay in the Western counties, where the King's cause was then predominant, and what remained of it was for the time equally within the Royal grasp. In the records of the Standing Committee of the two Houses to whom

he had to give in his submission, he is reported to have said that he came there 'being fully satisfied that there was no intention of that side for the promoting of or preserving of the Protestant religion and the liberties of the kingdom, and that he left 600*l.* per annum well stocked there; and that he is fully satisfied of the justness of the Parliament's proceedings; 800*l.* near Oxford under their power; 2000*l.* per annum in the King's quarters in Wiltshire and Dorsetshire and Somersetshire.'[1]

The reception given to Cooper was far from enthusiastic, and would seem of itself to show that the Parliament regarded his assertion of political and religious motives for his change of party with distrust. It was several months before he was permitted to go down into Dorsetshire for military service, and yet longer ere he was allowed to compound for his estates by a fine of 500*l.* In August, however, he received the command of a brigade of horse and foot, with a commission as 'Field Marshal General,' and in this capacity he commanded at the taking of Wareham. In October he was appointed commander-in-chief of the Parliament's forces in Dorsetshire, and in the following month he assaulted and carried a Cavalier stronghold at Abbotsbury, the seat of Sir John Strangways, displaying, as appears from contemporary accounts, considerable personal gallantry in the affair. Other

[1] It will be seen that these amounts are considerably larger than those mentioned in the autobiographical fragment; even 'the 500*l.* well stocked' becoming 600*l.* in the statement to the Committee. But the discrepancy is immaterial, except in its bearing on Shaftesbury's accuracy or veracity. We know that his property *did* lie in the counties named.

successes in Dorsetshire followed, and in December he was despatched to the relief of Blake, the stout defender of Taunton, an operation also successfully effected. His military career however, though brilliant, was brief. After the first few months of 1645 it came to an end, and in the autumn of that year we find him again, but unsuccessfully, renewing his application to the House of Commons to admit him to his seat for Downton. In the stirring events of the next few years Cooper seems to have taken no part whatever.[1] The battles which crushed the Royal cause, the surrender, trial and execution of the King, the establishment of the Commonwealth, pass by without so much as a word of notice in the meagre diary which is the only record of Cooper's life throughout this period. With the exception of one incident related in the Locke memoirs —though, as Mr. Christie points out, with some obvious inaccuracies—his tender of moderating advice to Holles during the conflict of the Presbyterian members with Cromwell, he in no way mixed himself in public affairs. From 1645 to 1652, however, he seems to have maintained a steady allegiance to the *de facto* ruler, whether Parliament or Protector; at various times, indeed, he discharged local functions under the central authority; but, for the rest, his life was that of an ordinary country gentleman of the time. It was, however, marked by two important events of the domestic order. In the year 1649 Lady Cooper died suddenly, and the almost stenographic bareness of her

[1] Why is not known. Martyn (ii. 82) suggests that it was because he was unwilling to serve anywhere but in his county, then harassed by the King's troops; but Martyn forgets the relief of Taunton.

husband's diary blossoms forth into this flower of affectionate eloquence:—

She was a lovely beautiful fair woman, a religious decent Christian, of admirable wit and wisdom, beyond any I ever knew, yet the most sweet, affectionate, and observant wife in the world. Chaste, without a suspicion of the most envious, to the highest assurance of her husband; of a most noble and bountiful mind, yet very provident in the least things: exceeding all in anything she undertook—housewifery, preserving, works with the needle, cookery—so that her wit and judgment were expressed in all things, free from any pride and forwardness. She was in discourse and counsel far beyond any woman.

A tribute so impassioned as this may perhaps prepare some readers to hear that the widower remarried within the year. In April 1650 Sir Anthony Cooper—true to his former principles of selection, and perhaps with a view in this instance to a possible turn of the political tables—was united to Lady Frances Cecil, sister of Lord Exeter, a Royalist nobleman. His first wife, after several disappointments of premature childbed, had died without having borne him any living child. His second was more fortunate. She bore him a son the next year, who died in childhood, and in the year following another, who, though weakly and deformed enough to provoke the savage ridicule of Dryden, yet lived to inherit and to transmit his father's titles. The second Lady Cooper died in 1654, and two years after the widower married Lady Margaret Spencer, daughter of Lord Spencer of Wormleighton and niece of Lord Southampton.

In 1662 Cooper was nominated a member of the Commission appointed by Parliament for the reform of

the laws, and assisted under the guidance of Sir Matthew Hale in the preparation of a digest, and the drafting of several legislative measures, some of which he afterwards assisted in passing into law. In March 1653, an entry in the Commons' Journals records a resolution to the effect that 'Sir Anthony Ashley Cooper, Baronet, be and is hereby pardoned of all delinquency, and be and is hereby made capable of all other privileges, as any other of the people of this nation are.' Thus in the last days of the Rump Parliament he was declared eligible to be a member of that assembly to which he had been elected thirteen years before. Little more than a month afterwards the soldiery of the Protector entered the House of Commons; the Speaker was handed 'hors du parlement,' as a French reporter of the scene relates, 'comme un gentilhomme ferait une demoiselle'; the 'bauble' was taken away, and the doors of the House were shut and locked against the remnant of that assembly which had sat for a longer period and made more history than any other commemorated in our annals.

CHAPTER III.

Nominated to Barebone's Parliament—A member of Cromwell's Council of State—Cromwell's second Parliament—Parliament of 'the Petition and Advice'—Cooper in opposition—Death of Cromwell—Richard's Parliament—Cooper's attack on the House of 'Lords'—Richard's downfall—Cooper in the restored Rump—Recall of Charles II.

1653–1660.

Of the Parliament which succeeded it—ridiculous in history under the name of Barebone's—Cooper was designated member by the Protector, who, in consultation with his newly-appointed Council of State, had selected the persons to whom the summonses were to be sent. His nomination with those of some other members was for the county of Wiltshire, and the new assembly met on July 4, 1653. Its character may be best appreciated from the following description by one of its members:—'The fourth of July, 1653, those thus assembled and empowered did adjourn themselves from Whitehall to the Parliament-house to meet the next morning at eight of the clock and then to begin with seeking God by prayer; which accordingly they did, and the same was performed by the members among themselves, eight or ten speaking in prayer to God, and some briefly from the Word, much of the presence of Christ and of His Spirit appearing that day to the great gladding of

the hearts of many; some affirming they never enjoyed so much of the spirit and presence of Christ in any of the meetings and exercises of religion in all their lives as they did that day. In the evening of that day Mr. Francis Rouse was called to the chair and chosen Speaker; and then the House adjourned to the next day, when the House appointed to pray again three or four days after, which accordingly was done by the members, principally' [this shows an impartiality in the allotment of spiritual privileges] 'by such as had not done service before, when also the Lord-General was present, and it was a very comfortable day.' But not, one would think, a very busy one. Evidently the maxim *laborare est orare* was read backwards by this singular body. What share was taken by Cooper in these religious proceedings it is difficult to determine. Dryden, as we know, had no doubt upon the matter:—

> Bartering his venal wit for sums of gold,
> He cast himself into the saint-like mould,
> Groaned, sighed, and prayed while godliness was gain,
> The loudest bagpipe of the squeaking train.

Lord Campbell (of course) adopts the poet's story. Mr. Christie (equally of course) rejects it. The 'loudest' bagpipe is no doubt a malicious exaggeration, but—a bagpipe at all! I cannot say that it seems to me so impossible as it appears to Mr. Christie. Cooper was, it is true, a 'member of a moderate party in the assembly which steadily opposed the fanatics, and ultimately broke them up'; but Cromwell himself was the head of this moderate party, and the Lord-General certainly could add his voice on occasion to a squeaking

train with as much goodwill as any. Nor are we without other evidences that Cooper's tongue was ready enough with the sanctimonious phraseology of the Puritan. In a diary usually satisfied by the curtest memoranda of events we meet with such phrases as 'I fell sick of a tertian ague, whereof I had but five fits through the mercy of the Lord'; the unfelt and conventional character of the pious ejaculation being attested by the fact that he omits to strengthen it in any way when Providence allows him to escape with 'two fits.' I imagine that in Barebone's Parliament he sang and prayed with the rest, not doubtless more vociferously or unctuously than others, but with enough of voice and unction to sustain a reputation for godliness and to preserve the influence which the suspicion of any other character would unquestionably have lost him.

As soon as the House had ceased to pray, they began, like other reverend bodies, to wrangle; and it soon became apparent to Cromwell that their divisions would make them impracticable as a legislature. The violent and fanatical party got the upper hand, and Cromwell saw that he must put an end to the existence of the Parliament hardly less summarily, if with less show of violence, than he had done to that of its predecessor. On December 10 accordingly a member of his party moved that the 'sitting of this Parliament any longer as now constituted will not be for the good of the Commonwealth, and that therefore it was requisite to deliver up unto the Lord-General Cromwell the power which they received from him.' The motion was debated for some time, when the Speaker, a Cromwellian partisan, rose, without putting the question, and

leaving the House, followed by about forty members, proceeded to Whitehall, where a resignation of the powers of the assembly was duly written out and signed and presented to Cromwell. The members who remained behind were removed as the Rump had been by soldiery, and the resignation ultimately received a sufficient number of additional signatures to make it representative of a majority of the assembly.

Cooper, it is certain, acted with the party who tendered the resignation of their powers.[1] He became a member of Cromwell's Council of State immediately afterwards, and in the proposal mooted about that time by the Lord-General's satellites to confer upon him the title of king, it is believed by the latest of Cooper's biographers that he concurred. Bishop Burnet declares that he (Shaftesbury) pretended that Cromwell offered to make *him* 'king.' That Cromwell ever made such an offer is most unlikely; but, on the other hand, nothing can be more likely than that Cooper, whose 'improvements' upon history not infrequently resemble those of the elder Dumas, asserted that he did. The deliberations of the Council resulted in the settlement of a paper constitution known as the 'Instrument of Government,' under which the new Parliament was elected. To this Parliament Cooper was returned by no fewer than three constituencies—Wiltshire, Poole, and Tewkesbury—and made his election to sit for the county. The new House of Commons, however, proved little more prac-

[1] This appears clearly enough from a reference to *Rawleigh Redivivus*, a work rightly characterised by Mr. Christie as a 'catch-penny publication' and unscrupulously adulatory of Shaftesbury, but a good witness where facts are of a *neutral* character.

ticable than the two former. They at once proceeded to discuss the 'Instrument of Government,' and attacked the very first clause declaring the government of the country to be 'in one person and the people assembled in Parliament.' Cromwell, regarding this provision as a vital element of his constitutional scheme, resorted once more with his usual promptitude to force. He locked out the House on September 12, and summoning the members to the Painted Chamber at Whitehall, he demanded from each of them, as a condition of readmittance, his signature to a document undertaking not to give his consent to any proposal to alter the government as settled in one person and Parliament. About three hundred of the four hundred and sixty members signed it, and returned to the House. Discussions, however, on the succeeding clauses of the 'Instrument of Government' were renewed with equal vigour, and when at last it was settled and embodied in a bill, a resolution was adopted to the effect that, if the Protector did not agree to every clause, the whole should be void. The Parliament, however, had now sat five lunar months, and Cromwell, interpreting the period of five months during which it was provided by the 'Instrument of Government' that it should not be dissolved as five lunar months, dissolved it at the end of this term. Although no provision had been made for revenue, and according to the 'Instrument of Government' the powers of the Protector and Council to raise money by ordinances had come to an end at the meeting of the first Parliament, money was, however, raised in this way—Cromwell thus setting his own Constitution aside.

Throughout this Parliament Cooper had attended the meeting of the Council, and we may suppose had supported Cromwell's interests in the House of Commons. Evidently, however, he was becoming doubtful whether the cause with which he had allied himself was in a healthy condition, and began about this time to meditate a change of side. He ceased to attend the Council after the dissolution, and on the meeting of Cromwell's third and last Parliament we find him in declared opposition. He was one of the members excluded from the House by a refusal of the certificate of qualification which had to be granted by the Council as a condition of taking a seat. He signed the letter of protest presented to the Speaker by a certain number of the excluded members, and also the more strongly worded remonstrance afterwards drawn up by them for public circulation, but which is not known to have been and probably never really was circulated. Some of his fellow-members, deprived of their seats in this way, subsequently made their peace with the Council, and gained admission into the House; but Cooper remained excluded during the whole of the important first session of the Parliament which came to an end in 1657. In January, 1658, the Parliament of two Houses, as provided for by the Constitution known as that of the Petition and Advice, which had been settled in the foregoing session, assembled, and Cooper, with other excluded members, took their seats for the first time, after having sworn allegiance in the prescribed form to the Protector as chief of the Commonwealth. But on the infusion of this element—indeed it might almost seem by the mere addition of Cooper himself—this House of

Commons became as unmanageable as its predecessors. Cooper fell straightway upon Cromwell's pinchbeck House of Lords, and was the life and soul of the resistance to its recognition in the Lower Chamber. A report of his speech in the debates on the question of taking into consideration a message from the Lords has been preserved, and is the first specimen which has come down to us of his Parliamentary oratory. Undistinguished by literary graces of any kind, it is full of force and life, even for a reader of two centuries later—abounding in short, weighty sentences, fired, like so many musket shots, into his opponent's case. It is easy to understand its being eminently effective in the debates of any English Parliament. Here is a passage from his argument against addressing the Upper House as a 'House of Lords':—'I am not of their opinion that there is nothing in a name, and that if you could get over that, the fact would not stick. . . . The gentlemen of the long robe will tell you that there is much in names. The word "king," they know, carries all. Words are the keys of the cabinet of things. Let us first take the people's jewels out before you part with that cabinet. If we part with all first, when it comes to abatement, it is a question how you will redeem them.' It is probable that the vigour and adroitness with which Cooper conducted the opposition in these debates had much to do with their result of disappointment to Cromwell. The attempt to defeat, by the 'previous question,' Sir Arthur Haselrig's (hostile) motion for the House to resolve itself into a Grand Committee to consider the Lords' message was unsuccessful, and, on the main question being put, the House rejected Haselrig's motion by only ninety-three votes to eighty-

seven, Cooper telling for the ayes—a result so unsatisfactory to Cromwell, that on the following day he dissolved the Parliament. Seven months afterwards the Protector died, and was succeeded by his son.

It was in September, 1658, that Richard Cromwell took his father's place; but the year had not closed before the difficulties of his position showed signs of becoming serious. He had already displeased the chiefs of the army, to whose support he owed his peaceful succession, by declining to resign its supreme command, and he hoped that the Parliament which his necessities compelled him to call at the beginning of the year 1659 might help him to hold the Desboroughs and Fleetwoods in check. This Parliament, elected partly under the old electoral law, and partly (that is, for Scotland and Ireland) under the franchises of the Petition and Advice, assembled on January 27. Cooper was a member of it, having been returned both for Wiltshire and Poole; he elected to sit for the former constituency. It is not probable—it is indeed in the highest degree unlikely—that he or any other civil politician or combination of such politicians would have saved the Commonwealth; but it is quite probable that his vehement opposition tended to precipitate its downfall; and there can be little doubt that his attitude was due to the fact that he perceived more clearly than others the nearness and certainty of the event which he was endeavouring to hasten. Whenever throughout his life Shaftesbury is found throwing himself with ardour into the popular cause, we may feel tolerably sure that its triumph is near at hand. His speeches exist for us, except in one instance, only in the Diary ascribed to Thomas Burton, a member of this

and of the former Parliament; and in all but this instance it is impossible to judge of their style or probable effect, and sometimes difficult even to trace their precise meaning through the more than Tacitean condensation of the diarist's report. It is, indeed, not so much a report, as a shorthand note from which such a report might have been expanded, perhaps within a week or two after the delivery of the speech, though such is their brevity that I doubt whether that operation would have been possible much longer afterwards. However, they serve well enough to indicate Cooper's general line of action, the side he took, and the votes he gave, and above all how often he spoke. We find him then an active opponent of the Protector's party in every question arising in the attempt to procure full Parliamentary sanction for the *de facto* executive.

On the bill for the recognition of Richard Cromwell's title he supported the Opposition; in the eight days' debate upon the question whether the assent of Parliament to the Protector's authority should be given by the word 'recognise' or the word 'declare,' Cooper of course stood up for the latter expression, and was subsequently the mover of an amendment identical with that which had been interposed in the discussion of the 'Instrument of Government' in 1654—to the effect, namely, that nothing should be binding till the whole bill was passed. The House having adopted a resolution declaring Richard Lord Protector, it was proposed by one of Cromwell's party, as a concession to the Opposition, to resolve that the limits of the chief magistrate's power be settled and the rights and privileges of Parliament secured before the bill was committed, and to incorporate with

this resolution the amendment moved by Cooper. The resolution was adopted without a division; but controversy immediately broke out afresh on the question whether the limits of the Protector's powers or the status of the other House[1] should be first considered. Cooper advocated the former course, arguing with considerable ingenuity that Parliament must be assumed to be still 'upon the foot' of the old 'Two-Chamber Constitution'; that there was therefore no force in the objection that men could not vote unless they knew whether there should be another House or no; and that, on the other hand, it might be much more pertinently asked 'how you will declare the power of the other House unless you know what power your single person shall have.' It was decided, however, by an overwhelming majority that the question of the other House should be taken first. What, however, was the meaning of this 'question of the other House'? For there was obviously more than one such question. There was the question, *Who* are the other House? as well as the question, What are, or what shall be, the powers of that House? The Protector's party naturally wished to postpone the more awkward of the two, by beginning with the discussion of powers. This was opposed by Cooper, who strongly urged the impolicy of attempting to determine the powers of any body of men until the possessors of those powers were defined. Now 'two rights,' he said, 'are offered to be in being: one of the old Lords; the other of the other House or new Lords, who have already a vast

[1] An extemporised assembly about forty strong; containing some half-dozen 'real peers,' who had consented to respond to Oliver's summons, and the rest commoner-nominees of the Protector himself.

power in their hands and dangerous to the people. Some tell you the rights of one House, some of another (the other). I offer it to you that it is not fit, and if it may not be dangerous, to prejudge or preclude either of these rights before you agree to the persons. . . . Consider first whether the old Lords or new Lords have a right or no, and then go on to bound them.' Still bent upon 'turning' the question of right, the Government then substituted the non-committing proposal that 'the House should transact with the other House now sitting as with a House of Parliament.' To this an addition was moved saving the rights of the old peers. Cooper spoke energetically against both the main proposal and the proviso. The latter was carried by a majority of seven, and the question of 'transacting' was after a nine days' debate about to be put when the Opposition, noting the closeness of the last division, raised an objection to the qualification of the Scotch and Irish members, and demanded an investigation of their right to vote before proceeding any further. Long and obstinate debates ensued on this objection, and in these obstructive tactics—perhaps the first example of them on historical record—Cooper, as may be imagined, took an active part. He spoke on March 9, 18 and 22, on the Scotch and Irish question, and it was not till the 28th—that is to say, after twenty days of debate—that the right of the challenged members was affirmed. The question of 'transacting' with the other House was then resumed, and again an amendment was moved for the postponement of any such proceeding until the status and rights of the Upper House had been determined by the Lower House. In support of this amendment, which

was ultimately rejected, Cooper again spoke: and a further amendment having been moved to insert the words 'during this present Parliament,' he delivered himself, the diarist says, of 'a long speech, till the House was fuller of his own party.' This peculiarly modern effort of oratory had other merits than that of merely gaining time. It is, in fact, a bitter tirade against the other House, bristling with personal attacks against prominent individual members—attacks, however, which to an abundance of that sort of brutality displayed in Demosthenes's ridicule of the lowborn Æschines add a good deal of the true Demosthenic vigour. Thus it is that he speaks of Fiennes, Pride, Hewson, and other leading men among the Cromwellian 'peers':

He who is first on their roll a condemned coward; one that out of fear and baseness did once what he could to betray our liberties, and now does the same for gain. The second, a person of as little sense as honesty, preferred for no other reason but his no worth, his no conscience, except cheating his father of all he had was thought a virtue by him who by sad experience we find hath done as much for his mother—his country. The third, a Cavalier, a Presbyterian, an Independent; for the Republic, for a Protector, for everything, for nothing, but only that one thing—money. It were endless, sir, to run through them all, to tell you of the lordships of seventeen pounds a year land of inheritance; of the farmer lordships, draymen lordships, cobbler lordships, without one foot of land but what the blood of Englishmen has been the price of. These, sir, are to be our rulers, these the judges of our lives and fortunes; to these we are to stand bare while their pageant lordships give us a conference on their breeches. Mr. Speaker, we have already had too much experience how insupportable servants

are when they become our masters. All kinds of slavery are miserable in the account of generous minds; but that which comes accompanied with scorn and contempt stirs up every man's indignation, and is endured by none whom nature does not intend for slaves as well as fortune.

The speech from which this passage has been extracted was afterwards printed in full, and published in a separate form. It has been questioned whether so bold an attack upon the nominees of an existing government was ever actually delivered in Parliament, but there seems no particular improbability in the circumstance. The ricketty throne of Richard Cromwell had tottered from the first; it did not need so keen an observer as Cooper to foresee that its fall was near. As a matter of fact, in less than a month from this time, the junta of discontented officers had held their meeting at Wallingford House, had demanded Richard's resignation of the chief command, and on his refusal, had succeeded in coercing him into that dissolution of Parliament in which his own authority vanished never to reappear.

During the obscure and confused period which elapsed between the restoration of the Rump Parliament and its triumph over Lambert's attempt to play Cromwell to it, Sir Anthony Cooper's course is not altogether easy to ascertain. He has been accused of intriguing with the party of the exiled Stuarts, and undoubtedly the suspicions of his colleagues in the new Council of State (to which, though he failed to obtain a seat in the restored Parliament on the strength of his eighteen years' old return for Downton, he was in due time appointed) were sufficiently aroused to cause him to be arrested in Dorsetshire and subjected to examination before a

Committee of inquiry. But he was fully acquitted by them of all complicity in the particular movement with reference to which he had been suspected—Sir George Booth's unsuccessful rising in Cheshire; and a passage in Shaftesbury's letter to the King, written from the Tower twenty years afterwards, undoubtedly affords strong proof that, whatever approaches may have been made to him by Royalist agents at this period, he never in any way committed himself with them. But the point seems to me to have been superfluously laboured by Mr. Christie. One need not be an unreserved adherent to his highly favourable views of his hero's character in order to agree very readily with him on this particular question of fact. Cooper was not the man to implicate himself in any intrigue for a Restoration in August 1659. It would have been nearly six months too soon. No one could have been quite sure that the Royal cause was going to win until well into the next year.

But, because Cooper did not formally ally himself with Charles's party, it does not follow that he can be reckoned either as a Commonwealth-man or even as a neutral. Lord Campbell, writing of this period of the future Chancellor's life, says that Shaftesbury's 'present policy was to assist in weakening each party that successively gained an ascendency, till by some expression of the national will the King should be recalled'; and, divested of question-begging terms and mere inference, this account of Cooper's action appears substantially true. Whatever his 'policy' might have been, he undoubtedly did in fact 'weaken each party that successively gained an ascendency,' with

the ultimate result that, by an expression of the national will through its then sole existing organ of articulate utterance, General Monk and his army, the King was recalled. He had intrigued, or at any rate co-operated in Parliament, with the junta of soldiers who overthrew the throne and Parliament of Richard Cromwell; but no sooner was this accomplished than he became the most strenuous opponent of the pretensions of the military party. He supported the civil authority against Lambert's abortive *coup d'état*; he headed the agitation against the 'Committee of Safety,' by which the Council of State had been replaced; he was unquestionably one of the prime movers in the counter-revolution which restored the Rump a second time, and scattered Lambert's ambitious hopes to the winds. Admitted at last to the seat for Downton, won by him in 1640, he became the recognised head of the anti-Republican party, and immediately set to work to procure the restoration of the Presbyterian (who were most of them also monarchical) members excluded by Cromwell before the King's execution. During the anxious days which followed Monk's arrival in London, Cooper, according to his own account, which there is no reason to discredit, was unremitting in his efforts to counteract the attempts of Haselrig's party, first to deprive of popularity, and, failing that, to corrupt the military master of the situation; and he represents it as being mainly due to the pressure put upon Monk by himself, Lady Monk, and others that the General was brought, after much painful hesitancy, to make his all-important declaration at Guildhall in favour of a free Parliament. With the restoration of the Presbyterian members to

their seats, the triumph of the Royal cause was assured, and Cooper accordingly now appeared as its more or less open partisan. Returned for Wiltshire to the Convention Parliament, he was appointed one of the committee to receive Sir John Granville, who came to present the King's letter, together with the Royal Declaration signed at Breda, in which Charles offered, subject to such exceptions as might be made, a general pardon to those who had taken up arms or otherwise acted against his father. He was then nominated one of the commissioners dispatched to that city by the two Houses to invite his Majesty to return. On his way to Breda he was overturned in his carriage, and received a wound between the ribs, from the effects of which he was destined to suffer many years afterwards in more senses than one. Its indirect consequences, however, were not wholly evil; for if his injury exposed him to the brutal lampoons of his political opponents, it also led him to seek the medical services, and thus to acquire the friendship, of John Locke.

CHAPTER IV.

Cooper made Privy Councillor—and Chancellor of the Exchequer—and Lord Ashley—Official life—Relations with Clarendon—Supports measures of toleration—Rises in importance—Fall of Clarendon.

1660–1667.

THE importance of the part borne by Sir Anthony Ashley Cooper in bringing about the Restoration might at a first glance appear to have been immediately recognised; for he was among the first to receive a mark of the Royal favour. During Charles's halt at Canterbury he gave Garters to Monk, Montagu, and Southampton, and at the same time made Cooper a member of the Privy Council. But some compliment was perhaps due to him as a commissioner, and the interest of his wife's uncle, at that period a much more considerable person in official, though not doubtless in Parliamentary, circles than himself, may have had something to do with the honour conferred upon him. The Royal favour at all events stopped here; and even if Southampton desired to do more for his niece's husband he did not succeed. He was himself made Lord Treasurer in the first administration which was at once formed; but Cooper did not get his peerage till the coronation, nor his first administrative appointment

until after that ceremony. Meantime the Convention Parliament continued to sit, and to proceed with that work of proscription to which it had already with such servile truculence applied itself. In the various debates which took place on the proposal to except certain of the regicides, or other prominent members of the fallen party, from the general indemnity offered, subject to such exceptions as Parliament might determine upon, by the Declaration of Breda, Cooper seems to have taken little part; the only two speeches recorded of him are on the side of mercy. He served, however, in common with other members of the Privy Council on the special Commission for the trial of the excepted persons, and has thereby subjected himself to a censure which seems to me to lend itself in almost equal degrees to absurd exaggeration, and to extenuation equally preposterous. To single out Cooper from among his fellow-commissioners of the old Parliamentary party as more blamable than they is altogether unreasonable; but to declare the whole of them blameless, as Mr. Christie goes near to doing, is surely to push the doctrine of conventional ethics to a monstrous extreme. Fairly considered, the case appears to stand thus:— Certain of the Roundhead judges, such as Manchester, Holles, and others, could unquestionably sit upon the commissions and try, condemn, and sentence regicides with a perfectly clear conscience. Having not only had no part in the King's execution, but having held aloof from all successive governments after, and in consequence of, that act, they seem morally justified in passing judgment on men whom they had disowned, and actions which they had repudiated years before, in

the most emphatic manner open to them.[1] Monk, Montagu, and Cooper had personally served the usurper, and thereby condoned the acts to which he owed the throne. Monk had been his officer; Montagu had been his favoured friend, and had accepted from him a peerage. They had all mixed on perfectly equal terms with men like Harrison, Scrope, Axtel, and their like (sometimes, it may be, on terms of intimacy and confidence with them), and had recognised a common allegiance to the Government which had succeeded that which all alike had helped in their several degrees to overthrow; and there is to our notions something singularly, not to say cynically, indecent in the spectacle of one set of political delinquents who had happened to change sides opportunely disposing of the lives and goods of their former associates. It cannot be maintained that there was any compulsion in the matter. Cooper, Albemarle, and Sandwich might all or any one of them, doubtless, have been on their own prayer discharged from service on the Commission. But no politician of that period, once fairly engaged in the race for Court favour and promotion, would have risked the frown of the Sovereign and exposed his loyalty to suspicion by refusing to serve. To do so through any scruple about having a hand in the death of an old comrade against whom the luck had gone would have been generally regarded as Quixotic. Cooper then was

[1] That they were themselves, according to the law, guilty of high treason for having taken up arms against the King is a technical consideration altogether out of place in the ethical question. It is impossible to make anything of their technical guilt, as Mr. Christie endeavours to do; for their technical guilt had been purged by their pardons.

no worse than some of his neighbours in this respect, and none of them were deemed very bad by *their* neighbours; but, though that is all that can be fairly said, it is considerably less than what Mr. Christie has attempted to say. The circumstance that a particular act in history was condoned by the ethics of its time is, no doubt, a good reason for posterity judging it leniently; but it is none for posterity attempting to strain its own ethics into approval of it.[1]

In the childish barbarity of the resolution for exhuming the bodies of Cromwell, Bradshaw, Pride, and Ireton, Sir Anthony Cooper seems to have been a silent participator; and in the debates on ecclesiastical questions which occupied most of the remaining time of the Convention Parliament he spoke, apparently, on the side of caution and delay. In December, 1660, the Parliament was dissolved, and the new legislature destined to endure for eighteen years succeeded to it in May of the following year. In the previous month the King's coronation had taken place, and Cooper was among the commoners who were ennobled in honour of the occasion. He was raised to the peerage under the title of Baron Ashley, of Wimborne St. Giles; and a few days after the meeting of Parliament he was appointed Chancellor of the Exchequer—in those times an office of

[1] Mr. Christie's appeal to a supposed 'compromise' whereby Royalists 'forgave Presbyterians and Cromwellites, while it was required of the Presbyterian leaders to concur and assist in inflicting punishment on those who had brought the King to the scaffold or in arms resisted the Restoration,' can hardly be serious. There is no reciprocity between the forgiveness of enemies on one side and the sacrifice of accomplices on the other. Otherwise the dealings of an approver with a Crown lawyer would be equitable and honourable negotiations.

secondary importance and strictly subordinate to that of the Lord Treasurer, then filled by his wife's uncle, Southampton.

On the policy and conduct of Lord Ashley from this date onwards to the disgrace and banishment of Clarendon, in 1667, even the most impartial of critics would find it difficult to satisfy himself that he had formed a just and accurate judgment. Lord Campbell's summary account of it, however, may be at once dismissed as absurdly inadequate and unfair. 'Ashley,' he said, 'seemed to sink down into a Treasury drudge. The office of Chancellor of Exchequer which he held, though a peer, was not then of much importance, and chiefly imposed the duty of attending to accounts. He was not a member of the Committee of Council, to whom under Clarendon the conduct of foreign affairs and the management of business in Parliament were entrusted.' (This is only true of him during the first two years of the period in question.) 'Strange to say, it was some years before he began seriously to undermine Clarendon. The only solution is that his uncle, Southampton, the Lord Treasurer, who had become very infirm, left to him almost the sole direction of the Exchequer, with all the patronage; and, being strongly attached to Clarendon, probably laboured to induce him to abstain from any turbulent measures.' Surely, however, it is not 'very strange' that a subordinate, and at the outset quite uninfluential, officer of state should at least await the acquisition of some power before endeavouring to 'undermine' an almost omnipotent minister. There can be little doubt that Ashley, true to his character, concentrated all the efforts of the first years of his

official life upon the exhibition, on every suitable occasion, of his unquestionably great powers of counsel and debate. He sought, in fact, as an ambitious minister naturally would, to make himself indispensable to the Prince whom he served. That in so doing he stood forth as the champion of the cause of political moderation and religious tolerance is a circumstance for which it would be unjust to refuse him credit. The sole question is as to the amount to which he is fairly entitled. As a Presbyterian, he was no doubt honestly opposed to those ecclesiastical pretensions of the then dominant Church party which the high Anglicanism of Clarendon inclined him to favour. But we cannot forget that the line which he took in opposition to the measures of the party must have been known by him to have been the surest means of conciliating the Royal favour, while at the same time he must have been well aware that Charles's desire to tolerate dissent had no deeper root or purer origin than those Romanising tendencies to which Ashley was on principle bound to oppose an even more resolute front than he did to Anglican arrogance. But, with whatever mixture of motives, certain it is that he offered a stout resistance both to the Corporation Act and to the Act of Uniformity,[1] receiving in both cases the strenuous support of

[1] The innocently neutral sound of one of these statutes, and the orderly-looking title of the other, would completely conceal their true character from all who may happen to have forgotten their provisions. I will take leave, therefore, to remind the reader that the former closed all municipal offices for more than 150 years, and that the latter, along with its perfectly legitimate regulation of worship in the Church of England, enacted among other similar disabilities that no man follow the profession of a public school-

Southampton. He joined, moreover, with Lord Bristol, and Bennet, afterwards his famous coadjutor, under the later title of Arlington, in the Cabal, in procuring the issue by the King in December, 1662, of a declaration proclaiming the Royal desire to exempt persons deserving of the privilege from the penalties of the Act of Uniformity; and he was an active supporter of the Bill introduced in the next year's session of Parliament with the same object—an occasion when, though virtually deserted by his colleague, Lord Roberts, the introducer of the measure, he, according to the evidence of the not too favourable witness Clarendon, 'adhered firmly to his point, spake often, and with great sharpness of wit, and had a cadence in his words and pronunciation that drew attention.'

The failure of this Bill caused Charles much disappointment, and sensibly estranged him from Clarendon and the bishops, while Ashley rose proportionately in influence and favour. Pepys records, under date of May 15, 1663, that 'my Lord Bristol, Duke of Buckingham, Sir H. Bennet, my Lord Ashley and Sir Charles Berkeley' (three out of the four members of the Cabal had thus, it seems, 'arrived' already), 'among them have cast my Lord Chancellor on his back past ever getting up again.' 'Strange to hear,' the gossiping diarist goes on to say, 'how my Lord Ashley by my Lord Bristol's means (he being brought over to the Catholic party against the bishops, whom he hates to the death and publicly rails at, not that he is become a Catholic, but merely opposes the bishops)

master, or even private tutor, without subscribing a declaration of the unlawfulness of taking up arms against the Sovereign.

is got into favour so much that, being a man of great business and yet of pleasure and drollery too, he it is thought will be made Lord Treasurer on the death or removal of the good old man [Southampton].'

That Pepys was a little premature in his anticipation of Clarendon's political ruin, Lord Bristol shortly afterwards found to his cost; but there seems to be no evidence that that nobleman's rash attempt to procure the impeachment of the Chancellor received any aid or countenance from Ashley. Pepys, however, was right enough in thinking that Ashley's position of a confidential adviser of the Crown was now established; and it is probable also (at least, if we are to believe the evidence of the well-informed French ambassador, De Ruvigny) that he was now really beginning to use the influence which he possessed to 'countermine' Clarendon. There is reason to think that he was one of the party of ministers who persuaded the King to undertake that Dutch war whose unfortunate later issues contributed so much to the Chancellor's unpopularity and ruin. War being resolved upon, Ashley received from the King, against the strong remonstrances of Clarendon, the appointment of Treasurer of Prizes. The design of the nomination was to make the new official a conduct-pipe for the conveyance of prize-money (which otherwise would have been at the disposal of the Commissioners of Prizes) into Charles's always hungry pocket. Ashley's appointment contained a proviso that he was to be accountable to the King and to no one else, and was to make payments in obedience to the King's warrant under his sign manual and by no other warrant, and was to be exempt from

accounting into the Exchequer. Considering that Clarendon's opposition was inspired by the desire that the proceeds of the prize fund should be devoted to the purposes of the war, it is somewhat singular that he should shortly afterwards have expressed an equally strong objection to a proviso anticipatory of our present plan of Appropriation, which it was proposed to introduce into a Supply Bill of this session. The Chancellor opposed this proviso on the ground (no less obviously assignable against the arrangement which he favoured with regard to the application of the prize-money) of its being an encroachment on the Royal prerogative. His opposition, however, was overruled by the King himself, whose needs were at that moment sufficiently pressing to induce him to set a higher value on money than on prerogative, and who in fact informed his ministers that the whole transaction 'had been with his privity and approbation.' It is possible that the co-operation between the two ministers on this question may have tended to bring about a temporary friendship between them; but, whatever the cause, the fact, if we may again trust De Ruvigny, would appear to be that about this time a close union, or the semblance of it, existed between Clarendon and Ashley, to which also Arlington, destined soon after to become the most formidable enemy of the Chancellor and the chief instrument in his overthrow, became a partner. 'Bennet and Ashley,' writes the French ambassador, 'appear to be the two chief confidants of the Chancellor, which last year would have been incredible: so great is the force of ambition and interest.' This force, however great it may be, must in the present instance have been of

very transient operation; for before the end of the year we find Ashley and Clarendon again in conflict with each other on another of those oppressive ecclesiastical measures on which the former had always supported and the latter almost always opposed what appeared to be the cause of popular rights and Protestant liberties, and was really the cause of Catholic propagandism and royal intrigue. And here, as formerly, I see no reason for doubting either that the latter was actuated by single-minded bigotry or that the motives of the former were compounded of principle and ambition.

In June 1666, the summer after the session held in Oxford in consequence of the plague, Lord Ashley was again in that city, and there it was that the attack of an internal malady, a consequence of the accident which had befallen him at Breda, was the means of bringing him into contact with John Locke, to whom, at that time a student of medicine at Christ Church, a commission had been entrusted by Ashley's physician to procure some mineral waters for his patient. The acquaintance thus formed between the two men developed rapidly into an intimacy. In this and the year following, Locke accompanied Ashley to Sunninghill to drink the waters, and he afterwards became his resident medical adviser. It is to the credit of Ashley's attractive qualities (which do not, however, require this testimony to their charm), but hardly, perhaps, as his too partial biographer seems to think, of any other qualities, that Locke appears to have conceived a warm attachment to him, and both during his lifetime and after his death was accustomed to speak of him in language of the highest admiration and esteem.

The fall of Clarendon was now imminent: in August of the following year it came to pass. That Ashley profited by it in political advancement is well known; that he had for some time past contemplated and possibly looked forward to it, is probable enough; that he actually contributed, in the way in which one minister can contribute to the fall of another, by supplanting him in the good graces of a prince, or by surpassing him in the regards of a people, may also be admitted. But that he intrigued for his overthrow there seems, in spite of the positive assertions of Lord Campbell to that effect, no evidence whatever to show. Ashley was indeed the friend of Clarendon's enemies, and in common with all the other ministers, with the exception of the Treasurer and Chancellor themselves, he was in the habit of paying his court to Clarendon's enemy and Charles's mistress, Lady Castlemaine. But in this there is very little to associate him directly with one of the most shameful acts of Charles's despicable career; and this is all. Ashley opposed the blank Bill of impeachment sent up against Clarendon from the Commons; and if he supported the Bill by which Clarendon was banished for life and rendered liable to impeachment if he returned to England, in so doing he may have been actuated by no worse motives than many other peers, who believed that in the then temper of the country and the House of Commons, the exile of the Chancellor was the only alternative which would save his head. But the best proof of all that Ashley had no direct hand in Clarendon's ruin—that he did not, in fact, as Lord Campbell alleges, assist in 'spiriting' up the King to take the Great Seal from him—appears in the fact that

Clarendon, hostile as is the spirit in which he writes of Ashley in his 'Life,' has never suggested so much himself. He mentions Arlington, Sir William Coventry, Lady Castlemaine, and others as his enemies, but not Ashley. As to the mistress, she may no doubt have done all she could to procure the disgrace of the old precisian, who, while pressing her upon the Queen as a Lady of the Bedchamber, had refused to allow Lady Clarendon to visit her; but it is really unnecessary to suppose that Charles required much spiriting up from anybody. His spirit was always equal to an act of ingratitude or any other baseness when it was safe; and there is good reason to believe that he would even before this time have been glad to rid himself as summarily and brutally of his counsellor of thirty years' standing, his faithful companion and fellow-sufferer in exile, had a favourable opportunity offered. But Charles had recently become enamoured of a Miss Stuart, and actually had thoughts of divorcing the Queen to enable himself to marry her; and Clarendon, by thwarting this design had added the final touch to the King's resentment. The disasters of the Dutch War, and the storm of indignation which they had aroused in the country and Parliament, supplied him with the opportunity he needed. After all, it seems hardly necessary to relieve Charles of any of the infamy attaching to this transaction, even to lay it on the shoulders of so willing a partner as Lady Castlemaine, or so convenient a scapegoat as Lord Ashley.

CHAPTER V.

Ashley as Lord Commissioner—The Secret Treaty of Dover—The published treaty—The Dutch war—The Stop of the Exchequer—Responsibility of Ashley—The Cabal—Ashley becomes Earl of Shaftesbury—The Declaration of Indulgence—Shaftesbury becomes Chancellor.

1667–1672.

A MINISTERIAL reconstruction had preceded the fall of Clarendon, but does not seem to have had any connection with that event. It is true that he opposed the change—and incidentally his account of the matter goes to show that Ashley was not in special favour with the King at the time—but not apparently with much insistence or force. Lord Southampton's death in the May previous had vacated the treasurership, and Charles now signified his resolve to put the office into commission. Clarendon urged a general objection to the office being so treated and a specific objection to the Commissioners. Formerly it had been the custom in such cases to nominate the Keeper of the Great Seal and the Secretaries of State as ornamental members of the Board, and to leave its work to be done by the Chancellor of the Exchequer. Charles, however, insisted on having his own way, and the Commissioners ultimately appointed were Albemarle, Ashley, who

continued to be Chancellor of the Exchequer; Sir William Coventry, Sir John Duncombe, and Sir Thomas Clifford. It is stated by Clarendon that it was only at his suggestion that Ashley's name was added to the list at all, and that the King 'said enough to make it manifest that he thought him not fit to be amongst them.' If this were the case, it would go far to show that Ashley could not at that time have had sufficient interest at Court to have taken any very active part in procuring Clarendon's disgrace; and, indeed, there is plenty of evidence to show that his position in the Royal councils during the five years of dark and disgraceful intrigue which now followed was not by any means such as to have justly involved him in the unmeasured obloquy with which his supposed implication in the proceedings of this period has for two centuries covered his name. For the successive acts of domestic and international perfidy which were planned or consummated between 1667 and 1672 it would be too much perhaps to say that Ashley was wholly irresponsible; but undoubtedly by far the greater measure of responsibility for them must be assigned to the reckless and conscienceless levity of Buckingham, to the unscrupulous audacity of Arlington, and to the honest but most mischievous fanaticism of Clifford.

On the fall of Clarendon the chief power in the State declined into the hands of Buckingham and Arlington, and in the active rivalry which soon grew up between these two ministers, Ashley, according to his latest biographer, sided with the former. No doubt he had the sagacity to perceive that he was the less formidable competitor of the two, but there are no

distinct traces of his having lent any important assistance to Buckingham's designs. The direction of his sympathies, however, is not in itself an unimportant point, since it helps to confirm the conclusion (if, indeed, by the light of our later knowledge such confirmation were needed) that he shared Buckingham's ignorance of the conspiracy against the religion and liberties of England which was in process of such diligent concoction between 1667 and 1670. The domestic policy of the two men was, moreover, in substantial accord. Buckingham favoured, for the time at any rate, the toleration of Dissenters, and Ashley in 1669 addressed an able memoir to the King in exposition of the advantages which would accrue to the distressed and impoverished country from the adoption of a more liberal policy in matters of religion. For the first, or rather for the only, wise and patriotic measure with which the present advisers of the Crown can be historically credited they deserve very little credit in point of fact. The Triple Alliance between England, Holland, and Sweden was almost wholly the work of Sir William Temple, and the assent given to it by Arlington, whose position at that time most resembled that of a foreign minister of our own day, was only wrung from him by the discovery that he was himself under the cloud of that Parliamentary unpopularity which had once already broken into flame over the head of Clarendon after the disasters of the Dutch war.[1] Within a week

[1] This, which is Macaulay's view of the transaction (Essay on Sir William Temple), appears to me much more plausible than Mr. Christie's theory, that Arlington was keen for the Dutch and opposed to the French alliance—a theory with which its author must surely find

after the signature of the treaty Charles made overtures to Ruvigny for a close alliance with the French King, and then began that series of cynically immoral negotiations—perhaps the most shameless ever recorded in the diplomatic archives of any European State—which, though not publicly consummated until the conclusion and promulgation of the Treaty of Dover in 1672, are known from the comparatively recent revelations of the records of the French Foreign Office to have resulted two years earlier in a secret convention, to the same general purpose as the treaty, between the Courts of Versailles and St. James's. From the disclosures above mentioned (I quote from Mr. Christie's excellent summary of these complicated intrigues), it appears that on January 25, 1669, the King held a secret conference in the Duke of York's house with the Duke, who had lately embraced the Roman Catholic religion, Lord Arundel of Wardour, a Roman Catholic, and Arlington and Clifford, who were both, if not Roman Catholics, more or less disposed to that religion, and who both ended by adopting it; and on this occasion Charles declared himself a Roman Catholic, expressed his grief at not being able to serve his religion, and, stating that he wished to encounter the difficulties while he was young and vigorous, asked advice as to the means of establishing that religion in England. It is now known that Charles was a Roman Catholic before the Restoration, and recent important revelations from Rome have informed us that soon after that event, in 1662, he had sent an agent to Rome empowered to treat with the

it difficult to reconcile the readiness with which Arlington immediately afterwards threw himself into the intrigues with Louis XIV.

Pope for the return of England to the Roman Catholic Church. It was resolved in this secret conclave of January 25, 1669, to apply to Louis for assistance. In the exchange of 'views'—if the plans of conspirators deserve so neutral a name — which followed, Henrietta, Duchess of Orleans, Charles's sister, played an active part as intermediary, and after eighteen months of haggling between the two crowned Macaires, a treaty was signed at Dover during one of the Duchess's sojourns at that port, on June 1, 1670. Its signatories were Colbert, on the part of France, Arlington, Arundel of Wardour, Clifford, and a Sir Richard Billings (a Catholic and Charles's emissary to the Pope in 1662), on the part of England. Its principal provisions were as follow :—

1. Charles, being convinced of the truth of the Catholic religion, and resolved to declare himself a Roman Catholic, and perceiving the possibility of disturbances in England in consequence, was to receive two millions of francs from Louis—one million three months after the exchange of ratifications, and the other million three months later, and to be aided by him besides, if necessary, with six thousand foot soldiers, to be raised and to be maintained, so long as they were wanted, at the expense of Louis. 2. Louis bound himself to preserve peace with Spain, and observe strictly the Treaty of Aix-la-Chapelle ; and Charles was therefore free to maintain that treaty in conformity with the provisions of the Triple Alliance. At the death of the King of Spain without issue, Charles engaged himself to assist Louis with all his forces by land and sea to make good the claims on the Spanish monarchy ; the portion of the Spanish possessions to be granted to England in return for her assistance to be settled when the occasion for assistance

arose. In the meantime the two Kings bound themselves to make no treaty with reference to the future claims of France on Spain with any third Power, without the other's consent. 3. The two Kings agreed to make war together with all their forces against Holland, and neither was to make a treaty of peace, truce, or armistice, without the other's consent. After Charles had declared his change of religion, it was left to Louis to fix the time for declaring war, and Charles undertook to declare war at the same time. All previous treaties of France or England with the States-General were annulled, except so much of the Triple Alliance as guaranteed the Treaty of Aix-la-Chapelle. Louis was to undertake the war by land, Charles sending and maintaining six thousand men, commanded by a general who should obey Louis as his commander-in-chief. Charles, on the other hand, undertook the burden of war by sea, Louis sending thirty ships of war and ten fire-ships, and maintaining them at his expense. The English fleet was to consist of at least fifty large ships and ten fire-ships; the French auxiliary squadron to be commanded by a vice-admiral or lieutenant-general, who would obey the Duke of York, in virtue of powers given him by the two Kings, each for his own ships. 4. Louis was to pay Charles three millions of francs a year as long as the war lasted. As to conquests, England's portion was to be the islands of Walcheren and Cadsand, and the port of L'Ecluse. 5. Three secret articles were appended to the treaty, one of which provided that, if Charles was prevented, by the necessities of his affairs, from sending as many as six thousand soldiers, Louis would be content with four thousand.

Having procured the conclusion of this precious bargain, in which both parties disposed of their honour and one of them of his independence, the Duchess of Orleans returned to France, where within a week after

her arrival she died suddenly, not without suspicions of poison, and received such posthumous honour as was to be derived from the delivery of one of Bossuet's stateliest funeral orations over her grave. Buckingham, who had been befooled throughout by his fellow-ministers, who probably dreaded his levity much more than they stood in awe of his patriotic or Protestant principles, persevered for a time in the work in which he had been allowed to amuse himself—the negotiation of a treaty with a Power whose representatives had already signed one of too momentous a character to be imparted to him—and was, indeed, encouraged to renew his efforts to accomplish the already accomplished task. It was necessary, of course, that some avowable and producible treaty should be concluded. A king may conspire against his own subjects without furnishing them with the authority under which he professes to act; but to account for his making war on a State with which he has two years before exchanged pledges of eternal peace and friendship, and which has since given him no cause of offence whatever, some diplomatic explanation must in decency be forthcoming. An Anglo-French treaty which should proclaim the designs of the Kings of England and France against the Dutch, while concealing their designs against the English, was therefore a necessity, and Buckingham might have as well as another the honour of negotiating it. He was accordingly dispatched with all solemnity to Paris, and returned in September with a draft of a treaty which, after a comedy of objections on the side of both the high contracting parties, was duly executed on December 31, 1670. The names of the whole of

the Cabal are at the foot of this treaty, which was signed by Colbert for France and by Buckingham, Arlington, Lauderdale, Ashley, and Clifford for England; and this, or rather the substantially similar one by which it was replaced in February 1672, is *the* Treaty of Dover known to and infamous in history. Lady Arlington (I am not now quoting from its provisions) received through Colbert a necklace of the value of sixty thousand francs from Louis XIV., always a disinterested admirer of the sex; Lady Shrewsbury, 'of Clevedon's proud alcove,' obtained, as though in ironical recognition of Buckingham's imaginary services in the transaction, a pension from the French Court. Colbert mentions in his despatches that he had given a present to Lauderdale, and was to give similar presents to Buckingham and Ashley; but Mr. Christie holds that these were only the regulation presents of a snuff-box or some other bauble given, according to 'old international custom,' by sovereigns to plenipotentiaries who sign treaties. It is not easy to see why Colbert should have thought it worth while to mention the observance of this old international custom in a despatch to his Court; and Burnet positively asserts that all the five ministers had 'great presents from France *besides* what was openly given them' (here we have the snuff-boxes), 'for the French ambassador gave them all a picture of the French King set in diamonds to the value of three thousand pounds.' But Burnet often gossips; there is no subsequent trace of any such picture having been in Ashley's possession; the late Lord Shaftesbury assured Mr. Christie that no such jewelled portrait had descended to him; and, having

regard, therefore, to Lord Ashley's very slight share in the business of the treaty, to say nothing of a reputation for purity in money matters which even Dryden does not venture to impugn, we may fairly assume that here, as elsewhere in his career, his hands were clean. Nothing has been said by any historian, diplomatist, or diarist, about Clifford, and it is to be supposed that the approval of his conscience was his sole reward.

It does not then appear to me that the part played by Ashley throughout this business was either as guilty as Macaulay and Lord Campbell represent it or as innocent as Mr. Christie would make it out. It is wholly unjust to class Ashley with Clifford and Arlington; but it is not less preposterous to speak of him as though he had no more to do with the Treaty of Dover than if he had been merely one of the secretaries who transcribed it. He was not or is not proved to have been privy to the worst part of it—the designs of domestic treachery which it contemplated; but the part of it to which he was privy—the act of international perfidy which it consummated—was quite bad enough. He knew or may have known nothing of any plan of violently restoring the Roman Catholic religion by the aid of French arms; but, in concluding a treaty with the natural enemy of Protestant England against her natural ally, already bound to her by recent and solemn engagements, he knew that he was signing away the honour of the country, and, so far as all probabilities went, the interests of Protestantism and European liberty. In the vehemence of Mr. Christie's protests against Dryden's attack on this passage in Ashley's career he seems to forget the precise terms of the charge.

> Resolved to ruin or to rule the State;
> To compass this the triple bond he broke,
> The pillars of the public safety shook,
> And fitted Israel for a foreign yoke.

Thus Dryden, in 'Absalom and Achitophel'; and again in the 'Medal'—

> Thus framed for ill, he loosed our triple hold,
> (Advice unsafe, precipitous, and bold.)
> From hence those tears, that Ilium of our woe:
> Who helps a powerful friend forearms a foe.
> What wonder if the waves prevail so far,
> When he cut down the banks that made the bar!

These are the poet's charges, and, save that they insinuate a sole responsibility where only a joint responsibility existed, are they not substantially true? Did not Ashley break or join in breaking the 'triple bond,' in 'loosing our triple hold,' and were not the consequences which the poet attaches to his conduct to be reasonably apprehended? Mr. Christie's own gloss upon the two passages above quoted runs thus: 'He (Dryden) accuses Shaftesbury of breaking the Triple Alliance, perilling English safety, and paving the way for French mastery.' Well, is not that what he did in affixing his name to the amended Treaty of Dover? To vindicate him from the charge of conspiring against English Protestantism is of no assistance in proving that he was unjustly attacked by contemporary writers; for contemporary writers knew nothing about the conspiracy against English Protestantism, if some few politicians not in the secret suspected it, nor does either Dryden or Butler hint at anything of the kind. For

the civil provisions, so to call them, of the Treaty of Dover all the five members of the Cabal who signed it are equally responsible; and, though Mr. Christie asserts, on Martyn's authority, that Ashley endeavoured to persuade the King from proceeding with the treaty, he gives no evidence in support of the assertion. I confess I can see nothing in Ashley's character to warrant the belief that his scruples would be any harder to overcome than those of any other politician of that period bent upon personal advancement. There were very few among them who would not have been ready to take the risk of ruining in order to improve their chance of ruling the State. Critics and biographers of Shaftesbury seem to be always in extremes on one side or the other, and to insist on regarding him either as improbably worse than the other statesmen of his era or else as impossibly better.

The fact that the names of Clifford, Arlington, Buckingham, Ashley and Lauderdale were appended to the Treaty of Dover, coupled with the curious accident of the word formed by these initials, has subjected all five signatories of that instrument to a common historical obloquy under the appellation of the 'Cabal' Ministry. It would be interesting to know how many people there are at the present day who imagine that there was no alphabetic coincidence in the matter at all; and that the word 'Cabal' came into existence originally as a sort of *memoria technica* of the initials of a certain wicked council of five. Promptly as such a delusion would, of course, be dispelled by a very moderate study of Pepys, Marvel, or other contemporary diarists or letter-writers, I believe it nevertheless to be somewhat

widely spread; and of course the tendency of such an error would be to depress still further the reputation of the discredited ministers. The 'Cabal,' however, existed as a term of the political vocabulary for years before the so-called 'Cabal Ministry' came into existence —being, in fact, the name applied to that informal, unrecognised, interior Committee of the Privy Council which, by a curious process of constitutional, or more correctly perhaps of unconstitutional, growth, has since developed into the 'Cabinet.' A couple of years before, indeed, there had been, not only one 'Cabal' in existence, but two. 'The governing Cabal,' writes Andrew Marvel in April, 1670, 'are Buckingham, Lauderdale, Ashley, Orrery and Trevor. Not but the other Cabal have seemingly sometimes their turn'—the 'other Cabal,' which was of course that of Clifford and Arlington, being really, as we have seen, in the much closer confidence of the King. So too, even after the signature and promulgation of the public Treaty of Dover, its five signatories never alone constituted the Committee of Foreign Affairs. Sir Orlando Bridgman, the Lord Keeper, was always a member of this Committee, as also was the Secretary of State, Sir John Trevor, and the Duke of York himself, in his capacity of Lord High Admiral. There was nothing resembling the 'joint and several' responsibility for each other's acts which now subsists among members of the same Cabinet; and Ashley ought not to be held to account for any measure of this ill-famed administration, save such as he can be shown to have either directly advised or to have identified himself with by some act of his own done at or before the moment when the measure in question

was consummated. It is on this principle that, in spite of Mr. Christie's pleas, I think he must be held responsible in common with his four colleagues, the signatories of the Treaty of Dover, for the shameless breach of international engagements and for the reckless imperilment of national interests to which that treaty committed them; and it is on the same principle that, in accordance with Mr. Christie's argument, I think he should *not* be held responsible for the second act of rascality by which the Cabal has been historically discredited. I mean the 'Stop of the Exchequer.'

That notable act of national repudiation—for it was nothing else—occurred in this wise: It had become since the Restoration the regular practice of the Government to obtain advances of money from the goldsmiths or bankers, whose security was the King's assignment of moneys coming into the Exchequer under the Bills of Supply. The bankers had at first, when Clarendon introduced this plan, asked 8 per cent. from the Government, and paid 5 per cent. to their clients; but the rate of interest charged to the Government had since been raised to 10 and latterly to 12 per cent., the rate paid by the bankers to their clients remaining at 5 per cent. On January 2, 1672, just two months before the commencement of the war with the Dutch, a Royal Order was issued prohibiting all payments out of the Exchequer on all warrants, orders, or securities whatsoever, for a period of twelve months. The amount which the Government owed to the bankers at the time when this Order was issued was 1,300,000*l.*—a sum, the insignificance of which, as the proceeds of an act of bankruptcy, is alone

sufficient to stamp the counsellor or counsellors who advised the King to this step as no less incapable than immoral. Its effect, of course, was to create a financial panic of the acutest kind. The bankers stopped payments to their clients; the merchants, whose funds were deposited with their clients, declined to meet their bills, thirty thousand pounds' worth of which were, according to Colbert, sent back to the Continent 'protested.' In four days' time it seems to have struck the Royal defaulter and his advisers that acts of bankruptcy are injurious to the credit. On January 6 an explanatory Order was issued promising the bankers 6 per cent. interest from the stop on the capital and interest then due, and undertaking that the suspension should not last more than a twelvemonth. On the following day Charles sent for the bankers, and prevailed upon them to resume payments of deposits made, as we should say, on 'current account,' and thereby, according to Arlington, succeeded in allaying much of the immediate public discontent. But the indirect consequences of this lawless and foolish act were long felt, and to its really responsible adviser or advisers no light measure of reprobation ought undoubtedly to attach. Who then was he or were they? The contemporary enemies of Shaftesbury did not scruple to impute to him the chief blame for the Stop of the Exchequer, and his hostile critics of our own day have not hesitated to repeat the charge. Roger North, a bitter partisan, says that the Stop of the Exchequer was 'supposed to be the invention of the Earl of Shaftesbury,' and that it was 'as unhappily given as desperately taken and executed by the Lord Treasurer

Clifford.' Burnet, writing however many years after the incident, says that 'Lord Shaftesbury was the chief man in the advice.' Macaulay asserts that 'this flagitious breach of faith was proposed by Ashley and Clifford.' And Lord Campbell declares that, 'although Clifford certainly was the first to propose the shutting up of the Exchequer to the Council, there is great reason to think that Shaftesbury, who had the sole management of the finances as Chancellor of the Exchequer and Lord Commissioner of the Treasury, originated the nefarious scheme; and, at all events, he supported and defended it.' On the other hand, it is to be noticed that Dryden, who left no word unspoken that might help his purpose of holding up Shaftesbury to hatred and contempt, says nothing of the Stop of the Exchequer. Sir William Temple ascribes the measure to Clifford alone; and Evelyn, a personal friend of the Lord Treasurer, speaks of him as the 'bold man who had been the sole adviser of the King to invade that sacred stock, though some pretend it was Lord Ashley's counsel.' And Mr. Christie, quoting from Martyn, who derived the material of his uncompleted life from Ashley's secretary, Stringer, cites a piece of evidence which, if genuine, is conclusive—the contents, namely, of a memorandum left with the King by Ashley, in which are set forth a series of tolerably obvious arguments against the suspension of payments. 'These reasons,' says Martyn, 'Mr. Stringer transcribed, and he went with him (Lord Ashley) to Whitehall, where he immediately attended the King, who took Lord Ashley, with the Earl of Lauderdale and Sir Thomas Clifford, into the closet, where they continued about two hours. Lord

Ashley, on his return, told Mr. Stringer that he had once more strenuously opposed that inconsiderate and oppressive scheme, but found he could do no good; however, he had left with the King his objections.' Lastly, in a letter still extant, addressed by Shaftesbury to John Locke, and in which he replies to an anonymous pamphlet charging him with being the author of the Stop, he certainly supports his denial of the accusation with various very plausible arguments. Among other things, he draws attention to the fact that the incident was 'the prologue of making the Lord Clifford Lord Treasurer,' and adds that, 'if the bankers do inquire of the clerks of the Treasury with whom they are acquainted, they will find that Sir John Duncombe [another Commissioner of the Treasury] and I were so little satisfied with that way of proceeding, as [i.e. that] from the time of the Stop we instantly quitted all paying and borrowing of money and [left ?] the whole transaction of that part of the affair to the Lord Clifford, by whom from that time forward it was only managed.' 'I shall not deny,' he continues, 'that I knew earlier of the counsel, and foresaw what necessarily it must produce sooner than other men, having the advantage of being more versed in the King's secret affairs; but I hope it will not be expected, by any that do in the least know me, that I should have discovered the King's secret, or betrayed his business, whatever my thoughts were of it.' Lord Campbell's insinuation that Ashley's official position made his support and assistance necessary to the 'nefarious scheme' is wholly groundless, as the above extract shows. The author of the 'Lives of the Chancellors' seems to have been misled by the

modern associations of Ashley's departmental post. A Chancellor of the Exchequer in the seventeenth century was not what he is in the nineteenth. The 'management of finances' was vested, not, as Lord Campbell asserts, solely in Ashley as Chancellor of the Exchequer, but jointly in him as one of four Commissioners of the Treasury, of whom Clifford himself was one, while another, Sir John Duncombe—according, as we have seen, to his colleague's statement—repudiated with him all active participation in the transaction. That he remained Chancellor of the Exchequer and a Commissioner of the Treasury after the Stop had been applied, is a fact of no significance in those days, when the principle of corporate ministerial responsibility had not been established. Ashley's recognised duty as a Privy Councillor would have been completely discharged by advising the King, as there is evidence that he did, against the scheme. As member of the Cabal he was responsible to no one but the King himself; and each member of that Cabal was only so responsible for advice which he personally gave or for acts which he individually sanctioned. That the advice to close the Exchequer was given to Charles by Clifford himself, and that the official acts necessary to carry out the advice were the acts of Clifford alone, may, I think, be regarded on the evidence as morally certain. The step in the peerage which Ashley obtained at this time may, in so far as it was anything but an incentive to future services, be sufficiently explained as the consideration for his signature of the Treaty of Dover. Three of the other four signatories obtained honours at the same time, and probably on the same account. Coincidently,

or nearly so, with Lord Ashley's being created Earl of Shaftesbury and Baron Cooper of Paulett, Lord Arlington was made an earl also, Lauderdale's Scotch earldom became a Scotch dukedom, and Sir Thomas Clifford was raised to the peerage as Lord Clifford of Chudleigh.

Undoubtedly, too, it is a circumstance in Shaftesbury's favour that in the summer of this year, 1672, he was offered and declined the Lord-Treasurership. Whether the honour was really pressed upon him with all the pertinacity and insistence which his secretary, Mr. Stringer, declares to have been used may perhaps be doubtful, but it is not improbable that unusual efforts were made to induce him to accept. Charles doubtless felt the importance of having a man of ability at the Treasury at that particular juncture; while, on the other hand, no man of ability (or at least of such ability as should include a moderate share of foresight) would at that particular juncture have been willing to take the Treasury on any terms. Shaftesbury was far too acute to catch at the bait. 'He knew,' says his secretary, 'how they' (the Cabal) 'had encumbered the Exchequer by stopping the payment to the bankers, and how they had drained it by that unjust war with the Dutch. [The preterite is here put for the future, as the 'unjust war' had hardly begun.] He foresaw how the women (who are such excessive masters) would be craving for money when there was none to be had, and their credit for borrowing was lost.' Shaftesbury, continues his biographer, attempted to stipulate for obtaining the white staff on his own terms, 'which was to make him absolute minister of state, to have the full

power in his hands of making peace with the Dutch, and managing the Exchequer without control as should be most for his Majesty's and the kingdom's honour and advantage.' We may suspect perhaps that the attempt to impose these highly patriotic terms was an afterthought of Shaftesbury's, and that his secretary is merely describing on his master's authority the magnanimous attitude which, because he ought to have taken it, he succeeded in persuading himself that he did take. He remained firm however in his refusal, and the white staff passed into the hands of Clifford—a mere zealot, who very likely did not foresee the dangers and difficulties of the place, and who, if he had, might possibly have been quite willing to face them in his capacity of new convert to Catholicism, anxious to do his utmost to further the projects of a secretly Catholic King. As for Shaftesbury, his ability had been already doubtless so conspicuously displayed to his sovereign—no bad judge of mental capacity in his servants—as to induce Charles to overlook any occasional lack of pliability in his conduct. His refusal of the Treasuryship did not cause him to wait long for a still higher office. His appointment in September of this year to be President of the Council of Trade and Plantations, which had been created two years before chiefly by his advice, derives its chief interest for us from the fact of its affording him the opportunity of appointing John Locke Secretary to the Council, with a salary of 500*l.* a year. Within a few months his ambition was to be crowned by his elevation to the Woolsack. On November 16, 1672, the Great Seal was taken from Sir Orlando Bridgman, and the next day it was bestowed by the King upon Lord Shaftesbury.

The cause of the Lord Keeper's sudden dismissal and of Shaftesbury's surprising appointment to the Chancellorship remains obscure. There is neither evidence for nor probability in the story confidently adopted by Lord Campbell from Roger North, to the effect that Bridgman refused to issue an injunction to restrain creditors of the bankers who had made default through the Stop of the Exchequer from proceeding against them for the recovery of their loans, and that Shaftesbury hinted that he himself would be more pliable. When Shaftesbury became Chancellor and this application actually came before him, he did no more than grant a provisional injunction, which he subsequently and after argument discharged. Nor could it be, as has sometimes been said, that Sir Orlando Bridgman refused to put the Great Seal to the famous Declaration of Indulgence, for that was issued in March, 1672, eight months before Bridgman's dismissal, with the Great Seal duly witnessed. In some way or other he had proved less supple than his employer required. He had, says Burnet, lost all credit at Court with the reputation he had formerly acquired, and they had some time been anxious to get rid of him. The Court did not doubt apparently that Shaftesbury would be more accommodating. It would be difficult to say that they were wrong; but it is only fair to insist that his assent to the Declaration of Indulgence is no proof that they were right. The indignation expended by Macaulay on this transaction appears vastly out of place. It was quite an arguable point on the mere theory of the constitution that the dispensing powers claimed by the King actually existed:

it was not till men began to study its practical consequences that they perceived that it might be the means of turning the freest polity into the most rigid despotism. To have an arguable defence from the point of view of law was naturally quite enough for Shaftesbury. On the point of policy he has a more substantial case. In assenting to a Royal Declaration of Indulgence in matters of religion, he doubtless thought of nothing, as is said in the valuable 'Letter from a Person of Quality' (published in 1675 and falsely ascribed to Locke, but probably Shaftesbury's), save the relief of the Protestant Dissenters, and he, indeed, declared it to be the mere 'vanity'—the whim, that is to say—of the Lord Keeper that the Papists were mentioned at all. Knowing what he did, or suspecting what he ought to have suspected, of Charles's religion and designs, his conduct is doubtless open to the same criticism as was applicable to his votes and speeches on the toleration legislation of ten years back; but, putting it at the worst, it would have been well for Shaftesbury's posthumous reputation if nothing graver could be laid to his charge than his assent to the Declaration of Indulgence.

CHAPTER VI.

Shaftesbury's Chancellorship—First speech from the Throne—Temper of the Parliament—Shaftesbury's writs cancelled—Growing anti-Catholic feeling—Second speech from the Throne—Supply refused—Shaftesbury a 'Protestant'—Minister—His dismissal—Review of his past career.

1672–1673.

AMONG the many obscure passages in Shaftesbury's perplexing career, there is none perhaps which suggests more pointedly than his elevation to the Chancellorship the two reflections which are continually in the mind of a student of his life. To such an one it is constantly occurring to remark that, if Shaftesbury was as unscrupulous an intriguer and as shameless a time-server as his enemies represent him, it is singular that there should always be so much difficulty in proving the case against him; and that, on the other hand, if he is the injured innocent that his apologists would have us believe, it is no less singular that almost every step in his advancement should be attended by such highly suspicious circumstances. There is nearly always a *primâ facie* case against him; and it is seldom or never possible to convict him. He is perpetually being committed for trial, and perpetually getting off with a verdict of not proven. Thus, for instance, in this matter

of the Chancellorship, it is easy to put aside Roger North's account of Bridgman's dismissal and Shaftesbury's succession, as neither true nor probable; but, on the other hand, it would be absurd for an apologist to give himself airs of indignant surprise at such a story gaining currency. North is undoubtedly a malicious critic of Shaftesbury, and is probably in this case a malicious fabulist; but, if so, he cannot be described as a gratuitous fabulist in the sense of having exercised his inventive faculties upon a matter which needed no explanation. When, at a highly critical juncture of public affairs, a Secretary of State is sent to a Lord Keeper to demand from him without a word of warning the resignation of the Great Seal, and when, after being retained one night only in the custody of the sovereign, that symbol of authority is transferred on the following morning to a lay official, whom no one else had till that moment thought of for the office, it is no very surprising inference from the incident that the preferred minister must have signified his willingness to sanction or abet some act of Royal authority at which the displaced minister had stuck. But, by whatever arts, if any, Shaftesbury may have attained to his high office, it is but justice to him to admit that he did it no dishonour. North's stories of his official ostentation and vanity—stories which Lord Campbell, as is his wont, too readily adopts—appear to have been the mere exaggerations of ill-nature. If he sat in Westminster Hall 'in an ash-coloured gown, silver-laced and full-ribboned pantaloons,' his attire did not probably differ from that which would have been assumed by any other Chancellor not belonging to the order of the long robe.

There seems to be no reason why a lay nobleman *should* have had 'any black at all in his garb, unless it were his hat.' The same circumstance of laymanship may also very excusably have impelled him to emphasise the fact that the Lord Chancellor, besides being the head of the law, was also a high officer of State, by laying more than usual stress on the ceremonial incidents of his office; and the equestrian procession of judges from Exeter House to Westminster Hall on 'the morrow of All Souls' is not to be summarily dismissed as ridiculous on the mere ground that Mr. Justice Twisden was unlucky enough to fall from his horse. Her present Majesty has been received at Temple Bar by mounted dignitaries of the City of London, who have experienced too visible a difficulty in maintaining their seats; but no one condemned the civic pageant which so narrowly escaped being marred by untoward incidents. At most, however, the question of Shaftesbury's personal bearing in his high place cannot be one of very great importance. In greater matters, at any rate, his conduct was irreproachable. In this respect, at all events, the sneers of professional lawyers, always apt to be jealous of a layman in judicial office, cannot for a moment be weighed against the splendid and, in its connection, quite unexpected tribute of Dryden :—

> Yet fame deserved no enemy can grudge;
> The statesman we abhor, but praise the judge.
> In Israel's courts ne'er sat an Abbethdin
> With more discerning eyes or hands more clean;
> Unbribed, unsought, the wretched to redress,
> Swift of despatch and easy of access.

It is no answer to this to say, as Lord Campbell does,

that 'the great poet probably never was in the Court of Chancery in his life,' and that he 'could not have formed a very correct opinion as to the propriety of an order or decree in equity.' If not, he was continually in contact with those who were and could; and, though he may doubtless have expressed his admiration, for purposes of artistic relief, more strongly than he felt it, it is ridiculous to suppose that he would have gone out of his way, in a lampoon, to praise its object as an upright, discerning, and energetic judge, unless these judicial virtues of his were matter of common professional acknowledgment. A biographer, again, must be desperately reluctant to allow any merit to the subject of his narrative before he can adopt such an explanation of these lines as Lord Campbell catches at. They appear in the second, but not in the first, edition of 'Absalom and Achitophel,' and it has been idly alleged that, between the first and second editions, Shaftesbury in fact purchased their insertion by a service rendered to the poet. This service was said to be the presenting to Dryden of a nomination for the Charterhouse for one of his sons. It is true that Erasmus Dryden was admitted to the Charterhouse not on Shaftesbury's but on the King's nomination, and not till February, 1683, more than a year after the publication of the second edition of 'Absalom and Achitophel'; but, then, a boy named Weaver was admitted on Shaftesbury's nomination a few weeks before its publication, and why should not there have been 'an exchange of one nomination for the other to suit the ages of the boys'? This is indeed mysterious—so much so that one finds it difficult to represent even to the imagination Lord

Campbell's theory of the nature and order of the various events. Apparently, it was something like this: Between the first and second editions of 'Absalom and Achitophel' Shaftesbury went or sent to Dryden and said: 'You have just written a poem in which you have accused me of most forms of public and private wickedness of which the politician or even the human being is capable. You are about, I believe, to publish a second edition. I do not ask you to expunge or alter anything you have said against me, but if you will add a few lines to the effect that I was an upright judge, I will give your son a nomination to the Charterhouse.' To these terms Dryden, we must suppose, assented; and, obtaining a blank nomination from Shaftesbury, immediately transferred it to the parents of a boy named Weaver, receiving in exchange a nomination which they had obtained from the King. Having done so, the poet put by the nomination unused for two years, and in the meantime set himself to compose a second and fiercer invective against the ex-Chancellor in 'The Medal.' On this theory of the transaction, it would of course be a mere coincidence that Shaftesbury is known to have been in political association under the Commonwealth with Weaver, the Presbyterian member of Richard Cromwell's Parliament, and that, on the other hand, there was no man from whom Dryden would more naturally have asked a favour at the time of his boy's nomination to the Charterhouse than Charles II. And, lastly, we must dismiss as improbable and uncalled for what to some minds may seem the common-sense explanation of the panegyric in the second edition of 'Absalom and Achitophel'—namely, that friends of

Dryden had called his attention to the exceptional purity of Shaftesbury's record as Chancellor, and that the piquancy of its contrast with other passages of the statesman's career—at least as described in the satire—determined the poet to turn it to artistic use at the next opportunity.

Of Shaftesbury's political conduct as Chancellor it is sufficient to say that, like much else in his life, it lends no colour whatever to the idea that he differed noticeably, either for better or for worse, from any other statesman of the time. His speech to the House of Commons on its assembling in January, 1673, is typically illustrative of this point. The partisan censor and the partisan apologist expend useless labour in endeavouring to show, the one that the Chancellor was solely responsible, the other that he was wholly innocent, in respect of this much and not unjustly incriminated speech, with its violent attack upon the Dutch Republic, its unashamed defence of the Stop of the Exchequer, and the almost Oriental servility of its peroration. Shaftesbury, says the partisan censor, must be regarded as the author of this speech, and cannot be allowed to divide responsibility with any other minister. To which the partisan apologist replies that a speech from the Throne was even in that day a matter in which all members of the then half-developed Cabinet were accustomed to concern themselves, and that Shaftesbury had really no other share in the matter save that of merely drafting this expression of the collective views, perhaps unshared by him on many points, of the Cabal. It is not observed, apparently, by the partisan apologist how awkwardly left-handed

his apology is. For the style of the Royal Speech is unmistakably Shaftesbury's: he is clearly responsible for the *form* in which the collective views of the Cabal were expressed, and if he did not share opinions which he put forward with such elaborate force of rhetoric, and adorned with such courtly compliments to Royalty, why so much the worse, it must be said, for him. The statesman whom his defenders declare to have been opposed to the war with Holland might have surely explained, and even officially defended, its policy before Parliament without talking monarchical claptrap about the Dutch being 'the common enemies of all monarchies' and without demanding the destruction of the Republic in the famous phrase in which Cato clamoured for the effacement of Carthage. The financier who had deprecated the Stop of the Exchequer need not have gone out of the way to justify it on the cynically insincere plea of the 'growing inconveniences' to which the King had seen his people subjected through the 'great interest' charged by the bankers. So, too, it might surely have been possible to have said the official right thing for the Declaration of Indulgence without affirming that 'the Church of England and all good Protestants have reason to rejoice in such a head and such a defender' as the prince whom he must by that time have known to be at heart, if not by actual though secret profession, a Roman Catholic. And did it belong to the mere 'common form' of Chancellors' speeches even in that day to wind up in such a strain as this?

And after his Majesty's conclusion of his speech, let me conclude, nay let us all conclude, with blessing God and

the King; let us bless God that He has given us such a King, to be the repairer of our breaches, both in Church and State, and the restorer of our paths to dwell in; that, in the midst of war and misery which rages in our neighbour countries, our garners are full and there is no complaining in our streets, and a man can hardly know there is a war. Let us bless God that hath given this King signally the hearts of his people, and most particularly of this Parliament, who in their affection and loyalty to their Prince have exceeded all their predecessors—a Parliament with whom the King hath many years lived, with all the caresses of a happy marriage. . . .[1] Let us bless the King for taking away all our fears and leaving no room for jealousies, for these assurances and promises he hath made us. Let us bless God and the King that our religion is safe, that the Church of England is the care of our Prince, that Parliaments are safe, that our properties and liberties are safe. What more hath a good Englishman to ask but that this King may long reign, and that this triple alliance of King, Parliament, and people may never be dissolved?

The attempt, in fact, to represent Shaftesbury as less of a time-server than his rivals is a hopeless one. As an abler and less prejudiced man than most of them, he was naturally apt to give wiser and more statesman-like advice than they. But when the advice had been rejected, and the foolish or mischievous course adopted by his Sovereign, he could defend it with the best—or worst—of them. Throughout his life he seems to have maintained a *modus vivendi* between his moral

[1] Surely such a speech as this would have left little to be desired in point of mere 'unction' even in a Barebone's Parliament. Such evidence makes it more difficult than ever to share Mr. Christie's incredulity as to the justice of Dryden's sneer in 'The Medal' at Shaftesbury's assumption of sanctimony.

and intellectual nature which none of the political differences that so often divided them was ever able to disturb.

Shaftesbury's second speech from the steps of the Throne at the opening of a Parliamentary session is couched in a very different and a much more dignified line; but between the delivery of one and the other 'a good many things had happened.' The temper in which Parliament met in March 1673 boded no good to the Cabal, or indeed to any abettors of the King's intrigues with France. Corrupt and subservient as it was, it had not altogether lost touch with national opinion, or at any rate had not completely divested itself of a wholesome dread of national anger; and the popular feeling, then beginning to run high against the Catholics and the French alliance, was for the moment strongly represented in the House of Commons. The first act of that House was to administer a rebuke to the Chancellor by cancelling thirty-six election writs issued by him during the prorogation. There were many precedents, it would seem, for this apparent usurpation of the powers of the Speaker, and in some of them the House itself had acquiesced; but the moment and the mood were alike well suited to an assertion once for all of the pretensions of Parliament on the disputed claim of privilege. The elections held under Shaftesbury's writs were declared void, and new writs ordered to go. This was on February 5, and before another fortnight the House had presented to the King an address founded upon the resolution, recently carried by a majority of fifty-two, to the effect that 'penal statutes in matters ecclesiastical cannot be suspended but by act of

Parliament.' Charles returned a temporising reply, and about a week after the Commons followed up their address by another requesting a more full and satisfactory answer to their former communication, and praying for effectual measures to prevent the Declaration of Indulgence from being 'drawn into consequence or example.' Again the King replied in dilatory terms, and on March 1 he appealed to the Lords for their support. To their address of thanks in reply to his message he responded in almost wheedling language. He took their address, he told them, 'very kindly. I will always,' he said, 'be very affectionate to you, and I expect that you shall stand by me, as I will always by you.' The Lords, however, had their Protestant and English prejudices as well as the Commons; and they declined to 'stand by' the King. The terms of the address ultimately voted by them convinced him that the game was up. On March 7 he cancelled the Declaration of Indulgence, a few weeks later he gave the Royal assent to a Test Act requiring all persons, whether holding civil or military office, to take the oaths of supremacy and allegiance, to receive the sacrament according to the Anglican rite, and to subscribe a formula of disbelief in the doctrine of Transubstantiation; and the Royal needs, which accounted for the Royal pliability, having been met by a liberal vote in Supply, the Houses were prorogued on March 29. Before the time for accepting the new test had expired the Duke of York resigned his office of Lord High Admiral and Clifford surrendered the white staff; the suspected perverts had been driven from the public service; the victory of the Parliament was complete.

What, then, was Shaftesbury's attitude during this short but eventful session, and the critical period of the recess which followed it? As usual at all such turning-points of his career, the answer must be that the evidence before us neither wholly supports the strictures of his contemporary enemies, nor the excuses of his later apologists. It may be that his tergiversation was not as sudden and shameless[1] as Macaulay (who never allows his characters to do either good or evil except after a dramatic fashion) has represented it; but it was certainly thorough. In the course of the seven weeks session he had fully satisfied himself that the days of the Cabal were numbered, that the ship of its fortunes was sinking; and he made his dispositions accordingly. From the date of the prorogation he began to make unto himself friends among that party of Protestantism and patriotism which was soon to receive him into very convenient, though not, it is true, by any means 'everlasting, habitations.' The disgraced and broken-hearted Clifford was succeeded by the Yorkshire squire, Sir Thomas Osborne, who, as Earl of Danby, Marquis of

[1] Mr. Christie, I think, has fully succeeded in showing that Shaftesbury's 'portentous display of impudence' in suddenly turning round on his colleague and his own opinions, in a violent reply to a violent speech from Clifford in favour of the Declaration of Indulgence, could not have occurred as Macaulay relates it; and this for the excellent reason that Clifford made no such violent speech in the debate on the Declaration at all. But he *did*, as Colbert reports, make a violent speech in the debate on the Test Bill; and Mr. Christie does not deal with the naturally arising question whether it might not have been that speech to which Shaftesbury made the violent reply which Burnet attributes to him. If so, his tergiversation would have been equally sudden and shameless, though effected a fortnight later.

Carmarthen, and Duke of Leeds, was destined to approve himself the most supple and astute of statesmen in an age in which craft and flexibility were almost the sole qualifications of successful statesmanship; and it is impossible not to detect in the Chancellor's address of welcome to the new Lord Treasurer a subtle note of ironical compassion, as of a rat who was leaving the sinking ship, for a rat who has 'heptly selected the same moment for joining it. 'Let me say to your Lordship,' said Shaftesbury, 'that however happy you may have been in arriving to this high station, yet *parta tueri non minor est virtus*. Many great men have proved unfortunate in not observing that the address and means to attain great things are oftentimes very different from those that are necessary to maintain and establish a sure possession of them.'[1]

Shaftesbury, his most friendly biographer admits, was 'now known to be the head of a section of the King's Ministers, opposed to the French alliance and the Dutch war, and was regarded by the public as a chief protector of the Protestantism and the liberties of England.' In other words, he was securing his retreat. While remaining nominally a chief adviser of the Crown, he was preparing a place for himself as the leader of an Opposition. The moment was certainly an opportune one. Other incidents besides the

[1] Sir Thomas Osborne thanked Shaftesbury in public for this speech; but 'the next day,' says Martyn, 'when he had considered the turn of the speech, he sent to revoke his thanks, and from this time conceived a strong resentment against him.' Mr. Christie observes that he was 'perhaps ready to suspect insincerity, and discern a double meaning,' as though his suspicion was unwarranted. Surely the insincerity and double meaning are obvious enough.

issue of the Declaration of Indulgence—the assemblage of troops at Blackheath, and the rumoured engagement of the Duke of York to a Catholic Princess—had tended to deepen the public uneasiness. A vague feeling of distrust and apprehension was abroad. People dreaded they knew not what, or, except in the most indefinite fashion, whom. The popular mind was fast ripening into the condition which the terrorist and informer love; and already men were here and there whispering to each other those wild suspicions, which later on were to make Oates and Bedloe possible. It is stated that, in June of this year, a letter from Shaftesbury to the Duke of York, urging him to renounce the Roman Catholic religion, was circulated and much applauded; another witness records a little later that Shaftesbury and Prince Rupert are 'looked upon to be the great Parliament-men, and for the interest of old England.' There is, indeed, plenty of evidence to show that the Chancellor posed steadily throughout this year as the champion of Protestantism, and the hated and menaced enemy of the Catholics. 'The Papists,' says his secretary, Stringer,[1] 'were grown to such a height that our Earl, who was then Chancellor, expected every moment when they would openly have declared; and he, knowing himself in the greatest danger, from the interruptions he had given them, caused his family to be well armed, and

[1] No doubt, as Mr. Christie says, this statement of Stringer's cannot be without foundation; and no doubt, also, Shaftesbury was incapable of deliberately inventing such danger and arming himself and his household from no better cause than 'wild delusion or morbid vanity.' But the pursuit of popularity, which was power, surely is a better cause than 'wild delusion or morbid vanity,' for feigning fear which he did not, or more fear than he did, feel.

kept constant watch in his house all the summer, resolved to sell his life at the dearest rate.' It is difficult to believe that Shaftesbury could really have imagined, in the summer of 1673, whatever he might afterwards have persuaded himself, that his life was in the slightest actual danger from Catholic conspirators.

On October 9 the adjourned Parliament met once more, and on the 20th it was prorogued for a short period in order to create, for convenience of legislative purposes, a new session. It reassembled on the 29th, and in a more impracticable mood than ever. The first act of the Lower House before its prorogation had been to address the Crown against the Duke of York's marriage—a move which Shaftesbury is said to have assisted by delaying the summons to the Lower House in order to allow time for the motion to be made. On the reassembling of Parliament after the short prorogation, the Chancellor delivered a speech sufficiently emphatic indeed in its exhortations to a vigorous prosecution of the Dutch war, but containing no allusion to religious or other domestic questions. 'There is not so lawful or commendable jealousy in the world,' he told the Houses, 'as an Englishman's of the growing greatness of any prince at sea. If you permit the sea, our British wife, to be ravished, an eternal mark of infamy will stick upon us; therefore I am commanded earnestly to recommend to you not only the proportion but the time of the supply, for unless you think of it early, it will not be serviceable to the chief end of setting out a fleet the next spring.' The House of Commons was deaf to this appeal. They refused a supply; they voted a second address against

the Duke of York's marriage; they resolved that the new-raised army was a grievance, and they were about to attack ministers when, on November 3, the King, altogether disconcerted by their display of spirit, prorogued Parliament. At 4 P.M. on the following Sunday, November 9, Henry Coventry, the Chancellor's own brother-in-law, was dispatched from Whitehall with a Royal order to Shaftesbury to deliver up the Great Seal. 'My Lord,' runs Stringer's report of the Secretary's words, 'my Lord, you are happy; you are out of danger and all safe; but we shall all be ruined and undone; I desired to be excused from the office, but being your relation and friend, they put it as an affront on me.' To which, according to Martyn, the Chancellor replied with a pleasant air, 'It is only laying down my gown and putting on my sword.' He was fully prepared, if we may trust the two last cited witnesses, for his dismissal. At nine o'clock that morning he had been to Whitehall, and, judging 'from several circumstances that the seals were about to be taken from him, he presently attended the King in his closet,' while the Attorney-General, his successor expectant, waited outside to see him reappear, as was confidently anticipated, 'without the purse.' Being alone with the King, the Chancellor said, 'Sir, I know you intend to give the seals to the Attorney-General, but I am sure your Majesty never designed to dismiss me with contempt.' The King replied, 'Cod's fish, my lord, I will not do it in any circumstances that may look like an affront.' 'Then,' said he, 'your Majesty will permit me to carry the seals before you to chapel, and send for them afterwards to my own house.' The King, 'who had still

a regard for him, and probably was not displeased with the humour of his design, readily complied, and told him he would send for the seals at four o'clock in the afternoon. Lord Shaftesbury entertained his Majesty in conversation purposely to amuse the courtiers and the Attorney-General, who he believed was in the greatest anxiety for fear the King should be prevailed upon to change his mind. The King and the Chancellor came out of the closet smiling and talking together as they went to the chapel, which was so contrary to the expectation of all present, that some went immediately and told the Duke of York that all their measures were broken.' The story is quite good enough not to be true; we must be content with hoping that it is. It is not unlike Shaftesbury to have played the trick, but neither, unfortunately, was it unlike him to have romanced to Stringer. His inventive humour might with almost equal probability have taken either form. Charles's alleged part in it is thoroughly characteristic; and, besides the pleasure of hoaxing his courtiers, he might well have been anxious to break Shaftesbury's fall in any way which caused no personal inconvenience to himself. No doubt it was the Duke of York's party who at last overthrew the Chancellor. They showed in their faces, says Colbert, who thoroughly sympathised with them, 'the joy which they felt, and congratulated me on the disgrace of the greatest enemy of France, and I may add without passion *du plus fourbe, du plus injuste, et du plus malhonnête d'Angleterre,*' which is good evidence of the Gallophobic activity of Shaftesbury during the last year. Any signatory of the treaty of February 1672 who could by November

1673 have earned the political character thus given him and the personal reproaches thus heaped upon him by a French ambassador, could not have been allowing the grass to grow under his feet.

We have now reached a turning-point in Shaftesbury's career, and though there are doubtless aspects in his character which only the later years of his stormy life disclosed, it seems to me that the dominant impulses of his nature and principles of his action may be traced with much the same certainty from his previous history as can the 'law' of an arithmetical or geometrical series from its first three terms. That Shaftesbury was, even for an age like the Restoration, the portent of political wickedness which Dryden represents him, appears to me a proposition incapable of being seriously defended. That he was the sincere, unselfish, high-minded patriot which Mr. Christie goes near to making him out, seems an equally, if not a more preposterous, perversion of the facts. That he held very strong and distinct, and sometimes very admirable, views on political and religious matters, I do not question; but that he acted upon them with any consistency, that he defended them with any steadfastness, that, above all, he was ever willing to make the slightest sacrifice for them, I can find no evidence whatever. All his repeated changes of party find their simplest explanation on a theory of pure self-interest, and some of them are explicable in no other way. He quits the Royal for the Parliamentary cause, and his apologists allege that, like other distinguished men who accompanied him over, he has for the first time perceived the danger to which liberty and Protestant-

ism were exposed under Charles I. It may be so; but unluckily he has also been just removed from a military command and has seen the door of his ambition closed to him. He attempts for a time to serve under Cromwell, and only joins the Protector's opponents, say his apologists, because he objected to the predominance of the military element in his councils. Perhaps; but the predominance of the military element meant the effacement of the civilian interest, through which alone it was possible for him to rise. Again he quitted his Republican associates in 1660, and threw in his lot with Monk, no doubt, as his defenders maintain, because he saw that the country was ripe for a Restoration. But to be among the foremost in bringing about a Restoration meant ennoblement and official promotion, and did in fact earn him his peerage and the Chancellorship of the Exchequer. He turned his back in 1673 on the policy of the Cabal, and threw himself with ardour into the cause of civil and religious liberty; and it is true that, at the moment when he did so, the mischief and folly of that policy had become as patent as its iniquity. But then so had its unpopularity also. His associates were not only exposed criminals; they were criminals for whom the day of reckoning was drawing near. It is, to say the least of it, an extraordinary coincidence that the demerits of a cause should never have been brought home to Shaftesbury except in company with the discovery that it opened to him no avenue of advancement; and that his eyes should always have remained closed to the wickedness of counsels until their authors were on the verge of ruin. I cannot on the ordinary theory of chances believe that all these coincidences were

undesigned. To assume a 'pre-established harmony' of this kind between interest and conviction appears to me an altogether unphilosophical hypothesis. It is surely more rational to believe that Shaftesbury changed sides, as other men of his time did, in order to gain or to retain the political advancement which he coveted; and that the only reason why he changed sides oftener than his rivals was because he had a keener eye for coming events than they, and a readier skill in adapting himself thereto. This keenness of foresight—as has been remarked by Butler, whose lighter satiric lash appears much more fitted to execute justice in this case than the resounding scourge of Dryden—may, in fact, be regarded as in itself a species of, or at any rate as an excellent substitute for, a political conscience.

> Our State artificer foresaw
> Which way the world began to draw;
> For as old sinners have all points
> O' th' compass in their bones and joints,
> Can by their pangs and achès find
> All turns and changes of the wind,
> And better than by Napier's bones,
> Feel in their own the age of moons,
> So guilty sinners in a State
> Can by their crimes prognosticate,
> And in their consciences feel pain
> Some days before a shower of rain.

This account of the matter seems to me to be as accurate as it is witty. I have no doubt that Shaftesbury felt real twinges of Royalism some time before the Restoration and shooting pains of Protestantism before the anti-Catholic movement of 1673–80. He foresaw

in each case the impending ruin of the party to which he had attached himself, and for no man had the *victrix causa* a more overmastering attraction than for him. He had not the faintest sympathy with the eccentric preference of Cato; in that matter at any rate he was on the side of the gods.

CHAPTER VII.

Shaftesbury invited and refuses to return to office—Leader of the Opposition—His rural pursuits—Danby's Test Act—Shaftesbury and the Bishops—Privilege quarrel between the Houses—The fifteen months' prorogation—Shaftesbury's action for slander—Parliament reassembles—Shaftesbury's contention—Committed to the Tower—His unsuccessful *Habeas Corpus*—His submission and release.

1673–1678.

COLBERT, amid his exultation at Shaftesbury's dismissal, was not without some misgivings as to its consequences. The King of England had got rid, it was true, of a servant who was *le plus fourbe, le plus injuste, et le plus malhonnête d'Angleterre;* but a discarded minister, added the shrewd ambassador, 'who is very ill-conditioned and clever, left perfectly free to act and speak, seems to me much to be feared in this country.' Colbert did not remain here long enough to be an eye-witness of the fulfilment of his apprehensions, but before he left England he was called upon to play a part in a transaction which showed how seriously they were shared by others. Shaftesbury had not been three weeks out of office before Charles, who had not of his own choice parted with him, was anxious to get him to return to office, and directed overtures to be made to him for that purpose. These overtures, as we now know on the unimpeachable evidence of a despatch of

Colbert's, were of a peculiarly pressing kind. On December 7 he writes to say that M. de Ruvigny, his destined successor, had, according to instructions from Paris, obtained an interview with the ex-Chancellor, and added the weight of Louis's solicitations—and something more—to those of Charles. 'After having informed Lord Shaftesbury that the King, his master, was completely resolved not to separate his interests from those of your Majesty, and that by serving you faithfully he would easily recover his Sovereign's favour, M. de Ruvigny assured him of your Majesty's gratitude, and that you would give him ten thousand pounds sterling to reward any person he might wish to give money to. All this was received very amiably by Shaftesbury; and, though he told M. de Ruvigny that in rendering good service to your Majesty he wished nothing more than to recover the King of England's favour, and obtain payment of a certain sum of money which he pretends that the King owes him, I think that under this pretext he will take with pleasure whatever we choose to give him. I am assured also by the King of England himself and by Lord Arlington, who are my sureties in this matter, that if he serves us as usefully as he can do, the money will not be ill employed.' For once in his life, however, the astute Frenchman was mistaken. Shaftesbury, to do him justice, was not amenable to mere pecuniary bribes. He loved power more than money, and power was exactly the commodity which he believed that he could acquire in greater measure by remaining where he was. He did not at any rate return to office, and it is fairly to be presumed therefore that he never touched the 10,000*l.* Henceforth,

however, he became an object of constant dread to the King and the Court, and the life and soul of an Opposition which converted one of the most corrupt and subservient of Parliaments into an assembly more turbulent and factious than any which has ever sat at Westminster.

The Houses met again on January 7, 1674, and immediately proceeded to take into consideration the old grievances—the growth of Popery, the great power of France, and the continuance of the Dutch war. The battle was begun in the House of Lords, where the Opposition, led by Shaftesbury, addressed the King to issue a proclamation requiring all Papists and reputed Papists, not householders nor attending any peer, to withdraw to a distance of ten miles from the capital. Ruvigny, reporting the debate, says that 'Lord Shaftesbury made a speech to excite the assembly, saying that he knew well there were in the suburbs of London more than sixteen thousand Catholics who were resolved to strike a desperate blow (*faire un coup de désespoir*), and that no one could be sure of his life while such people were in liberty at the gates of the city, and that it was necessary to think seriously of the means of preventing a massacre which might take place any day.' This resolution carried, the two Houses agreed to a joint address to the King for a day of fasting, to implore the Divine protection against Popery. Another address was presented praying that the militia and train bands might be held in readiness to suppress any tumultuous insurrection which might be occasioned by Papists or any malcontent persons, and the attack was then opened with vigour upon Shaftesbury's late

associates of the Cabal. The Commons unanimously voted that an address should be presented to the King to 'remove the Duke of Lauderdale from all employments and from his presence and councils for ever, being a person obnoxious and dangerous to the Government.' Another resolution was voted in similar terms against Buckingham; but Arlington escaped after a long debate by a majority of 168 votes to 127—a committee being, however, appointed to examine the charges against him and consider whether there was ground for impeachment. Parliament was prorogued before the committee reported, and the rumour ran that this step was resorted to because a very strong report containing capital charges against the minister was apprehended. It had, however, an even more important result than that of stopping Arlington's impeachment. Shaftesbury had, through his party in the Commons, but not doubtless with a wholly disinterested zeal for the liberty of the subject, procured the appointment of a committee to inspect the laws relating to this matter, and to consider 'how the King might commit any subject by his immediate warrant, and how the law then stood touching the committing of persons by the council table.' Upon the report from the committee, a Bill was ordered to be brought in concerning writs of *habeas corpus*, which was read three times and passed the Lower House on February 7. By the 24th of that month, however, the King, now thoroughly alarmed at the hostile spirit of the Parliament, prorogued it till November 10 following before any Bill was ready for the Royal assent.

Besides the known evidences of Shaftesbury's hand

having been at work during the short session, we have it on Ruvigny's authority that he was a constant attendant at the meetings of anti-Ministerial peers, held at Lord Holles's house, where the course of the Opposition in both Houses was decided. One thing is certain, that from and after the session of 1674 his every movement was watched by the Court with the most respectful vigilance. It is even asserted by one writer that, shortly after the prorogation, Shaftesbury received a hint from the King to go down into the country. 'Shaftesbury' (runs the passage), 'pretending fear of having his throat cut by the Roman Catholics, lay one night at least in the city, at the house of one Cook, a fanatic; and both then and before he did all he could to promote petitioning his Majesty to call a Parliament for the redress of grievances. He endeavoured to get the Lord Mayor to consent to the Common Council's meeting once a month, and had it even proposed in a Court of Aldermen. But the Lord Mayor would not consent;' not, amusingly enough, from any apparent scruples on the score of loyalty, but because he was determined, as he said, that 'they should not use him as the King had been used. The King sent Sir Paul Neal to Shaftesbury, to let him know that he heard he was about to take a house in the city, to live there. He forbade him at his peril, looking on it as a design to do there as he had done in Parliament, and that he would do well to go down into the country as soon as the weather would permit. Shaftesbury answered that he had no such design.' Charles did not think fit to repeat the half-veiled threat, which he was far too indolent to execute of his own accord, and of which

none of his then counsellors, except perhaps his brother, would have dared to recommend the execution. But such measures of revenge against his revolted servant as were safe and easy were resorted to. 'His Majesty this day in Council,' runs an entry in the Privy Council Book for May 19, 'declaring his displeasure against the Earl of Shaftesbury, commanded the Clerk of the Council that his name be henceforth left out of the members of the Council.' In a despatch of May 25, Ruvigny reports what would appear to be a second notification to Shaftesbury to leave London, in order, as the writer declares, 'to prevent his acting in concert with the Dutch Ambassador who had lodged in his house;' and on this occasion Shaftesbury, for whatever reason, seems to have thought it advisable to take the hint. He retired to Wimborne St. Giles, where, thanks to Charles's brilliant discovery that the next best thing to getting supplies from his Parliament was to sell prorogations to Louis, he was destined for some time to come to enjoy unwonted leisure for rural pursuits. In his attachment to such pursuits he was a statesman after the English heart, which beats in as warm a sympathy with his remarks on timber planting and apple grafting, as it responds coldly to Dutch William's cockney enthusiasm for gravel walks and tulip beds. Does anything so much endear Lord Althorp to his countrymen as the fact that among the voluminous correspondence on georgic and bucolic matters left behind him at his death, one bulky packet of letters was found labelled with the single word 'Bulls'?

But Shaftesbury was not only an Althorp in agricultural tastes, he was almost a Voltaire for commercial

speculation. Mines in Derbyshire, mines in Somersetshire, money embarked in a Derbyshire 'discovery,' shares in the Bahamas, 'Guyney' stock—such are some of the investments which we find mentioned in his correspondence; and his letters to Mr. Stringer on the business of his estate show as much minute and methodical exactitude as though the collection of his rents were the main occupation and business of his life instead of being a mere interlude in that more serious work of Parliamentary intrigue and political agitation which formed the chief employment of his thoughts and hours.

In the very thick of the tangle of intrigues, rivalries, and cross-purposes in which the Cabal were involved during the year which elapsed between the conclusion of the second Treaty of Dover and the reassembling of Parliament in 1672, we find him addressing a long letter to his bailiff, containing the most minute instructions for the planting of several varieties of the best cider apples, to wit:—'the Redstreake, the Black Apple, the Streake Must, the Sour Pippin, the Bramsbury Crab, the Grouting.' Further he goes on to inform 'Hughes' (who, no doubt, was intimately convinced of his knowing much more about it himself than the authority quoted by my lord) that,

> the best planting of timber trees is 'with nuts, acorns, seeds, and footsets, and not with young trees removed; and in that manner of planting, where the ground is dry, he never plants on little hills, banks, or ridges, but sows and sets them on the plain ground, having first made it, with several ploughings and diggings, very light and fine, which should be begun about September, that the frost

might season the earth against the spring when you plant. When this is done the roopworm is killed, and will not annoy the plants. He useth constantly' (does this experienced gentleman by whose woodcraft Hughes is being put to shame), 'in setting of chesnuts, acorns, and seeds, to steep them twenty-four hours in milk, which gives them a great advantage; he sets his seeds and plants five foot one from another, and sets the two first years among them beans, which not only pays his charge, but, as he affirms, extremely cherisheth the plants. He waters his plantations the two first years only. . . . He plants an abundance of the best sort of filberts among his plantations of timber. I would have you do the same amongst mine. He assures me that if I plant siccamores near my gardens they will spoil all my fruit with the flies they breed. Therefore, pray pluck up all the siccamores that are in the dry meadow behind my kitchen garden, and in the room of every one of them plant a chesnut, a walnut, or a honey-broke oak.'

Shaftesbury was no such monster of wickedness as satire has represented him; but still when one thinks of the torrent of innocent blood which was in a few years' time to be poured out, at the bidding of madmen whose delusions he so largely helped to inspire and could not wholly have shared, the *utinam his nugis* of Juvenal rises instinctively to the lips.

On November 10, 1674, Parliament, which was to have met on that day, was prorogued to April 13, 1675, and the renewal of the Opposition attack on the Government had in consequence to be deferred. Their intended cry (as appears from a letter addressed to Lord Carlisle by Shaftesbury, and afterwards printed as a political manifesto) was to be for a new Parliament, the present one having now sat for fourteen years. The letter also

contains a passage which may or may not have had a foundation in fact, but the insertion of which in a document intended for publication has, of course, an obvious political purpose. 'I hear,' says the writer, 'from all quarters, of letters from Whitehall that I am coming up to town, that a great office with a strange name is preparing for me, and such like. I am ashamed I was thought so easy a fool to those who should know me better; but I assure your lordship there is no place or condition will invite me to Court during this Parliament, nor until I see the King thinks frequent Parliaments are as much his interest as they are the people's rights; for until then I can neither serve the King as I would, nor think a great place safe enough for a second adventure.' At the meeting of Parliament in 1675, the two leading ministers were Danby, and—last survivor of the Cabal, who had clung to his place with truly Scotch tenacity—Lauderdale. Buckingham had been thrown overboard in the previous session and joined his old colleague in Opposition. Arlington had been gently laid upon the shelf as Lord Chamberlain. Clifford, the only thoroughly sincere and therefore perhaps the most dangerous minister of the five, had died appropriately of chagrin, if indeed he had not destroyed himself, at his titular estate of Chudleigh, in the autumn of 1673. Danby met the Legislature with one of the most daringly autocratic measures, in the shape of a Test Bill, which the Court had yet attempted. Under its provisions every officer of Church and State, and every member of either House of Parliament, were to be called upon to declare not only that it was unlawful under any pretence whatever to take up arms against

the King, and that he abhorred 'that traitorous position' —the position of the Parliamentarians in the late reign—'of taking up arms by his authority against his person, or against those that are commissioned by him in pursuance of such commission,' but also that he 'would not at any time endeavour the alteration of the Government either in Church or State.' This uncompromising non-resistance test offered of course a rare opportunity for hard fighting to a popular leader, anxious to stand first in the popular regard, and Shaftesbury's part in the seventeen days' opposition which the measure encountered on the second reading was conspicuous alike for its courage and its adroitness. Burnet records that he spoke once a whole hour (the 'whole' shows what a change for the worse has come over our Parliamentary debates), to demonstrate the inconvenience of condemning 'all resistance upon any pretence whatsoever; and the very ill-consequence it might be of to lay such an oath on a Parliament. And yet, though his words were watched, so that it was resolved to have him sent to the Tower if any word had fallen from him that had made him liable to such censure, he spoke both with so much boldness and so much caution that, though he provoked the Court extremely, no advantage could be taken of him.'[1] It was in one of the debates in Committee on this Bill, and in discussion of an amendment embodying an undertaking not to 'endeavour to alter the Protestant

[1] The heads of his case against the Bill exist in a memorandum first published by Mr. Christie from a paper at St. Giles's. One would have called the argument powerful if the case opposed to it were less contemptible.

religion,' that Shaftesbury distinguished himself in one of those passages at arms with the Episcopal Bench into which an eminent successor of his on the wool-sack was wont to plunge with so keen a zest. He had 'desired leave to ask where are the boundaries, and where shall we find how much is meant by the Protestant religion.' Upon this, Lord Keeper Finch, thinking—the rash Lord Keeper—that 'he had an advantage, desired, with his usual eloquence, that it might not be told in Gath, nor published in the streets of Askelon, that a lord of so great parts and eminence, and professing himself a member of the Church of England, should not know what was meant by the Protestant religion.' And then the Bishop of Winchester, and other bishops, still more incautiously condescended to instruct Shaftesbury 'that the Protestant religion was comprehended in the Thirty-nine Articles, the Liturgy, the Catechism, the Homilies, and the Canons.' The pitfall which they thus digged for themselves is a well-known one now, and the most callow of curates has the wit to avoid it. But in that day no doubt there was many a bishop unprepared for the now familiar dilemma presented to him by the question whether it was meant that 'the whole of these five tracts' *constituted* the Protestant religion, or only that the Protestant religion was *contained in* them. If the former was meant, then—and here followed the now thrice-told tale of the doctrine of predestination in the seventeenth and eighteenth Articles 'owned by so few doctors of the Church.' On the Liturgy, the Catechism, the Homilies, the same question was put, with the same result of showing that there was of course much in these documents which could not be regarded as of

any special authority: while, taking the other theory of the formularies, and assuming the answer to be that these 'five tracts' only *contained* the Protestant religion, Shaftesbury had little difficulty in reducing his adversaries to the dilemma of holding either that the bishops must *ex post facto* declare what is the Protestant religion and what not, or must leave it to every man to judge for himself on the point; and 'then their oath were much better let alone.' The discussion hardly suffices perhaps, as the courtly Martyn affirms, to prove the justness of King Charles's remark, that 'his Chancellor had more law than all his judges and more divinity than all his bishops.' Shaftesbury's exploit was not so much a display of knowledge as of the logical and clear-headed use of it; and as neither the judicial nor the episcopal bench will ensure all its occupants against confusion of mind, it is quite possible that Shaftesbury may occasionally have worsted judges in a legal argument, as he here silenced bishops in a theological one. The incident has little to say in short to the question of its hero's erudition, but very much to say to his remarkable readiness of argumentative and oratorical resource, and his surpassing skill of Parliamentary fence.

The Test Bill was fiercely contested at every stage; protests, numerously signed, were repeatedly lodged against it, and it was finally defeated owing to a privilege quarrel between the two Houses, which is said, though on unapparent grounds, to have been got up by Shaftesbury, but which he no doubt did his utmost to ferment. Parliament was prorogued from June till October, 1675, in the hope of getting rid of it; but, imme-

diately on the reassembling of the House in the autumn, the indefatigable Shaftesbury renewed it. The question was as to the right of the Lords to hear an appeal from the Court of Chancery in a case in which a member of the Lower House was concerned; and the King had, in the Speech from the Throne, recommended that if anything of that kind should arise, they were to defer these debates till they had brought the public Bills to perfection. Accordingly, on the motion to appoint a day for the hearing of the appellant's—Dr. Shirley's—petition, the Government strongly opposed it; and it was supported by Shaftesbury in a speech which, for freshness, force, and animation, reads as if it had been delivered yesterday. It is an admirable defence of the judicial functions of the House of Lords, and is full of wise and weighty observations on its constitutional status and utility in our political system. The speech, moreover, is of great historical interest, as constituting probably the first occasion on which the Tory ecclesiastical doctrine of Divine Right received the compliment of public notice and attack from an eminent politician. Shaftesbury distinguishes with his usual lucidity and acuteness between the true obligation imposed upon the subject by Divine authority, and the perverted form which it had taken in the teaching of a certain school of Churchmen. 'We all agree,' he said, 'that the King and his Government is to be obeyed "for conscience' sake," and that the Divine precepts require not only here, but in al parts of the world, "obedience to lawful governors," but that this family are our kings and this particular frame of government is our lawful constitution, and obliges us, is owing wholly to the particular laws of

our country.' Then, pushing the argument further, he continued:—

In a word, if this doctrine be true, our Magna Charta is of no use; our laws are but rules among ourselves during the King's pleasure. Monarchy, if of Divine Right, cannot be bounded or limited by human laws; nay, what is more, cannot bind itself; and all our claims of right by the law or constitution of the Government, all the jurisdiction and privilege of this House, all the rights and privileges of the House of Commons, all the properties and liberties of the people, are to give way not only to the interest but the will and pleasure of the Crown; and the best and worthiest of men holding this principle must vote to deliver up all we have, not only when reason of State and the separate interest of the Crown require it, but when the will and pleasure of the King is known to have it so; for that must be, to a man of that principle, the only rule and measure of right and justice.

That monarchy if of Divine Right is not only incapable of being limited, but cannot bind itself, is a penetrating observation, which doubtless goes to the root of the otherwise mysterious facility with which Charles I. reconciled his conscience to the most flagrant breaches of political faith. This excellent dissertation of Shaftesbury's, however, had manifestly nothing to do with the question whether the defendant in Dr. Shirley's case was justiciable or not by the House of Lords. It was really a speech on the Test Bill, which the question of privilege was being made use of to obstruct; and Shaftesbury did not care to conceal its obstructive character. His motion was carried, and was immediately followed by hostile resolutions in the Commons,

among whom there must clearly have been a majority opposed to the Test Bill, or it is impossible to suppose that they would have been put off from proceeding with it by so transparent a device. A prorogation now appeared imminent, and the Opposition leaders saw that the time had arrived for opening the attack foreshadowed in Shaftesbury's letter to Carlisle on the life of the Parliament itself. Lord Mohun, an active member of Shaftesbury's party, moved an address to the Crown for a dissolution, which, supported by the Duke of York, and the Catholic peers, who had been persuaded that a new Parliament would be more favourably disposed towards themselves, came within two proxy votes of being carried. Charles saw that the situation was getting dangerous, and immediately after the debate on November 22 he prorogued Parliament for the unusually long period of fifteen months.

He could afford to do this because he had arranged for 'supplies' from his French paymaster for more than a year in advance; and it affords a melancholy consolation to an Englishman to reflect that on this occasion he varied the monotony of selling the liberties of his subjects by 'jockeying' their purchaser in the matter of the price. The arrangement had been that Charles should let Parliament meet in October 1676, and in the event of its proving hostile to France, dissolve it; for which Louis was to pay him 100,000*l.* a year. Instead of dissolving it, however, he only prorogued it for fifteen months, a step which of course left him with a dissolution still to dispose of. It was as though the pretending vendor of a fee-simple should fraudulently assign only a term of years to the purchaser

and retain the reversion. Unfortunately for Louis there was no European Court of Equity, with jurisdiction over sales of nations by their rulers, to enforce specific performance of Charles's contract; and the French King had nothing for it but to grumble and pay. The prorogation, however, for so unprecedented a period had important political consequences. It served, for one thing, to embitter the Opposition, who thus found themselves silenced and paralysed for more than twice the length of their usual term of abeyance. And it provided them with a 'cry' which Shaftesbury and the more vigorous among his associates were not slow to avail themselves of. Party feeling already ran high not only in the House of Commons, but in the calmer regions of the Upper Chamber; and peers 'bit thumbs' at each other at county meetings, just as they might jostle and draw upon each other in the Mall. A year before, at Mr. Tregonwell's house in Dorsetshire, Lord Bristol's son, Lord Digby, had fallen violently foul of Shaftesbury before several witnesses. 'You are against the King, and for seditions and factions, and for a commonwealth, and I will prove it; and, by God, we will have your head next Parliament!' With such fluency and animation did the young man give expression to his political views. Shaftesbury brought an action against him for slander, and obtained 1,000*l.* damages. Had the defendant paused at the word 'factions,' it is possible that he might have got a verdict. But nothing at that moment was probably further from Shaftesbury's thoughts than a commonwealth, and as for his head, it was not in nearly so much danger from the next Parliament as Danby's. This quarrel and

litigation, however, are the only incidents to be recorded of him during the long prorogation, save one, which, though of slight immediate moment, had a bearing of some significance on his future. This was his removal from Exeter House, in the Strand, to Thanet House, in Aldersgate—a timely transfer of his abode from a quarter of the metropolis in which he had formerly found the men and materials necessary to his ambitions, to one in which he was henceforth to seek the sources of his power.

The year 1677 found Louis XIV. still engaged in those concurrent hostilities and negotiations with the Dutch, which he was so desirous should not be thwarted by the English Parliament. As the time for its meeting approached, he tried hard to induce Charles to defer it. His ambassador was instructed to offer the Royal pensioner another 100,000*l.*, or even a larger sum, for another twelvemonth's prorogation; but Charles's necessities, and perhaps his fears, compelled him to decline the offer. He was, in fact, in desperate straits for money, and his father's son must have felt that the experiment of attempting to govern altogether without a Parliament was itself desperate. He was obliged to put off Louis with an assurance that he would not break his engagements to him—not though his faithful Commons were to offer him, as it was said that on those terms they would offer him, a supply of 1,600,000*l.* Louis accepted the assurance, but thought it well to make it doubly sure by sending two hundred thousand francs to his ambassador to be spent in bribing all the Opposition members who were for sale—never in those days an inconsiderable number. Courtin, who had

succeeded Ruvigny in the embassy, was even authorised to treat with the leaders, Shaftesbury and Holles, themselves. Whether these negotiations were ever opened or not there is nothing to show; but the course of events in Parliament appears to afford sufficient proof that they could not have been carried very far. The chiefs of the Opposition had been in active consultation with each other in the autumn and winter of 1676–7, and when Parliament met in February of the latter year, they had resolved to strike their blow. What they seem not to have reckoned upon was the spirit in which Danby was preparing to meet them; and indeed the issue of this their first encounter in good earnest with the Government is to this day a little difficult to explain.

On February 15, and amid much popular excitement, Parliament met. It was already known to the people, through such channels of political information as then existed, that the opponents of the Court intended not only to attack the validity of the prorogation, but to challenge even the legal existence of Parliament itself. Public expectation accordingly was wound up to the highest pitch, and Westminster Hall and its precincts were thronged with an eager crowd. In the House of Lords the question was raised, no doubt in pursuance of concerted arrangement, by Buckingham. As soon as the Commons had withdrawn after the delivery of the Royal Speech, he moved that 'it should be considered whether this Parliament be not dissolved because the prorogation of this Parliament for fifteen months is contrary to the statutes of 4th Edward III. and 36th Edward III.' The two statutes referred to are

respectively chapters 14 and 10. By the former it is enacted 'that a Parliament shall be holden every year once, and more often if need be.' The latter, after reciting the provisions of Magna Charta and other constitutional statutes, provides that 'for maintenance of these articles and statutes, and the redress of divers mischief and grievances which daily happen, a Parliament shall be holden every year.' Buckingham's speech in support of his motion has been preserved, but its argument is not very powerful. It seems, indeed, to have consisted mainly of a syllogism, of which the conclusion to be proved is contained by implication in the minor premisses. Lord Campbell, who expresses no opinion on the point of law, has summarised Shaftesbury's reasoning (within quotation marks, yet, according to his irritating habit, without reference to any original) in the following terms: 'As the King could not be supposed to have meant to have put it out of his power to obey the law, the just intendment was that,' in proroguing for more than a year, 'he dissolved the old Parliament so that he might within a year call a new one, as the law requires—an intendment greatly strengthened by the consideration that nearly seventeen years had elapsed since this Parliament had been elected, and that it would be indecent to impute a design to the King to make it last during his whole reign.' This contention of the Opposition peers is open to so many objections that it is difficult to decide which is its most assailable point. In the first place, as Mr. Christie has pointed out, the prorogation was not from October 1675 to February 1677, but—according to the reckoning of that period when the year began in March, not January

—till February 1676; and such a prorogation would at least have been within the letter of the statutory obligation to hold a Parliament 'every year once.' But, in the next place, there is no ground for supposing that the passages cited from the statutes of Edward III. have any reference to prorogations or adjournments; they were manifestly meant to limit the period which the Sovereign might interpose (not between two sessions but) between two Parliaments. Again, it was, to say the least of it, exceedingly doubtful whether the provisions of these statutes were still in force, the Act of 1664, by which the Triennial Act of the Long Parliament was repealed, having provided 'for the holding and assembling of Parliament once in three years at the least.' And, lastly, it is not by any means as self-evident as Buckingham and Shaftesbury represented it that a Parliament prorogued beyond a legal term would be *ipso facto* dissolved.[1] The Lord Keeper Finch, however, would appear to have been taken by surprise, for he seems to have had no other answer to make to Buckingham and Shaftesbury than the truly pitiable fetch that the words 'if need be' in the former statute qualified not only the words 'more often,' but the words 'once a year,' so that, in fact, the Act of Edward III.

[1] Shaftesbury's argument above set forth, if indeed it be anything more than Lord Campbell's guess at it, is of a singular inconsistency on this point. He says that as 'the King could not be supposed to have meant to have put it out of his power to obey the law,' he must in proroguing have meant to dissolve, so that he 'might call a new one within the year.' But since he did not, in fact, call a new one within the year, Shaftesbury in effect argues that we must suppose the King to have disobeyed the law, in order to escape the conclusion that he meant to have put it out of his power to obey it.

only meant to provide that Parliaments should be held whenever it was necessary to hold them, without prescribing any limit of time at all. Buckingham was much more effectively answered by Lord Frecheville, who moved, at the instigation of the Court party, that he should be called to the bar, for an offence against the King and the House in denying the legal existence of the Parliament. This motion was opposed by Lord Salisbury, and Shaftesbury, and afterwards Wharton, followed on the same side. After a debate of five or six hours, Buckingham's motion was disposed of by the 'previous question'; and on the following day, after the mover and his three supporters had been heard in their places, it was resolved that the four lords should be called to the bar, and required to make, on their knees, the following submission: 'I do acknowledge that my endeavouring to maintain that this Parliament is dissolved was an ill-advised action, for which I humbly beg the pardon of the King's majesty, and of this most honourable House.' Salisbury, Shaftesbury, and Wharton successively refused submission to this arbitrary and humiliating order, and were thereupon committed to the Tower. Buckingham, who had left the House while his case was under consideration—an act of high contempt, to which the peers replied by sending Black Rod to apprehend him—appeared voluntarily in his place the next day, and having refused, like his companions, to make the prescribed apology, was sent to share their imprisonment.

The whole affair is not very intelligible, and contemporary accounts throw little light on it. That Buckingham's motion may have been generally un-

popular, even among the peers of his own party, is likely enough; and that it could not be expected to find favour in the House of Commons, which never relishes a dissolution, is easy to be understood. And the Government, of course, would naturally be disposed to take advantage of this feeling to level a crushing blow at their most formidable adversary. But it is certainly strange that they should have found in the House of Lords so willing an instrument in these high-handed proceedings. Its opposition to the anti-national policy of the Government had been, no doubt, less vigorous than that of the Commons; but hitherto it had been far from a subservient body, and when once the inconvenient incident had been definitively closed by the defeat of Buckingham's motion, it is hard to account for the readiness with which a majority of the Lords appear to have lent themselves to one of the most oppressive and unconstitutional acts recorded in our Parliamentary annals. One can only suppose that it was through their corporate prejudices, so to speak, rather than through their individual political pre-possessions, that they were influenced, and that Danby got his way by appealing to those somewhat exaggerated ideas of dignity which have at different times betrayed both Houses into an injudicious course of conduct. But, be this as it may, it is clear that Shaftesbury, consummate judge of men and means as he was, was on this occasion guilty of a blunder. He could not have calculated on the possibility of so prompt and effective a retort being made by the Government to the motion which he had instigated, or he would hardly have risked it. Assuredly he would not have done so had he foreseen

the full measure of what was in store for him. Under ordinary circumstances, indeed, a committal to prison by order of Parliament was no very formidable matter; for the operation of such an order was, as it still is, limited by the duration of the Parliamentary session. But Shaftesbury was soon to find that the hostility of his enemies was not to be so easily appeased; and that by artificial prolongation of the session his imprisonment bade fair to be indefinitely protracted. Parliament was not prorogued, but adjourned; and after the first adjournment—from April 16 to May 21—the four peers first jointly and then separately petitioned the King for release, but without success. Another adjournment followed from May till July, and, on its being publicly announced that the adjournment would be prolonged into the winter, Shaftesbury resolved to seek liberation as a matter of right instead of an act of grace, and moved, on June 23, for a writ of *habeas corpus* in the Court of King's Bench. This, as it proved, was another mistake. Counsel were heard on his behalf, and he then claimed, and was allowed, to address the Court in person. His short speech is still extant, and may be shortly described as an excellent sermon on a text of no relevance to the question. His argument to the effect that the Court of King's Bench had power to vindicate the law against illegal action on the part of the House of Lords, although that body constituted the supreme judicature of the King, was unanswerable. What it failed to deal with, however, was the question whether the Court of King's Bench could review the disciplinary jurisdiction of the House of Lords, considered as a branch of the Legislature, over members of

its own body. The Court held, as it has many times held since, that it had no such power, and Shaftesbury was sent back to his prison. His application exasperated the King, as assertions of right usually do exasperate arbitrary authority, and consequently, although Buckingham, Salisbury, and Wharton were shortly afterwards released by Royal order, Shaftesbury was not only detained in prison, but his confinement was made more strict than before. The sympathising friends and admirers who in the first days of his imprisonment were permitted to visit him in considerable numbers, were now forbidden access to him except on conditions calculated to reduce the crowd to strictly manageable proportions. No person was allowed admittance to the prisoner without a special order from the King, and the King referred all applicants to the Duke of York.[1] Meanwhile the year wore away; the adjournment till July was succeeded by an adjournment till December, and that again by one till January; and by the next month Shaftesbury was completely tamed. He addressed letters to the King and to the Duke of York which, according to his complaisant secretary, 'give a true idea of the greatness of his spirit,' but in which a more impartial critic will rather find evidence that the greatest spirits are not proof against certain forms of trial and suffering.[2] 'Sir,—The Almighty God, the

[1] So at least Martyn affirms, but this strictness must have been very soon relaxed, for Stringer reports, in August, that there was then no difficulty in getting an order to see him from the Secretary of State.

[2] Martyn can hardly make much in this connection of Shaftesbury's 'infirm constitution' weakened by the accident at Breda, for Stringer, the biographer's authority, reports in October 1677 that, but

King of kings, permitted Job to dispute with him, and to order his cause before him; give me leave therefore, great Sir, to lay my case before your Majesty, and to plead not only my innocence, but my merits towards your Majesty: for "my integrity will I hold fast, and will not let it go; my heart shall not reproach me as long as I live." ' Such is the exordium of his letter to Charles, of which, unfortunately, only a fragment has been preserved; to the Duke of York he wrote more briefly and with more dignity, but suggesting to him that 'no reputation was more the interest of great princes than to be thought merciful and relievers of the distressed.' On February 20, 1678, a petition was presented from him to the House of Lords by Lord Halifax. Hereupon the Lord Chancellor informed the House that the King had received a third petition from Lord Shaftesbury more submissive than the two preceding ones; but, understanding that he had endeavoured to free himself from their censure by appealing to the King's Bench during the late adjournment, Charles did not think fit to signify his pleasure until the House had taken that matter into consideration. The object of the Royal hint was plain enough. The prisoner was to do penance not only for his original offence, but also for his attempt to evade penance. He was to apologise not only for the act which got him into prison, but for the act of endeavouring to escape. The House took the hint, if, indeed, their highly sensitive dignity needed to be so quickened. The peers resolved not to address the King at present for Shaftesbury's

for a fit of gout, his master was 'better in his health, fresher in his complexion, and fatter in his body than ever I saw him in my life.'

release, and adjourned the debate on his case. Thereupon he presented another petition, admitting that he might have done wrong, 'in ignorance and under the pressure of grief,' in appealing to the King's Bench, and declaring his desire to cast himself at the Lords' feet to beg forgiveness for his offence. After debate, the House voted Shaftesbury's appeal to the King's Bench to have been a breach of privilege, but admitted him to be heard at the bar. Then, after having professed 'upon his honour, that he would have perished rather than have brought his *habeas corpus*, had he then apprehended that it had been a breach of the privileges of this honourable House,' he proceeded to make formal acknowledgment that his endeavouring to maintain that the Parliament was dissolved was 'an ill-advised action, for which he humbly begged pardon of the King and the House; and also to acknowledge that his bringing his *habeas corpus* was a high violation of their Lordships' privileges, and a great aggravation of his former offence, for which he also craved forgiveness.' On this he was released.

The spectacle, it must be admitted, was a sorry one. Even the obsequious author of 'Rawleigh Redivivus,' the catchpenny little panegyric published shortly after Shaftesbury's disgrace, must have been conscious that the spirit of his hero was more easily broken than that of the real Raleigh by the gloom and silence of a prison. There are some natures, however, to which not so much seclusion and solitude as mere inaction is intolerable, and it would be unjust to conclude that, because Shaftesbury showed nothing of Raleigh's heroic patience within the walls of the Tower, he would have

borne himself with less fortitude on the Hill outside. But to a soul of such eager restlessness as his, the thought of being paralysed for action, while his rivals and enemies were enjoying the delights and appropriating the prizes of the conflict, may well have been a torture insupportable.

CHAPTER VIII.

Position of Danby in 1678—The apparition of Dr. Oates—The murder of Sir Edmundbury Godfrey—The national panic—Meeting of Parliament—Action of the Opposition—Attitude of Shaftesbury towards the plot—His private views of it.

1678.

BEFORE entering upon what we now approach—the darkest passage, in one sense at any rate if not in more, of Shaftesbury's career—it is necessary to glance for a moment at the situation with which he was confronted on his return to the political stage. Danby, perhaps the most famous and successful of 'hedgers' who ever held power in England, appeared for the moment firmer in his seat than ever. To the King he had made himself indispensable, while at the same time contriving to ingratiate himself with one very powerful interest among the popular party. No other ministers before him had managed to combine the reality of corruption with the appearance of patriotism, or had found it possible to further Charles's French policy without at the same time rendering and being known to render aid to his Romanising schemes. This problem Danby successfully solved. He obtained bribes from Louis for his master, and took them for himself; but he

rather thwarted the French King's designs than assisted them, and was indeed known both in France and England to be no friend to them. In like manner, while perfectly willing to be the English ministerial instrument of the English Royal instrument of Louis's aggressions upon the liberties of European Protestantism, he succeeded in conciliating English Protestantism by negotiating the marriage of the Prince of Orange with the daughter of the Duke of York. When Shaftesbury quitted the Tower, in February 1678, the young couple had been three months married, and by the early autumn of the same year the conclusion of the much-discussed and long-delayed Peace of Nimeguen had deprived the Opposition of their most fruitful subject of attack on the Government. Parliament was prorogued on July 15 till October 21, and during two of these three months it really seemed as if a good patriot could do nothing for his party but sit down and whistle for a wind. Shaftesbury's fiercest enemy has asserted that this is exactly what he did. The charge is almost certainly unjust; but the wind came, and it proved to be the blindest and most furious of all the popular tempests that ever swept over England.

On September 26, 1678, a squat, misshapen man, bull-necked and bandy-legged, with villainous low forehead, avenged by so monstrous a length of chin that his wide-slit mouth bisected his purple face, appeared in the court of a London magistrate, Sir Edmundbury Godfrey, and proceeded to unfold on oath a story of so startling and terrible a nature, that he was summoned to appear the next day and recite it to the Privy Council. Next day accordingly Dr. Titus

Oates, for such was the strange deponent's style and title, appeared in due course before the Privy Council and repeated the statement he had made to the magistrate. This, in brief, was to the effect that a widespread plot had been concocted by the Jesuits for the establishment of the Roman Catholic faith in the three kingdoms at whatever cost of rebellion and bloodshed; that plots were on foot to assassinate the King, and even the Duke of York if he refused to join in the scheme for putting his brother Charles out of the way; that in particular a bribe of 15,000*l.* had been offered to Sir George Wakeman, the Queen's physician, to murder the King, and had been by him accepted; that the great fire of London in 1666 could be proved to have been the work of the Jesuits, as also could another fire which broke out in Wapping in 1676; that a plan was now under consideration for burning Westminster, Wapping, and all the ships in the river (a month or two later, when the public mind was better prepared for it, the Doctor would probably have included the river itself); and, to conclude the rigmarole, that a bull had been recently issued by the Pope appointing certain persons, whom Oates named, to all the bishoprics and ecclesiastical dignities in the Church of England in the event of the King being murdered and Popery re-established. Among the persons implicated in Oates's accusations was Coleman, late secretary to the Duchess of York, and the first step taken by the Privy Council was his arrest and the seizure of his papers. Among these were found certain copies of letters undoubtedly of a suspicious character, which had passed in 1675 and 1676 between the secretary and Père la Chaise, the

confessor of Louis XIV. The mere dates of the letters, however, ought in themselves to have suggested the reassuring reflection that a plot which had been two or three years hatching could not be immediately formidable; and had matters rested here there is little reason to suppose that the paroxysm of terror and fury which was about to seize upon the nation would have followed. But within a fortnight after Oates's deposition Sir Edmundbury Godfrey mysteriously disappeared, and his body, bearing marks upon it of a violent death, was discovered in a ditch near Primrose Hill. The author or authors of the deed were never traced, but in the then condition of the popular mind, excited and alarmed by Oates's pretended revelations, the belief that the unfortunate magistrate had been murdered by the Catholics was easy to establish and impossible to dislodge. The explanation that he had died by his own hand, and the suggestion, by the few who dared to make it, that he had been made away with by Oates and his accomplices to give colour to their hideous fables, were alike discredited.[1] A panic of fear and wrath laid hold upon the nation, and in the midst of it, on October 21, Parliament reassembled after the recess. Danby, like everyone else at the moment, was either

[1] Mr. Christie, after stating that Godfrey's having been murdered by the Catholics was 'at the time the prevailing belief,' goes so far as to add that 'it is still the most probable' one. I should have said that a belief in Oates's guilt was in every way the more probable of the two. The Catholics had nothing whatever to gain by the murder, Oates everything. That there were Catholics capable of committing the crime is only a matter of more or less probable conjecture. That Oates was capable of it or of any other atrocity is a matter of demonstrated fact.

carried away by the storm or bent before it, but far more probably the latter; for I do not believe that even at this period there existed among the high official class—that is to say, among persons who enjoyed or had enjoyed admission to the inner life of the Court—any real belief in the more alarming portions of Oates's story. The Lord Treasurer, however, was the last man to set his face against what was certainly a sound Protestant movement, and threatened to become a formidable one. But the Opposition had no mind to let the matter be taken out of their hands in this way. They seized the thread of the plot themselves, and the Government being unable, even if they were willing, to offer them any effective resistance, the Opposition were enabled to force on the whole series of violent and panic-stricken measures which followed. It is vain to argue, as Shaftesbury's apologist has done, that his responsibility for these events is no greater than that of any other peer who contributed by his votes and speeches to the same ends. Shaftesbury was the undoubted leader of the Opposition in the Lords, and its animating spirit indeed in both Houses ('a fairy fiend that haunted and deluded both,' as he is described in one of the anonymous pamphlets of the time); and the general, even though he be the general of an army of which he can only retain his command by leading his men on a mad enterprise, cannot claim to be judged in the same manner as the private soldier. 'Shaftesbury,' says Lord Campbell, 'took the matter out of Danby's hands and carried resolutions for a committee to inquire into the horrible conspiracy, for the removal of Popish recusants from London, for appointing the train bands

of London and Westminster to be in readiness. . . . He was chairman of the committee of the House of Lords for prosecuting the inquiry; superseding the Government, who wished to conduct it, he took the whole management into his own hands. He was always at his post, receiving informations, granting warrants for searches and arrests, examining and committing prisoners, and issuing instructions to officers, informers, and gaolers.' This no doubt is overcoloured, but it surely must be nearer the truth than the account of those biographers who make Shaftesbury suddenly retire into the background at the precise moment when a political leader, even if he felt no personal inclination to lead, would have had to do so or submit to be thrust aside by others.

Immediately on the meeting of Parliament, on October 21, the Commons appointed a committee to consider of ways and means for the preservation of His Majesty's person, and another to inquire into Sir Edmundbury Godfrey's murder, and into the plot and conspiracy against the King's person and Government; and a committee for the two latter objects was appointed also by the House of Lords. Both Houses concurred in an address for a day of fasting and humiliation, to pray God to protect the King and all his loyal subjects, and to bring to light all secret machinations against the King and the kingdom. On October 26, an address was presented by both Houses for the removal of Popish recusants from within ten miles of the City of London; and a still stronger step, the consequences of which survived into the present century, was shortly afterwards taken, in the introduction of a Bill to exclude

Roman Catholics from sitting in either House of Parliament. On the strength of the statements made by Oates at the bar of the House of Commons, five Roman Catholic peers—Lord Powis, Lord Stafford, Lord Petre, Lord Arundel, and Lord Bellasis—were committed to the Tower. And on November 21, after examinations of Coleman in Newgate by committees of the two Houses, both Lords and Commons adopted a resolution to the effect that 'there hath been, and still is, a damnable and hellish plot, contrived and carried on by the Popish recusants, for the assassinating and murdering the King, and for subverting the Government, and rooting out and destroying the Protestant religion.' In all these measures Shaftesbury was, on the showing even of his apologists, an active participator; the expression 'prime mover' would no doubt be misleading, for in fact no communication of impetus was required. It is enough that he did all that a party leader could do to keep the agitation going, and did nothing that such a leader might have done to moderate it. He acted as chairman of the committee of inquiry into Godfrey's murder, he served on the committee which took the examination of Coleman, he was a member of that which drew up the address for the removal of Papists from London and Westminster. An anonymous pamphleteer accuses him of having used certain threats to the witness Prance, in the course of the first of these investigations; and though the charge is improbable, and no doubt groundless, the fact that Shaftesbury was singled out for its object at least attests the prominence of the part which he had taken in the inquiry. And to complete the evidences

of his activity, he was one of only three peers who, when Oates had the audacity to denounce the Queen from the bar of the House of Commons as privy to the plot against her husband's life, and the Commons had thereupon sent up to the Lords an address praying for the removal of Catherine and her retinue from Whitehall, protested against the refusal of the Upper House to concur in its monstrous prayer.

His uncompromising sponsorship of the Popish Plot appears to me then to be too clear for doubt. To what, if any, extent was he a believer in it? And, first, which, if any, of the statements made by Oates respecting it deserved, or now deserves, the belief of anyone?[1]

Let us take first the well-known criticism passed upon it by Dryden in 'Absalom and Achitophel':—

From hence began that plot, the nation's curse,
Bad in itself but represented worse,
Raised in extremes and in extremes decried,
With oaths affirmed, with dying vows denied;
Not weighed or winnowed by the multitude,
But swallowed in the mass, unchewed and crude.
Some truth there was, but dashed and brewed with lies,
To please the fools and puzzle all the wise.
Succeeding times did equal folly call—
Believing nothing and believing all.

[1] Hume says: 'There are three events in our history which may be regarded as touchstones of party men. An English Whig who asserts the reality of *the* Popish Plot, an Irish Catholic who denies the massacre of 1641, and a Scotch Jacobite who maintains the innocence of Queen Mary, must be considered as men beyond the reach of argument or reason, and must be left to their prejudices.' By *the* Popish Plot, Hume meant, I suppose, 'Oates's entire story;' and, if so, no one probably will dispute the first of his three criteria.

So wrote Dryden; but, considering the date at which, and the circumstances under which, he was then writing, it is almost impossible to say whether the passage expresses his sincere judgment or not. Composed as it was in 1781, the 'dashed and brewed with lies' came doubtless from his heart; but it may fairly be questioned if he could have thought at that time that 'believing nothing' was really folly equal to 'believing all.' It was prudent to make the concession to those sturdy Protestants who still, in 1781, maintained that there was 'something in it'; but Dryden probably meant nothing more. 'Some truth there was,' could not, in fact, have been true to Dryden's knowledge, though it certainly was to Shaftesbury's, and it is just because he was in a position to know exactly what the proportion and value of this ingredient of truth was, that it is so difficult to credit him with the exculpating amount of honest delusion as to the more alarming part of Oates's story. That story resolves itself virtually into two propositions: first, that there was a plot on foot to establish the Roman Catholic religion, by force if necessary, in the three kingdoms; and, second, that there was a conspiracy hatching for the assassination of the King. Now to Shaftesbury the former of these propositions must have presented itself as true but not new; the latter, as new, but so utterly inconsistent with certain facts involved in the former that it could not possibly be true. That there *was* a conspiracy to set up the Roman Catholic religion in England we all know in these days, and Shaftesbury knew it then; but he knew also, as we now know, that the King himself was the chief conspirator. He knew, and had known

for full five years, that Charles was a party to a treaty by which he had bound himself to Louis XIV. to attempt the forcible establishment of Catholicism in England; and he had, probably, a shrewd suspicion that Oates's charges were, so far as this went, merely founded on a belated discovery of the secret provisions of Dover. When, then, the informer asked the world to believe in an assassination plot *as part and parcel* of the conspiracy against Protestantism, Shaftesbury must have known that he was lying. How, then, could he have possibly shared, as he pretended to share, the other terrors which the Popish Plot had spread so widely among the 'soberest and most peaceable part of the people,' whom he describes in a letter addressed to an unknown correspondent in the spring of the following year—a copy of which was found by Mr. Christie among the papers at St. Giles's—as having 'hardly slept this winter for fear of fire and massacreing by the Papists'? His own further criticisms on the plot, in this very paper, afford a sufficient answer to the question. He says of the King's 'discoveries and managing,' as regards the plot and the murder of Godfrey, that they are 'new and extraordinary. No man can judge by them but that he is in the plot against his own life.' (Exactly; but was it characteristic of the writer not to have drawn the obvious inference from this as to the plot itself?) 'And no man doubts' (least of all the writer, who knew it for a fact) 'but he is so far in as concerns all of us. The discovery of the plot goes on, and the guilty of both that and the murder are brought to execution, and yet the King and his ministers are by no man thanked for either, the weight of the law

and the universal mind of the nation carrying through.' Then, after referring to the failure of the designs of ministers against popular liberties in the last Parliament, he continues as follows:—

But their game is now lost, and not to be recovered; and if you ask me how they came to make the great mistake, my answer is they are the very same men that the discovery of the plot tells you designed to write after the copy of the French massacre, and forgot that the Papists of France were forty to one, at that time, to the Protestants, and the Protestants in London and England were forty to one, at this time, to the Papists; and if their Don Quixote adventure failed, they resolved to put themselves and their towns into the French hands, being sure to have them restored when the people were subdued, and in this they could not possibly be deceived since the faith of great and most powerful Princes never fails.

The irony of the last sentence overshoots its mark and stamps the whole with insincerity. Is it credible that Shaftesbury should have seriously imputed to a minister, and to a minister like Danby, such gross ineptitude as this; that he should have supposed him forgetful of the fact that Protestants outnumbered Papists in England, or should have imagined him willing to place English towns in the hands of Louis XIV. on the faith of his restoring them? It is not credible. Shaftesbury well knew that the notion of an English 'St. Bartholomew' was preposterous, and must have been so recognised by the Government; and therefore that the terrors of the 'soberest and most peaceable of the people,' to which, however, he refers without a word of disrespect, were mere blind panic. He knew

that the plot to establish Catholicism in England was a five years' old project of the King himself, and therefore that the alleged conspiracy to assassinate the King in pursuance of that plot must have been the clumsy fabrication of an ill-informed informer; yet, knowing these things, he did not shrink in his eagerness to embarrass his opponents from making himself the mouthpiece of a deluded people and the instrument of their unjust wrath. It is not necessary to accuse him with Dryden of contributing any materials of his own to that edifice of murderous fraud. Let it be enough that—

> The wished occasion of the plot he takes,

and let us pause half-way in the completing line of the couplet,

> Some circumstances finds, but more he makes.

Shrewd Bishop Burnet said well (in answer to the King's own suspicions that Shaftesbury had set on Oates and instructed him) 'that the many gross things in the narrative showed there was no other hand than Oates's or Tongue's in the framing it; and Oates in his first story had covered the Duke and the ministers so much that from thence it seemed clear that Lord Shaftesbury had no hand in it, who hated them much more than he did Popery.' He was not base enough to have 'set on' Oates; it was not the sort of story he would have suggested to him; and Oates himself needed no setting on. What Shaftesbury did was to take the story as Oates told it, and without believing it—nay, while well aware that its darkest accusations were and must be false—to turn it to his political purposes.

Such, at least, is the conclusion to which all the

evidence seems to me with painful certainty to point. If it be said that the open-eyed adoption of a line of conduct, such as is here ascribed to him, would imply a downright villany not to be looked for in a merely unscrupulous political partisan, and a cruelty inconsistent with the easy *bonhomie* of his private character, my answer is that the open-eyed adoption of a questionable line of conduct is exactly what has *not* been ascribed to him 'as a political partisan,' and what never need, in my opinion, be ascribed to any political partisan whatever. Statesmen, down even to our own day, contrive to assume the truth of fictions as monstrous if not so bloody as those of Oates, and to act upon them as though they were realities. In the closet, in the abode of sober judgment, they are far too intelligent to believe these fictions; and being statesmen of the nineteenth century, and therefore (it is needless to say) conscientious, they would be incapable either in the closet or in the world of action of sinning knowingly against the light. The inference is that it is only in the closet that clear-eyed judgment is possible to the political partisan, and that, to the great saving of his conscience, his moral vision becomes obscured at the moment of his emergence into the glare of the battle-field of politics. All that has been said above of Shaftesbury's beliefs and disbeliefs on the subject of the Popish Plot is to be understood of them as entertained by him in the privacy of his closet. Any inconsistency between his private conviction and his public conduct is obviously patient of the interpretation above suggested; and the fact that he was a statesman of a less virtuous age than ours must be regarded as giving him an additional claim to its benefit.

CHAPTER IX.

The idea of Exclusion—Action of Parliament—Duke of York retires from Privy Council—The charge against Danby—Dissolution of the Parliament—The new Parliament—Danby disgraced and imprisoned—Shaftesbury appointed President of the Council—The *Habeas Corpus* Act—The Exclusion Bill introduced—Charles's second Parliament prorogued—And dissolved—Third Parliament unfavourable to Crown—It is prorogued—Dangerfield's pretended plot.

1678–1679.

THE political, like the theological, myth in almost all cases strikes its roots downward into the soil of fact. That hideous crop of perjuries, which sprang up like some obscene fungoid growth almost as it were in a single night, would never have attained its rank luxuriance, or at any rate would have far more swiftly rotted, had this sustaining element been wanting. Beneath the fiction of the false Popish Plot there lay, as has been said, the reality of an actual though dormant conspiracy against English Protestantism; and though Shaftesbury's knowledge of this fact undoubtedly fails to justify his attitude towards Oates and Oates's delations, it must be held, I think, to supply ample warrant for his earlier action in respect of the succession to the throne. To what extent his zeal for liberty and Protestantism may have been whetted by animosity against the heir-presumptive

it is difficult to determine. There could hardly have been much love lost between him and the Duke of York, and in the course taken by subsequent events the two men of necessity became open enemies. But there seems to be no evidence of any overt hostility towards the Duke on Shaftesbury's part before this period—at least, if we dismiss as summarily as it should be dismissed an absurd story of a 'scene' between the then Chancellor and the future King at the opening ceremony of the session of 1673. As late as 1675 Shaftesbury showed himself quite willing to act with the Catholics and their leader in the Lords in an endeavour to obtain a dissolution of Parliament; and even if, as has been suggested, he had reason to suspect the Duke of having had a hand in prolonging his imprisonment in the Tower, Shaftesbury, to do him justice, was not the man to cherish any implacable grudge against a political adversary on such a score as that. Martyn's flourish about 'the bold and alarming conduct of the Papists,' being founded on their 'having the successor to the Crown of their own persuasion,' is, perhaps, after all but a rhetorical way of putting the undoubted truth that the creed and character of that successor created a prospect 'extremely threatening to the Protestant religion.' Seeing, too, how fully its menace was realised by our subsequent history, it is only fair to give Shaftesbury credit for a mainly public motive in commencing his attempt to alter the succession.

According to Martyn the design of an Exclusion Bill was conceived by him and his political associates at a very early stage of the autumn session of 1678. It is as 'an evident preparative to this Bill' that he describes

the motion introduced by Lord Russell on November 4 for an address, praying the King that 'the Duke of York may withdraw himself from his Majesty's person and councils'; and, indeed, it seems certain that the motion was so interpreted by Charles himself. The debate on it was adjourned till the 8th, and from the 8th to the 14th; but, after the first adjournment, James announced in his place in the House of Lords that he had retired from the Privy Council; and on the 9th the King went to the House of Lords, and there addressed both Houses in a speech concluding with the highly significant intimation that, though he would heartily concur in any reasonable Bills for safety in the reign of his successor, this was subject to the proviso that 'they tend not to impeach the right of succession nor the descent of the Crown in the true line,' and 'restrain not my power nor the just rights of any Protestant successor.' The Commons thanked the King in reply, and the address for the removal of the Duke of York from the King's person as well as his Council was not proceeded with. Not only so, but a proviso was introduced by the Lords into the Catholic Disability Bill, exempting the Duke of York from its operation: an amendment which, though keenly debated in the House of Commons, was ultimately agreed to by a majority of two. It is likely enough that, as Martyn says, the proceedings of the Commons and their vigorous prosecution of the plot, caused Charles to grow dissatisfied with his Parliament; or, as it would perhaps be more correct to say, it so intensified his long-standing dissatisfaction with them as to persuade him that no new Parliament could possibly give him more trouble.

Doubtless it was about this time that the King began to think seriously of dissolving; but an event was on the point of happening which enlisted a very powerful influence on the side of dissolution. The long deferred rights of the constituencies were to obtain their recognition through one of those fortunate fallings-out by which honest men are said to come by their own.

On November 11 Ralph Montagu, late his Majesty's ambassador in Paris, took his seat in the House of Commons as member for Northampton. This event had a special interest for his late superior, the Earl of Danby—so strong an interest, indeed, that, on December 15, he procured the issue of an order from the Privy Council for the seizure of Montagu's papers on a charge against him of having held private conferences with the Papal Nuncio at Paris without directions or instructions: an order which was duly carried out, with the result of placing the Council in possession of nearly all the documents which the late ambassador had brought home with him from France. Nearly, but not quite all; for, the day after their seizure, Montagu was in a position to inform the House of Commons that there still remained in his custody several papers which he conceived might tend much to the safety of his Majesty's person and the preservation of his kingdom. A committee was thereupon appointed to go under Montagu's direction in search of these papers, and in due time returned with a box, from which Montagu selected two letters from Danby to himself, the latter of which contained the following passage:—

In case the condition of the peace shall be accepted, the King expects to have six millions of livres yearly for three

years from the time that this agreement shall be signed between his Majesty and the King of France; because it will be two or three years before he can hope to find his Parliament in humour to give him supplies, after the having made any peace with France; and the Ambassador here has agreed to that sum, but not for so long a time. If you find the peace will not be accepted, you are not to mention the money at all; and all possible care must be taken to have this whole negotiation as private as possible, for fear of giving offence at home, where, for the most part, we hear in ten days after of anything that is communicated to the French ministers. I must again repeat it to you that, whatever you write upon the subject to the Secretary (to whom you must not mention a syllable of the money), you must say only as a thing you believe they will consent to if you had power, formally, to make these demands.

From which it will be perceived that in the match between the Lord Treasurer and the ex-Ambassador the latter scored the first game. For this, of course, was a paper in which Danby was much more interested than in any record of Montagu's confabulations, actual or alleged, with the Papal Nuncio; and Montagu was so well aware of this that he had taken measures to secrete the paper before the officers of the Privy Council paid their visit to his house. Its disclosure to the House of Commons was his revenge for the Lord Treasurer's having, as he conceived, obstructed his advancement to the coveted post of Secretary of State; and there was a certain dramatic fitness in his assuming the office of exposing the corrupt negotiations of his chief, because, a month or so earlier, he had himself offered the French Ambassador to procure Danby's dismissal from office on condition of being himself properly remunerated by

Louis for his trouble, and receiving a further sum of a hundred thousand francs, to be spent in convincing members of Parliament that the removal of the minister was demanded by the interests of the country. The offer was not accepted, and Montagu then resolved, like a man of spirit and independence, to take vengeance upon his enemy without fee or reward. That he involved his Sovereign in the same exposure as his chief was doubtless an additional satisfaction to so disinterested a patriot. Danby's letter was endorsed by the King with the words, 'This is written by my order —C. R.'; so that the scandal was about as complete as it could be made. Articles of impeachment against the minister were at once sent up to the House of Lords, and the Commons demanded Danby's immediate commitment. Montagu's quarry, however, was too nimble and too resourceful to be easily run down; and, in the debate which ensued, he defended himself with so much skill that, on December 27, the Lords decided not to commit him. They resolved at the same time that a copy of the articles of impeachment should be sent to him, and that he should be required to put in his answer on or before January 3. Three days afterwards, however, the Parliament was prorogued until February 3, and, before that day arrived, the ingenious Danby had concluded an arrangement with the popular leaders, whereby, in consideration of their support, or, at any rate, neutrality, on the question of impeachment, he agreed to persuade the King to dissolve. Charles, who had applied in vain to Louis for a further subsidy, was induced without much difficulty to take a step which his own, no less than his minister's, necessities had

indeed rendered imperative. Accordingly, on January 24, the Parliament was dissolved, and his minister's impeachment, by the operation of constitutional procedure, fell to the ground. From which it may be perceived that, in the match between the Lord Treasurer and the ex-ambassador, the second game had been scored by the former.

Danby was saved for the present; but the King himself took nothing by the step which saved him. In most games a forced move is usually a bad one, and so it proved in this instance. In place of a Parliament which, from being one of the most subservient, had become the most intractable, but had been and remained in either phase the most corrupt in our annals, he obtained one of which he could make nothing from the first. The popular party returned from the constituencies with a majority, and it soon became evident that Shaftesbury was once more to be the ruling spirit in its proceedings. Immediately on the meeting of the Parliament a quarrel over the choice of a Speaker broke out between the Court and the Commons, and was only at last compromised by the withdrawal of both the Royal and the Parliamentary candidate, and the election of a third person to the chair. The Commons then returned forthwith to the impeachment of Danby and the prosecution of the Popish Plot. Both Houses concurred in a resolution declaring themselves 'fully satisfied by the proofs they have heard that there now is, and for divers years past has been, a horrid and treasonable plot and conspiracy contrived and carried on by those of the Popish religion for the murdering his Majesty's sacred person, and for

destroying the Protestant religion and the ancient and well-established government of the kingdom.' On the matter of the impeachment the Lords endeavoured to satisfy the Commons by introducing a Bill disqualifying Danby from future office and employment, but in vain. The Commons still pressed for further punishment, and upon this the King granted him a pardon under the Great Seal. Lord Nottingham, the keeper of that symbol of authority, had declined to affix it himself; but was not so tenacious of his official scruples as to object to standing by while the Seal was at the King's command applied to the pardon by the person who 'usually carried the purse,' the Chancellor declaring afterwards that for the moment 'he did not look upon himself to have the custody of the Seal.' The Commons protested indignantly against this subterfuge, and Danby, after taking temporary refuge in flight, surrendered in obedience to an order of the Commons, and was by them committed to the Tower, where he remained for five years. Evidently there was no money to be got from a House so minded, and Charles was compelled to make overtures of conciliation. At the suggestion of Sir William Temple, he nominated a new Privy Council of some thirty members, and, much to the discontent of the author of the ambitious but abortive scheme, appointed Shaftesbury to be president of the new consultative body.

Once more, then, the patriot has become the official; but this time under very different auspices, and with the determination to use his powers in a wholly different way. If Charles had imagined, as he probably did imagine, that office would stop the party leader's

mouth, he had yet to learn the difference between a minister of the old type and a minister of the new. Shaftesbury owed his advancement, not to the favour of the monarch, but to his fears; not to a proved capacity for organising Parliamentary corruption, but to recognised fitness for the representation of Parliamentary independence. His first opportunity for proving to the King that his country, or at any rate his party, was to take precedence of the Court in his policy was not long in presenting itself. On the very day on which the formation of the new Privy Council was announced by the King to Parliament a question arose in the House of Lords of requiring Protestant Nonconformists to take the oaths which were imposed upon Roman Catholics. The Bishops strenuously supported this proposal, Shaftesbury as strenuously resisted it. The point was carried against him; but he succeeded in reassuring his friends of his staunchness by declaring, reports the French Ambassador, in a loud voice, that, 'if he had thought he could not succeed in a matter of such consequence, he would not have taken office, and that he desired his post in the Council only that he might serve his country and take care of the safety and interests of the whole nation.' He was soon, however, to give clearer proof of his continuing claim to represent the party of popular liberty by introducing and passing the legislative enactment which has ever been held, and with good reason, to constitute the greatest work of his political life, and his purest, if not his only pure, title to posthumous renown.

It ought not, however, to be as necessary, as undoubtedly it is, to point out that the vulgar estimate of

his services in procuring the enactment of this famous measure owes a certain amount of its exaggeration to that frequent source of error in all vulgar judgments—ignorance. There are probably but too many Englishmen of mature years among us whoare victims to the delusion that the writ of Habeas Corpus is the creation of statute, and that the author of the statute under which its powers are now exercised was its inventor. The Palladium of English liberties was really of course bestowed upon the country by the Minerva of English common law; and even had it not been so, it would derive sanction from a far earlier statute than that of Charles II.—namely, from a certain famous Act of Henry III., more commonly known by the name under which its provisions received the sanction of Henry's predecessor as Magna Charta. The Great Charter, however, was in this matter only declaratory of the common law, and for many hundred years before Shaftesbury presided over Temple's experimental Privy Council the English citizen was, in legal theory at any rate, secure against all risk of arbitrary arrest and imprisonment. What Shaftesbury did in passing the Habeas Corpus Act was not to bestow any new immunity upon the subject, but to 'cut off,' in Hallam's words, 'the abuses by which the Government's lust of power and the servile subtlety of Crown lawyers had impaired so fundamental a privilege.' By his Act, long known as Shaftesbury's Act—a name which it might have been well perhaps for his chequered fame if it had always retained—it was provided that, when anyone is committed for any crime except treason or felony, he may complain to the Lord Chancellor or any

of the judges, who, on sight of a copy of the warrant or on affidavit that a copy is denied, shall grant a *habeas corpus*, directed to the officer who has the prisoner in custody, commanding him to bring up the body of such prisoner within a time not exceeding twenty days. A gaoler refusing a copy of the warrant or not obeying the writ is made liable to a penalty of 100*l.*; and a judge denying a *habeas corpus* according to the Act is made liable to a penalty of 500*l.*, to be sued for by the person injured. Further, it was provided that any person committed for treason or felony plainly expressed in the warrant may, unless indicted in the next town or at the next session of general gaol delivery after commitment, be, on application to the Court, released on bail, unless it shall appear that the witnesses for the Crown could not then be produced; and if he should not be indicted and tried on the second term or second session of general gaol delivery, that then he shall be discharged. Severe penalties were also attached to the sending of any prisoner to Scotland, Ireland, Jersey, Guernsey, or any place beyond the seas which belongs to the English Crown.

Such were the main provisions of this famous enactment; and their value is certainly ample enough to enable its author to dispense with that unearned increment of reputation for which he is indebted to popular ignorance alone; for the abuses which it reformed were sufficiently numerous and sufficiently grave. Before the Act commitments in the name of the King in Council escaped the jurisdiction of the courts of common law. Prisoners were committed to distant gaols or had their names omitted from the calendar of gaol

delivery: judges sometimes refused to issue the writ to persons suing for it, and when issued gaolers often disobeyed it. These defeats and evasions of an already existing law became thenceforward impossible, and to have ensured their impossibility was undoubtedly a great and beneficent work. One can only regret that the Act was carried, as other Acts, by a majority voting them through their several stages in the regular way, and that the story of Lord Grey's having converted a minority into a majority by counting one 'very fat lord' as ten (a feat of humorous arithmetic which his brother teller, Lord Norreys, being a man 'subject to vapours and not at all times attentive to what was going on,' omitted to notice), and of Shaftesbury having thereupon started up and talked for almost an hour 'upon the first thing that occurred to him, so that several lords having gone out and come in while he was speaking, it was impracticable to retell the House,' must be dismissed as one of those tales which make up in merit of invention for what they lack in the quality of truth.

If, however, the Habeas Corpus Act was not quite so fortunate as to be passed in this irregular fashion, it had some luck in being passed at all in the short session of 1679. For, upon the failure of the King to propitiate the popular party by inviting its leader into office, he was left with no other resource than to get rid temporarily or definitively of his new Parliament. An attack on the succession determined it. The House of Commons had passed several resolutions aimed more or less directly at the Duke of York and the Papists, whose 'conspiracies and designs against the King and the Protestant religion' derived the greatest

countenance and encouragement from his hopes of coming to the Crown; and, on April 30, Charles addressed the Houses, and informed them that his Lord Chancellor would communicate to them various expedients for limiting and restraining a Popish successor without disputing the Duke of York's right of succession. The Commons, however, after much and warm debate on the King's and Chancellor's proposal, resolved in favour of a Bill 'to disable the Duke of York to inherit the Imperial Crown of England.' On May 21 the second reading of the Bill was carried by a majority of seventy-nine. An inquiry was also set on foot into the payments for secret service money under the late Parliament, when inquiry and Exclusion Bill, besides all proceedings against the five peers who had been thrown into the Tower, were all cut short by a sudden prorogation of Parliament on May 26. It has been disputed whether this prorogation and the dissolution which shortly followed it were steps taken by the King without consultation with the new Privy Council, by whose advice he had but a few weeks before promised to be guided; but the dispute appears rather to turn upon a question of words. There was no real consultation of the Privy Council as a body; but Charles had no doubt taken certain of its members into his confidence. He is said to have secured the assent of Sunderland, Essex, and Halifax by persuading them that a dissolution was to their interest, as the Commons were preparing a remonstrance against both himself and his ministers; but Shaftesbury, against whom, indeed, the blow was principally aimed, was of course excluded from his counsels, and was moved, on learning the Royal resolve, to exclaim, with a vehemence

quite foreign to his usual habits of self-command, that 'he would have the head of the man who had given such advice.' Could he have foreseen its consequences he ought rather to have crowned than decapitated the counsellors of the measure. For the new Parliament was destined to be even more hostile to prerogative and more friendly to popular rights than the last. Sunderland and Temple were wrong in supposing that the King could not get a more dangerous House of Commons than that short-lived assembly, which succeeded a predecessor of eighteen years' duration; and their misplaced confidence in this respect affords proof that the force of the reaction against absolutism and corruption had not been fully realised even by acute and experienced politicians. It was by Sunderland and Temple, more particularly the latter, that the dissolution was most strongly advised; but Essex and Halifax, the other members of that interior council, which, as though in mockery of Temple's scheme, had begun to develop itself within the larger body on the morrow of its formation, were also consulted and also counselled it. It was arranged among them, Temple says, that information of the intention to dissolve should be given to all the members of the Privy Council on whose support the King might reckon before the meeting of Council, at which dissolution was to be proposed. Opposition from Shaftesbury and his friends was expected; but they had no doubt of obtaining the concurrence of a large majority. Upon the meeting of the Council, however, it appeared that this important preliminary arrangement had been omitted. No Privy Councillor had been informed, and there was, consequently, a strong opposition to

dissolution, the Lord Chancellor and the Lord Privy Seal being no less urgent than Shaftesbury in their objections. The King, however, overruled the decision of the majority, and ordered the Lord Chancellor to draw up a proclamation for a dissolution of the Parliament, and for summoning another in October. 'The Council,' adds Temple complacently, 'broke up with the greatest rage in the world of Lord Shaftesbury, Lord Russell, and two or three more, and the general dissatisfaction of the whole board.' There is a certain, even a strong, dash of the ridiculous in this review of the history of the new Council by the man claiming to be considered as its author, and who thus relates his unsuccessful attempt to 'surprise and silence,' in the interests of the sovereign, that very assembly of councillors which he had professedly set up as a check upon the prerogative of the Crown.

His advice, however, was not only inconsistent with his constitution-mongering, but bad, as has been said, in itself. The elections turned out as favourably for the popular party as they could desire, and before the day fixed for the return of the writs the King was aware that he would be confronted with a Parliament more intractable than the last. Once more, then, he reverted to that policy which had so long enabled him to dispense with the assistance of a legislative body, and renewed his efforts to obtain a subsidy from the French King. Some time before the arrival of the day fixed for the meeting of Parliament, he saw, or imagined he saw, his way to the conclusion of an arrangement with Louis which would provide him with a million of francs a year for three years; and early in October he pro-

rogued Parliament till the following January, and at the same time dismissed Shaftesbury from his office of President of the Council, and directed his name to be struck out of the list of Privy Councillors. The short-lived experiment of conciliation had failed, and hence-forward it was to be open war between the King and the popular leader. Monmouth, the most favoured of Charles's natural sons, but whose legitimacy it had suited Shaftesbury of late to assert, in order to put him forward as a Protestant rival to the Duke of York in the succession to the Crown, had been ordered shortly before this to resign his office of Lord-General of the forces and to retire to Brussels; and at the end of 1679 everything betokened Charles's intention to defy the powerful subject whom he had lately been attempting to win over. Shaftesbury's popularity, however, was at this moment higher than ever, having but recently indeed received a stimulus of a new description. The sinister crew of informers whom the success of Oates had gathered together had been recruited by a scoun-drel of the name of Dangerfield, who, towards the close of the month of October, gave information of what he alleged to be a 'sham plot,' invented by the Papists—a conspiracy, namely, to accuse certain peers of the popular party of a design upon the life of the King. They—that is to say, the Roman Catholics—purposed also, accord-ing to this informer, to assassinate Shaftesbury, and even, such was their wickedness, to charge Dr. Oates with perjury. This curious combination of two exe-crable offences with one invaluable public service was affirmed, not only on the oath of Dangerfield himself, who declared that he made several attempts at Shaftesbury's

assassination, a crime for which he was, according to his own statement, to receive 500*l.* reward, but also on that of a certain Madame Cellier, a Roman Catholic midwife of disreputable antecedents, who stated that, on Dangerfield's failure, she undertook and was very nearly accomplishing the murderous work herself. Dangerfield's account of his own proceedings was childish to the last degree. He went two or three times, he said, to Shaftesbury's residence, Thanet House, in Aldersgate Street, the first time pretending private business with him; but, 'as he was very incoherent in his relation of it, Lord Shaftesbury kept such an attentive eye upon him that he was deterred from his purpose; especially when he saw one of his lordship's gentlemen coming into the room.' He was equally unsuccessful in a second attempt, and upon this Madame Cellier, snatching the daggers from the infirm of purpose, set out herself upon the same desperate errand. But again the 'attentive eye' was too much for the would-be assassin. 'She was not ready enough in her tale to blind her sagacity,' which is singular, considering that this was the very point on which Dangerfield himself had failed, and Shaftesbury 'perceiving her to be fumbling in her pockets, gently laid his hand upon hers and pleasantly drolled with her concerning her pretended business till Mr. Wheelock, one of his gentlemen' (again these convenient gentlemen) 'came into the room, and putting out his hand found the dagger in her pocket; upon which Lord Shaftesbury dismissed her without any expression of resentment.' By way of further illustrating the sound judgment with which the Roman Catholics must have chosen their agent, Dangerfield went to the

lodgings of a Colonel Mansel and found means to 'pin some dangerous papers' to a spot notoriously favoured by political conspirators for the concealment of the evidences of their guilt—namely, 'behind the bed's head.' This done, he informed two officers of the Custom-house that there were in those lodgings prohibited goods to the value of two thousand pounds. The officers, repairing thither on October 22, searched everywhere in hopes of finding their prey; but, as they did not think to search behind the bed, Dangerfield, not fearing, seemingly, to recall the proverb that 'He who hides can find,' found them himself. Four or five days after, the Colonel, meeting Dangerfield in the street, carried him directly to Whitehall, and brought him before the King in council. He was strictly examined, and after a full hearing, his contrivance being detected, he was sent to Newgate. Two days after, on October 29, he made a confession upon oath before the Lord Mayor of the whole scheme, and discovered the persons by whom he had been employed, one of whom he alleged was the wife of a Catholic peer, Lady Powis. By such fatuous manœuvres was it possible in that hour of popular madness to fix suspicion of guilt on innocent and honourable persons. Nor, as may be naturally supposed, was it likely that native industry in this art would be safe from foreign competition. On October 28, Francisco Faria, an interpreter and translator, attached to the Portuguese embassy, deposed before a Committee of the House of Lords that the Ambassador had said to him, 'Lord Shaftesbury goes often into the country, and I know you are excellent at hand-granadoes; you shall throw one of them into Shaftesbury's coach, which

will destroy all that are in the coach upon the breaking; and you and the company shall have fire-arms to kill, if the other do not full execution.' That Shaftesbury himself believed in these attempts at his assassination is just possible, though scarcely, I think, probable; but that they merit credence from any intelligent person of our own day[1] presents itself to me, at any rate, as a proposition too desperate for argument. That a villain like Dangerfield and a worthless jade like Cellier were capable of the attempts at crime which they imputed to themselves is certain; but the assumption that they were murderers in *posse* ought surely not to be preferred to that of their being perjurers in *esse*, if such preference would impute guilt to one single other person of decent antecedents, to say nothing of men and women of high position in political or social life.

[1] It is melancholy to find a writer of Mr. Christie's ability declaring seriously that the Portuguese Jew's cock-and-bull story contains nothing 'impossible or even improbable.' It is manifest that the Lords did not even in that day of credulity believe it, or they would surely have taken some steps to procure the recall of this Ambassador extraordinary, 'and a man who can stomach in these days what could not be swallowed in 1679 must indeed have a robust intellectual digestion.'

CHAPTER X.

Sunderland's Overtures to Shaftesbury—Rejected—Repeated prorogations—Shaftesbury 'presents' the Duke of York as a Popish recusant—Meeting of Parliament—Exclusion Bill passes Commons—Halifax's speech against it in the Lords—Its rejection—Shaftesbury's proposal of a Royal Divorce—The debate—His remarkable speech against the Duke of York—Simpson Tongue's experiment and its failure—Third Parliament prorogued and dissolved.

1679–1681.

If anything could have shaken Charles's determination to revert to a policy of resistance it should have been the fact that, after the first prorogation of his third Parliament, the ablest and clearest-sighted of his councillors began to fall off from him. Essex and Temple, who had joined with Sunderland in advising the dissolution, and that on the ground that the new Parliament was sure to prove more manageable than the old one, were bound in consistency to oppose the prorogation, and did so. Essex, indeed, resigned his post of First Commissioner of the Treasury, and Halifax, to whom it was offered, declined to succeed him. Sunderland, a minister never at any time of his life to be trusted either by his King or his colleagues, remained a leading adviser of the Crown; but even he was sensible of the danger to be feared from such an enemy as

Shaftesbury, and he formed one, and probably the chief, of a cabal which Barillon reports some months later as still endeavouring to induce the King to make terms with his recently dismissed servant. It is said in Henry Sidney's diary (the information of which, however, appears to be too often exclusively taken from Shaftesbury's own statements to the diarist) that Sunderland endeavoured to persuade him to come back to office as First Commissioner of the Treasury, but that he made it a condition of his acceptance that the King should be advised not only to part with the Duke of York, but to divorce the Queen in order to re-marry with a Protestant princess.

As the year 1679 approached its close the suspicion that a further postponement of the meeting of Parliament was in contemplation gained strength. Shaftesbury spared no pains to encourage it. Petitions praying for the meeting of Parliament on the appointed day were got up; and one such petition, signed by ten peers, of whom Shaftesbury was one, was presented by its signatories in a body to the King in person. Nevertheless, on December 11 a proclamation appeared proroguing Parliament from January till November 1680, and on the following day another proclamation denouncing tumultuary and seditious petitioning as illegal. The petitions, however, continued to pour in, and as a natural consequence provoked counter addresses declaring confidence in the King and abhorrence of those who were endeavouring to coerce him. Petitioners and abhorrers divided the nation between them. The proclamation of prorogation, however, did not exactly take effect. On January 26, the day appointed for the meeting of

which was considered as a formal design to break all measures with the Duke.'

The Apollo of the situation who intervened to protect the future sovereign from this most formidable of all the attacks ever aimed at him was none other than the too famous Scroggs. The Grand Jury, apprised, it is supposed, of Shaftesbury's intention, had previously made a presentment to the judges on their own account, declaring their desire that Parliament should meet on the day to which it then stood prorogued. Chief Justice Scroggs requested them to attend not to affairs of state, but only to the business put before them, to which the jurors somewhat mutinously replied that they had time enough for both, whereupon Scroggs, after consultation with the other judges, discharged them. Probably he did not do so quite in the dramatic fashion described in Barillon's report, who makes him say, 'I discharge you on the instant from your function of jurors, and declare you not capable of presenting or judging (*instruire ni juger*) any matter'; but their dismissal, in whatever manner effected, was a sufficiently irregular proceeding. The same witness declares some days later, one knows not with what truth, that Shaftesbury, having learnt that the King spoke of him and his party as rebels and seditionists, said aloud, in the presence of many persons, 'The King has nothing to do but to take the trouble of punishing rebels and seditionists. We will keep within the bounds of law, and we shall easily find the means by the laws of making him walk out of the kingdom.' There were those among the Court party itself who were perhaps disposed to credit him with the

power of executing such a threat. Sunderland, never a man of much nerve, was still in favour of conciliating him; so, too, was the Duchess of Portsmouth, who had been threatened with proceedings before the Grand Jury at the same time as the Duke of York. Monmouth had returned from Brussels at Shaftesbury's suggestion, and was making almost a royal progress through the provinces, where he was received with many marks of popular good will, while the Duke of York had been, at the strong instance of several members of the Privy Council, directed to return to Scotland. In the month of September Shaftesbury suffered from a brief attack of fever, and Barillon writes of the great concourse of people of all sorts and conditions who paid visits of sympathy to him during his illness.

The ascendency, in short, of the great agitator was complete; and when, in the month of October, the King was at last about to face his Parliament, it is not surprising that he should have found himself strongly urged by several of his most trusted advisers to consent to an Exclusion Bill. The Chancellor even went so far as to tell Charles that, if he supported the Duke of York, he must be prepared for a rebellion. Sunderland and the Duchess of Portsmouth declared that, if he withheld his assent from an Exclusion Bill, he would be besieged in Whitehall. Charles, however—more, it is to be supposed, from scruples of loyalty to his concealed Catholicism than from devotion, of which he had little, to constitutional principle, or from affection, of which he had less, for his brother—still remained firm; and the King and the Duke were on this occasion to find an advocate, as unexpected as he was brilliant, in the

person of Halifax. Parliament met on October 21, 1680, and, on November 2, the resolutions of the last Parliament against the succession of the Duke of York were renewed, and the Exclusion Bill reintroduced. After it had passed the committee stage, Charles sent a message to the Commons repeating his declaration that all measures for the security of the Protestant religion would be acceptable to him, provided always that they did not interfere with the legal descent of the Crown. The Commons, however, were not to be diverted from their purpose. The Exclusion Bill was passed on the 11th, and sent up to the House of Lords, where, after a remarkable speech from Halifax—for which Shaftesbury never forgave him—against its provisions, it was rejected on the second reading by sixty-three against thirty votes. Many of the Court party, however, were in the minority, Sunderland himself among the number, while the Chancellor only avoided that position by absenting himself on a feigned plea of illness from the debate. Twenty-five of the thirty who voted for the Bill signed a protest against the decision, Shaftesbury, it is hardly necessary to say, being one of them. He was not the man, however, to content himself with a mere protest. The rejection of the Exclusion Bill only threw him back once more upon the alternative, and, as he professed to consider it, the preferable proposal, of a divorce and remarriage of the King. On the day after the division above mentioned, Shaftesbury opened a debate in the House of Lords on the consideration of means for the effectual securing of the Protestant religion, and declared that, as the House had declined to take the best means to this end, he saw

but one other course to take, and that was to set aside the King's marriage and unite him with a Protestant wife. In the course of his speech he went so far as to affirm that, in negotiating the King's marriage with his present wife, Lord Clarendon had anticipated the part played (*è converso*) in our own day by a minister whose resemblance to him, as a man of religious habits, high respectability of behaviour, and of considerable literary distinction, would make the parallel between them, if Shaftesbury's story were true, a most singular one. Lord Clarendon, he said, had married the King to the Infanta of Portugal because she was known to be barren, in order to secure the succession to his own daughter's children. The House ultimately resolved to discuss the question of the King's marriage on November 22; and Charles—who, immediately after the first debate, had hurried straight from the Lords to the Queen with news of it, and to give, as Barillon puts it, 'a proof of his extraordinary affection for her,' took his after-dinner nap in her apartment instead of the Duchess of Portsmouth's—was present at the adjourned debate, of which the French Ambassador gives a spirited and graphic account. It was marked by another passage of arms between Shaftesbury and Halifax, the former of whom ironically taxed his kinsman with not believing that the Duke of York was a Roman Catholic, since he combated with such warmth the reasonable precaution which the nation desired to take against him. To which Lord Halifax replied to the disagreeable effect that he was one of the first who knew of the Duke's religion, and that he feared the consequences of it 'at the time when that Lord who has interrupted me affixed

the seal to a declaration for establishing a liberty of conscience in favour of Papists, and at the time also when that Lord was working with zeal and with success for the rupture of the Triple Alliance'—an answer by which Shaftesbury is said to have been 'much disconcerted.' Halifax's speech, however, was calculated to disconcert Shaftesbury on other grounds. He had evidently much too clear an insight into the motives of the Exclusionist leader, and the 'secret history' of the Exclusion movement. This appears plainly enough from the report of Barillon—for whose lively picture of the subsequent debate, with its curious freedom of reference to the domestic affairs of the King in his own presence (he is 'almost always by the chimney' in the House of Lords), I must refer the reader to Mr. Christie's pages:

Lord Halifax (says the Ambassador), wishing to undo the effect of what had been proposed by Lord Shaftesbury about the exclusion of the Duke of York and the divorce, said that all these proposals were based only on private interests, and had no object but to bring about the success of unjust and chimerical pretensions. He said much else which could only apply to the Duke of Monmouth . . . and insinuated, without naming the Duchess of Portsmouth, that she had views for her son and hopes also for herself, and that it was these designs which made her shake the whole machine.

The proposal for the Queen's divorce was not persevered with, and the House accordingly never pronounced any judgment upon it.

The first days of December were occupied in the judicial murder of Lord Stafford, and on the 15th—

nearly two months having now passed and no Supply having been obtained—the King addressed a reminder to his Parliament on the subject, urging in particular the want of money for preserving Tangier. In the Commons an address in reply was resolved praying the King to agree to an Exclusion Bill, and declaring the readiness of the House in that case to grant a supply for preserving Tangier, and for strengthening the fleet. In the Lords a long debate took place with no decisive result, but memorable for having called forth one of the most noteworthy speeches which Shaftesbury ever delivered. When we remember that it was spoken in the actual presence of the King, and that the Prince so freely denounced in it was still the heir-presumptive to the Crown and the first subject in the realm, the extraordinary boldness of its language does certainly at first dispose one to believe, with Lord Campbell, that it was not actually spoken in the terms in which it was immediately after printed. The evidence, however, is on the whole too strong to admit of reasonable doubt on the point. Barillon records its delivery and declares that the published version, which was denounced in the House of Lords after the recess and ordered to be burnt by the common hangman, was 'very like one he had made some days before,' and in fact contained only a 'few changes of little importance.' Almost at its very outset Shaftesbury fell upon the scandal of the Duchess of Portsmouth's influence at Court—a point upon which Charles was likely to be more sensitive than any other. 'If,' he said, in answer to the criticisms of an opponent, 'I must speak of them' (i.e. of the 'chargeable' ladies at Court), 'I shall say, as the prophet did to King Saul,

"What meaneth the bleating of the cattle?" and I hope the King will make the same answer, that he reserves them for sacrifice, and means to deliver them up to please his people, for there must be, in plain English, my Lords, a change. We must neither have Popish wife, nor Popish favourite, nor Popish mistress, nor Popish Councillor at Court, nor any new convert.' Then, referring to the argument of a previous speaker, that if Parliament voted supplies they could not doubt of his compliance in all they asked, for otherwise 'the King must fall into that which is the worst condition of a prince, to have his people have no confidence in him,' Shaftesbury proceeds in this outspoken strain:—

My Lords, it is a very hard thing to say we cannot trust the King, and that we have already been deceived so often that we see plainly the apprehension of discontent is no argument at Court: and, though our Prince be himself an excellent person, that the people have the greatest inclinations to love, yet we must say he is such a one as no story affords us a parallel of. How plain and how many are the proofs of a design to murder him! How little is he apprehensive of it! The transactions between him and his brother are admirable and incomprehensible: his brother's designs being early known to aim at the Crown before his Majesty's restoration to the kingdom; the match with a Portugal lady not likely to bear children, contrived by the Duke's father-in-law, and no sooner effected but the Duke and his party make proclamation to the world that we are like to have no children, and that he must be the certain heir. He takes his seat in Parliament as Prince of Wales, has his guards about him, the Prince's lodgings at Whitehall, his guards upon the same floor without any interposition between him and the King: so that the King was in

his hands and in his power every night : all offices and preferments being made and bestowed by him : not a bishop made without him. The Prince changes his religion to make himself a party, and such a party that his brother must be sure to die or be made away with, to make room for him. Nothing could preserve his Majesty but that which I hope he will never do—give greater earnest to that wicked party than his brother could ; and, after all, the plot breaks out plainly, headed by the Duke, his interest, and his design. . . . The Duke is quitted and sent away ; the House of Commons have brought up a Bill to disable him of the Crown, and I think they are, so far, extremely in the right ; but your Lordships are wiser than I, and have rejected it. Yet you have thought fit, and the King hath proposed to you, such expedients as shall render him but a nominal prince. In the meantime, where is this Duke that the King and both Houses have declared unanimously thus dangerous ? Why, he is in Scotland raising forces upon the *terra firma* that can enter dry-foot upon us, without hazard of winds or seas ; the very place he should be in to raise a party, there to be ready when from hence he shall have notice ; so that, this being the case, where is the trust ? We all think the business is so ripe, that they have the garrison, the arms, the ammunition, the seas, and soldiery all in their hands. They want but one good sum of money to set up and crown the work, and then they shall have no more need of the people ; and I believe, whether these are pleased or no, will be no great trouble to them. My Lords, I hear of a bargain made in the House of Commons, and an address made to the King. But this I know, and must boldly say and plainly, that the nation is betrayed if, upon any terms, we part with our money till we are sure the King is ours. Have what laws you will and what conditions, they will be of no use but waste paper before Easter if the Court

has money to set up Popery and arbitrary designs in the meanwhile.

A broader hint at that 'very hard thing to say' could scarcely have been given than this last, and the whole tone of the speech is certainly astonishing.[1] It is a striking proof of the confidence which Shaftesbury must have felt in his position and of the practical powerlessness of the Court party for reprisals. In the House of Commons his paramount influence was displayed in several measures of legislation in favour of the subject. The drafts of a Bill for securing the more frequent meetings and sittings of Parliament and of another for rendering the judicial office tenable, as at present, during good behaviour, are still extant in his handwriting. Another Bill for associating all his Majesty's Protestant subjects for the safety of his person and the defence of the Protestant religion, and a fourth making the illegal levying of taxation high treason, were also due to his initiative. And, as if his popularity required an additional stimulus, it must needs enter about this time into the mind of Simpson Tongue, son of the worthy colleague of Oates, and an undoubted 'chip of the old block,' to deliver a memorial to the King setting forth that the Popish plot was a contrivance of his father and Dr. Oates—which it was—but adding, fired by emulation of the paternal feats in perjury, that these two saviours of their country were assisted by Lord Wharton, Lord

[1] Lord Campbell says he cannot help suspecting that 'in the report which he published of this speech, Shaftesbury introduced several things which he could not have spoken without being sent to the Tower.' But Lord Campbell forgets that 1681 was not 1677. Shaftesbury in the earlier year was not the popular idol which, thanks in a great measure to Dr. Oates, he was in the later.

Essex, and Lord Shaftesbury. Summoned before the Council, Simpson 'behaved with great confidence,' said that the Popish plot was all a contrivance, and principally fixed it on the Earl of Shaftesbury. Asked, however, whether Coleman's letters were Lord Shaftesbury's contrivance also, he was 'silenced and confounded,' which showed that Simpson Tongue had not considered even the elementary conditions of his enterprise; and, as he had no proofs to support what he had alleged,—another omission of some importance on Simpson's part,—the Council ordered him to be committed to prison, where he soon after died, which was the end of Simpson Tongue and of that swearing. Whether he was reconciled to his father before his death, and obtained the elder perjurer's forgiveness for his false accusations, history unfortunately sayeth not.

Early in January the King sent a message of reply to the address of the Commons promising Supply conditionally on his assenting to the Exclusion Bill. He was still firm in his resolution to refuse their terms, and repeated his refusal to alter the succession. Upon this the Commons passed a series of resolutions reaffirming the necessity of the Duke of York's exclusion and their determination not to grant Supply till the King agreed to it, declaring all who advised this message to be pernicious counsellors, promoters of Popery, and enemies of the King and kingdom. They further resolved, with a view to preventing the King from borrowing money, that anyone making advances to him on the security of the customs or excise, or accepting any pledge of the Royal revenues or the hearth-money,

should be 'judged a hinderer of the sitting of Parliament and be responsible for the same in Parliament.' The deadlock was complete, and once more did Charles resolve upon a prorogation. But he failed to effect his purpose, as he had hoped to do, by a surprise. His intentions got wind, and early in the day on which he was to go down to the House of Lords the Commons assembled in a state of fierce excitement. A series of angry resolutions were put and carried. They voted that whoever advised his Majesty to prorogue Parliament is 'a betrayer of the King, the Protestant religion, and of the kingdom of England, a promoter of the French interests, and a pensioner of France.' They protested against the Duke of Monmouth's removal from his offices and commands by the influence of the Duke of York, and prayed the King to reinstate him. They resolved that the prosecution of the Protestant dissenters under the penal laws 'is at this time grievous to the subject and weakening to the Protestant interest, an encouragement to Popery, and dangerous to the peace of the kingdom.' As this last resolution was being put the three knocks of Black Rod sounded on their door. The indignation of the popular party was at its height. Some of the more daring spirits suggested that they should disobey the summons and retire into the City of London; but the majority shrank from a step which would have been tantamount to raising the standard of revolt. The Commons sullenly followed the officer of the Lords to the bar of the Upper House, and Parliament was formally prorogued from January 10 to the 20th. On January 18 it was dissolved.

CHAPTER XI.

Fourth Parliament summoned to meet at Oxford—Signs of the reaction—Proposed compromise on Exclusion question—Rejected by the Whigs—Barillon's testimony—Exclusion Bill reintroduced—Fitzharris's case—Fourth Parliament dissolved.

1681.

SHAFTESBURY'S influence and popularity were now at the flood: a two months' interval of 'slack water' succeeded, and then the tide began to turn. Meanwhile, and to all appearance, he had all the cards in his hand. His Royal adversary seemed thus far to be playing his game, and if Shaftesbury had profited, as he might have done, by the last mistake committed for his benefit, the victory would surely have been his. To his first move no serious exception can be taken. Charles had summoned the new Parliament to meet him at Oxford, and though from his own point of view the step was no injudicious one, the popular party were almost bound to meet it with a protest. On January 25 a petition was presented to the King by Essex and fifteen other peers, of whom Shaftesbury was one, and of course the leading spirit of the whole, in terms of very strong remonstrance. Charles's proceedings during the last two years, his assurances with respect to the vigorous prosecution of the Popish plot, his promises to govern

by the advice of the reformed Privy Council, his repeated prorogations and dissolutions, were very forcibly set forth, and the petitioners went on to protest against the summons to Parliament to meet at Oxford. There, the petitioners insisted, neither Lords nor Commons would be safe, 'but daily exposed to the swords of the Papists and their adherents, too many of whom are crept into your Majesty's guards'; and it was accordingly prayed that Parliament might meet as usual at Westminster, where 'they might consult and act with safety and freedom.' Accounts differ as to whether Charles made any verbal reply to the petition or received it only in frowning silence; he took, at any rate, no notice of its prayer. His uncompromising attitude aggravated the discontent which his action had excited, and popular resentment found expression in some quarters in the mutterings of revolt. It was said in London, reports Barillon, that, 'if the King left his capital, he would not return when he pleased.' Nevertheless it is by no means clear that the move suggested by Halifax—if indeed it really was the suggestion of that shrewd judge of the ways of the 'moderate man' in politics—was a bad one. At the expense of exasperating London—no very great expense when an opponent is irreconcilable to begin with—it must undoubtedly have tended to arouse a reaction against the popular party everywhere else in England. The summons of Parliament to Oxford was, in fact, a Royal declaration to the provinces that the King regarded himself as under coercion in his capital. It was the most striking and dramatic form in which Charles could call the attention of the country at large to the deadlock of affairs. Recalling

as it did the ominous memories of the Civil War, it probably aroused the anxiety of many a country squire and rural elector who had hitherto bestowed little or no notice on the course of politics; and while it thus rallied all the surviving Cavalier sentiment of the country, it impelled even the Whig minority in the counties to review the situation with more care and anxiety, and to scrutinise the pretensions of their party in Parliament with more jealousy, than theretofore.

At present, however, the reaction was only beginning. Shaftesbury applied himself to the work of electioneering with his usual energy, and the result of the contest was to leave him still in possession of a considerable majority. The election deserves to be remembered as having witnessed the first attempt to introduce that *mandat impératif* into English public life which is the ideal of a certain very active school of politicians among ourselves. A paper, believed to be from the hand of Shaftesbury, is in existence, entitled, 'Instructions for Members of Parliament summoned for March 21, 1681, and to be held at Oxford.' It begins: 'Gentlemen,—We have chosen you two our knights to represent this county,' &c., and proceeds to inform the elected candidates, in curt and peremptory fashion, that they are expected—(1) to insist 'to the last' on an Exclusion Bill; (2) to demand an adjustment of the King's prerogative of calling, proroguing, and dissolving Parliaments, with the rights of the people to have annual Parliaments; and (3) to restore to the country 'that liberty which we and our forefathers have enjoyed until the last forty years, of being free from guards and mercenary soldiers.' What use was made

of the document there is no actual evidence to show; but there can be little doubt that copies of it were distributed among the county constituencies, and its idea and composition go to show that, in the arts of the 'political organiser,' Shaftesbury was in advance of his age.

March 21, the day appointed for the assembling of Parliament, drew near. Oxford was alive with preparations for the ceremony, and crowded with the adherents of both parties, whose demeanour and surroundings showed clearly enough in what spirit they were about to meet. Charles brought with him a strong body of soldiery; Shaftesbury and the other Whig leaders were followed by suites of armed retainers. Since the days of the Civil War, when the first Charles had held his court there, the grey old city had had no such invaders of its ancient peace. The neighbourhood of the Schools became like the purlieus of Westminster; their quadrangle was converted into a sort of lobby. Shaftesbury, after long negotiations through Locke for obtaining lodgings in the house of Dr. Wallis, the Savilian Professor of Geometry, at last secured rooms in Balliol, to which college he presented a handsome gift of plate in acknowledgment of its hospitality at the close of the short-lived Parliament. The philosopher's letter, reporting progress to him, abounds in those little trivial details, which bring back great actors of the past so much more vividly to us than any chronicle of the full-dress historian. The good Professor was anxious to make every possible arrangement for the accommodation of the distinguished statesman, even to offering him 'the room in the front story over the

little kitchen,' though at the same time telling Locke it was his study; whereat the student's heart was touched, and, 'knowing how troublesome a thing it was to remove books, I thought your Lordship would not be willing to give him the trouble without a pressing necessity.' Moreover, the Doctor was not willing to part with the 'mohair room,' saying that 'then he should have no ground room left for himself.' It is gratifying to learn, from Shaftesbury's reply, that he did not require 'either the mohair room or the room where the Doctor's books are.' He, however, accepted two cellars and kitchen, which had been offered to him, and which the author of the 'Human Understanding' had accepted for the reason that, 'though your Lordship desired to eat abroad, yet I concluded that would be only dinners; and it would not,' added the Father of English Metaphysics, 'be inconvenient to have at least a barrel of ale or small beer and bread for the use of your own self and company at other times, and there must be places for wood, &c., under lock and key.'

The proceedings of this shortest-lived of all English Parliaments, shorter by a fortnight than the Short Parliament of Charles I., deserve the closest attention; for, in fact, they marked the crisis of the struggle between the King and his people, and, thanks to the errors of the latter's leaders, determined the triumph of the former. That Charles was able to carry matters with so high a hand as he did, that he should have ventured, and successfully ventured, to 'go about' with his Parliament in a manner so much more abrupt and imperious than had ever marked his dealings with them at earlier and less acute stages of the conflict, is, at first sight, a

somewhat surprising circumstance; nor can it be explained at all, I think, without attributing, either to the King or his advisers, a clearer insight into the true state of national feeling than was possessed by the great agitator who had all his life studied it, as weather signs are studied by the fishermen of a dangerous coast. It is true that the King's French paymaster had placed him in independence of his Parliament for three years to come. A treaty had been settled between himself and Louis which insured him a subsidy of two millions of francs for the next year, and four hundred thousand crowns for each of the two years following. Thus he could afford to stand firm against the Exclusion Bill, or any other unacceptable demand of the Commons, and could, as he had often done before, prorogue Parliament for three months after three months until his funds were exhausted. But that, at a moment when, if London was to be taken as representative of England, a declaration of open war against Parliamentary government seemed likely to precipitate a rebellion, should have been chosen by him for flinging down the gauntlet of prerogative with every circumstance of defiance was hardly to have been expected. That the Whigs did not expect it, and were stunned and paralysed by the swiftness and vigour of the King's tactics, is manifest. They must have argued as confidently from the feeling of the capital to that of the country as the King and his advisers were confident in rejecting the deduction. Had the Whigs, or rather, had Shaftesbury as their leader, felt a little less sure of his and their position, they might possibly have so governed themselves as to weaken that of their adversaries. As it was, they did

all in their power to strengthen it. Their action was such as to confirm every Tory in the belief that the King was being pursued by a band of factious partisans, headed by a would-be Cromwell, and to induce every moderate friend of liberty to think that the time had come when, in the interests of liberty itself, the Royal authority should be supported.

The very first step taken by the King, under Halifax's advice, had the result, no doubt anticipated by the minister, of putting the Opposition wholly in the wrong. It matters little whether the compromise, proposed to the House of Commons on the part of the Crown, was made in good faith or not; the refusal of it was, from the tactical point of view, an equally signal blunder in either case. The proposal was that the Duke of York should be banished during the King's life, and that, after Charles's death, he should assume only the Royal title, the powers of government being vested in a regent acting in his name: the first regent to be the Princess of Orange, and, after her, the Princess Anne, and the regency to expire upon any heir of James's, educated as a Protestant, attaining his majority. It was, in fact, the very same plan as that put forward by the Tories in the Convention Parliament after James had vacated the throne. In 1688, no doubt, it had become inadmissible; in 1681 it was another matter. Whatever the inconveniences of a regency, they could be considered with much better prospect of obviation while the throne was full than when it was vacant; and, considered as the reconciliation of a perilous political controversy, a far less promising proposal than this might, at least, have been provisionally entertained.

is hardly too much to say, indeed, that pure patriotism could not have chosen but to consider it, and that nothing but sheer faction could, in the course of a short debate, have unconditionally rejected it. Such, however, was its actual fate; and there can scarcely be a doubt that the refusal of the House of Commons to entertain Halifax's 'expedient,' and their immediate resolution to reintroduce the Exclusion Bill, had the effect of confirming others besides Tories in the conviction that Shaftesbury's object was not so much the exclusion of the Duke of York as the elevation of Monmouth, and that he was aiming less at the protection of the Protestant religion than at the attainment of the position of Mayor of the Palace to a king of his own making. Had they known what we now know, on the excellent authority of Barillon, they would have had still less doubt on the point. Barillon reports, on March 28, that 'the King of England, being, two days ago'—that is, on the very day when the Exclusion Bill was introduced—'in the Upper House, before the Lords had taken their places, Lord Shaftesbury approached, and handed him a paper which he said had been addressed to him anonymously.' The effect of this letter was that the public interest required that the King should at once declare Monmouth his successor. Charles repeated that no consideration would induce him to take resolutions contrary to all law and justice, and that means must be sought for satisfying the people other than measures so unjust and odious.

Lord Shaftesbury replied: If you are restrained only by law and justice, place your reliance on us, and leave us to act. The laws will be on our side, and we will make laws

which will give legality to a thing so necessary for the quiet of the whole nation, and by which great calamities will be avoided. The King of England rejoined: My Lords, let there be no self-delusion. I will never yield, and will not let myself be intimidated. Men become ordinarily more timid as they grow old; as for me, I shall be, on the contrary, bolder and firmer, and I will not stain my life and reputation in the little time that, perhaps, remains for me to live. I do not fear the dangers and calamities which people try to frighten me with. I have the law and reason on my side. Good men will be with me. There is the Church (pointing to the bishops), which will remain united with me. Believe me, my Lord, we shall not be divided, and I hope that shortly there will be none but poor creatures and knaves to support a measure without any good foundation.

This dialogue may very possibly have been embellished by Barillon's informant; and the dignity with which Charles is made to express himself has certainly an air of rhetorical fiction about it. But the dispatch is good evidence to the fact that Shaftesbury pressed Monmouth on the King on the very day of the introduction of the Exclusion Bill, and that the King, who had shown by the acceptance of Halifax's 'expedient' that he had no particular tenderness for James's personal claims, did really feel in this matter that conscientious scruple as to bartering away the title of the right line of succession which was with him the last survival of a moral sense.

It was not only by their attitude on the Exclusion question that the House of Commons contrived to alarm and alienate their soberer and more prudent fellow-countrymen. Even in this one week of their session

they found other occasion to demonstrate the arbitrary and factious spirit which animated them. A wretch of the name of Fitzharris, one of the vile crew of Oates's imitators, had recently been denounced by a fellow-scoundrel named Everard for having, as the latter alleged, offered him a sum of money to write a treasonable libel on the King and the Royal family at Fitzharris's dictation, and, by dispersing it through the post among the peers of Shaftesbury's party, to fix them with responsibility for its authorship, or at any rate cognisance of its incitements. Fitzharris, on being arrested and examined, confessed the plot. Whether Everard lied, or Fitzharris, or both; whether they were joint partners in a real conspiracy, wherein one betrayed the other, or joint inventors of the story of a sham conspiracy, one of whom merely pretended to betray the other; whether, in fact, they were united or divided in interest, and their lie a single or a double one, are points impossible of ascertainment, and unworthy of curiosity. The Commons seized upon the story as fresh political capital, and on learning that Fitzharris had been committed to the Tower, and was to be prosecuted for high treason in the Court of King's Bench, endeavoured to recover control of the prisoner for their own purposes by passing a resolution to impeach him before the Lords. This high-handed infringement of the man's right to be tried by his peers[1] was

[1] Were it not for the great authority of Hallam on the other side, I should imagine that no modern lawyer would hesitate for a moment to acknowledge the soundness of the Lords' decision. But even Hallam's authority will not avail to justify more than this moment's hesitation on a point so clearly established by the array of reasons set forth in Lord Campbell's unanswerable note (*Lives of the Lord Chancellors*, iii. 359).

supported by Shaftesbury in the House of Lords: but that House, at the instance of the Lord Chancellor, refused their assent to the proposed enlargement of their jurisdiction, and the Commons thereupon passed, in high anger, the monstrous resolution that the Lords' refusal 'amounted to a denial of justice, a violation of the constitution of Parliament, and an obstruction to the further discovery of the Popish Plot, and that if any inferior court should proceed to the trial of Fitzharris, it would be guilty of a high breach of the privileges of the House of Commons.' On this entry in its journals alone the House stands condemned. Even if the right to impeach a commoner before the Lords for a capital offence could be technically established, what is to be thought of a so-called popular assembly which, in the pursuance of party aims, was ready to supersede the action of the ordinary tribunals, and to create a precedent of such grave danger to the liberty of the subject?

The King, in fact, might have said of his Parliament, in a style of language familiar enough to his ears at an earlier period of his life, that the Lord had delivered them into his hands. He wanted no money of them; he believed that he need not fear them before the country; while, on the other hand, they were threatening awkward motions of inquiry about a Bill of the last session for the relief of Dissenters which had mysteriously disappeared from the table of the House of Lords after having passed its third reading. There was everything to induce him to make short work of them, and nothing to deter him. On Monday, October 28, exactly a week after the Houses had met, the King, having up to that

moment successfully concealed his intention, went down to the House of Lords as usual in a sedan-chair, but, as was not so usual, with a second chair following him. This was supposed to contain a lord-in-waiting. What it really contained was the robes of State. The Commons were engaged in a debate on the point of constitutional law, when Black Rod made his appearance. Flocking in astonishment to the Lords, they found his Majesty on the throne with his Chancellor beside him. 'My Lords and gentlemen,' he said, 'that all the world may see to what a point we are come, that we are not like to have a good end when the divisions at the beginning are such, therefore, my Lord Chancellor, do as I have commanded you.' And the Lord Chancellor then said, 'His Majesty has commanded me to say that it is his Majesty's royal pleasure and will that this Parliament be dissolved, and this Parliament is dissolved.'

Not prorogued, merely, but dissolved! And that after a life of exactly a week! Shaftesbury was for sitting on in defiance of the dissolution. He gathered his supporters in the Upper House and kept them there under the pretence of signing a protest. For nearly an hour after the King's departure, messengers were being continually dispatched to the Commons to tell them that the Lords remained in session, and exhorting them to a like fulfilment of their promises. But the King had a large body of troops about Oxford, and the followers of the members were rather a showy than an effective force. They were afraid, to use Lord Grey's expression—a villain, but a credible witness on this point—that 'if they did not disperse, the King would come and pull them out by the ears.' One by one

they dropped off until each feared to be the last, and then the House was precipitately deserted. Shaftesbury, among the last, reluctantly withdrew. The King had taken carriage and was gone to Windsor. However London might be meaning to take the blow, Oxford was bearing it with a philosophy worthy of her traditions. For all that the baffled demagogue could see on every side of him, the game was over—and lost. There was nothing for it but to make his adieux to his courteous hosts of Balliol, and to take his departure also.

CHAPTER XII.

Causes of the reaction—Shaftesbury in London—Arrested on charge of high treason—Offers to retire to Carolina—Grand jury ignore the Bill—Dryden and *The Medal*—Shaftesbury released—Tory sheriffs appointed—He plans an insurrection—His flight to Holland.

1681–1682.

PREROGATIVE had triumphed, signally and decisively: but the country remained unmoved. Shaftesbury and his party were confounded at the discovery; and no wonder. Thrice before, within the space of three years, had the King used his weapon of dissolution against them, and thrice had it been used in vain. Each time they had returned, with their control over the House of Commons unimpaired, and in unshaken possession of their power to propose their own terms to the Sovereign as a condition of granting him Supply; and each time had their success at the polls been welcomed by the citizens of the capital with acclamations easy to be interpreted, and which they did, in fact, interpret, as the voice of the nation. And now, on this last occasion, when everything seemed to promise them final victory, the King had suddenly turned upon the Parliament, which their votes controlled, and dismissed it; dismissed it, not as before, by the gradual process of a series of

prorogations leading to a dissolution, but summarily, and with contumely, in a spirit more defiant than was ever displayed by his father in his haughtiest hour, and with every indication of a resolve to govern absolutely for the future. And the country remained unmoved. Why was this? How was it that a party which, with all its faults, did undoubtedly represent the cause of freedom before a community to whom freedom had always been dear, could be thus struck down by a single blow from the hand of despotic authority, without rallying the nation to its support? The reaction of public sentiment, in so far as it was a real and not merely an apparent one—and on this point it is to be remembered that the wild Whig-Protestant enthusiasm of London had, from the first, been represented throughout the rest of England by only a mild Protestant velleity—was due to various causes. Mere popular fickleness counts for something; the sternly taught Conservatism of a generation which had heard with its ears the confusions of 1650–60, and whose fathers had declared unto it the horrors of the preceding decade, counts for more; but the Whig successes, which offended the inconstancy of the populace, and the Whig excesses, which aroused their apprehensions, were, neither of them, perhaps, the most powerful agent in the change. It was far more truly, and far more inevitably, the Nemesis of that hideous imposture to which its victims were now slowly opening their shame-stricken eyes. The accursed edifice of fraud and blood, which Oates and his accomplices had erected three years before, and which had received its coping-stone of judicial murder in the execution of Stafford, was already tottering to its fall. The more

honest dupes of the informer were everywhere regaining composure and common sense, and beginning to look back upon the paroxysm of fear and fury which had swept over them with disgust and horror. Blind credulity is always ready to throw the blame of its follies upon others, and there was here a body of men who in one sense deserved to bear the burden. It was the Whigs and Shaftesbury who had reaped the benefit of Oates's perjuries; it was but just that they should share the discredit of his exposure. If they had not suggested the miscreant's fictions, they had stimulated his invention by an often feigned belief in them; and they had no right to complain if, having taken up, they perished by, the sword of wrong.

Shaftesbury returned to his 'castle' in Aldersgate Street, not now, as formerly, like a baron returning from a raid to his mountain stronghold, but like a lion hunted to his lair. From London, as he soon saw, there was nothing to be hoped. His 'brisk boys,' as he called them in the days when he held them in readiness to rise for Monmouth in the event of Charles's death, would still shout 'No Popery' behind his coach, but they would do no more. He was no longer formidable to the Court, and he knew well that, not to be feared by the Court, was to have reason to fear for himself. He had staked everything—his safety as well as his ambitions—on the game which he had just lost; and he expected every hour to be called upon to pay. He knew his enemy well—none better, perhaps—and he was well aware how slight and thin was that surface soil of *bonhomie* which covered the profound egoism of Charles's nature. He knew that the King would not

bear in vain the sword of that despotism which the country had permitted him to establish. He was fully sensible, too, that, even if Charles had been disposed to spare him, there were those among Charles's advisers who both feared and hated him; and he was under no illusions as to their forbearance. He may, indeed, have had documentary evidence of the disposition of some of them towards him; for, among the papers at St. Giles's has been found a minute of the proceedings in the Committee of Foreign Affairs of the Privy Council, on June 21, 1681, from which it appears, to the no great credit of Halifax, that that prime favourite of the great Whig historian of our own day united with Clarendon in advising his kinsman's arrest.

On July 2 the blow fell. Early in the morning of that day a dozen officers, armed with a warrant from the Secretary of State, arrested Shaftesbury at Thanet House, and carried him to Whitehall to be examined before the King in Council on a charge of high treason. The witnesses against him belonged to that serviceable order of men whose depositions are at the disposal of either side. Originally intended to give testimony against the Duke of York and the Queen in connection with the Popish Plot, they cheerfully consented to give evidence against their former patron. Probably their statements were as worthy of credit for the one purpose as the other. These gentlemen swore that the accused had entered into a conspiracy with them in case he should be defeated in the Oxford Parliament to carry his measures by an open insurrection, and that he had used many violent and threatening expressions against the King. Shaftesbury met their accusation with

scorn, and told the Council that, if he were capable of treating with Irishmen and Papists for compassing the death of the King and the subversion of the Government, he were 'fitter for Bedlam than the Tower.' The Council, however, were of a different opinion, and committed him to the latter place of confinement. James II., remarkable himself for his courage and composure under trying circumstances, asserts in his memoirs that the prisoner's nerve forsook him when the warrant for his commitment was signed; Martyn, with far more probability, says that he went calmly and even cheerfully to imprisonment. 'As he was conducted to the Tower,' continues the latter, whose account may on this point be taken for what it is worth, 'great crowds of people ran out to see him, and saluted him with their wishes and prayers for his prosperity.' One among the rest cried out, 'God bless your Lordship, and deliver you from your enemies'; to whom he replied with a smile, 'I thank you, sir, but I have nothing to fear; they have; therefore pray God to deliver them.' Two or three days after he was committed, one of the Popish lords, pretending surprise at seeing him there, asked him what had brought his Lordship thither. He answered 'that he had lately been indisposed with an ague, and was come to take some Jesuit's powder.' There is this amount of foundation for the jest that Shaftesbury was at this time undoubtedly suffering from ague; for, on July 14, we find a record of leave having been granted him on his petition to 'take the air in his coach with his Lady and servants within the Tower, with a warder to attend him, but nobody to have access

to him while taking the air, or at other times, without his Majesty's leave.'.

To get him into the Tower was one thing, and to convict him of high-treason another. Evidence sufficient to obtain a conviction was wanting, and the whole tribe of perjurers with which society was infested in those evil days were hunted up in the hope of procuring depositions against him.[1] The process was not a rapid one, and Shaftesbury, who had applied for a *Habeas Corpus* in vain on July 6, four days after his arrest, made another futile application at the beginning of September. On both occasions the writ was refused by the unprincipled Pemberton—a fitting colleague of Scroggs and Jeffreys, though, through the caprice of history, his proper place on the pillory beside them is vacant—on the idle plea that the Tower was not within the jurisdiction of the court. Shaftesbury then appealed, again and again, to the Middlesex magistrates sitting at Hicks's Hall, but equally in vain. No effort was, in the meantime, spared to exasperate the public mind against the prisoner. Pamphleteers wrote at him, and pulpiteers preached at him, without mercy and without stint. The 'Apostle of Schism,' 'Mephistopheles,' 'The Fiend,' 'Alderman Shiftsbury,' were some among the *confetti* of nomenclature with which he was pelted. The brutality of the period did not spare even his personal infirmities; and the silver pipe which had been introduced into the abscess in his side, and of which Dryden, one regrets to remember, was afterwards to manufacture comic 'business' for one of his plays, pro-

[1] Even Burnet admits this, and such evidence from so unwilling a witness should be conclusive.

cured him the genially humorous nickname of 'Count Tapski.'[1] And it was against this prostrate man, lying in jeopardy of his life, that the Laureate aimed, like a vengeful Apollo, the immortal arrows of *Absalom and Achitophel.* All, however, were in vain—the splendid satire of Dryden, the dull violence of modern scribblers, the thunder of the drum ecclesiastic, the brazen foreheads of the perjurers, the supple back of Pemberton. He was destined to triumph over them all.

But the months dragged on slowly enough towards his trial, and there were other and worse omens than the mere clamour of adversaries which might well have disturbed his mind as he sat in his Tower cell penning minute directions still extant among his papers for the sale of his stud of horses at St. Giles's. Stephen College, a humble member of his party, known as the Protestant joiner, was tried at Oxford for treasonable words, and being convicted upon the evidence of some of the very witnesses who were to appear against Shaftesbury, the poor wretch, who had probably done nothing worse than talk nonsense in his cups like wiser men, was executed on August 31. Once only, and that but for a moment, does Shaftesbury's fortitude appear to have failed him. In October he wrote to Arlington and offered through him, if the King would release him from imprisonment, to retire to Carolina, of which colony he was a part proprietor, for the remainder of his days. The King, however, rejected the proposal,

[1] Surely, however, it must have been Lord Campbell's poetic imagination which suggested to him that this nickname had a second reference (*quasi*-tap-sky) to his 'towering genius' striking the stars with its sublime head.

and declared that his subject must stand or fall by the law. On November 24 a commission was opened for his trial, and a bill of indictment was presented against him at the Old Bailey. The Grand Jury before whom it came stood alone between him and destruction. Had they found a true bill, the rest of the process would have been easy; for the case would have been immediately removed into the court of the High Steward, where, by a due discrimination in the selection of peers, his doom would have been insured. Pemberton presided, and did his shameless utmost to cajole and dragoon the jury into finding a true Bill. He wilfully misdirected them as to what technically contributed a *prima facie* case; he refused to allow them, according to invariable custom, to examine the witnesses in private; he withheld from them a copy of Shaftesbury's warrant of commitment; he and his colleague 'interfered from time to time with friendly questions,' designed to keep the lying and mutually contradictory witnesses in countenance. But the Grand Jury were neither to be intimidated nor befooled. They retired for but a short time to consider their finding, and returned into court with an 'ignoramus' of the bill. Upon this, says the report in the State Trials, 'the people fell a halloaing and shouting,' whereat the Attorney-General said, rather weakly, 'My lord, let it be recorded, this halloaing and shouting in a court of justice.' Recorded or not, it continued, and was taken up outside. A messenger hurried off to the Tower to inform the prisoner, then seated with Lady Shaftesbury at a game of piquet, of his deliverance. Bells rang and bonfires blazed that night throughout the city, and the friends

of the acquitted prisoner celebrated his deliverance by striking a medal with the inscription 'Antonio Comiti de Shaftesbury,' and on the other side a representation of the Tower and its surroundings, with the sun emerging from a cloud and the exulta nt word 'Lætemur' over all. But to this demonstration, at any rate, the prosecutor's party devised an effective answer. 'If I were a poet,' said the King to Dryden, with whom he was walking one day soon after in the Mall, 'if I were a poet, and I think I am poor enough to be one' (which would seem to show that Louis XIV. was a less munificent patron of kings than of poets), 'I would write a poem on Lord Shaftesbury's escape in the following manner.' Therewith the King proceeded to sketch out the plan to his Laureate, who before many weeks were past had stamped that Medal of his own whose image and superscription will survive the finest and best preserved specimen of the original that ever passed from a Whig button-hole to the cabinet of the collector.

Shaftesbury had escaped the vengeance of the Court, but one at least of the objects of his prosecution was achieved. His escape was almost of as much service to the Royal cause as his conviction would have been. It scandalised and irritated the public feeling in the provinces almost as much as it overjoyed his partisans in London. It gave a stimulus to the Tory reaction for which his enemies were not slow in deriving another encouragement. The scheme of an association for defence of the Protestant religion and of the King and Parliament, and for the prevention of the Duke of York's succession, had been found among Shaftesbury's papers, and, though without signature and not in his hand-

writing, he had doubtless cognisance of its contents. In itself it contained nothing of a treasonable character, and was indeed identical with a proposal which had been publicly brought forward in Parliament after the rejection of the Exclusion Bill. But in the then alarmed and suspicious condition of the Tory and Royalist mind, almost anything would have been considered evidence of Shaftesbury's seditious designs, and addresses of abhorrence of the Association were sent up from all parts of England. Shaftesbury applied for his discharge by Habeas Corpus, and, with the consent of the Attorney-General, rendered necessary by the fact that he had never been brought to trial on the indictment, he was liberated on bail. He had in the meantime taken the offensive vigorously against several of the persons concerned either as agents or witnesses in his prosecution; but the defendants to his various actions for conspiracy, false imprisonment, &c. were as fully alive as himself to the advantages which he was likely to obtain from a trial in London. One after another they applied to the Court of King's Bench for the removal of their causes into another county, on the ground that a fair trial was not to be had before a Middlesex jury, and on the Courts granting the applications Shaftesbury abandoned the proceedings.

He knew that he was safe in London only, but he did not perhaps know that even in London he would not be safe for long. The Court party were even then meditating a blow which should strike down his last barrier of defence. He was only safe in London because there he was sure of a Whig jury, and he was only sure of a Whig jury because the liverymen were certain to elect

Whig sheriffs to strike the jury panel. The question How to destroy Shaftesbury resolved itself, therefore, into the problem How to obtain two Tory sheriffs of London, and the solution of that problem by the Court party was on this wise. At a civic banquet held according to custom on Midsummer Eve, 1682, the day before the election of sheriffs was to take place, the Lord Mayor, Sir John Moore, who happened to be a Tory, drank to the health of a Mr. Dudley North, a brother of the Lord Chief Justice, and claimed, in pursuance of a usage which had been discontinued for forty years, by that ceremony to constitute him sheriff. There, then, was one Tory sheriff, easily enough come by. The second had to be elected by the liverymen, and therefore was not so easy for the representative of a minority to secure. Sir John Moore, however, a man of many counsels, after illegally adjourning the poll on several different occasions and ignoring the return of Whig candidates on the plea that such adjournment invalidated their election, at last resorted to the masterstroke of appointing his own polling clerks with poll books of their own, from whose more loyal arithmetic it appeared at the close of the contest that the Tory and not the Whig voters had carried the day. Thus, although the outgoing sheriffs, who were supposed to preside over the election, persisted obstinately in maintaining that the Whigs, Papillon and Dubois, were elected sheriffs by a large majority, the Lord Mayor and the Court of Aldermen installed the Tories, North and Rich, in the shrievalty.

Shaftesbury now saw that the toils were indeed closing round him, and became desperate. Open re-

sistance to the Royal authority appeared to him to point to the only path of deliverance, either for his country or for himself, and he began, in concert with Russell, Monmouth, and others, to plan an insurrection. In August it was determined to despatch emissaries to various parts of the country, to ascertain whether, or where, the feeling of the people was ripe for a rising. Monmouth was deputed to visit Cheshire, and consult there with some of the Whig local magnates; and a Mr. Trenchard, an agent of his, undertook to raise fifteen hundred men in the West. Shaftesbury himself was to look after the City of London, and boasted of the thousand 'brisk boys' who would be ready to rise at his bidding. The would-be conspirators, however, like others since their day, were worse rebels than they were subjects. There is something almost pathetic in the want of purpose, the division of counsels, the alternate precipitancy and hesitancy of these unfortunate men's manœuvres. Shaftesbury was in haste to begin operations; Russell was all for delay; Monmouth was a feather-head; Grey a traitor. To have driven such a team as this without an upset would have taxed all the adroitness and nerve of the great agitator at his best; and all impartial accounts agree that Shaftesbury was no longer the man he had once been. Advancing years, and the anxieties and excitements of a life of incessant conflict, had told much upon him; bodily suffering, from maladies congenital and accidental, yet more. The morbid consequences of his old wound were assuming a graver form; his old enemy, gout, was gaining ground. Macaulay's strictures on his general conduct in opposition, premature and exaggerated as

regards its earlier stages, become, no doubt, well merited enough at this period of his career. 'His plans were castles in the air, his talk rhodomontade.' He clamoured for immediate action, declared to his friends that he would 'lead the army himself,' and added, 'pointing to his crippled and enfeebled body, that they must be convinced, at least, that he could not run away.' His once composed and cheerful temper failed him; he was by turns inordinately desponding and unnaturally gay. A consciousness of hourly increasing peril would naturally contribute to aggravate this restless and fitful condition of mind; and there is good evidence that, as the year 1682 began to draw towards its close, his growing fear of fresh arrest was well founded. About the end of September he quitted Thanet House, and took refuge in obscure hiding-places in the City and in Wapping. He suspected that new warrants were out against him, and, as we know from a passage in Luttrell's Diary, he was in all probability right. For some six weeks he lay hid in the water-side purlieus of London, waiting for his friends in the country to give, by their own rising, the signal to himself and his 'brisk boys.' At the end of October a meeting of the other conspirators was held in the City, at which, on a report from Shaftesbury, the insurrection was fixed for some eight or ten days after. Trenchard was to rise in Somerset, Sir William Courtney in Devonshire. All seemed apparently in train when the day appointed arrived; but nothing came of it. Trenchard was not ready; the outbreak must be adjourned—say, for a few weeks or so at the least. It was November 18, and Shaftesbury had been living the life of a hunted animal

for many days. He could not count upon his safety even for the few weeks of which Trenchard talked so lightly. It is even said that he received warning from Lord Mordaunt that Howard had betrayed the plot, and that the house in which he was concealed was searched, a few hours after he quitted it, by the King's messengers. Warned or not, he fled. Disguised as a Presbyterian minister, and with his faithful valet Wheelock passing as his nephew, he made his way to Harwich; but the elements were hostile, and he was detained there some eight or ten days waiting for a fair wind. 'One day,' says Martyn, 'as Mr. Wheelock was dressing himself, and had taken off his black wig, the maid of the house came into the room, and saw him with a fine light head of hair. She immediately told her mistress, who acquainted the Earl and Mr. Wheelock with the maid's discovery. 'As to herself,' said this loyal or disloyal landlady, 'she said that she did not know or desire to know who they were, and that they might depend on her silence, but she could not be sure of the maid's, and therefore advised them to leave the house and the town directly.' Lord Shaftesbury, believing that it was impossible to quit the place with safety, thanked the mistress for her information, and told her he should have no apprehensions from one who had such a sense of honour. 'As for the maid,' says he, turning with a pleasant air to Mr. Wheelock, 'you must go and make love to her, and this may engage her to secrecy.' On November 28 the wind served, and, taking ship from Harwich, he sailed for Amsterdam.

CHAPTER XIII.

Shaftesbury's reception by the States—His life in Amsterdam—Last illness and death—His character—And place in English political history.

1683.

'CARTHAGO nondum deleta,' as one of its burghers with not unkindly malice described it in welcoming the exile, received Cato in a generous spirit. True he had served the cause of the Republic well for the last eight or nine years of his political career, but recent services do not always efface the memory of earlier injuries, and the parties and privies to the Treaty of Dover had gone as near to wiping the United Provinces off the map of Europe as any set of statesmen ever approached, without actually accomplishing it, to the destruction of any State. Shaftesbury asked for and obtained that Dutch citizenship which was necessary to protect him against an English demand for his extradition; but there seems no good authority for the belief that he was treated by his protectors with any special honour. He seems to have kept no state in Amsterdam, lodging, for the first week of his arrival, at the 'Bible Inn'—a house which to this day dispenses hospitality to the traveller—and afterwards at the abode of an English merchant, Mr.

Abraham Keck. This was his last residence on earth. Towards the end of December he was seized with a violent attack of the gout, which, after several weeks of intense suffering, proved fatal. On Sunday, January 21, 'between eleven and twelve in the forenoon, he asked for something to drink, and one of the gentlemen'—it was the devoted Wheelock—'gave him some cold broth, which he was in the habit of taking continually; he then begged the attendant to lift him a little in the bed, and, while this was doing, he died in the gentleman's arms, after having cast some very deep sighs.' The pigmy body had yielded at last to the fretting of the fiery soul; the heart that, through forty years of manhood, had throbbed response to but one absorbing and overmastering passion, was stilled; the busiest brain in all Europe would scheme no more. His remains were sent to England a fortnight after in an English vessel. They were landed at Poole, and now rest in the ancestral vault in the church of Wimborne St. Giles. A monument, erected by the fourth Earl, the son of the author of the 'Characteristics,' asserts defiantly, rather than piously commemorates, the virtues of the departed statesman. 'Et principi et populo fidus,' it runs, in Latin which indignation has made eloquent—

per varias rerum vicissitudines
Saluti publicæ invigilavit; Regnum Anarchia penitus obrutum
Restituit, stabilivit. Cum vero despotici imperii fautores
Servum pecus, et Roma, scelerum artifex, patriæ intentarent ruinam
Civilis et Ecclesiasticæ libertatis Assertor exstitit

Indefessus, Conservator strenuus. Humanitate, in patriam amore,
Ingenii acumine, probitate, facundiâ, fortitudine, fide,
Cæterisque eximiis animi dotibus, nullum habuit superiorem.
Vitæ publicis commodis impensæ memoriam et laudes,
Stante libertate, nunquam abolebit tempus edax nec edacior Invidia.

This is a stirring panegyric, but any *advocatus diaboli* in fair practice might undoubtedly find a good deal to urge against the canonisation. 'Et principi et populo fidus,' he might say. 'Yes; but at different periods, and in each case for a strictly limited time.' He was 'principi fidus' until he found himself jostled aside in the race for military promotion; and 'populo fidus' until he saw that the game of the Commonwealth was played out, and the 'princeps' would come to his own again. From the Restoration onwards he distributed his fidelity in the same way. Was he 'populo fidus' in 1668–72, when he was his sovereign's faithful servant in the Cabal? Was he 'principi fidus' when, on the strength of his popular following, he refused all compromise on the Exclusion question, and endeavoured to compel the King's assent to the unjust disherison of his brother's heirs? What, again, is to be said of the 'in patriam amor' which allowed him to unite with the worst enemy of his country in an attempt to crush her natural ally—to conspire with the Continental representative of Catholicism and absolute power for the overthrow of the Continental bulwark of popular liberty and the Protestant faith? Where was the 'humanitas' of the patron of Oates and Bedloe; the 'fides' of the ex-Republican who sat in judgment on his old associates

of the Commonwealth; the 'fortitudo' of the rebel who fled the country in which he had been endeavouring to stir up insurrection, and left his fellow-conspirators to perish on the scaffold?

Thus far the *advocatus diaboli*, and perhaps further if he wished to make the most of his brief. I think, for my own part, that he can make out a quite conclusive case against canonisation; but, after all, it is only the fourth Lord Shaftesbury who ever thought of canonising the first of the name, and that only upon a family tombstone. The tendency of the historian, the poetic satirist, and with a few exceptions the biographer, has been all the other way. Burnet and Macaulay, Butler and Dryden, Roger North and Lord Chancellor Campbell, all are in a tale; and, though they do not all judge Shaftesbury with uniform harshness, yet undoubtedly the estimate which we should form of him by striking an average upon their various accounts is that of a statesman of abnormal unscrupulousness even in a normally unscrupulous age. I hold, and have endeavoured to the best of my ability to show, that this is an unjust and exaggerated view of his demerits. It is a view which I believe would never have been taken had not his marked superiority over his fellows brought his vices into such high relief. He owes it to his pre-eminence in some of the qualities commemorated in his descendant's eulogy that the world has laid such undue stress on his lack of the others. It was just because *ingenii acumine et facundiâ nullum habuit* (we should not say 'superiorem,' but rather 'parem') that history has looked so much more narrowly at the 'humanitas,' the 'in patriam amor,' the 'fortitudo,' and

the 'fides,' and has unjustly treated him as though he were more to seek in those virtues than his contemporaries. Yet, compare him dispassionately with any of the ministers who held power along with or after him, from the fall of Clarendon to the accession of James II., and with which of them, unless it be perhaps the honest bigot Clifford, need he fear comparison? Was he less honest and patriotic than Danby, or Sunderland, or Guilford, or than three at least out of his four colleagues of the Cabal? Was he less humane than the brutal Lauderdale, less staunch and trustworthy than the fickle Buckingham? Surely not, and in probity he was the superior of them all. Most of them were venal as well as ambitious, and not only risked the welfare of their country in pursuit of power, but deliberately sold it for cash down. Shaftesbury must plead guilty of the former charge, but he stands acquitted of the latter. He signed away the national treaty faith and the national interests to France, but he never soiled his palm with Louis's gold. He subscribed his name to the Treaty of Dover, but so did his companions of the Cabal. He was a party to the Declaration of Indulgence, but so also were they. Two of them, on the other hand, were privy to the conspiracy of the French and English Kings against Protestantism; but not so he. One of them suggested and the other abetted the fraudulent Stop of the Exchequer, but he resisted it. In a word, he was better than his associates in one point, no worse than they in many points, worse in none. Where he differed from them was in the unerring sagacity and foresight which enabled him to detect the signs of coming political change, and the

astonishing versatility which enabled him to turn every such change to his own advancement. A man like Arlington could not have transformed himself, from a minister of arbitrary power, into a champion of popular rights; Buckingham attempted it along with Shaftesbury, but was soon out of the race. It was not so much the profligacy of 'doubling' the part of the minister with that of the demagogue which enraged and disgusted Shaftesbury's opponents, as the consummate skill with which he assumed the second part, and the astonishing success with which he played it. This it was which pointed against him the light-flying darts of Butler and the deadlier shafts of Dryden; this it was which has made him seem to have transcended in wickedness those competitors whom he merely surpassed in ability.

But here, it seems to me, impartial biography must stop. It must be content with proving that Shaftesbury was morally no worse than his neighbours; it cannot hope, as his latest and most industrious biographer seemed to hope, to set him up on a pinnacle of virtue, and to leave his character shining through the foul and murky political atmosphere of the Restoration period, as shines a good deed in this naughty world. It is vain to represent Shaftesbury as an ardent and unselfish patriot whose repeated changes of side were due to so many honest conversions to new views of the national interest. Ambition and contentiousness, the love of conflict and the love of power, were the dominant impulses of his career, and the all-sufficient explanation of his conduct. He quitted Charles I. for the Parliament because he saw the avenues of advancement closed against him in the King's service. He abandoned the

Commonwealth for Charles II. because he saw that a Restoration was inevitable, and hoped, by assisting to further it, to lay the foundation of his political fortunes under the new order of things. From his first administrative appointment to his elevation to the Chancellorship in 1672 he worked steadily for promotion in the regular official groove. In 1673 he broke with the King and with his colleagues because he scented the Liberal reaction in the wind, and resolved to put himself at the head of a movement which would otherwise sweep him into obscurity. The outbreak of the Popish Plot converted him into a popular idol, and, having once thus tasted power in ampler measure and drunk delight of battle in more intoxicating draughts than before, he became an incurable *frondeur*. No wonder he is above the suspicion of having sold himself for office in 1679; for nothing which official life could offer would then have compensated him for the loss of his position and power as a demagogue. It was the increasing mastery of these passions—the love of power and the love of conflict—which at last drove him onward into ever more and more violent courses, which provoked an easily avoided reaction, and threw away a winning game, which gratuitously delayed by seven years of oppression the triumph of the cause to which he had devoted himself, which brought one of the most extraordinary political careers in our history to a close in failure, and doomed one of the most brilliant of English politicians to a death in exile.

Shaftesbury's direct contribution to our political progress is for this reason singularly and disproportionately small. He had all the 'latest improvements'

of the Whig politician at his fingers' ends, and one of them, in the form of the Habeas Corpus Act, he succeeded in getting adopted. But by his wantonly arrogant policy on the Exclusion Bill he deprived himself of all chance of effecting the others. That policy admits of no reasonable excuse. It is idle to contend with Shaftesbury's apologists that the fact that James II. had to be deposed from the throne is a justification for Shaftesbury's insistence on excluding him from it; for in thus justifying the end of his policy we are pronouncing the severest condemnation on his means. The end of his policy, or its only legitimate end, was to protect a Protestant nation from misrule by a Catholic prince: the exclusion of that prince from the throne was only one means to the end; and if the result of obstinate adherence to that plan is that the said Catholic prince comes, in fact, to the throne with abundant powers of misrule, of which he so abundantly avails himself as to provoke a revolution within three years, the statesman who has laboured unwisely and in vain to avert that calamity and its causes is not justified, but condemned. Its gravity is surely the measure not so much of his capacity to foresee events as of his incapacity to provide against them. His case is infinitely worse when, as here, it is impossible not to doubt the *bona fides* of the grounds on which his error was persisted in. Shaftesbury may have been honestly convinced that the Duke of York should not under any conditions be allowed to reign, but he could not have been honestly convinced that Monmouth, of all men in the world, should be put in the Duke's place; and it was this inflexible resolve to force a Royal bastard

upon the King and country as heir to the throne which did more than anything else to array all the better part of the nation against him.

Despite all this, however, Lord Shaftesbury remains not only a profoundly interesting, but also in a certain sense an important, figure in our history. He resumes in himself not only all the more salient characteristics of his age of politics, but he prefigures some of the most striking traits of ours. In his single person he typifies all the passion and profligacy, all the reckless turbulence and insatiable ambition of the troubled times in which he lived; but those three most notable actors on the stage of later English politics—the modern demagogue, the modern party leader, and the modern Parliamentary debater—are in him foreshadowed also. There had been demagogues before Shaftesbury, but no one before him had shown that it was possible to sway the judgment of a senate within the walls of its chamber and to wield the passions of a mob outside. There had been party leaders before him, but none who, sitting in one House of the Legislature, had organised the forces and directed the movements of a compact party in the other. Debaters of the modern type there had never been until Shaftesbury appeared. Good full-dress oration-makers, full of constitutional learning and 'wisdom of our ancestors,' there may have been, and men, too, on the other hand, who spoke roughly and confusedly, yet to the point. But it is in Shaftesbury that we first meet with that combination of technical knowledge, practical shrewdness, argumentative alertness, aptitude in illustration, mastery of pointed expression, and readiness of retort which distinguish the

first-rate debater of the present day. Of his Parliamentary efforts a few short examples have been given. His speech against Cromwell's mushroom House of Lords is the best known and in some respects the best. A Puritanical style of imagery, whether adopted at first from taste or policy, appears to have clung to him to the last. 'We have a little sister and she hath no breasts; what shall we do for our sister in the day when she shall be spoken for? If she be a wall, we will build on her a palace of silver; if she be a door, we will enclose her with boards of cedar.' 'We have several little sisters without breasts; the French Protestant churches, the new kingdoms of Scotland and Ireland. The foreign Protestants are a wall, the only wall of defence of England; upon it you may build palaces of silver, glorious palaces.' This passage occurs near the beginning of the speech on the State of the Nation in the new Parliament of 1679; but Shaftesbury did not often indulge in metaphor of this forced and frigid order. As a rule his speeches are of a fine simplicity and plainness, sparing in metaphor, excellent in literary form, yet with all those marks of the unpremeditated, all that flavour of the feeling of the moment, which can alone give enduring vitality, *as speech*, to spoken words. His Parliamentary oratory is to this day a living thing; but it is his achievements as party leader, it is those qualities of organisation and command which enabled him to convert the first subservient Parliament of Charles II. into a force of passive resistance to the anti-national policy of the sovereign, and to use the three succeeding Parliaments as powerful engines of attack upon the Government and Court

party—it is these performances and powers which secure to Shaftesbury a memorable place in the history of the development of our Constitution. In the last two decades of the century the way was slowly preparing for the definitive establishment of the party system in England; before the death of William III. the nation was irrevocably wedded to it for good or ill. There are some among us who think that that system is now in its decrepitude, some probably who hold that it has been a very doubtful blessing to us at its best; but, seeing that the nation, whether helped or hindered by it, has fulfilled a history of great glory and of great prosperity during the two centuries of its dominance, it is right that, if on this ground alone, we should preserve the memory of the politician who may be said both to have forged the weapons of the party leader and to have taught posterity their use.

APPENDIX.

THOSE passages in Dryden's Poems which more directly bear upon questions discussed in the text have been cited in their proper place. It may be convenient, however, to set them out again with their context at greater length than was possible in the body of the work.

ABSALOM AND ACHITOPHEL:
vv. 150–227.

Of these the false Achitophel was first,
A name to all succeeding ages curst:
For close designs and crooked counsels fit,
Sagacious, bold, and turbulent of wit,
Restless, unfixed in principles and place,
In power unpleased, impatient of disgrace;
A fiery soul, which working out its way,
Fretted the pigmy body to decay
And o'er-informed the tenement of clay.
A daring pilot in extremity,
Pleased with the danger, when the waves went high,
He sought the storms; but, for a calm unfit,
Would steer too nigh the sands to boast his wit.
Great wits are sure to madness near allied
And thin partitions do their bounds divide;
Else, why should he, with wealth and honour blest,
Refuse his age the needful hours of rest?

Punish a body which he could not please,
Bankrupt of life, yet prodigal of ease?
And all to leave what with his toil he won
To that unfeathered two-legged thing, a son,
Got, while his soul did huddled notions try,
And born a shapeless lump, like anarchy.
In friendship false, implacable in hate,
Resolved to ruin or to rule the state;
To compass this the triple bond he broke,
The pillars of the public safety shook,
And fitted Israel for a foreign yoke;
Then, seized with fear, yet still affecting fame,
Usurped a patriot's all-atoning name.
So easy still it proves in factious times
With public zeal to cancel private crimes.
How safe is treason and how sacred ill,
Where none can sin against the people's will,
Where crowds can wink and no offence be known,
Since in another's guilt they find their own!
Yet fame deserved no enemy can grudge;
The statesman we abhor, but praise the judge.
In Israel's courts ne'er sat an Abbethdin
With more discerning eyes or hands more clean,
Unbribed, unsought, the wretched to redress,
Swift of despatch and easy of access.
Oh! had he been content to serve the crown
With virtues only proper to the gown,
Or had the rankness of the soil been freed
From cockle that oppressed the noble seed,
David for him his tuneful harp had strung
And Heaven had wanted one immortal song.
But wild ambition loves to slide, not stand,
And Fortune's ice prefers to Virtue's land.
Achitophel, grown weary to possess
A lawful fame and lazy happiness,
Disdained the golden fruit to gather free
And lent the crowd his arm to shake the tree.
Now, manifest of crimes contrived long since,
He stood at bold defiance with his Prince,

Held up the buckler of the people's cause
Against the crown, and skulked behind the laws.
The wished occasion of the Plot he takes;
Some circumstances finds, but more he makes;
By buzzing emissaries fills the ears
Of listening crowds with jealousies and fears
Of arbitrary counsels brought to light,
And proves the King himself a Jebusite.
Weak arguments! which yet he knew full well
Were strong with people easy to rebel.
For governed by the moon, the giddy Jews
Tread the same track when she the prime renews:
And once in twenty years their scribes record,
By natural instinct they change their lord.
Achitophel still wants a chief, and none
Was found so fit as warlike Absalon.
Not that he wished his greatness to create,
For politicians neither love nor hate:
But, for he knew his title not allowed
Would keep him still depending on the crowd,
That kingly power, thus ebbing out, might be
Drawn to the dregs of a democracy.

THE MEDAL:

vv. 1–90.

Of all our antic sights and pageantry
Which English idiots run in crowds to see,
The Polish Medal bears the prize alone;
A monster, more the favourite of the town
Than either fairs or theatres have shown.
Never did art so well with nature strive,
Nor ever idol seemed so much alive;
So like the man, so golden to the sight,
So base within, so counterfeit and light.
One side is filled with title and with face;
And, lest the king should want a regal place,
On the reverse a tower the town surveys,
O'er which our mounting sun his beams displays.

The word, pronounced aloud by shrieval voice,
Lætamur, which in Polish is *Rejoice*,
The day, month, year, to the great act are joined,
And a new canting holiday designed.
Five days he sate for every cast and look,
Four more than God to finish Adam took.
But who can tell what essence angels are
Or how long Heaven was making Lucifer?
Oh, could the style that copied every grace
And ploughed such furrows for an eunuch face,
Could it have formed his ever-changing will,
The various piece had tired the graver's skill!
A martial hero first, with early care
Blown, like a pigmy by the winds, to war;
A beardless chief, a rebel ere a man,
So young his hatred to his Prince began.
Next this, (how wildly will ambition steer!)
A vermin wriggling in the usurper's ear,
Bartering his venal wit for sums of gold,
He cast himself into the saint-like mould;
Groaned, sighed, and prayed, while godliness was gain,
The loudest bag-pipe of the squeaking train.
But, as 'tis hard to cheat a juggler's eyes,
His open lewdness he could ne'er disguise.
There split the saint; for hypocritic zeal
Allows no sins but those it can conceal.
Whoring to scandal gives too large a scope:
Saints must not trade, but they may interlope.
The ungodly principle was all the same,
But a gross cheat betrays his partner's game.
Besides, their pace was formal, grave, and slack
His nimble wit outran the heavy pack.
Yet still he found his fortune at a stay,
Whole droves of blockheads choking up his way;
They took, but not rewarded, his advice;
Villain and wit exact a double price.
Power was his aim; but thrown from that pretence,
The wretch turned loyal in his own defence,
And malice reconciled him to his Prince.

Him in the anguish of his soul he served,
Rewarded faster still than he deserved.
Behold him now exalted into trust,
His counsel's oft convenient, seldom just;
Even in the most sincere advice he gave
He had a grudging still to be a knave.
The frauds he learnt in his fanatic years
Made him uneasy in his lawful gears.
At best, as little honest as he could,
And, like white witches, mischievously good.
To his first bias longingly he leans
And rather would be great by wicked means.
Thus framed for ill, he loosed our triple hold,
(Advice unsafe, precipitous, and bold.)
From hence those tears, that Ilium of our woe:
Who helps a powerful friend forearms a foe.
What wonder if the waves prevail so far,
When he cut down the banks that made the bar?
Seas follow but their nature to invade;
But he by art our native strength betrayed.
So Samson to his foe his force confest,
And to be shorn lay slumbering on her breast.
But when this fatal counsel, found too late,
Exposed its author to the public hate,
When his just sovereign by no impious way
Could be seduced to arbitrary sway,
Forsaken of that hope, he shifts his sail,
Drives down the current with a popular gale,
And shows the fiend confessed without a veil.
He preaches to the crowd that power is lent,
But not conveyed to kingly government,
That claims successive bear no binding force,
That coronation oaths are things of course;
Maintains the multitude can never err,
And sets the people in the papal chair.
The reason's obvious, *interest never lies*;
The most have still their interest in their eyes,
The power is always theirs, and power *is ever wise*.

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