

CHAPTER VIII

KING, COUNCIL, AND PARLIAMENT

AT THE beginning of the seventeenth century the privy council of England was well recognized as the principal organ of government, under the king; and this was apparently so well understood that it was generally not discussed but taken for granted. An aggressive minority, constantly more striking and important, was proclaiming the power and the greatness of parliament, and presently they were by force and revolution to make their contentions good. In ordinary times, however, during the first half of the seventeenth century, the council had a much larger part in government than the houses of parliament had.

In prospect of what it was striving to be, in respect of what its champions were claiming for it then, there was at this time more writing about parliament than about the king's council, as there has been in times succeeding. None the less, contemporaries described the position of the council and wrote about its relation to the king.

Francis Bacon, composing his essay "Of Counsel" some time between the years 1607 and 1612, declared that the inconveniences observed in calling and using council were three: first, revealing affairs, whereby they became less secret—and the circumstances of his age as well as the records of other times assuredly confirm what he says; secondly, weakening of the authority of princes, as if they were less of themselves; thirdly, the danger of being unfaithfully counselled, more for the councillors' good than of him advised. Bacon recounted the fable of Metis with child devoured by Jupiter, from whose head came Pallas all armed.

Which monstrous fable containeth a secret of empire; how kings are to make use of their council of state: that, first, they ought to refer matters unto them, which is the first begetting or impregnation; but when they are elaborate, moulded and shaped in the womb of their council, and grow ripe and ready to be brought forth, that then they suffer not their council to go through with the resolution and direction, as if it depended on them; but take the matter back into their own hands, and make it appear to the world, that the decrees and first directions . . . proceeded from themselves, and not only from their authority, but, the more to add reputation to themselves, from their head and device. Councils at present, he said, were in most places only familiar meetings, where matters were rather talked of than debated. And they ran too swift to the order or act of counsel. It were better if in causes of weight the matter were propounded one day and not spoken of until the next, as was done in the commission of union between England and Scotland, a grave and orderly meeting.

Raleigh, writing some time before 1619, said it should be noted that while the use and authority of senates and privy councils were very much needed, yet such bodies had no authority to command except in the sovereign's name; for if councillors themselves possessed power to order, then they would be sovereign and all execution would be at their pleasure; that would detract from majesty, which was a thing so sovereign and sacred that no citizen or subject of what quality soever might touch or approach it.¹ In another place: "that which is done by the king, with the advice of his private or privy-council, is done by the king's absolute power."² About 1649, John Selden, or one of his associates, said that the privy council

¹ *The Cabinet-Council, Works*, viii. 46.

² *The Prerogative of Parliaments, Works*, viii. 213.

was a company of choice men as the king willed, to whom was committed consideration of all the weighty affairs of the kingdom; "but nothing can be concluded without the King's *Fiat*, which regularly should follow upon the premisses, according to the major vote; but more ordinarily suiteth with that which best suiteth with his pleasure." ³

In 1605 James I spoke of "O: Councill, and officers of Estate from whome (as our subordinate Ministers) so many men are to receive rules, and directions as well concerning our own Publicque and Priuate Seruices as for the Universall satisfaction of our subiects." ⁴ In 1609 he caused commissioners to be appointed to hear suitors to the privy council on matters relating to the plantation of Ulster: "our priuy Counseil whome, in regard of their great Imployments, we are desirous to spare from those things, w^{ch} are not of such difficultie, and consequence, as may not be conveniently done wthout them." ⁵ The council had much sense of its own dignity and importance. In 1625: "Also another thing was resolved to be propounded to the King, that his Ma^{ts} seruices would suffer if the hono^r & reuerence that was wont to be giuen to the priuy Councill of the King were not kept vp and maintained by the King, As also the ancient and honorable formes of the Court of England regularly kept and obserued." ⁶

It has already been said, and it must be expounded more at length farther on, that the most important and delicate matters concerning statecraft and government were reserved by the king for his own management or communicated only to favorites or else to a small committee or group of the most trusted councillors in his service. Yet from time to time the most important matters were brought before all the privy council, especially on occasion

³ Nathaniel Bacon, *An Historical and Political Discourse*, etc. (1749), p. 201.

⁴ S. P. D., James I, xii, 9 January 1604-5.

⁵ *Ibid.*, xlv, 11 May 1609.

⁶ P. C. R., xxxiii, 29 March 1625.

of much perplexity and danger or when formal sanction was desired. This was true even of foreign affairs, though they were usually engrossed by the king himself or communicated only to the committee of foreign affairs.

In 1615 the king in council at Greenwich declared that he would like to pay his debts and make income and expenditures balance. The archbishop of Canterbury moved that the council should carefully consider the matter. There was long consultation in council at Whitehall. Sir Thomas Lake believed that parliament was the only recourse. Abate expenditures, the lord chamberlain said.⁷ A little later ten of the councillors wrote to the king that they had considered his financial needs and whether a parliament should be called. They did not, they said, like to be responsible for a decision, so they asked him to appoint a full council in which the councillors at court might join with those then in London.⁸ In 1626 the king declared to the lord mayor and the aldermen of London that he had resolved to send out a strong fleet; he "hath by the mature aduice of both his Councells, as well of State as of Warre taken this royall resolucon."⁹ In July 1638 for the first time Charles communicated to the council an account of Scottish affairs, but the body of the council, previously for the most part ignored in such important affairs, at first gave no answer.¹⁰ Afterward this business was much considered.¹¹ A few months later, however:

⁷ S. P. D., James I, lxxxii, 24, 25, 28 September 1615.

⁸ *Ibid.*, lxxxiii, 27 November 1615.

⁹ P. C. R., xxxiv, 4 August 1626.

¹⁰ "Dominica passata diede il Re, per la prima volta, notitia al suo Consiglio (e somarimente ancora) degl' affari di Scotia . . . I signori del Consiglio, non ricercati dal loro parere, e stimando, che per solo aviso fosse ad essi comunicato, niente risposero." Despatch of Francesco Zonca, 16 July 1638 (N. S.): Venetian Transcripts, xxi, 59, 60.

¹¹ "Maturate con lunghe frequenti conferenze nel Consiglio Regio le proprie risoluzioni, ha di nuovo in Iscotia la terza volta expedito il Marchese Hamilton." Despatch of Giovanni Giustinian, 24 September 1638 (N. S.): *ibid.*, xxi. 67.

"We dayly meete in councell but to little purpose, for in my opinion we are but just where you left us, divers triviall things have beene argued amongst us."¹²

In 1639, when the king was about to depart for the north, he left the government of England in the hands of the council, recommending certain matters to them.¹³ Next year the advice of the council was again taken—about whether the king should go to Scotland.¹⁴ In September, in a council of thirteen held at Whitehall, the attorney general was bidden prepare a commission directed to twenty of the principal members "and to all and every other the Lords and others of the Privy Councell who shall not attend his Ma^{tie} in the Northern parts, authorising them or any six or more of them (whereof the Lo Arch Bp of Cant the Lo Keeper, Lo Trerer, Lo Privy Seale the Ea Marshall of England or M^r Secretary Windebank to bee one) by all good wayes and meanes in his Ma^{ts} absence to provide for the peace and safety of this his Ma^{ts} Kingdome and people, in the same manner and fforme as it was drawne vp (mutatis mutandis) at his Ma^{ts} going into the North anno 1639."¹⁵ They were to hear and deal with all complaints and all matters touching ship money and other things thereto related, as granted by the former commission.

During 1640 various persons in favor with the people or with the Scots, but formerly in disfavor at court, were admitted to the council.¹⁶ Probably this effort to make the council more agreeable to the king's opponents left

¹² Earl of Northumberland to Viscount Conway and Kilultagh: S. P. D., Charles I, ccccx, 29 January 1638-9.

¹³ P. C. R., I, 26 March 1639.

¹⁴ "Della giornata del Re in Iscotia si ripigliano le voci, e per Dominica sono comandate tutti li consiglieri di portarsi ad Antomeurt dove si troverà Sua Maestà per stabilire l'ultime risoluzioni." Despatch of Giustinian, 27 July 1640 (N. S.): Venetian Transcripts, xxiii. 76.

¹⁵ P. C. R., lii, 6 September 1640.

¹⁶ Clarendon, *History of the Rebellion*, i. 259.

it much less royal confidence and favor. In July 1641 the Venetian ambassador reported that the work of the councillors was limited to little more than routine.¹⁷

In August 1641, in a council of fourteen, Charles gave a commission to some of the members of the council—the lord keeper, the lord privy seal, the marquis of Hertford, the lord high chamberlain, the lord chamberlain of the king's household, the earls of Bath and of Dorset—or any five of them, to pass all such bills or acts of parliament, during the king's absence in the north, as were specified in the commission.¹⁸ In October, while the king was still in Scotland, letters came from Dublin to the earl of Leicester about the Irish rebellion. He immediately caused the privy council to be summoned. The house of commons was to meet next day. The councillors resolved that they would go in a body to the house of commons as soon as it sat and give information about the rebellion. In a part of his manuscript which Clarendon afterwards marked for omission he wrote:

On Monday, the first day of November . . . the House of Commons was informed that the body of the lords of the Council desired to impart some what to them of great consequence and concernment to the kingdom; whereupon (after a short debate for the manner of their reception, there having never been the like occasion) chairs were placed in the middle of the House, and they sent for in.

The speaker desired them to sit down, and, they being covered, the lord keeper told the speaker that since the house of lords was not sitting they had thought fit to give

¹⁷ "Per terzo s'è sospesa ogni autorità al Consiglio di Stato, e ristrettamente limitato alli Consiglieri l'uso delle cariche, che hora si riduce di semplicemente raccordare i mezzi a Sua Maestà per ben regersi con Principi stranieri, et quelli di dar esecuzione alle vecchie et nuove leggi del Regno." Despatch of Giustinian, 19 July 1641 (N. S.): Venetian Transcripts, xxiii. 320.

¹⁸ P. C. R., liii, 9 August 1641.

the news to the commons.¹⁹ Early in 1642, after the king had left London, the council attended him once a week at Windsor, "though he could not consult them" says Clarendon, "upon what most concerned him."²⁰

Clarendon has very well described the various devices used after Charles I dissolved his parliament in 1629. For better support of the extraordinary methods employed, to protect the agents and instruments used, to discountenance and suppress all bold inquirers and opposers, the council table and the Star Chamber enlarged their jurisdiction to a vast extent holding—as Thucydides said of the Athenians—for honorable that which pleased, and for just what was of profit. The same persons in their several rooms became a court of law to determine right and a court of revenue to bring in money. By proclamations the privy council enjoined to the people what the law did not enjoin, and prohibited that which was not forbidden, the Star Chamber censuring breach and disobedience of proclamations by imprisonment and very great fines; "so that any disrespect to acts of state or to the persons of statesmen was in no time more penal, and those foundations of right by which men valued their security, to the apprehension and understanding of wise men, never more in danger to be destroyed."²¹ He declares that Noy, the lord keeper, upon a demurrer put in to a bill before him, which had no other equity in it than a decree of the lords of the council, said: "that, 'whilst he was Keeper, no man should be so saucy to dispute those orders, but that the wisdom of that board should be always ground enough for him to make a decree in chancery.'" From this great prejudice resulted to the council.²² About 1637 Laud was believed to have declared: "That, as long as he sat there, they should know that an Order of

¹⁹ *History of the Rebellion*, i. 397, 398, 408.

²⁰ *Ibid.*, p. 524

²¹ *Ibid.*, p. 92.

²² *Ibid.*, p. 86.

that Board should be of equal Force with a Law, or Act of Parliament." This was one of the further articles of impeachment brought against him in parliament in 1643.²³ From such actions and from such sayings it came that the rising opposition of parliament and of those people who took interest in the affairs of the realm was directed not only against the king but against evil counsellors and his privy council, and that in the revolution ensuing not merely the kingship but the council with it was swept away for the time.

Meanwhile the relations between parliament and council had been interesting and important. Members of the privy council took large part in the work of parliament, sitting in one or the other of the two houses, representing the interests of the king, participating in debate and legislation, and usually furnishing the avenue of communication between parliament and king. In council itself not a little of parliamentary procedure and legislative work was previously settled. A great deal of the policy and action of the king with respect to parliament was apt to be determined with the advice of some of the members of the council and was sometimes the result of decisions taken in council.

In the journals of the two houses as well as in the register of the council there is much about the participation of the privy council in parliamentary work. For the earlier period, in the *Journals* of Sir Simonds D'Ewes references repeatedly occur to bills being committed for consideration to those members of the house who were of the privy council, and to resolutions that information from the houses should be given to the king by such as were of the king's council.²⁴

²³ *Lords' Journals*, vi. 267.

²⁴ For the position of the privy councillors in parliament and their participation in the work of the two houses under Elizabeth see E. P. Cheyney, *A History of England from the Defeat of the Armada to the Death of Elizabeth* (1917-26), ii. 185-8.

In October 1566 the house of commons being assembled, "report was made unto them (by Sir *Edward Rogers* Knight, Comptroller of her Majesties Houshold, as is most probable, in respect that he was the Chief Privy-Councillor of the House)", namely, that Elizabeth would give answer concerning the choice of a speaker.²⁵ In 1606 a bill about importation of wines was "Committed to Privy Council." Two years later a bill against unlawful assemblies was, after second reading, committed to "all the Privy Council of the House", all the lawyers of the house, and such others of the house as would attend.²⁶ In 1620 Sir Jerome Horsey "Moveth Petition, or a Motion by the Counsellors, to the King from this House, for Execution of the Laws against Recusants."²⁷ About the same time a certain one spoke: "To have some of the Privy Council move the King, that the Speaker may have Access to him."²⁸ A little after this a committee appointed by the house of commons to enquire about elections contained a long list of names headed by "All the Privy Councill of the House."²⁹ Again, "All the Privy Council of the House" were appointed to draw up a resolution urging the king to go to war for the Palatinate and assuring him of the support of the commons, and it was proposed that these councillors should present the resolution to the king.³⁰ In 1624, in the house of lords, a petition from merchants about the imposition upon hops and a like petition concerning wines were delivered to the lord president and referred to the privy council.³¹

In the privy council advice was given about what should be done in respect of legislation and managing parliament, and action taken accordingly in the council or elsewhere.

²⁵ D'Ewes, *Journals* (London, 1682), p. 120.

²⁶ *Commons' Journal*, i. 279, 389.

²⁷ *C. J.*, i. 508.

²⁸ *Ibid.*, p. 519.

²⁹ S. P. D., James I, cxix, 5 February 1620-1.

³⁰ *C. J.*, i. 639.

³¹ *L. J.*, iii. 411.

In 1606 the lords of the council, in a statement containing sixteen heads, proposed "what Answeres were fitt to be gyven, and, what course to be holden concernynge the seu^rall greivances, presented to His Ma^{tie} by the Co^mon House of Parliament."³² In 1610 a committee of twenty-eight, consisting mostly of members of the privy council, was appointed to consider a bill against transporting iron ordnance, gun metal, and iron ore, to meet in the council chamber at Whitehall.³³ In 1614, according to a manuscript, mutilated now, there was held at the King's direction a privy council of sixteen that long debated whether a parliament had best be held, each man according to his best understanding. The advice was to call parliament, because of the very pressing needs of the crown.³⁴ During one of the debates in this parliament Sir Henry Wotton, who spoke in favor of impositions, was seconded by the secretary of state; they were opposed by Wentworth and others.³⁵ In June a commission was given to the two archbishops, the chancellor, and all of the privy council, authorizing them to dissolve the parliament.³⁶ "Presently upon the dissolution pursuiuants were redy to warne diuers to be the next day at the counsaile table, from whence christopher Nevile S^r Walter Chuet Hopkins and Wentworth were yesterday sent to the towre." Others were ordered to bring in their notes and papers to the council to be burned.³⁷ In 1620 it is said that when great efforts were being made for election to the house of commons, Sir Thomas Edmondes and Sir Julius Caesar tried hard to be chosen knights of the shire for Middlesex; but the freeholders would have none of them, saying they

³² S. P. D., James I, xxiii, 19 November 1606.

³³ *Ibid.*, lviii, November 1610.

³⁴ *Ibid.*, lxxvi, 16 February 1613-14.

³⁵ Chamberlain to Carleton: *ibid.*, lxxvii, 26 May 1614.

³⁶ Chamberlain to Carleton: *ibid.*, 9 June 1614.

³⁷ *Ibid.*

could not have access to such great ones as members of the privy council.³⁸

In 1621 the king having advised with the privy council determined to adjourn the parliament.³⁹ That year a dramatic ceremony took place.

His most excellent Ma^{tie} coming this daie to Counsell, The Prince his Highnes and all the Lords and others of his Ma^{ties} priuie Counsell sitting about him, and all the Judges then in London, W^{ch} were six in number there attending upon his Ma^{tie}, The Clarke of the Co^mons house of Parliament was called for and co^mmanded to produce his iournall booke wherein was noted and entries made of most Passages that were in the Co^mons house of Parliament, And amongst other things there was written downe the forme of a Protestation concerning sundry Liberties Priviledges and ffranchises of Parliament, Wth w^{ch} forme of protestation his Ma^{tie} Was iustly offended. Neverthelesse his Ma^{tie} in a most gracious manner there expressed that he never meant to deny that house of Co^mons any Lawfull Priviledges that ever they had inioyed, But Whatsoever Priviledges or liberties they had by any Law or Statute the same should be inviolatly preserved to them, And Whatsoever Priviledges they inioyed by Custome or Vncontrolled and Lawfull President his Ma^{tie} Would be carefull to preserue, But this Protestation of the Co^mons house soe contrived and carried as it Was, His Ma^{tie} thought fitt to be razed out of all Memorials, and vtterly to be innihilated both in respect of the manner by W^{ch} it was gained and the matter therein contained . . . These things considered his Ma^{tie} did this present day in the full Assembly of his Counsell and in presence of the Judges declare the said Protestation to be invalid,

³⁸ Thomas Locke to Carleton: S. P. D., James I, cxvii, 16 December 1620.

³⁹ *Parliamentary History*, i. 1262.

annulled void and of noe effect, And did further *manu sua propria* take the said protestaçon out of the Journall booke of the Clarke of the Cōmons house of Parliament, And cōmaunded an Act of Counsell to be made thereupon, and this Act to be entred in the Register of Counsell causes.⁴⁰

Early the next year it was thought the king would dissolve parliament; but men believed the privy council gave him good reasons not to do this.⁴¹

In 1626, the lord keeper speaking at the opening of parliament, said that the king "in His very first Consultations with His Privy Council, was resolved to meet His People in Parliament."⁴² In 1628, according to the Venetian ambassador, it was voted in council that unless the commons granted money at once without further debate, the king would be justified in exerting his prerogative, burdening them with fresh taxes, and compelling them to pay. He had heard that soldiers had been raised to carry this out, but he doubted whether such remedies could amend the evil state of affairs.⁴³ At the time of the petition of right a certain one reported that the king and the council were in session from two until eight o'clock at night, in which the debate was supposed to be "whether his Ma^{ty} should presently dissolve the Parliament, and it seemeth the negative was resolved on."⁴⁴ A little later the commons engaged in making remonstrances, "insisted much on a certayne Commission passed the great Seale in February last whereby the LL. of the Councill

⁴⁰ P. C. R., xxxi. 219, 220 [December 1621]; S. P. D., James I, cxxiv, 30 December (?) 1621.

⁴¹ Chamberlain to Carleton, London, 4 January 1621-2: *ibid.*, cxxvii.

⁴² *L. J.*, iii. 493.

⁴³ Letter of Alvise Contarini, 9 March 1628 (N. S.): Venetian Transcripts, xv. 970, 971.

⁴⁴ Sir Francis Nethersole to the queen of Bohemia: S. P. D., Charles I, cvi. 7 June 1628.

are authorized to leuy money for the great occasions of the King, and Kingdom by Imposition or otherwise." ⁴⁵

In February 1629 Charles held a council in which twenty-eight members were present.⁴⁶

This day his ma^{tie} in full Councell, takeing knowledge of the debate in the house of Co^mons the day before, concerning the officers of his Customes, and of the Respect vsed by the Committee to seuer the priuate interest of the said officers from that of his ma^{ties}, houlding it to concerne him highly in Justice and hono^r to lett the truth in such a poynt touching his Servants, to be either concealed or mistaken, did there declare, that what was formerly donne, by his ffarmo^{rs} & officers of the Customes, was donne by his owne direc^{con} and Comaundm^t of his Priuie Councell himselfe for the most pte being p^rsent in Councell. And if he had beene at any tyme from the Councell Board, yet he was acquainted wth their doeings, and gaue full direc^{con} in it, and therefore would not in this seuer the Acte of his officers, from his owne Acte, neither could his officers suffer for it, wthout high dishono^r to his ma^{tie} This being prticularly voted by the whole Councell, was the generall Assent of them all, and accordingly M^r Secre^{re} Coke had order to deliuer a Message the next day from his ma^{tie} to the house of Co^mons.

After Charles dismissed his parliament that year, the privy council, under the king, seemed almost to take the place of parliament, acts of state superseding acts of parliament. In this period of its greatest importance the king was frequently present at its sittings.

With the failure of Charles I's system came attacks not only on the crown but on the council, and finally both were

⁴⁵ Sir Francis Nethersole to the queen of Bohemia: S. P. D., Charles I, cvii, 11 June 1628.

⁴⁶ P. C. R., xxxix, 22 February 1628-9.

involved in one ruin. In the years preceding some of the parliamentarians—as in the fourteenth century—attacked the king's councillors and wished to reform his council. In 1625 Sir Nathaniel Rich propounded five heads which he desired should be referred to a committee and framed in a petition. One of them: "That it would please his Majestie to use grave counsellors in the government of these great affaires." ⁴⁷ Sometimes the councillors felt the difficulty of their position between king and parliament contending. "M^r Speaker," said one of them in the house of commons in 1629, "We which haue the happines, to sitt in this house, being Counsellors of State, to his Ma^{tie}, do find our selves reduced to a great strait, in regard, that what wee speak out of zealous Intent, to preserue his Ma^{ties} good opinion, of the proceedings of this house, is subiect to exception & misconstruction." ⁴⁸

In the time of James I Raleigh had written of parliament: "The three estates do but advise, as the privy-council doth: which advice if the king embrace, it becomes the king's own act in the one, and the king's law in the other; for without the king's acceptance, both the public and private advices be but as empty egg-shells." ⁴⁹ The end of all this was at hand when in 1640 parliament found the king at its mercy. Discontent with the great power wielded by the council and anger at the acts of Star Chamber reached their culmination. The storm that burst upon the king was directed at his councillors. It was also directed at the old order of council organization, and in the end much of that organization was swept away. Privy council was attacked, altered, and presently it disappeared for a while. Star Chamber and the subordinate councils were abolished forever.

⁴⁷ *Debates in the House of Commons in 1625* (Camden Society, new series, vi), p. 91.

⁴⁸ S. P. D., Charles I, cxxxvi, 21 February 1628-9.

⁴⁹ *The Prerogative of Parliaments, Works*, viii. 213.

The supremacy of parliament over council was at once asserted. It was said that the commons maintained as a principle: "Whatsoever is declared by the 2 houses binds the starchamber the L^{ds} of the Counsell and all other Courts of Justice."⁵⁰ Clarendon declares that some of the new privy councillors admitted that neither they nor anyone might give his majesty any advice, in matters depending in the two houses, that was not agreeable to the sense of the houses, which constituted the great council by whose wisdom he was to guide himself entirely. Hereupon Clarendon observes that councillors ought to give fully and freely their best advice.⁵¹

Moreover, as soon as the Long Parliament assembled in 1640, petitions began to come in the interests of those who like Prynne had been dealt with so severely by the court of Star Chamber, and consideration of these petitions was the occasion for attack upon the court and the existing system of government. A committee was appointed to consider the jurisdiction of Star Chamber. In 1641 a bill was introduced for reforming the privy council along with the court which was its other self. The lords desired that the court should be limited and regulated, not abolished, but they yielded to the wishes of the commons. In July 1641 was passed "An Act for [the Regulating] the Privie Councill and for taking away the Court commonly called the Star Chamber." By this statute Star Chamber was dissolved, and along with it the council of the marches of Wales, the council of the north, the court of the duchy of Lancaster, and the court of the exchequer of the county palatine of Chester. Besides all this the privy council proper was attacked. "Forasmuch as the Councill Table hath of late times assumed unto it selfe a power to intermedle in Civill causes and matters onely of a private interest betweene party and party and have

⁵⁰ "Intents of the Lower House": S. P. D., Charles I, cccclxxiv. 8.

⁵¹ *History of the Rebellion*, i. 262.

adventured to determine of the Estates and Liberties of the Subject contrary to the Law of the Land and the Rights and Priviledges of the Subject by which great and manifold mischeifes and inconveniencies have arisen and happened and much incertainty by meanes of such proceedings hath beene conceived concerning Mens Rights and Estates" parliament took measures to ensure that this should not be in the future. "Be it likewise declared and Enacted by Authoritie of this present Parliament That neither his Majestie nor his Privie Councill have or ought to have any Jurisdiction power or authority by English Bill Petition Articles Libell or any other arbitrary way whatsoever to examine or drawe into question determine or dispose of the Lands Tenements Hereditaments Goods or Chattels of any the Subjects of this Kingdome But that the same ought to be tried and determined in the ordinary Courts of Justice and by the Ordinary course of the Law."⁵² By another statute passed the same day the court of high commission also was abolished.⁵³

Concerning these enactments the Venetian ambassador wrote to his government that parliament had just carried three very important decisions. It had abolished the court of Star Chamber. It had abolished the court of high commission—which he said was like the Spanish inquisition. The council of state had been deprived of all authority and the councillors strictly limited to the discharge of their offices, which now amounted to no more than suggesting to his majesty the best means of conducting foreign relations and of executing the laws of the realm. Before this they had been dealing with the most weighty affairs of the state, which together with envy had made them appear less like ministers than petty princes.⁵⁴

⁵² 16 Charles I. c. 10: *Statutes of the Realm*, v. 110, 111.

⁵³ 16 Charles I. c. 11.

⁵⁴ Giovanni Giustinian to the doge and senate: *Calendar S. P., Venetian, 1640-1642*, p. 178.

The council, which had been limited but not destroyed, was soon attacked further. In 1641 a bill was debated in parliament for excluding from the council persons in holy orders.⁵⁵ Presently a parliamentary committee reported through Mr. Pym about various matters: "III. Head concerning his Majesty's Council, and Ministers of State." Both houses asked the king to remove from his councils all such as in time past had been active in furthering courses contrary to religion, liberty, and good government of the kingdom, who had lately made division between the king and his people. Parliament sued for removal of evil counsellors—as often parliament had in former days of contention with the crown. It wished Charles "to take into his Council, and for Managing of the great Affairs of the Kingdom, such Officers, and Counsellors, as his People and Parliament may have just Cause to confide in."⁵⁶ Wrathful refusal answered this request. The king had expected no one so ill-advised as by slander or any way to deter those whom he trusted in his public affairs from freely giving him counsel, especially since freedom of speech was always demanded for parliament and never refused.⁵⁷ The commons were preparing a remonstrance about misgovernment of the kingdom during the fifteen years past, and to crave that the king would take neither privy councillors nor officers of state without parliament's consent.⁵⁸ The commons wished the lords to join in instructions to be sent to a committee of both houses, with the king in Scotland. Pym said that threatening dangers had come from evil councillors; that ill counsels now threatened the destruction of religion and the laws; it was desired that the king dismiss his evil advisers.⁵⁹ Of

⁵⁵ *L. J.*, iv. 257.

⁵⁶ *C. J.*, ii, 185.

⁵⁷ *Ibid.*, p. 208.

⁵⁸ Thomas Wiseman to [Sir Joshua Pennington]: S. P. D., Charles I, ccclxxxv, 11 November 1641; the earl of Northumberland to [Sir Thomas Roe]: *ibid.*, [12 November 1641].

⁵⁹ *L. J.* iv. 430, 431, 432.

this period Clarendon says that Charles was under great disadvantage, having almost no members of the privy council in the commons to look after his interests.⁶⁰

At the beginning of December the commons prayed "*That your Majesty will likewise be pleased to remove from your Counsel all such as persist to favour and promote any of those pressures and corruptions wherewith your People have been grieved, and that for the future, your Majesty will vouchsafe to imploy such persons in your great and publick Affairs, and to take such to be near you in Places of Trust, as your Parliament may have cause to confide in.*" The Grand Remonstrance was now presented to the king by the commons. Yet it was hoped that "The immoderate Power of the Council-Table, and the excessive Abuse of that Power is so ordered and restrained, that we may well hope no such things as were frequently done by them, to the Prejudice of the publick Liberty, will appear in future Times."⁶¹ Charles's answer to the part that concerned choice of councillors and ministers of state was that what the commons sought would debar him from the natural liberty that all freemen had: "*It is the undoubted Right of the Crown of England, to call such persons to Our secret Councils, to publick Employment, and Our particular Service, as We shall think fit.*"⁶²

In March 1642, on report from a committee, it was resolved by the commons that all privy councillors and all officers of state ought to be removed except those who held by inheritance; and that "his Majesty shall be humbly desired, that he will be pleased to receive only such to be Counsellors and great Officers of State, as shall be recommended unto him by the humble Advice of both Houses of Parliament."⁶³ In a debate in the commons a

⁶⁰ *History of the Rebellion*, i. 430.

⁶¹ Rushworth, *Historical Collections*, iv. 438, 447.

⁶² *Ibid.*, p. 453.

⁶³ *C. J.*, ii. 433.

little later Pym declared "That antiently, by the laws of this kingdom, the great officers of the realm were to be settled no other way, but with consent of parliament: if the great places are so, it is not strange the lesser should."⁶⁴ Leaders of parliament were more and more resolved that parliament should control the council.

In June the nineteen propositions sent by parliament to the king at York asked that councillors might be such only as parliament approved, and that all of them should take an oath agreed upon by both houses; that privy council matters should be debated in council and not by private advisers—striking thus at the cabinet system, which was already feared and disliked; "that no public Act, concerning the Affairs of the Kingdom, which are proper for Your Privy Council, may be esteemed of any Validity, as proceeding from the Royal Authority, unless it be done by the Advice and Consent of the major Part of Your Council, attested under their Hands"; desiring that matters proper for the high court of parliament, the "great and supreme council," should be transacted in parliament, not elsewhere; that other matters of state, proper for the privy council, should be settled by councillors chosen with the approbation of the houses of parliament; that the chief officers of state—most of whom had usually taken the principal part in the work of the council, namely, the lord high steward, the lord high constable, the lord chancellor or the lord keeper, the earl marshal, the lord admiral, the warden of the Cinque Ports, the chief governor of Ireland, the chancellor of the exchequer, the master of the wards, the secretaries of state, the two chief justices, and the chief baron, should always be chosen with the approbation of parliament; that the privy council should be limited to a certain number, not exceeding twenty-five nor

⁶⁴ *Parliamentary History*, ii. 1162.

less than fifteen.⁶⁵ In December 1642, in propositions to the king, parliament asked "That all Acts of the Council Table, that do concern Government, may be attested under the Hands of those who give the Advice."⁶⁶ During this time, as on other similar occasions, parliament constantly assured the king of its loyalty, opposed his wicked counselors, and upon them put all the blame.⁶⁷

Nomination of the great officers of state, some of whom would necessarily be leading members of the king's council, was demanded in the Uxbridge Propositions, in 1644. They should continue in office *quam diu se bene gesserint*; ⁶⁸ as was asked also in the Propositions sent to Newcastle two years later.⁶⁹ Had these proposals been accepted they would have made the privy council, and, indeed, to a great extent the executive authority, dependent upon parliament, thus anticipating largely what was slowly worked out in the eighteenth and nineteenth centuries. To Charles I they must very properly have seemed much as in former times had appeared to John or to Henry III or to Edward II those earlier regulations designed to limit the power and prerogative of the crown in the interests of powerful classes who opposed it. At one time, however, in 1647, so low were his fortunes reduced, the king offered to yield: "*And for the further securing all Fears, his Majesty will consent, that an Act of Parliament be passed for the disposing of the great Offices of State, and naming of Privy-Counsellors for the whole Term of his Reign, by the Two Houses of Parliament, their Patents and Commissions to be taken from his Majesty, and after to return to the Crown.*" ⁷⁰

All attempts at agreement between king and opponents came to an end with the second civil war, which brought

⁶⁵ *C. J.*, ii. 599, 600; *L. J.*, v. 98.

⁶⁶ *L. J.*, v. 504.

⁶⁷ For example, *C. J.*, ii. 776.

⁶⁸ *L. J.*, vii. 57.

⁶⁹ Rushworth, vi. 316.

⁷⁰ *Ibid.*, vii. 882.

his defeat, condemnation, and death. During these latter mournful years a faithful remnant of the privy council had attended the king, far from Whitehall and the other places where in better days it had often assembled, until with the collapse of all royalist hopes for a while substantially it came to an end. Some of the most faithful of the councillors fled to the continent, and presently assembled as the shadow of a king's council about Charles Stuart in exile. After some years had gone by, it was seen that the privy council had been in abeyance, and not, like Star Chamber and high commission, completely destroyed.

