

The Determination of Parliamentarians to Challenge the Monarch and Expand their Power under King Charles I (1625 - 48)

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Abstract:

The English Parliament under King Charles I emerged as a powerful body which imposed itself on the political scene. It challenged any violation of privilege. Every act rested on a precedent, and if any deed of monarch or council went against it, Parliament under the leadership of the Commons protested. In this regard, Parliament was not an institution of compromise. Its perseverance to cling to this logic, to its convictions, and to the subsequent chain of facts expressing them are obvious throughout Charles' reign. During each parliamentary session, it was more interested in the airing of grievances and the redress of wrongs committed in affairs of civil or religious character, than in the funding of a war in which it had little or no interest. Moreover, the parliamentarians took steps to oppose the monarch, thus cementing a gradual expansion of their power.

Keywords: Parliament, Commons, opposition, power, determination

1. INTRODUCTION

Before 1625, the parliamentary institution and the royal authority knew relations made up of disagreement, and of compromise. But this intermittent tension did not take on the character of open opposition. In the subsequent years, the confrontation intensified. The parliamentary opposition became a tangible fact by dint of its declarations and its legislative actions which reflected the eminent character of this institution. The element that set-in motion such a process seems to be royal absolutism inspired by the power of divine right. This way of acting, which disregards the existence of parliament, has led the representatives of the realm to take a scaled-up, united stand against the monarch, and legislate to protect their achievements.

Whig historians of the nineteenth and early twentieth centuries such as Samuel Rawson Gardiner and G.M. Trevelyan, rightfully affirm that the conflict is very real and that it has a basic constitutional ground. The House of Commons aspired to play a greater role in the affairs of the kingdom while the king wanted to impose his sovereignty and rule according to a model that had become obsolete for the House of Commons. This divergence of principles drove the Commons to fight for their own survival and for an expansion of

their power. They forged strong opposition against King Charles I and refused to cooperate with him. More importantly, they were disinclined to support the monarch financially. The attitude adopted and the changes taking place during this period (1625-1642), reveal the assertive character of this institution and consequently the emergence of this new constitutional order. From the advent of King Charles I, the lower house established itself as a real opposition and refused any form of compromise; these are the real beginnings of open opposition marking a milestone in the history of English parliamentarism.

In this regard, it should be noted that many historians of the Stuart period concur with the majority on the existence of the conflict, but without going into its nature in depth (Godfrey,1959¹, Conrad,1979,² Gregg, 1984,³ Reeve, 1989,⁴ Coward, 2003⁵, Cust and Hughes,1989,⁶ Young, 1997,⁷ Cogswell, Cust and Lake, 2002,⁸ Cust, 2005,⁹ Cressy, 2015).¹⁰ Despite the relative consensus on this issue, little serious research has been carried out on the parliamentary implications of this clash, especially those concerning the expansion of parliamentary power. Contrary to the widespread belief, this paper attempts to show that the parliamentary contestation appeared as a vehement resistance against the King and his Privy Council over issues of constitutional and political character. However, even if the term 'opposition' was not recognized as such until the 19th century, this work maintains that parliamentary opposition was present and was led by some dynamic members whose intense determination to exert considerable pressure on King Charles I enabled the parliamentary members to become powerful enough to curb the royal authority and gain some privileges. So, the study's main thrust is to reveal these connections via two key research questions. First, what accounts for widespread opposition among parliamentarians? Second, which actions did they make to defend their interests and restrain the monarch's power? Relying principally on primary sources, this modest contribution aims not only to fill this gap in current historiography but also attempts to take a fresh look at the events that have marked the history of this institution by presenting new facts. As such, the study of this institution is conducted according to a chronological approach because of the successive events that have led to the evolution of parliament and its rise as an efficient assembly.

To reach the aforementioned objectives and answer the research questions, this study throws light upon the proceedings of the five parliaments sitting under King Charles I.

¹ D. Godfrey. (1959). "*The Early Stuarts: 1603-1660.*" Oxford, England: The Clarendon Press.

² R. Conrad. (1979). "*Parliaments and English Politics, 1621-1629*". Oxford, England: Oup Oxford.

³ P. Gregg.(1984). "*King Charles I*". University of California Press. California, USA, pp. 137- 8.

⁴ L.J. Reeve.(1989). "*Charles I and the Road to Personal Rule*". Cambridge, England: Cambridge University Press.

⁵ B. Coward. (2003). "*The Stuart Age: England, 1603-1714.*" Longman. London, England.

⁶ R. Cust &A. Hughes. (1989). "*Conflict in Early Stuart England: Studies in Religion and Politics 1603-1642*". : Routledge. London, England, p.105.

⁷M.B. Young. (1997). "*Charles I*". St. Martin's Press. New York, USA

⁸ T.Cogswell, R. Cust, & Lake, P. (2002). "*Politics, Religion and Popularity in Early Stuart Britain* ". Cambridge University Press. Cambridge, England. p.89.

⁹ R. Cust. (2005). "*Charles I: A political life*". Taylor & Francis Ltd. London, England.

¹⁰ D. Cressy, (2015). "*Charles I and the People of England*". OUP Oxford. Oxford, England. p.67

2. The five parliaments

Given the unusually high quality and sober thoughtfulness of Parliament's act and attitude, it is not unreasonable to demonstrate the revolutionary character of this institution by examining the proceedings of each parliament sitting under King Charles I. At this point, it is necessary to point out that the work of the five Parliaments reflect how far Parliament became a body in which the lower House was willing and able to challenge the Crown's ascendancy as well as the one of the Privy Council during the most bitterly contested debates that marked much of the period such as finances, foreign policy, and religion. In this respect, a close examination of how the representatives of the kingdom vigorously defended their rights, bargain with the king and fight to expand their powers is necessary. So, the attitude of Members of Parliaments deserves careful analysis.

2.1 The first Parliament of the reign of Charles I (March 1625 - August 1625)

Led by the House of Commons, the first Parliament (March 1625 - August 1625) of Charles I adopted an attitude of obstruction, intermittently punctuated by a willingness to negotiate on shared decision-making bases. There is clearly a nascent spirit of opposition here which only needs to flourish. Before developing this point, it is essential to digress a bit to identify the factors that set the parliamentary mechanism in motion. Charles' authoritarian behaviour coupled with his policy infuriated the parliamentary members. His intention to rule in an absolute manner was manifested in a meeting with the legislature in June 1625:

“The most high and sacred order of kings, is of divine right, being the ordinance of God himself ...A supreme power is given to this most excellent order by God himself in the Scriptures, which is, that kings should rule and command in their several dominions all persons of what rank or estate so ever”.¹

In addition to his adherence to the absolute right of kings and his underestimation of the English parliament, his foreign and religious policies provoked a storm of protest from the representatives of the realm. For example, Charles's involvement in wars with Spain without consulting the parliamentary institution coupled with his reliance upon his favourite privy councillor George Villiers, the first Duke of Buckingham to run the affairs of foreign policy² angered the parliamentarians whose tension heightened when King Charles I asked them to raise the funds to harass the Spanish coasts, urging them not to discuss further details in the ways he planned to spend them. In addition to these concerns, Charles'

¹ J.P. Kenyon, (1986). *“The Stuart Constitution, 1603–1688: Documents and Commentary.”* Cambridge University Press. Cambridge, England. p.124.

² Buckingham's foreign policy was openly criticised as incompetent. He had signed treaties with Denmark and Holland for English participation in the Danish phase of the Thirty Years' War (1618 - 1648); a religious conflict fought primarily in central Europe where 8,000 English men out of 12,000 died onboard their ships without even landing in the Netherlands. Buckingham had also lent Cardinal Richilieu eight boats which were used to attack the Huguenot stronghold at La Rochelle. However, he failed to get France to commit herself to greater involvement in the Thirty Years War. C.N, Trueman. (2019). *“George Villiers, Duke of Buckingham.”* <https://www.historylearningsite.co.uk/stuart-england/george-villiers-duke-of-buckingham/>.

Catholic tendency was condemned by the parliamentary members. His friendship with Roman Catholics and his support to the High Church group whose beliefs and practices were most like those of the Catholics, increased parliamentary opposition. His marriage to a French Catholic princess and the consequences that it brought about such as the presence of Catholic priests and servants at the English court did not stand him in good stead with the parliamentary members. These ones became more and more disinclined to meet the royal needs¹ mainly following the monarch's support of Richard Montague.² This attitude was clearly manifested when the parliamentarians expressed their unwillingness to provide adequate funds to finance the war against Spain. Far from voting for additional funds and enabling King Charles I to collect tonnage and poundage for life as it had customarily been, the House of Commons allowed him to collect the two varieties for a single year and granted less than a quarter of the necessary sum to run the war³. Although the action was met by the King's dissolution of Parliament, it is probable that the parliamentary members intended to subdue the King's power by obliging him to negotiate for the renewal of the grant each year. This attitude persists in the second Parliament where grievances before support and supply were the catchwords of the meeting.

2.2 The second Parliament of the reign of Charles I (February 1626 - June 1626)

The second parliament of the reign (February 1626 - June 1626) was even more resolute vis-à-vis the Crown in denouncing the king's misconduct such as the collection of an obsolete tax dating from the Middle Ages⁴. The parliament convened by the king, had adamantly refused to grant financial aid as long as the king maintained this medieval practice without parliamentary permission. Moreover, it criticised Charles's foreign policy and attributed the failure of a naval expedition against the Spanish port of Cádiz to the incompetence of his chief advisor, George Villiers, the Duke of Buckingham. Under the

¹ In May 1625, royal finances were under severe pressure. There was the expenses on Charles's union with Henrietta Maria; payment of James I's funeral dues; the expenditure related to commitments to military action in the continent, and state aid to England's allies; along with ineptitude and money laundering through corruption or incompetence.

² Richard Montague was an Arminian theologian who had published a tract in 1624, the 'New gag', which attacked the Calvinist doctrine of predestination and in the process outraged supporters of the Church's traditional doctrines. Attacks on him in Parliament were met by Charles, who signalled his own position by appointing Montague as royal chaplain. S. Angus. (1999). "*Stuart England*". Routledge. London and New York, England. p 49.

³ Tonnage and poundage, customs duties granted since medieval times to the English crown by Parliament. Tonnage was a fixed subsidy on each tun (cask) of wine imported, and poundage was an ad valorem (proportional) tax on all imported and exported goods. Though of separate origin, they were granted together from 1373 and were used for the protection of trade at sea. From 1414 they were customarily granted for life to each successive king. However, the crown's resort to impositions led the first Parliament of Charles I to refrain from making the customary lifetime grant. Britannica (2019). Tonnage and poundage, accessed October 30, 2019 at 9:15 a.m. <https://www.Britannica.com/topic/tonnage-and-poundage>.

⁴ King Charles I continued to collect customs duties (tonnage and poundage), even though Parliament had voted in 1625, against long-standing custom and precedent and had granted him a double subsidy worth around £140,000. Apparently, the sum did not meet his foreign-policy requirements which amounted to £1 million. M. Kishlansky.(1996). "*A Monarchy Transformed Britain (1603 - 1714)*". Penguin Press. London, England. p. 154.

leadership of the lawyer John Eliot, it demanded an immediate investigation into the Cadiz disaster and called for the impeachment of the Duke of Buckingham. This failure was described by Sir John Eliot as follows: “Our honour is ruined, our ships are sunk, our men perished, not by the sword, not by chance, but by those we trust.”¹ To gauge the prevailing mood of the moment, here is what a member of Parliament, Nathaniel Bacon wrote to his wife in a letter in 1626:

“Nevertheless, we go on with a remonstrance...to his Majesty containing the general grievance of the realm...namely: fear of innovation of religion; fear of innovation of government; the ill successes of our late foreign enterprises; the ill state and decay of our forts and castles...the decay of trade, the great loss and decay of the shipping of the realm; the ill guarding of the Narrow Seas. And concluded in these very terms: that the excessive power of the Duke of Buckingham and the abuse of that power is the chief cause of these evils and dangers to the king and the kingdom”.²

These arguments reveal the Commons’ intention to control foreign policy. Additionally, its call for the use of the medieval parliamentary procedure i.e., impeachment denotes its great care to preserve its ancient practices. In fact, parliamentary demands were so drastic that the monarch resorted to the dissolution of the second Parliament to get rid of the debates dominated by foreign affairs and the attempted impeachment of his trusted advisor, the duke of Buckingham. In fact, the constitutional struggle driven by the parliamentary body under the leadership of the lower house remained constant all along Charles’s reign: The King boasting of his totalitarian power and the parliamentarians resisting every attempt aiming at restraining their liberties.

2.3 The third Parliament of the reign of Charles I (March 1628 - March 1629)

The third Parliament (March 1628 - March 1629) convened to finance the war against France, (1626 -1630),³ was even more frank and clear in its opposition. As such, the obstreperous opposition, which now dominated the lower house, on more than one occasion had expressed hostility towards both King Charles I and his privy council. It criticised the malpractices of the king and legislated to codify and limit them. Before officialising their demands by giving them a legislative character, the deputies categorically rejected the royal demands concerning the financing of the war against France. This attitude can be linked to

¹ A. Thrush & J.P. Ferris. (2019). “*The Management of the Commons*”, accessed September 26, 2019 at 8:15 a.m.. <https://www.historyofparliamentonline.org/volume/16041629/survey/xiii-management-commons>.

² Quoted in C.Daniels, & J.Morrill. (1988). “*Charles I.*” Cambridge University Press. Cambridge, England.p.95.

³ The Anglo-French War was a military conflict fought between the Kingdom of France and the Kingdom of England between 1627 and 1629 that was part of the broader Thirty Years' War. The centerpiece of the conflict was the Siege of La Rochelle (1627–28), in which the English crown supported the French Huguenots in their fight against the French royal forces of Louis XIII of France. La Rochelle had become the stronghold of the French Huguenots, under its own governance. It was the center of Huguenot seapower and the strongest center of resistance against the central government. R. H Fritze, & W. B. Robison.(1996). “*Historical Dictionary of Stuart England, 1603-1689*”. Greenwood. London, England.p.203.

the anti-parliamentary activities during the two years preceding the convocation of the third parliament. King Charles arrested the Commons' leader, John Eliot as well as his supporters. He also levied "Forced Loan"¹ on wealthy men. Worse still, he imprisoned five knights who refused to pay the "forced loan."² It is very likely that this act, considered by parliamentarians to be infringing upon their freedoms and their prerogatives, prompted them to denounce it and avoid its repetition as follows:

"No free man ought to be committed, detained in prison, or otherwise constrained by command of the King, or Privy Council, or any other, unless some cause of the commitment, restraint, or detainer, be expressed, for which by law he ought to be committed, detained, or restrained".³

Apparently, these developments did only intensify the parliamentary opposition which reached its climax when King Charles I expressed his intention to take the reins of power alone:

"I would use those other means which God hath put into my hands to save that which the follies of other men may otherwise hazard to lose."⁴

In this respect, a desperate poetaster wrote in 1628:

"And now, just God! I humbly pray
That thou wilt take that slime away
That keeps my sovereign's eyes from viewing
The things that will be our undoing".⁵

In this sense, the monarch had full power to act without his subjects' consent and override the parliamentary privileges. As such, it is worth recalling Cust's words:

"England was a country very much defined by its sense of liberty and through Charles' actions, that liberty, and the very institution of parliament seemed to be under threat."⁶

¹ Forced loans were extra-parliamentary taxes which English sovereigns requested from their wealthier subjects. The forced loan of 1626 was uncommon for being levied on all taxpayers to finance the war.

² Charles resorted to a forced loan, effectively a tax which had not been authorized by Parliament. This forced loan met substantial resistance, with some prominent gentlemen being imprisoned for their refusal to comply. When five of those men (the Five Knights): Sir Thomas Darnel, Sir John Corbet, Sir Walter Erie, Sir John Heveningham, and Sir Edmund Hampden, tried to secure their freedom by issuing a writ of habeas corpus, the Crown argued that it had the power to commit people to prison at its own discretion, without stating a specific, legal reason. British Library. (2019). "*The Petition of Right*", accessed September 11, 2019 at 9:20 a.m., <https://www.bl.uk/collection-items/the-petition-of-right>.

³ M. Jansson, et al. (1983:231: 239). "*Proceedings in Parliament, 1628*". Yale University Press. New Haven, USA, pp. 231 – 239.

⁴ S. R. Gardiner. (1906). "*The Constitutional Documents of the Puritan Revolution, 1625-1660*". Oxford University Press. Oxford. England, p.59.

⁵ J.Bruce. (1859). "*Calendar of State Papers, Domestic Series of the Reign of Charles, 1628 – 1629*" (Vol.3). Longman. London, England, p.240.

⁶ R. Cust.op.cit., p.64.

The reaction of the House of Commons was consistent with the idea that there was strong opposition. This one resulted in the expansion of parliamentary power. As such, other actions of the third Parliament reveal the opposition's determination to curtail the monarch's powers; the impeachment of the duke of Buckingham for the second time on account of his disastrous foreign policy and military undertakings, and the issue of a fundamental measure reinforce these historical facts. The Petition of Right,¹ a list of grievances, submitted to Charles in May 1628, was drafted by Charles's opponents who belonged to the House of Commons. Since the following jurists: John Eliot, Sir Edward Coke, Robert Phelps, John Selden and Thomas Wentworth were able to draft the 'Petition of Right' at a time when royal repression was at its height, it is entirely legitimate to consider their action as revolutionary. Such audacious behaviour did again embody the tenacity of this Parliament to curtail the monarchical authority. By examining the content of this document, one can measure the determination of parliamentarians and their degree of resistance. Their insistence on the recognition of four principles enshrined in Magna Carta² but violated by the King: no taxes without the consent of Parliament;³ no imprisonment without cause;⁴ no quartering of soldiers on subjects; no martial law in peacetime stands as a stark illustration of their determination to protect their liberties and properties as well as the ones of those who elected them against royal encroachment. The last two demands reflect the impact that Charles' warlike foreign policy was having upon the English citizens. The petition claimed that by the laws of England, subjects

“Should not be compelled to contribute to any tax, tallage, aid or any like charge not set by common consent in parliament”; yet the people of England were required to lend certain sums to the crown and many of them, upon their refusal, had been constrained to appear before the Privy Council and be imprisoned....”⁵

Regarding the specific problem caused by the 'Case of the Five Knights', Edward Coke, a parliamentarian had come to regard it as incompatible with Magna Carta when he

¹ In the face of unresolved grievances, a Petition of Right was presented on May 28, 1628, and passed on June 7, with crucially, the backing of both Houses of parliament. S.R. Gardiner (1906). *The Constitutional Documents of the Puritan Revolution*, op.cit., p.32.

² The Magna Carta (“Great Charter”) is a document guaranteeing English political liberties that was introduced by a group of rebellious barons against King John I (r.1199 – 1216). It established the principle that even the monarch and his government were subject to the rule of law.

³ Clause 12 “No 'scutage' or 'aid' may be levied in our kingdom without its general consent unless it is for the ransom of our person, to make our eldest son a knight, and (once) to marry our eldest daughter. For these purposes, only a reasonable 'aid' may be levied. 'Aids' from the city of London are to be treated similarly.” B.Adams, & S. Morse.(1901). “*Select Documents of English Constitutional History*”. Macmillan & Co. New York, USA, p.40.

⁴ Chapter 39 of the Great Charter declared, “No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by the legal judgment of his peers or by the law of the land.” Ibid. p. 42- 47.

⁵The Petition Exhibited to His Majestie by the Lords Spiritual and Temporal and Commons in this present Parliament concerning divers Rights and Liberties of the Subject: with the Kings Majesties Royall Answer thereunto in full Parliament 1627-1628. J. Raithby.(1819). “*Statutes of the Realm, 1628-80*” vol.5: *The Petition of Right 1628*, accessed September 10, 2019 at 7:30 a.m. <https://www.british-history.ac.uk/>.

contended that:

“If detention be upheld per mandatum domini regis, or ‘for matter of state’ . . . then we are gone, and we are in a worse case than ever. If we agree to this imprisonment ‘for matters of state’ and ‘a convenient time,’ we shall leave Magna Carta and the other statutes and make them fruitless, and do what our ancestors would never do.”¹

After mentioning Chapter 39 of Magna Carta - the framers of the Petition set forth the following grievances:

“[Y]our subjects have of late been imprisoned without any cause shewed: And when for their deliverance they were brought before your justices by your Majesties writes of habeas corpus . . . , no cause was certified, but that they were detained by your Majesties special command signified by the lords of your previous council, and yet were returned back to several prisons without being charged with anything to which they might make answer according to the law They . . . pray . . . that no freeman in any such manner as is before mentioned be imprisoned or detained”.²

These words expressed the Commons’ rejection of the idea of arbitrary imprisonment. Even if the Petition was not essentially promulgation of new legislation, but a declaration of established rights, it was significant in a sense that it embodied parliament’s protest to an overreach of authority by King Charles I. Moreover, the petition articulated parliament’s rejection of the alleged Crown right to detention for reasons of State. In a way, the parliamentarians defined the limits of royal power by showing the excesses of absolutism and by being determined to enter full-foot into the decision-making power of the country. As such, the Commons showed how far they were resolved to impose themselves-to withhold supply in times of emergency, to solicit the backing of the lords, to appeal to the law, and to have recourse to legislation. In doing so, they challenged the authority of the monarch and that of his privy council which maintained that the question of the forced loan as well as its consequences could not be only attributable to the king, the parliamentarians also had some responsibility³

By setting out specific rules in the ‘Petition of Right’ based primarily on the rule of law, the English parliamentarians sought to promote their rights and to establish a new

¹ Remarks of Sir Edward Coke given Apr.26, 1628, R. C Johnson et al.(1977). “*Commons Debates, 1628*” (Vols. 3). Yale University Press. New Haven, USA, p.95.

² The Petition of Right 1628, 3 Car. 1, c. 1, §§ 5, 8 (Eng), . J. Raithby, (1819),op.cit.

³ During the debate over the Five Knights’ Case and its subsequent ramifications, the members of the Privy Council who supported the royal prerogative, argued that the forced loan and its consequences could not be laid on the King. it was not the fault of Charles that he had to make use of the force loan to get the necessary funds to run the country and support the war effort. The resulting imprisonment of the knights was also not Charles’s fault. More importantly, they attributed the development of the events to the following: "1. That the commons and lords persuaded and put the King into this war. 2. That warres were never bome. by the'Kinge's charge without the great assistance of his subjects. 3. That to the maintenance of this war they promised to assist the King with goods and persons." Cust also states that the Privy Council believed that because Parliament "had refused to make a grant," Parliament "was now open to the king to request an aid by way of a general loan. R. Cust. (1987). “*The Forced Loan and English Politics, 1626-28*”. Clarendon Press. London. England. p.201.

equilibrium in the exercise of power. This new situation is quite rightly commented on by the Whig historian, Samuel Rawson Gardiner who considered the document in question as the beginning of a constitutional revolution in which parliament took sovereignty from an autocratic Stuart monarch.¹ Although this was only a petition, the measure was after clever manoeuvring, printed and edited across the country as a law². The fact that this petition is approved by the monarch in exchange for a subsidy shows the firm determination of the parliamentarians to go to the end of their claims.

This entails that King Charles I was compelled to give his formal consent on June 7, 1628, in return for a vote of five subsidies.³ As such, the issue of the 'Petition of Right' did not end but rather increased the deputies' willingness to bargain with the monarch, for Parliament having obtained some concessions wished to have more mainly following Charles I's infringement of the deal. In this respect, the comment of G.M. Trevelyan merits quoting: "The Petition of Right, like Magna Carta, was the beginning, not the end, of a struggle for the principles it enunciated."⁴

The second instance through which the Commons demonstrated their resistance to royal authority and expressed their determination to change the course of things in written form took place during the second session of the third Parliament (23 January 1629, 10 March 1629). The representatives of the realm once again proved to be able enough to defy the royal authority and impose their own view on matters related to their rights. Led by John Eliot, the House of Commons voiced its opposition to Charles' arbitrary rule and raised the question of privilege. The monarch's ongoing collection of tonnage and poundage without parliamentary authorization, the imprisonment of John Rolle, a merchant, and an MP, following his refusal to pay the imposition, and the subsequent confiscation of his goods are all violations of the Commons' liberties. Also controversial was the growing influence of the Arminian faction⁵ in the Church of England which mainly advocated the authority of the clergy and the one of the bishops, in particular, against the laity. This was regarded as being close to Catholicism and a return to pre-Reformation practices. Francis Rous, a parliamentary member, echoed the sentiments of most members as well as their apprehension when he declared:

¹ S.R. Gardiner.(1884). "*History of England from the Accession of James I to the Outbreak of the Civil War*". Longmans, Green, and Co. London, England, pp.284 -295.

² Although there is uncertainty about whether the Petition was merely a petition, or had a larger statutory force, the historian L.J Reeve proposes that 'the Petition was a legislative act of statutory character and effect, rather than a judicial measure which did not bind the king at law If [...] the Petition was legislative, [...] it achieved its purpose and anchored the political and ideological concerns of the commons in contemporary legal reality.' L.J. Reeve.(1986). "*The Legal Status of the Petition of Right*". The Historical Journal, (Vol. 29, No. 2.) Cambridge University Press. Cambridge, England.

³ P.Gregg. op.cit., p. 258.

⁴ G. M Trevelyan (1960). "*England Under the Stuarts*". Penguin Books. Great Britain, p. 144.

⁵ The term 'arminian' was attributed to a small group of Anglican clergymen who argued for a return to the practices of worship of the pre-Reformation Church and promoted obedience to the King's authority as head of the Church of England.

“I desire that we may look into the very belly and bowels of this Trajan Horse, to see if there be not men in it, ready to open the gates to Romish tyranny and Spanish monarchy; for an Armenian is the spawn of a Papist”.¹

In this perspective, the English parliamentarians saw religious reform as part of their remit and, in this sense, it should be carried out not by the king alone nor by the bishops, but by the representatives of the kingdom. It is, in fact, this bid to have control over the Church, a control that was supposed to be an inheritance from Tudor times² which seemingly provided unity among various groups in the lower house. Such an invective against the royal rule was fruitful in legislative terms. To face the twin-headed spectre of absolutism and Catholicism, it was necessary for the Lower House to articulate its claims by issuing a document known as ‘the protestation or the three resolutions.’ However, the manner whereby these resolutions were read together with the content of the protestation revealed to what extent the House of Commons became powerful. As a consequence of Charles’ attempt to adjourn the parliamentary session in 1628, following his despair to receive the needed pecuniary help to carry on his bellicose adventure with France, the House of Commons reacted contrary to the king’s expectations. A group of elected members led by Denzil Holles prevented by force the Speaker Sir John Finch to end the session by holding him down, while Holles read aloud three resolutions in an atmosphere of great tension; the door of the House of Commons was locked and the King's officials hammered at the door:

“... anyone who paid tonnage or poundage not authorized by Parliament would "be reputed a betrayer of the liberties of England, and an enemy to the same...those who advise popish or Armenian innovations in religion were capital enemies to this kingdom and commonwealth’, as were those in any way participating in the collection of customs duties”.³

Although this incident seems innocuous and may appear to current eyes as childish amusement, it nonetheless reflects the capacity for resistance and the will of the representatives to impose themselves and to put an end to the royal dictates. As such, the House of Commons declared extra-parliamentary taxation such as the collection of Tonnage and Poundage as unlawful. It also condemned the Armenian religious innovations which advocated obedience to royal power. Although no formal vote was made in the ensuing confusion, MPs shouted to express their support and appreciation to Holles' audacious behaviour. This form of opposition is itself an important underpinning for the work of the parliamentary institution. However, so diminished it may be in relation to the power of the king and that of his Privy Council, points nevertheless towards a structured, thoughtful, and organised opposition, in short, the presence of a real counter-power in the making. Indeed,

¹Journal of the House of Commons (1547-1629). Volume 1, 1547-1629. *The earliest volume of the official minute book of the House of Commons, covering the reigns of Edward VI, Mary, Elizabeth I, James I and Charles I to 1629*, accessed July 12, 2019 at 8:30 a.m.. <https://www.british-history.ac.uk/commons-jrnl/voll>.

² During the English Reformation, the English parliament was totally involved in the religious affairs of the country.

³ Journal of the House of Commons (1547-1629), op. cit.

the parliamentary opposition was reinforced by important parliamentary actions. Surprisingly enough, the Lower House voted its own adjournment, thus questioning the Crown's authority to adjourn the legislative body of the kingdom.

The content of the resolutions together with the way with which they were pronounced suggest the evolutionary nature of the legislature. More importantly, the third Parliament displayed a great resistance to the monarch's wishes, in point of fact, instead of being cooperative as Charles hoped, it went further in its opposition to the king. Seemingly, owing to these developments, the period from 1626 to 1629 has been considered by the ancient British Prime minister, Winston Churchill as the foundation of English liberty¹. In fact, the absence of parliament from the political scene during 11 years, due partly to its own adjournment and greatly to Charles' declaration to rule alone, did, in any case, mean that the parliamentarians gave up. On the contrary, the disbanded parliament developed an outright hostility towards the king's rule² in what Whig historians refer to as 'The Eleven Years of Tyranny'³. The proceedings of the succeeding parliaments highlight the deepening antagonism.

2.4 The fourth Parliament of the reign of Charles I (13 April- 5 May 1640)

The years prior to 1640 saw the rise of the parliamentary opposition. The attitude of the Commons in the fourth Parliament (13 April- 5 May 1640) is the very expression of such development. The parliamentarians who had been so offended by the arbitrary rule of Charles I together with his reliance on his privy councillors,⁴ took command of the situation. They refused any form of cooperation to subdue the Scots who defeated the English in the

¹ W. Churchill.(1990). "A History of the English-Speaking Peoples" (Vol. 2). Dorset Press. London, England, p. 53.

² For example, during his reign, defendants were regularly hauled before the Court without indictment and their testimonies were extracted by the King and his courtiers through extensive torture. Both Charles and his close adviser William Laud misused of the powers of the prerogative courts (Star Chamber and Court of High Commission) to punish those who refused the religious reforms and the introduction of a New Prayer Book, was excessive. Charles, I levied illegal taxation in various ways. For example, from 1634 to 1640, he turned ship money, a tax traditionally paid only by port cities for naval defense in times of emergency, into a regular tax on all of his English and Welsh subjects. The conviction of John Hampden, a former parliamentary leader, who refused to pay ship money constituted a flashpoint to revolution. Britannica, op.cit. Charles I king of Great Britain and Ireland.

³Whig historians such as S.R. Gardiner named the period running from 1629 to 1640 "the Eleven Years' Tyranny" because they regarded Charles as a despotic monarch who showed no respect for property, liberty, or the rule of law during his personal rule. H. F. Kearney.(1972). "The Eleven Years' Tyranny of Charles I". Historical Society. London, England, p.54.

⁴ Government during the Personal Rule was centred on the Privy Council. Meeting twice a week, it was more concerned with implementing policy than creating it, which was the province of the King and a small number of his trusted advisers. It dealt with a range of administrative matters either collectively, or in sub-committees that dealt with particular areas such as Ireland, Scotland, and trade. It was also responsible for supervising local government, with which it seems to have had a reasonable working relationship for most of this period. S. Angus, op. cit,p.57.

First Bishops' war¹ unless King Charles I accepted to remedy various abuses of power during the Personal Rule. In the absence of any consensus on this matter, the fourth Parliament was dissolved on May 5, 1640, after a session that had lasted only three weeks. Thus, it became known as the "Short Parliament." Such stubborn attitude from the part of the Short Parliament indicates its determination to safeguard its position as an opponent body whose power was eminent in the last and Long Parliament.

2.5 The fifth Parliament of the reign of Charles I (1640 - 1653)

The fifth Parliament (1640- 1653) convened to fulfil the conditions of the humiliating Treaty of Ripon in October 1640², saw both its opposition and powers grow significantly. The first session of the Long Parliament running industriously from November 1640 to September 1641, was noticeable by the great sense of unity that characterized the two parliamentary houses and by their consensus on matters related to their privileges. This sense of unity is conspicuous in the actions of the parliamentary body. The two houses launched an attack against King Charles I and his Privy Council on the same ground. Lords like Falkland and Edward Hyde were in favour of the idea of restricting the prerogatives of the monarch and getting rid of his advisors in the Privy Council.³ Pym's claim is representative of Parliament's stance: "evil advisers around the King were trying to steer the nation towards absolutism and Catholicism."⁴ This suggests that the parliamentarians blamed the Privy Council for having driven the monarch to misuse his power and led the country to disaster. The following extract of a speech delivered by John Pym on November 7, 1640, illustrates the parliamentary approach towards the crisis and suggests a parliament which was on the verge of ruin except if exceptional measures of redress were taken. "There is a design to alter law and religion, the party that affects this are papists."⁵ For instance, in order to limit the royal power, the Long Parliament under the leadership of the House of Commons proceeded as follows: it impeached consecutively Charles I's chief supporters: William Laud, Archbishop of Canterbury in December 1640, and Thomas Wentworth, Earl

¹ Bishop's War, First (1639). A brief conflict between Charles I of England and the Scots, caused by Charles's attempt to impose the English liturgy on the Scots in response to which the Scots abolished Bishops in the Scottish church. The Scots seized Edinburgh Castle, but the war was ended without serious fighting by the Peace of Berwick (18 June 1639), in which Charles made some concessions to the Scots, although he was unwilling to allow the abolition of the Bishops. R.J. Evans (2000). Bishop's War, First (1639), accessed November 15, 2019 at 11:30 a.m. http://www.historyofwar.org/articles/wars_bishops1.html.

² The Treaty of Ripon was a peace agreement signed in the aftermath of the Second Bishops War by Charles I, King of England, Scotland, and Ireland, and the Scottish Covenanters on 26 October 1640. Its terms were humiliating- the Scots were to keep the six northern counties including Newcastle, Northumberland, and County Durham. Moreover, they were to obtain from Charles expenses of £860 a day to sustain their military forces there.

³ R. Verney (1845). "*Verney Papers: Notes of Proceedings in the Long Parliament, Temp. Charles, I*". Printed for the Camden Society, by J. B. Nichols and sons. London, England. p.171.

⁴ Crowell, L. (1966). "*The speaking of John Pym, English parliamentarian*" (Speech monographs). s.n.]. London, England, p. 77-101.

⁵ L. Glow. (1964). "*Pym and Parliament: The Methods of Moderation.*" *Journal of Modern History*". (Vol. 36, No. 4.) 1 John Pym, speech to Parliament, 7 November 1640. The University of Chicago Press Chicago. Chicago, USA. pp. 373-397.

of Strafford in January 1641. It abolished ecclesiastical representation in parliament and passed three acts forcing King Charles I to make one concession after another. In this context, the historian G.M. Trevelyan pointed out the evolutionary character of this Chamber: “In 1640 the Lower House was no mere a debating society, but an elaborately organised business body of the modern type, capable of conducting affairs.”¹

This well-deserved praise is not without proof. All the achievements of the Long Parliament were the product of the Lower House. For example, by looking at the Triennial Act of February 1641, it seems evident that the members of the House of Commons made moves to undermine royal prerogatives and enlarge theirs. In an attempt to make an end to the scorning and frequent dismissing of the parliamentary houses that brought matters to a head, the parliamentarians mandated the summoning of the two chambers with or without royal authorization; at least once every three years and for a minimum of fifty days. This would enable Parliament to perform its ancient duties: to make law, to grant supply, to draw the king’s attention to the grievances of the subjects, and to seek redress. But in case the monarch fails to issue proper summons, the members can assemble on their own. The enactment of the Triennial Act was followed on May 10, by another Act which consolidated the idea that Parliament was willing to establish firm rules regulating its summoning. In this respect, this Act outlawed the adjournment of the present parliament without its own consent. This, indeed, deprived the English monarch of one of his most important prerogatives.

In the process of imposing further limitations on King Charles I and his Privy Council, this parliament passed another law in June 1641 to eradicate practices such as non-parliamentary taxes and the retention of the hated Prerogative Courts of Star Chamber² and High Commission.³ By dissolving these courts for having acted beyond their authority and levying punishments not warranted by law, the parliamentarians made some progress regarding habeas corpus as indicated by the Star Chamber Act which stated that any person imprisoned by the king, his Council Board, or any member of the Privy Council had the right to challenge his detention through a writ of habeas corpus before the Courts of King’s Bench or Common Pleas.⁴ In this respect, the parliamentarians recalled the illegitimacy of the monarch’s fiscal expediency and abolished the above courts which had sustained non-parliamentary government and had been used by Charles during his personal rule to circumvent parliamentary authority. Such legislation was to remove one of the most

¹ G.M. Trevelyan, *op.cit*, p.149.

² The Star chamber is an English court of inquisitorial and criminal jurisdiction that developed in the late 15th century, trying mainly those cases affecting the interests of the Crown. Because of its arbitrary and oppressive judgments, it won enough odium under the reign of King Charles I and was abolished in 1641.

³ High commission: an ecclesiastical court which sat from 1559 until its abolition in 1641. It had the power to investigate, correct, and discipline secular and clerical individuals who had been accused of religious dissent. R. H Fritze, *op.cit*, p. 416.

⁴ The Habeas Corpus Act 1641, 16 Car. 1, c. 10, J. Raithby, (1819), *op.cit*, accessed September 10, 2019 at 10:30 a.m.

important relics of the prerogatives of the monarchy. Furthermore, leading puritans¹ who had been imprisoned, were released and compensated.

Like the first parliamentary session, the second one taking place in November, was marked by its constitutional legislation. This again reveals the increase of the power of the parliamentary body. So, one of Parliament's first undertakings was to control the Privy Council. This aspiration was clearly expressed in "the Grand Remonstrance" (November 22, 1641)² which spelled out parliament's claim for the right to appoint royal officials.

"That His Majesty be humbly petitioned by both Houses to employ such Counsellors, Ambassadors, and other Ministers, in managing his business at Home and Abroad, as Parliament may have cause to confide in, and without which we cannot give his Majesty such supplies for the support of his own estate".³

At this point, it is interesting to mention that due mainly to the Commons' despair over the state of foreign affairs that the Grand Remonstrance was proclaimed. Aside from containing more than two hundred clauses that list all the gripes under which the country had groaned during the "Eleven Years of Tyranny", this document called for further action to secure the non-recurrence of the aforementioned mal-practices. It insisted again on its right to enjoy its liberties without any restriction. King Charles, I had to exclude from his Council those to whom the parliamentary members objected and to appoint as councillors two men pleasing the Commons and having the confidence of the parliamentarians. Implicitly, this meant that the Houses should play a part in the appointment and dismissal of the privy councillors and principal officials of the Crown, and that the Privy Council's debates and decisions should be subject to parliamentary scrutiny. Accordingly, the legislation that the deputies passed in 1641 intended to make it impossible for the monarch to rule without parliament. This suggests that political sovereignty should reside not in the king alone, but in the king in parliament. Led by prominent figures such as John Pym, it seems clear that the Commons gradually developed into a powerful entity, cognizant of its constitutional position. Such development confirms the emergence of a politically determined elite whose awakened mind definitely incited it to take advantage of any possible occasion to enlarge the scope of its privileges even though this might be cloaked under the guise of precedent. Another crucial change in the process of the legislature had been made on January 4, 1642. The speaker's attitude during Charles I's attempt to arrest five members of parliament for treason was revolutionary. Undismayed, the Speaker of the

¹ A puritan is a member of a group of Protestants that arose in the 16th century within the Church of England, demanding the simplification of doctrine and worship, and greater strictness in religious discipline: during part of the 17th century the Puritans became a powerful political party. J. Plowright. (2006). "*The Routledge Dictionary of Modern British History*". Routledge Taylor & Francis Group. London and New York, England and USA, p. 103.

² The Grand Remonstrance as reproduced in Gardiner's Constitutional Documents consisted of a long preamble and 204 clauses detailing all the grievances of the King's reign from his accession in 1625 to 1641. S.R. Gardiner (1906). "*The Constitutional Documents of the Puritan Revolution*", op.cit., p.151.

³ J.Rushworth. (1721). "*Historical Collections of Private Passages of State*": Vol. 4, 1640-42, p.450, accessed December 09, 2019 at 10:14 AM, <http://www.british-history.ac.uk/rushworth-papers/>.

Commons refused to disclose their hiding place although he had been under the threat of arms. His reply illustrates his attachment to the House of Commons:

“May it please Your Majesty, I have neither eyes to see, nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here, and I humbly beg Your Majesty’s pardon that I cannot give any other answer than this to what Your Majesty is pleased to demand of me”.¹

At this juncture, it is worth mentioning that this courageous act, which was followed by the rising clamour of voices and shouts of “Privilege, Privilege!”² reveals how much parliamentary awareness and to some extent power were great. The fact that the parliamentary institution had moved from simply criticising and reacting against the innovations of the Personal Rule to suggesting innovations meant that it made a great leap forward at least at the level of the power of the parliamentary members. In June 1642, the legislature under the leadership of the House of Commons best guided by John Pym went beyond the mere defence of ancient rights and sought new powers. Its determination to control royal actions is striking in the “Nineteen Propositions”; a set of demands sent by the two Houses of Parliament to King Charles at York. A simple glance at the document in question gives the impression that the Nineteen Propositions are an ultimatum urging the monarch to give up immediately some of his powers of command and delegate them to the legislative institution such as the appointment of royal councillors, the command of the armed forces, the religious reform and even the education and marriages of Charles’s children.

At this point, it is convenient to mention that Charles’ rejection of the proposals with the words “*Nolumus Leges Angliae mutari*” (We are unwilling to change the laws of England)³ was devastating to his prerogatives and to some extent constructive to the Commons. Viewed in this light, the parliamentary deed was representative of the great determination that characterised the parliamentary members driving them to challenge the monarch and expect a larger share in the governance of the kingdom. After employing various means of protest and resistance, the members of the lower house led a strong and concerted campaign against the royal power. In so doing, they resolved to the use of weapons to stand on their firm positions during the Civil War (1642 - 1651). All these statements and facts clearly show that parliamentarians are determined to have their say in all the affairs of the country and that there are no reserved domains. In sum, all these actions which fall under the umbrella of power struggle convey a plucky willingness to bring change by contesting and compelling the monarch to make some concessions in favour of the parliamentary institution.

¹ Ibid. p. 482, accessed January 15, 2020.

² R. Verney, *op.cit.*, 139.

³ Journal of the House of Lords (1 June 1642) in 'House of Lords Journal Volume 5, 1642-1643. London, 1767-1830, pp. 95-99, accessed January 13, 2020 at 6:00 p.m. British History Online <http://www.british-history.ac.uk/lords-jrnl/vol5/>.

3. Conclusion

After having examined the ins and outs of this conflict, it seems reasonable to say that the determination of parliamentarians is a real fact which enabled them to establish a certain form of opposition in English political practice and to extend their powers. The activities of the Stuart Parliaments verify the contention of this paper that political and constitutional issues were paramount during the crisis. In the course of the struggle, Parliament blatantly challenged the prerogatives of the monarch. As explained so far, despite the monarch's abortive attempts to resist parliament's claim, the parliamentary opposition led by the House of Commons strove to protect and extend its powers by constituting a strong bloc of opposition which bargained and passed decisive legislative acts. Although opposition had not yet been organized on party lines, the coincidence of several interests coalesced the MPs. Likewise, even if the opposition raised to some extent familiar points, its tone was far more urgent and forthright to be deemed as a simple conflict. The conflict was in fact a struggle of constitutional character which had a parliamentary dimension. Despite the fact that outwardly, the monarchy was pointed, it was the Privy Council which was blamed for having adopted a ruinous policy. In a sense, Parliament's power struggle was in part for the sake of taking precedence over the Privy Council by virtue of its financial contribution and the intellectual quality of many of its members. All these developments suggest that the increase in the power of the parliamentary body emanates from the intense and vitriolic tone of the MPs in matters such as religion, politics, and privileges. In other words, the central issue behind this opposition: whether the monarch was sovereign with unrestricted power or accountable to the law and to his parliamentary partners came to an end. Thus, the determination of Parliamentarians to challenge the royal authority can be seen as an important factor in the history of English parliamentarism because its implications helped to increase the power and status of the parliamentarians under King Charles I.

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