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KING JAMES I, PARLIAMENT AND THE GREAT CONTRACT, 1603-1610

A Dissertation
submitted to the Faculty of the
Graduate School of Loyola University
in partial fulfillment of the requirements for the
degree of

Doctor of Philosophy

By

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Chicago, Illinois

May, 1973

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ABERIEVATIONS

B.M.	British Museum
Bowyer	<u>The Parliamentary Diary of Robert Bowyer, 1606-1607.</u>
Cal. Salisbury MSS.	H.M.C. <u>Calendar of Salisbury Manuscripts</u> preserved at Hatfield House, Hertfordshire, England.
C.J.	<u>Journals of the House of Commons.</u>
C.P.	<u>Cecil Papers, Hatfield House,</u> (Folger Library Microfilm).
C.S.P.V.	<u>Calendar of State Papers, Venetian.</u>
Dietz	<u>Dietz, Frederick C., English Public Finance, 1558-1641.</u>
Foster	Foster, Elizabeth Read, <u>Proceedings in Parliament 1610</u> , 2 vols.
H.M.C. Hastings, IV	<u>Historical Manuscripts Commission, Reports on the Manuscripts of the late Reginald Rawdon Hastings, Vol. IV.</u>
H.M.C. Downshire, II	<u>Historical Manuscripts Commission, Report on the Manuscripts of the Marquess of Downshire, Vol. II.</u>
H.M.C. Rutland, I	<u>Historical Manuscripts Commission, The Manuscripts of His Grace the Duke of Rutland, Vol. I.</u>
H.M.C. Portland, IX	<u>Historical Manuscripts Commission, Report on the Manuscripts of His Grace the Duke of Portland, Vol. IX.</u>
L.J.	<u>Journals of the House of Lords.</u>
Parl. Debates 1610	<u>Parliamentary Debates in 1610.</u>
S.P. 14	Edited by S.R. Gardiner.
Wilbraham	<u>State Papers, Domestic, James I.</u> <u>The Journal of Sir Roger Wilbraham,</u> edited by Harold S. Scott.
Winwood	<u>Winwood, Sir Ralph, Memorials of Affairs of State in the reigns of Q. Elizabeth and K. James I,</u> vol. III.

GLOSSARY OF TERMS

Aids: Sums paid to the lord at irregular intervals to help him out of some emergency, such as the knighting of his eldest son or marriage of his eldest daughter.

Escheat: Property reverted to the lord if a tenant died without heirs.

Extraordinary Revenue: Money collected when the need arose and, therefore, collected only on rare and special occasions, such as wartime. The principal form of extraordinary revenue was the subsidy.

Feudal Incidents: Liabilities attached to the various forms of tenures, such as relief or wardship.

Fifteenths & Tenthos: Taxes on movable property both rural and urban.

Grand Serjeanty: The tenure by which lands were held in return for some service of a personal nature, such as carrying the King's sword at his coronation. It could only exist as a tenure in chief of the King.

Heriot: A feudal duty or tribute due to a lord upon the death of a tenant.

Livery: Payment exacted by the lord for the surrender to the heir of lands in knight's service.

Mesne Tenure: Any tenure which is not in chief, that is, held directly from the King. Similarly any lord but the King is a mesne lord.

Ordinary Revenue: These were the revenues the King relied on to carry on the daily operations of government. They consisted of the Crown lands, the customs, the feudal revenue, the profits of justice and, after 1534, income derived from the Church. These were the King's properties and he was expected to "live of his own" unless an emergency arose, such as a war.

Primer Seisin: This entitled the King to first seisin or possession of lands of a tenant-in-chief before the heir took possession, for as long as a year or a payment in lieu thereof.

Relief: Sum paid to the lord by a tenant who inherited his holding from an ancestor.

Socage: Essentially an agricultural and non-military tenure.

Subsidy: Taxes on income at the rate of 1 to 4 shillings in the £.

Suits of Court: An action or process in a court for recovery of a right or a claim.

Supply: The term as used in the contract referred to the subsidy, fifteenths and tenths, direct forms of taxation levied only by Parliament.

Tenants-in-chief (or in capite): The lord who held land directly from the King.

INTRODUCTION

King James I opened his first Parliament on March 19, 1604, and five days later the House of Commons began considering grievances. Sir Robert Wroth, a knight from Middlesex, proposed a number of abuses whose immediate reform he believed most important. Among the items he enumerated were wardship, which he hoped the Crown would abandon in return for an annual composition payment, and the illegal activities of those royal officials known as purveyors, who were charged with supplying the King's Household.¹ Wardship permitted the King, in cases where lands were held directly from him, to administer the estates of minors, to determine the marriages of minor heiresses and to take custody of the lands of widows and idiots. Purveyance permitted his Majesty to purchase goods and the carts and horses needed to transport them before others and at prices fixed by royal officials, usually far below the market prices.² Both were remnants of the feudal age retained by the monarchy because of their financial importance,

¹C.J., I, 150-51.

²Folger Library, Manuscript V.b. 97, Purveyor's Book of Sir William Knowles, 1602. It states that the royal provisions valued at £3000 6s. 8d. were purchased by the Crown for £947 10s. Od.

parts of what Professor Joel Hurstfield has called "fiscal feudalism."³ Opposition to these forms of indirect taxation was voiced in the Parliaments of Queen Elizabeth and debate concerning both would continue throughout the five sessions of King James' first Parliament. Ultimately wardship and purveyance would become the principal ingredients in a financial scheme known as the Great Contract which Sir Robert Cecil, Earl of Salisbury, would attempt to negotiate with the House of Commons in 1610.⁴ In an attempt to solve the royal fiscal dilemma and simultaneously keep the Crown on good terms with the Commons, Cecil would offer to eliminate these fiscal anachronisms, along with other royal rights that the Commons found financially and socially abusive, in return for a fixed annual sum of money. This dissertation will examine the origins of the Contract and analyze the reasons why King James and Parliament failed to bring it to a successful conclusion.

³Joel Hurstfield, "The Profits of Fiscal Feudalism, 1541-1602," Economic Historical Review, Second Series, VIII (1956), p. 58.

⁴Robert Cecil became Lord Cecil of Essendon in May 1603, Viscount Cranborne in August 1604, Earl of Salisbury in July 1605, and Lord Treasurer in 1608. He will be referred to as Cecil throughout this dissertation.

CHAPTER I

FIRST SESSION
MARCH 19, 1604-JULY 7, 1604

Background to Purveyance and Wardship

The Elizabethan House of Commons introduced bills to eliminate the corrupt and unreasonable practices of purveyors in 1563, 1587 and 1589. They intended through their legislation to stop purveyors from illegally setting prices of goods they purchased for the Crown and from taking more supplies than were authorized in their commissions. However, what started as an attempt to curtail purveyors' misdeeds often ended up as an attack on purveyance itself and thus a threat to the royal prerogative. For example, the bill of 1589 tried to limit the authority of the Queen's prerogative court, known as the Board of Greencloth, which was directly responsible for supplying the court. This was a threat to the prerogative. The fact was that such legislation placed so many restrictions on the Crown's freedom of action with

regard to purveyance, that it threatened to make this method of obtaining supplies for the Court economically and legally unworkable. Lord Burghley's response was twofold: stiff opposition to all legislation and the replacement of purveyors by composition. Composition was a contract between the Board of Greencloth and the justices of the peace representing the counties whereby the justices would purchase specified supplies in the counties and sell them to the Court at a fixed price. Such contracts were also made with merchants in the urban areas. By the end of Elizabeth's reign, though purveyors had not been totally eliminated, most supplies were purchased through such composition contracts. King James continued the contracts into his reign. Unfortunately, the size of the new court necessitated more supplies than could be obtained by such agreements and purveyors were again sent out for additional supplies thus reviving opposition to them in the King's first Parliament.¹

There were no laws passed against wardship under Queen Elizabeth, but the Commons did manifest opposition to it. In one instance the Lower House roundly defeated a government bill aimed at eliminating devices used to defraud the Queen of revenues from wardships.² Near the end of the Queen's reign, John

¹Sir John Neale, Elizabeth I and Her Parliaments (London: Jonathan Cape, 1965), I, 122; II, 187-88, 208-09. Allegra Woodworth, "Purveyance for the Royal Household in the Reign of Elizabeth," American Philosophical Association Transactions (Philadelphia, 1945), New Series, Vol. 35, Pt. 1, 39-42, 52, 76.

²Sir John Neale, Elizabeth I and Her Parliaments, II, 91-93.

Chamberlain, a prominent news writer, recorded that "Some say the Queen means to dissolve that court of Wards⁷ and instead thereof to raise a yearly contribution out of all the lands in capite or knights service, which would be more for her profit and less grievance to the subject, but that is too good to be true."³ It was hard for anyone to imagine that the Crown would be willing to surrender the practice of selling the guardianships to wards because it brought great profits to speculators and royal officials. The total value to the Crown of wardships amounted to £20,000 to £30,000 a year by the termination of Queen Elizabeth's reign.⁴ Purveyance was worth, by royal estimate, another £50,000 annually. The pressures of war, strong vested interests and the need for these non-parliamentary sources of taxation to maintain her household had made it difficult for Elizabeth to eliminate them. King James with his large household and spendthrift ways would have as great a need as his predecessor for these revenue sources. However, he would be under greater pressure from members both of his Privy Council and the House of Commons to replace them with more up-to-date and less socially abusive forms of revenue.

During the first year of King James' reign, some efforts

³Elizabeth McClure Thomson, ed., The Chamberlain Letters: A Selection of the Letters of John Chamberlain concerning Life in England from 1597 to 1626 (New York: G. Putnam's Sons, 1965), p. 8. The letter was dated October 20, 1598.

⁴H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries (Cambridge: At the University Press, 1953), p. 49.

were made to remedy grievances arising from purveyance and wardship. In April, 1603, probably as the result of consultations between King James and his Privy Council, it was decided to issue a proclamation against the extortions and violent dealings of purveyors and to reprimand the officers of the Board of Greencloth who were ultimately responsible for the behavior of the purveyors.⁵ The proclamation, issued in May, 1603, contained a provision ordering purveyors to execute their commissions without oppressing the subject; any person mistreated by a purveyor could resort to the King or his Council with his complaint.⁶

Probably under the influence of Cecil a remedy was proposed which hopefully would eliminate some of the more abusive aspects of wardships. The procedure of selling wardships "at second hand, as men do horses and other cattle, and withall forcing the young ward to unfit marriage or to redeem himself by fine" was viewed as "very uncivil and unchristian" and considered the cause of many "unkind and unhappy matches, and so the undoing of many gentlemen and gentlewomen."⁷ The recommended solution was that the Crown make composition for the payment of a yearly sum to his Majesty "rateable by every one to the value of their lands held in capite

⁵ S.P. 14/1/68. The document is entitled "Things grievous and offensive to the commonwealth which may be reformed by your Highness, or by a Parliament."

⁶ A Book of Proclamations, 12-13.

⁷ S.P. 14/1/68.

and so the mother or the next of kin in the ascendent line" might "enjoy the wardship of the child . . ."⁸ This procedure, it was hoped, would further increase royal revenues by inducing tenants to reveal tenures previously concealed to avoid wardship of the children. Cecil implemented this plan in the fall of 1603, explaining to Sir John Saville that King James had resolved that all subjects holding lands in capite or by knight's service "shall be suffered to compound with his Majesty, now in their lifetime, for the wardship of the bodies and marriages of any such issue or issues of the body, now living as shall be their heir, and within age at the time of their decease."⁹ All sales would be made without any gifts to officials of the Court of Wards. As Professor Hurstfield has indicated, this policy of direct sale without any extraneous fines or gifts enabled Cecil to justify a policy of raising the price of wards, in some cases to three times their annual value.¹⁰ But this action also indicated to officials of the Court such as the feodaries, whose profits came from discovering wards and assessing their properties, that their positions

⁸ Ibid.

⁹ Edmund Lodge, ed., Illustrations of British History (London: John Chidley, 1838), III, 41-46. Commissions for compounding were issued in October 1603 and February 1604. See Cal. Salisbury MSS., XV, 264, 266-67; XVI, 22.

¹⁰ Joel Hurstfield, The Queen's Wards (London: Longmans, Green and Co. Ltd., 1958), 280.

might some day be eliminated.¹¹

Cecil was apparently aware of the need to resolve this question of wardship in cooperation with Parliament. In August, 1603, apparently at a Privy Council meeting, the Earl of Dorset, then Lord Treasurer, introduced four propositions aimed at increasing the King's treasure.

1. to sell all copiholders ther freholds, which was thought the readiest way.
2. to grant leases for 60 years of all the king's lands, or fee farms, taking small fines and doubling or trebling the rent.
3. to have compocision for respite of homage.
4. the Master of Wardes [Cecil] said he was to have wardes turned to a certain annual rent to be propounded in parliament.¹²

Now homage, which derived from the feudal tenures, was generally not performed but rather respited or delayed indefinitely; but an

¹¹Sir George Montgomery explained this in October 1603 to Sir John Willoughby, who sought the position of escheater. "I doubt when yourself . . . shall understand of the course intended to be held for the wards, you will be skarsely willing to hazard any money in procuring that office. It hath byn working lang agoe, and commissions are now com downe to take order with such gentlemen as hold any land of the King, in any tenure whereby there sonnes become wardes to the King, for a composition to be made of acertayne rate to be payd, that there children may be free and become wardes no mare; which rate, if it amounteth to that summe which is nowe paid to the exchequer out of that office (as it is offered by the subjects and more) then is the King pleased to ease his contrey of that thraldom unto the Court of Wards, whereof so much hath been complained . . . And I think certainly it will prove so for it hath byn earnestly urged of the contrey, and now the King hath concented and granted out warrants for the tryall of the matter." E.C. Trevelyan, ed., The Trevelyan Papers, Camden Society, No. 151 (London, 1872), Pt. III, 53-54.

¹²Wilbraham, 62-63.

heir had to pay the Crown for the privilege of putting it off. Composition would probably permit an heir to make one lump sum payment and thus eliminate the need to pay the King every time he was requested to perform homage and decided to postpone it. Cecil did propose to the House of Lords that respite of homage be discussed and he also considered a plan for composition for wardships that was not presented to Parliament. The plan will be discussed later in the chapter in conjunction with the Commons' proposal on wardship.¹³

Initial Discussions on Wardship and Purveyance

The Commons had referred the grievances presented by Wroth, along with those presented by Sir Edward Montague, an M.P. for Northamptonshire, to a committee on grievances that reported to the House of Commons on Monday, March 26. Sir Francis Bacon, Solicitor General and spokesman for the committee, told the Lower House that the committee desired the elimination of wardship and proposed the Commons meet with the Lords in conference and jointly petition the king to permit both Houses to consider "some Project of Recompense to be given to his Highness, for easing the subject in the Wardship of their children for their Bodies and Land."¹⁴ As for purveyance, the House designated some prominent

¹³L.J., II, 266.

¹⁴C.J., I, 153. H.M.C. Buckleugh MSS.: Montague Papers, III, 80.

lawyers, Lawrence Hyde from Marlborough in Wiltshire, Lawrence Tanfield, Sergeant at Law and member for Oxfordshire, John Hare, Clerk of the Court of Wards and member for Morpeth in Northumberland, and Nicholas Fuller, one of the members for London, to construct a bill for the restraint of purveyors and cart-takers. In preparing their bill, they were to consult all earlier statutory enactments, some thirty-six in number, pertaining to this grievance.¹⁵

While the Commons were discussing the committee proposals on grievances, Cecil was appealing to the Lords for a joint committee with the Commons "in such matters as are especially to be dealt with in this parliament, for matters concerning the public estate and two particulars by his Lordship mentioned, videlicet, concerning purveyors, respite of homage."¹⁶ This speech revealed Cecil's interest in reform; however, the journalist states that proceedings on Cecil's motion were prevented "by a like motion, that was brought up from the Common House . . . especially concerning the matter of Wardships."¹⁷ The Lords expressed willingness to discuss wardship and the abuses of purveyors and desired the Commons to join with them in investigating additional sources of financial irritation to the landed classes such as respite of homage and licenses of alienation. The Lords ended by expressing the wish that by such measures "Order, Proportion and Certainty

¹⁵C.J., I, 153.

¹⁶L.J., II, 266.

¹⁷Ibid.

might be established, as his Majesty might be better served, his Prerogative preserved, and the country eased," sentiments that no doubt pleased the House of Commons.¹⁸

The conference was held on the afternoon of March 26. The committee representing the Lower House was empowered to discuss not only the petition to the Crown about wardship but also "had Warrant and Authority from the House, to treat and debate of whatsoever should be accidentally propounded, or arise by occasion, in the said conference."¹⁹ Such an extensive right to confer was certainly a far cry from later conferences during this Parliament, when Commons would begin to fear the Lords' influence and limit greatly what could be discussed at joint committee meetings. This action would impair the value of the conference system by which Cecil hoped to influence a House of Commons in which Privy Council representation was so meager.²⁰

According to Sir Francis Bacon, who related the results of the conference on March 27, the Commons committees decided that, since wardship was a royal prerogative, they would not legislate against it but rather petition his Majesty for permission to discuss plans for its elimination. They were willing to recompense King James and the officers of the Court of Wards for their losses. They also wanted to consider the discharge of the ward-

¹⁸ C.J., I, 154..

¹⁹ Ibid.

²⁰ P.H. Willson, The Privy Councillors in the House of Commons 1604-1629 (Minneapolis: University of Minnesota Press, 1940), 124-25, 225-36, 283-84.

ships of mesne lords. The Lords insisted they had as much feeling as anyone of the burden of wardship and they desired the matter of respite of homage added to the petition to the King to treat of wardships since it derived from the same source.²¹

Bacon related that the Lord Treasurer Dorset then explained that King James intended to act immediately on respite of homage and that his Majesty had already acted against purveyors and would continue to do so. He concluded by stating that the Lords "knew this House did not intend to decry or dismiss the King of his Prerogative; and that this grievance [purveyance] was to be reformed by Law and not by Petition."²² By this Dorset probably meant that purveyors' abuses would be reformed by enforcement of existing laws. Then Henry Howard, the Earl of Northampton, an influential courtier and royal flatterer, delivered a verbose monologue praising King James as a man of peace and cautioning the Commons to be moderate in their demands upon him.

On the same day as Bacon's report, the Lords acceded to the Commons' desire to petition his Majesty about wardships. The Commons, however, became involved in discussions of the Godwin-Fortescue election case and the proposed union with Scotland and did not return to serious consideration of wards until May.²³

Purveyance: March-May 1604

At first the Lower House voted to reform purveyors' abuses

²¹ C.J., I, 155.

²² Ibid.

²³ Ibid., 155-56.

by legislation and Lawrence Hyde introduced a bill, composed by the committee appointed for that purpose, on March 27 entitled "An Act for the Better Execution of Sundry Statutes Touching Purveyors and Cart-Takers." However, on April 14, after a ten day recess period, Commons decided to suspend proceedings on the bill temporarily and draw up a petition to the King justifying their bill. The Commons suspected, and probably rightly so, that King James opposed the bill because the Board of Greencloth had told him it was designed to deprive him of his prerogative in purveyance. Their suspicion was founded partly on a segment of King James' speech to them of April 13 thanking them for resolving the election case. In it his Majesty requested the Lower House not to take from him what they had yielded to other monarchs because his fiscal needs were greater than his predecessors. Their fear was reinforced when a member of the Board of Greencloth told them they must not pass any law against purveyance. Commons undoubtedly realized that no officer of the Greencloth would have expressed such a sentiment without royal approbation. They hoped through their petition to explain the true meaning of their action in formulating the bill.²⁴

Sir Francis Bacon and the Privy Councillors in the House presented the petition to King James at the end of April, 1604. In the preamble the Commons attacked the Board of Greencloth for

²⁴Ibid., 156, 160, 166, 169, 171, 177, 190.

issuing illegal commissions and upholding unlawful activities of purveyors by imprisoning subjects who refused to submit to the unjust demands of purveyors. They insisted the Board of Greencloth had misled King James concerning the contents of the bill so he would oppose it. They claimed the bill would not take any rights from the King, as the Greencloth maintained, but only revive and put into execution laws already on the statute books. The body of the petition described the principal abuses. Purveyors were taxers instead of suppliers, extorting money from subjects in the form of annual stipends "to be freed and eased of their oppression." They appropriated more vehicles and food than necessary and sold the excess for personal profit. Purveyors used faulty commissions; refused to pay cash immediately for goods received; took goods at night and on the highway; and assessed the value of goods at too low a price. Behind these abuses were the officers of the Greencloth who issued the illegal commissions authorizing purveyors to requisition goods and who mistreated those subjects who brought legitimate complaints against purveyors. The Commons objected to the commission that authorized payments for goods that were "not above the fourth part of the true value."²⁵ Such statements as these must have made the King wary. For the right to name his own price, to purchase goods at traditional prices centuries old that were far

²⁵ Ibid., 190-191. James Spedding, ed., The Works of Sir Francis Bacon (London, 1861-76), III, 183-186.

below the market price was certainly one of the most important aspects of purveyance and one that the Crown could not allow Commons to alter in any way.

In his reply to the Petition on April 30, King James said he was sorry the general expectation of relief was frustrated by purveyors' actions. He would satisfy the people by punishing past offenses and making some provision for the future. He emphasized that he had shown his care in the past by establishing set prices for provisions. His Majesty apparently hoped by enforcing the laws himself, he could satisfy the Commons and preserve his prerogative unimpaired. He requested the Commons' representatives to confer with the Privy Councillors present. The great officers of the Household, who were very much on the defensive, asserted that whenever there was a complaint they responded but they insisted no complaints had been lodged against the stable or the navy since King James' accession. The officers claimed the Commons had only rumors. The Commons' representatives insisted they could verify their charges. When the officers said they operated according to ancient usages, the Commons insisted that since the usages were contrary to positive law they were therefore void. In desperation the officers exclaimed that this was the only way the King could be served, to which the Commons' members replied, "Magnum Mysterium, that the King could not be served, if his laws observed."²⁶

²⁶C.J., I, 193.

Since the members of the House of Commons could get no satisfaction from the officers of the Household or the officers of the Board of Greencloth, who stoutly defended their practices, they turned to conferences with the Lords in hopes of achieving their objectives. They sent a copy of their petition articles to the Upper House in preparation for a conference on May 3. And on May 5, the Lords informed Commons that, as a result of their first conference, they were "very sensible of the Grief and will be ever ready to further the remedy."²⁷ The Lords suggested another conference for May 7, at which time they might discuss the King's provisions and the charges of the Household "which be now greater then ever since Henry VIII time."²⁸

John Hare reported the substance of this meeting at which Commons' representatives did most of the talking. Exasperated by their treatment at the hands of the Household officials, the Commons' representatives attacked what they called the unjust, unlawful and untrue commissions issued by the officers of the Greencloth. They declared that commissions used since King Henry VIII's time had been illegal, asserting that the ancient commissions issued for purveyors were otherwise. At this point they introduced evidence to this effect to provide information for the Lords' committees. They concluded by stating that, as the dog ran after the stone and not after the hand that cast it,

²⁷Ibid., 200, 215-17.

²⁸Ibid., 200.

so they ultimately sought to reform the officers of the Board of Greencloth, not just the purveyors.²⁹

It was at the third meeting on May 8 that some progress was finally made. Lord Treasurer Dorset later explained to the Lords that the subcommittees of both Houses had concluded that they should propose to the Lower House that the sum of £50,000 yearly be raised in the several counties of the realm and be yielded to his Majesty "for all purveyance whatsoever, . . . , so as the authority and commissions of the Purveyors may hereafter utterly cease; and thereof the Lords should shortly receive answer."³⁰ Sir Francis Bacon's account of proceedings to the Lower House seems to indicate that the Lords originally proposed the £50,000 composition. He said the Lords' ultimate intention was to exterminate all purveyors whom they described as "harpies." The Commons argued that the law was on their side, and presumably against the purveyors, and since his Majesty's resources had increased, the subject hoped he would not demand more from the people. The Lords argued that, presumably in supplying the King, necessity knew no law and that it was impossible to maintain the King's establishment without "some help in this kind," by which was probably meant purveyance. The Lords emphasized that there were many penal laws which the King did not enforce and, in return, his Majesty apparently hoped they would not press him too hard

²⁹Ibid., 202.

³⁰L.J., II, 294-95.

on the issue of purveyance. As for the King's financial state, the Lords emphasized the charges in Ireland and for the Cautionary Towns in the Low Countries which amounted to £120,000 and £30,000 a year respectively, thus implying that the King could not afford any financial losses. The Lords then propounded as their remedy a composition of £50,000 per annum which would include the households of the King, Queen, Prince Henry and Charles, Duke of York. The Lords and clergy would be assessed as well as the shires.³¹

King James probably saw, as no doubt did Cecil, that by composition, his Majesty would obtain finances needed to supply the Court while eliminating the purveyors and thus pacifying the populace. This also meant the end of Commons' legislative proposals which were aimed at hedging in the prerogative. The project, then, made good sense from the royal standpoint. The question was how would the Commons respond?

Commons' debate over whether to proceed by bill or by composition began on Friday, May 11, and continued until June 2. While John Hare, one of the bill's architects, argued for a £20,000 a year composition, Lawrence Hyde staunchly opposed composition because it would amount to an annual tax upon the subject. He insisted that no law could be made "to extirpate purveyors, nor to bind the King."³² Only the bill could produce the desired effect. Hyde was implying that since no law could bind the King

³¹C.J., I, 204, 967.

³²Ibid., 207, 969.

to keep his part of the bargain, Commons could not be certain the King would not use purveyors again. Sir George More of Surrey, an Exchequer official, recommended passage of the bill with a provision abolishing purveyance if the composition were agreed to. After the debate Richard Browne, the Clerk of the Greencloth, was added to the committee that was to consider whether there was any case for composition and what course should be followed. Commons instructed him to bring notes dealing with all previous compositions and to inform the House of the state of the royal "Demaynes and pastures and who hath them in occupation."³³ This information would probably aid in determining the need and extent of a nation-wide composition.

Finally, Sir Edwin Sandys said he wished both wardship and composition for purveyors or, as he called it, "The Buying of Justice," referred to the purveyance committee. The House refused.³⁴ Those who considered purveyors' abuses as violations of the law did not believe they had to recompense the Crown for eliminating unlawful practices. Sandys supported the bill, but apparently he also favored the idea of joint composition for wards and purveyance and may very well have been the person responsible for having the suggestion inserted in the Apology of 1604 that Commons drew up after King James broke off nego-

³³Ibid., 207.

³⁴Ibid., 169.

tiations over composition for wardship.³⁵

During the week following the initial debate, the House committee continued examining royal resources, calling in a Mr. Bannister, Controller of the Household, to present the "Book of Rates for Composition for the Household" and any other necessary information. Debate resumed on Friday, May 18, opened by John Hare who was followed by Sir Thomas Ridgeway of Devonshire who insisted there was no precedent for taxes by act of Parliament, even though he favored both the bill and some form of composition. Richard Martin, who represented Christchurch, Hants., flatly opposed any composition. Sir George More favored composition, but he agreed with Ridgeway that there should be no composition by act of Parliament.³⁶

The subsidy was the only direct tax in existence and a nation-wide composition in the form of a parliamentary statute would greatly increase the taxing power of the Crown, something the conservative-minded landed classes and lawyers feared.³⁷

As debate continued, some, such as Sir William Fleetwood of

³⁵J.R. Tanner, Constitutional Documents of the Reign of James I 1603-1625 (Cambridge: At the University Press, 1960), 228. The Apology of 1604 reads as follows: "But if your Majesty might be pleased in your gracious favor to treat of composition with us for some grievance which is by law and just, how ready we should be to take that occasion and colour to supply your Majesty's desire concerning these also which we hold for unjust, should appear, we nothing doubt, to your Majesty's full satisfaction." The grievance "which is by law and just" is wardship. Therefore, if his Majesty's desire is to be fulfilled, composition for purveyance would be the logical result.

³⁶C.J., I, 212-14, 974-75.

³⁷Ibid.

Buckinghamshire, favored both the bill and the £20,000 composition, while others, like Sir John Saville from Yorkshire, opposed both the bill and the general composition, offering instead to double the composition for his shire and suggesting that every county do the same. Saville thought it dishonorable that it should be said that the King of England was in such financial straits that Parliament must make a general composition with him. He recommended the committee consider the manner of expense and waste in the King's Household, thus implying that this was the reason for the royal want. Sir John Hollis of Nottinghamshire then proposed that Commons draw up "reasons of satisfaction to his Majesty touching the matter of purveyors."³⁸ The House agreed to select twelve out of the great committee to deliver reasons to the King. The committee was to meet again that afternoon in the Parliament house and to discuss freely anything concerning purveyors, purveyance and composition. Commons issued a warrant to the officers of the Greencloth to bring "the Books of Expence or Provision of the King's Household."³⁹

When debate resumed on May 23, Sir George More moved that the committee report its discussions on purveyors. John Hare presented two resolutions formulated by the committee. It was up to the House which one would be presented to the Lords. The first was whether Commons should tell the Upper House that they

³⁸Ibid.

³⁹Ibid.

knew of no financial need for composition but desired their Lordships to explain the King's necessity to them so they could better understand and satisfy the King. If the Lords refused to inform them, then Commons would tell them they intended to ask the King himself. The second was whether the composition of £20,000 should be offered "for Riddance of all Purveyance whatsoever."⁴⁰ In the ensuing debate, Lawrence Hyde and John Hoskins, M.P. for the borough of Hereford, supported the bill and opposed composition. Sir Edward Hext, M.P. for Taunton in Somerset, and Sir Roland Litton, who represented Hertfordshire, both argued for composition, Hext insisting that "the bill will do no good for want of execution."⁴¹ Sir Edward Greville of Warwick and Sir Robert Wingfield, elected to serve from Stamford in Lincolnshire, recommended that the Commons go to the King and acquaint him once again, as they had promised, as a middle course. Sir Francis Bacon supported composition explaining that, since "it is to be hoped that his Majesty will give us satisfaction in the Matter, let us give him satisfaction in the Manner."⁴² Then Robert Johnson, an officer in the Ordnance Department, arose and tendered "an act to restrain Purveyors, that they exceed not the limits of their Commissions." The House deferred the reading of the bill

⁴⁰ Ibid.

⁴¹ Ibid. Hoskins stated: "No composition, but the Laws to be revived."

⁴² Ibid.

which Johnson reintroduced in the second session.⁴³

Robert Cecil had requested Johnson's opinion on the matter of purveyors. In replying Johnson stated that he believed the problem was one of administration, particularly in such things as the issuing of defective or illegal commissions, which could be solved by Crown and Privy Council with assistance from his bill. He felt that if proper blanks were attached to commissions and filled in by purveyors with the amounts taken, administration would improve because the Crown could keep tabs on abuses. The subject would also have a record on which to gauge how much had been given and in this way to judge whether or not the purveyor was cheating him. Johnson's bill would make appended blanks mandatory and all commissions lacking them would be void. It would also make it a felony for a purveyor to refuse or neglect to endorse in those blanks what was taken by his commission or to take goods where there were no competent appraisers. Last of all no man could be impeached if he disobeyed a commission lacking blanks.⁴⁴

Speaker Phelips concluded the debate by showing some inconveniences in the bill and stating that, since it was a bill of execution, King James could dispense individuals from it. The Speaker was attempting to persuade the Commons to seek composition

⁴³ Ibid.

⁴⁴ Robert Johnson to Salisbury, February 17, 1606, Cal. Salisbury MSS., XVIII, 55-57.

rather than pass what could be a futile piece of legislation. The House agreed not to read the bill, but rather "to attend the King in this matter," after they had considered the matter further. The former committees for purveyors were appointed to meet the following afternoon and consider how to satisfy the King "and every particular county to instruct the Committee in what they think meet for themselves."⁴⁵ In effect this was to be another effort aimed at concluding the debate.

On Saturday, May 26, Sir George More moved that the matter of purveyors should be disputed in open Parliament on the morning of Friday, June 1, to which the House agreed. That day witnessed the climax of the debate. More began debate by suggesting that annual composition was the best solution and offering a bill entitled "An Act for Levying rateable contributions towards composition for the King's House." The motion was seconded. John Hare then proposed that the subject give two subsidies in return for freedom from purveyors. Sir William Fleetwood of Buckinghamshire followed in line with More's proposal that the composition should be rated indifferently in the counties by the commissioners. Sir Thomas Hoby, representing Scarborough in Yorkshire, wanted the law passed and then some contribution to be thought about. Sir Walter Cope, a personal friend of Cecil who represented Westminster, proposed that £30,000 composition might be

⁴⁵C.J., I, 223.

offered and some trial made of that. The debate was brought to an abrupt conclusion by Sir Humphrey Winch, who represented Bedford Borough and later was appointed Chief Baron of the Exchequer, when he suggested that Commons

. . . forbear to proceed any further touching the contribution, until the next session; till then the bill of Purveyors might sleep; and in the mean time the knights and burgesses, in their several counties, to deal with their country neighbors, and finding their disposition, to report it to the next session.⁴⁶

No sooner had Commons approved Winch's motion than Sir Robert Wroth proposed that the House send satisfaction to the Lords about their decision regarding the £50,000 composition which instantly was done by message. Immediately, debate was heatedly resumed. Some members, among them John Hoskins, insisted the House had already demonstrated thankfulness to the King in naturalizing the Scots. Sir William Burlacy followed crying that they should live under law and not arbitrary government, a reference to the illegal activities of purveyors. The tone of debate changed somewhat as Sir William Fleetwood moved that two subsidies be granted which was answered by Sir William Strode, M.P. for Plympton Borough in Devon: "no subsidy to be thought on or granted till the next session."⁴⁷ Then Nicholas Fuller demanded the law be passed. Mr. Speaker, in a last effort to dampen enthusiasm for the bill, reiterated the fact that the King

⁴⁶ Ibid., 226, 231, 984-85.

⁴⁷ Ibid.

could dispense from it.⁴⁸

At this point someone made a motion to confer with the Lords about the proportion of the composition. A voice vote was taken and, according to the journalist, "the yea was conceived to be greater but this not agreed unto." Pandemonium reigned. Some members tried to alter the question. "Much wrangle what the question should be." Finally, Sir Nathaniel Bacon, M.P. for Norfolk, demanded "no question, no message to the Lords," presumably regarding the composition proposal. His motion was successful and only a message stating that Commons would discontinue debate was sent up to the House of Lords.⁴⁹

King James was probably happy that the debate had ended, even though it was not entirely in his favor. No composition was made, but then, no bill was passed either. His own speech, several days earlier, in which he berated the Commons for spending too much time with problems of lesser importance and not giving enough attention to those he considered important, may well have affected the opinion in the House to end the debate.⁵⁰ The King was probably also interested in having Commons spend some time in dealing with the subsidy, because he had many extraordinary expenditures as a result of England's foreign wars and commitments. Now, purveyance was an ordinary source of income and even if the composition were made it would still remain an

⁴⁸Ibid., 231, 984-85.

⁴⁹Ibid.

⁵⁰Ibid., 230.

ordinary source of revenue and would contribute very little to solving his wartime debts.⁵¹ In his closing speech to Parliament, he tried to pacify all interests. He encouraged members to enforce laws already in existence while he punished the officers of the Greencloth if they failed to control purveyors. He advised them to seek the advice of their counties about the question of composition. Whatever their solution, they were not to lay a greater financial burden on the King.⁵²

Wardship, May-June, 1604

Sir Edwin Sandys, on May 11, reintroduced the discussion about wardships in the midst of the debate on purveyors. He

⁵¹In the second session, James expressed his preference for subsidy over yearly grants in a letter from Lord Dirleton to Salisbury, February 10, 1606. "Quhen his Majeste vent to supper he commonde me to remember you . . . that you vold employe your self bothe to the Committie and the holle houss that he may rother hove a subsidy then onye motter by the yeir quiche he knoing wilbe no great motter nor fitt releif for his extraordinorye debts . . ." S.P. 14/18/77.

⁵²"Touching ye Purveyors (who have much busied you this Parliament) you have goode lawes alreadie; see them executed a Gods name. Punish them, but wrong not theyr Master. I were a Tyrant if I should up-hold those Scribes and Publicans. I will punish ye great Officers if they punish not the lese. And now you are going into ye several countreys I would have you advise of the fittest meanes to ease yr: selfs of that burden; but so, that you lay not a greater burden uppon me." (S.P. 14/8/60.) In another report of that same speech, James said ". . . so you are now going home, advise with them that sent you & if you can provide me a competencie befitting me & my state you shall have my consent utterly to abolish the viperous race." (Folger Library Manuscript V.b. 142 f. 70r/v.)

attempted to tie together both composition for wardship and purveyors in the same committee apparently to achieve a broader financial settlement with the Crown. But this move was defeated. On May 16, Sir Maurice Berkeley, M.P. for Minehead Borough in Somersetshire, revived Sandys' motion requesting "in a long continued speech, that the Matter of Composition for Wardship etc., might go hand in hand with that of Purveyors."⁵³ Sir John Hollis, Sir Humphrey Winch and John Hare spoke against this motion, insisting they proceed separately. When debate ended Commons agreed to join with the Upper House in framing a petition to King James for leave to treat of wardships but refused to permit composition for wardship to proceed together with that of purveyors.⁵⁴

The House of Commons sent Sandys up to the House of Lords with four bills passed by the Lower House to discuss the joint petition on May 19. At that meeting Sandys explained that the Commons would support the Lords' motion for relief from respite of homage as well as "any other branches growing from that root, videlicet, tenures in capite, Licence of alienation, Primer Seizins and such like . . ."⁵⁵ The Lords replied on Monday, setting the date for the joint committee meeting at Friday, May 25.

⁵³C.J., I, 207, 211.

⁵⁴Ibid.

⁵⁵Ibid., 215, 976. Sandys, in a speech to the Commons, requested permission to ask the Lords about wardships.

However, the Lords informed the Commons on May 24 that certain of their committees could not come to the meeting on May 25 because the King had commanded them to attend him at that time "for some other matter."⁵⁶ So the Lords wished the meeting deferred until May 26, which was agreed. Sir Edwin Sandys and his committee of sixty spent the week preparing their proposals which were presented to the Commons on Saturday, May 26.⁵⁷

According to the proposals, which were read to the Commons by the clerk of the House, the Commons' aim was removal of all tenures in chief and knight's service as well as all feudal incidents attached to them, including wardship, marriages, livery, respite of homage, licence of alienation, primer seisin, and relief. The House urged such reforms because they would restore "the original right of all men by law of God and nature; which is, that children should be brought up by their parents and next of kin and by them directed in their marriages."⁵⁸ They would also mean the end of forced and ill-suited marriages and would preserve men's estates from destruction. Finally, since wardship brought contempt and reproach upon the nation from foreigners, its elimination would improve the image of England abroad.⁵⁹

The Commons requested this more of James than of his progenitors because, they asserted, tenures originated in response to the wars against Scotland, which were now a thing of the past.

⁵⁶L.J., II, 305.

⁵⁷C.J., I, 221-22.

⁵⁸C.J., I, 227-28.

⁵⁹Ibid.

furthermore, his Majesty's actions, in granting men the right to compound for their children's wardships and marriages, had led them to anticipate more thorough reform. They hoped to induce King James to institute these changes by offering him

. . . the raising of a perpetual and certain revenue out of our lands, not only proportionable to the utmost benefit that any his progenitors ever reaped thereby, but also with much overplus and large addition as in great part to supply his Majesty's other necessities.⁶⁰

This was indeed a generous offer. Perhaps the Commons envisioned purveyance as one of "his Majesty's other necessities" which this financial settlement might also eliminate. The revenue would be raised by having subjects compound for wards either in a lump sum payment or by a yearly rent. The royal officials of the Court of Wards would be pensioned off with a yearly grant during their lifetime that would either revert to the Crown at their death or be terminated by some composition to the Crown. Once his Majesty assented to the composition, the question of levying and assessing the amount would be considered. Some considered the whole project "a matter of impossibility of great difficulty to be overcome; if their Lordships desire any project thereof, this may be proposed by way of overture, to occasion their Lordships to think of a better and more exquisite."⁶¹

It was hoped that during the remainder of the first session the two Houses would reach agreement on a general yearly revenue and choose commissioners from the counties to assess it. Then

⁶⁰Ibid.

⁶¹Ibid.

during the period intervening between the first and second sessions, the commissioners would discover what lands bore feudal incidents and establish a reasonable rate to be raised from such lands and from socage tenure, "if it be thought fit to tax it also." Lastly, the commissioners would determine what each shire should contribute and subdivide the shires among themselves to conclude what each individual should pay. All this would be returned "by Way of Proposition 7 only" to the next session of Parliament, which would then proceed to conclude the project.⁶²

The report was greeted with mixed feelings. Mr. Christopher Parkinson, M.P. from Berwick-on-Tweed in Northumberland, suggested that measures should be introduced, supplementing these proposals, to prevent the future creation by the Crown of new tenures. Sir Robert Wroth gave these ideas the "cold shoulder." Wroth, who had supported composition in his opening speech, exclaimed that it was "Impossible, that any Good could come of this course in the matter of wardship etc. - He foresaw it - He knew it." He moved instead "that every man by his last will and testament, might dispose of his child, paying the like fine etc. and that some bill to that purpose might be thought on."⁶³

The Commons' committees, led by Sir Edwin Sandys, presented their proposals to the Lords on the afternoon of May 26 but were unable to report the results of their conference to the Lower House until the end of the following week because of the Whit-

⁶² Ibid.

⁶³ Ibid., 228.

sun recess which lasted until Wednesday, May 30. When the Commons resumed business on that day, Speaker Phelps informed them that King James wished "the whole House may attend him that afternoon because he had something to say to them before his going from Whitehall to Greenwich."⁶⁴ On June 1 Sandys reported the conference with the House of Lords. In his own speech, he had emphasized that if the King granted their request to treat of wards it was a great grace and if he denied their plea, he did not wrong his subjects. Then he had recited the Commons' proposals for wardship. The Lords' response had totally unnerved the Commons. They had admonished the Commons for spending their time with "Matters of Privilege, Purveyors, and Ecclesiasts," instead of showing their gratitude to the King who had provided them with such stable government. They had attacked the foundations of the Commons' arguments against wardship insisting that wardship was not common to England alone, but to Scotland, Italy, and some parts of France as well. They had also assailed the composition idea, claiming that revenues from wards were worth £31,000 and homage and alienations £10,000, whereas "The Last Commission for compounding" was of value only to the subject since it "Brought in not above £4,000." They had also implied that foreign ambassadors would not think so well of a king who had sold his prerogative.⁶⁵ The Lords then advised the Commons

. . . to forbear any further dealing therein, or to offer

⁶⁴ Ibid., 228-29.

⁶⁵ Ibid., 230.

any further petition for it to the King, both for divers considerations in the matter itself, and in respect of this time of his Majesty's first Parliament, which they thought to be inconvenient and unseasonable for it.⁶⁶

At the end of the conference, one unnamed Commons' committee stated that the royal right to determine the marriage of children was no prerogative and that it was "No dishonour to take it away."⁶⁷

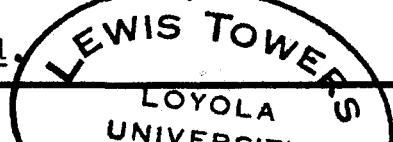
The immediate reaction of the House of Commons was to begin work on the Apology of 1604. That King James was misinformed of so many of their actions, they had no doubt. On at least two earlier occasions, they had established committees to explain their proceedings and give satisfaction to the King, once for the Union and the other for purveyors. Now, they appointed a committee to survey all acts and proceedings of the House "which have been excepted unto or where any Misinformation hath been given unto his Majesty" and to "advise of such satisfaction to be offered to his Majesty" which would reveal "the truth and clearness of their proceeding" and "free them from the scandal of Levity and Precipitation, so often imparted to them." Finally, they particularly emphasized the need to consider "some satisfaction in the matter of wardship etc."⁶⁸

The unanswered question was why the Lords had terminated discussion of composition for wards, to which, like that of pur-

⁶⁶ L.J., II, 309. This is extracted from the report made to the House of Lords by the Lord Chancellor on May 30, 1604.

⁶⁷ C.J., I, 230.

⁶⁸ Ibid.



veyors, they had given a sympathetic hearing earlier in the session. For the Lords did not reject the proposals outright, but rather stated that they were inconvenient at that time. Since the beginning of James' reign, Cecil had been formulating projects which could ultimately mean the abolition of all feudal incidents, and he did not completely abandon this ideal at the time of the Commons' offer. A miscaledared document in the State Papers Domestic shows his interest in composition and discusses how much should be paid in composition money to the Crown for wards. However, it also contains objections to the Commons' criticisms of wardship and a report of fiscal losses in the Court of Wards which were probably partly responsible for turning the Lords away from composition at that time.⁶⁹

The annual composition for wardship suggested by the memorandum was £120,000. This figure included £60,000 for the revenues and charges of the Court of Wards; £20,000 compensation to the King himself; and £40,000 for such items as licences of alienation and respite of homage. The memorandum expressed the hope that purveyance might be joined to wardship; although it was

⁶⁹H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries, 139, note. The document, S.P. 14/52/88, was wrongly dated in the Calendar of State Papers Domestic, James I, Vol. 1, 589 as 1610. Internal evidence suggests the document was drawn up in 1604 instead of 1610. The document states that ". . . in this last year, since his Majesty came to the Crown from the 18th of March before her late Majesty's death until the 18th of March last there hath not half so many grants of wards passed the Master of the Wards hands as did in the year before . . ." Now, since Queen Elizabeth died in March, 1603, "the 18th of March last" would have to be 1604.

admitted that Commons viewed wardship as a just and lawful prerogative and abuses of purveyance as an oppression. If the petitioners could see their way clear to make such an offer,

. . . the Master of the Wards for his part . . . is so far from impugning it, as he will be the first that shall give way to it; but with this caution, that it be speedily determined one way or the other, for if it should hang long in suspense and parley, it would be very prejudicial to his Majesty and an exceeding decrease of his revenue.⁷⁰

This last argument was based on the fact that for a one-year period beginning March, 1603, the number of concealed wards had increased and the revenues of the King's coffers had declined by £10,000. For apparently the greater the expectation that King James would change the system, the more the subject was inclined to conceal wards and deprive the Crown of revenue. This fact may well have influenced the Lords to conclude that only an immediate and sufficient composition would justify the surrender of this prerogative.⁷¹

The King was also opposed to any further proceedings in the matter of wardship; and, as far as Sir Edwin Sandys was concerned, the Lords' sentiments mirrored those of King James expressed to the Lower House on May 30. Sandys reminded the House that in their meeting with the Lords

. . . instead of acceptance and assent to join in petition to his Majesty [there was] delivered from their Lordships no other than matter of expostulation, opposition of reason to reason, admonition or precise caution in proceeding; which suiting with the grounds of his Majesty's speech subsequent, advisedly and of purpose made upon that occasion to the

⁷⁰S.P. 14/52/88. See Appendix I.

⁷¹Ibid.

whole House, assembled by his Majesty's direction at White-hall, on Monday last (wherein many particular actions and passages of the House were objected unto them, with taxation and blame) . . .⁷²

Not only did James agree then with the Lords' remarks on May 26, but he also castigated the Commons apparently for spending too much time on some issues and not enough on matters which he considered significant. He would have liked faster action on the Act of Union of England and Scotland; but it was only on June 2 that Commons passed the bill for the Commissioners of the Union. However, in a royal message delivered June 5 by Speaker Phelips, James observed that, since his speech of May 30, the Commons were moving "with greater expedition in those things desired to be effected by him, than before."⁷³ Finally, as events in the month of June would show, King James needed money for his extraordinary expenses and the Commons' proposal for wards was of little help to him here. Since it would take some time to develop fully the composition design, he probably viewed it as wasting valuable time, considering his immediate needs.⁷⁴

⁷²C.J., I, 230. I was unable to find a copy of the King's May 30 speech. Sandys says the King spoke to them on Monday; but the Commons Journal says Wednesday and I am inclined to accept the Journal.

⁷³Ibid., 232. In the June 5 message, King James told Commons that when he observed ". . . the long continuance of Parliament; so few matters of weight passed, and that matter of privilege had taken much time . . . he was moved with jealousy that there was not such proceeding, as in love, he expected . . ."

⁷⁴The issue of the subsidy had been raised on June 2. See above, p. 25.

Subsidy in 1604

Originally, King James had no intention of requesting a subsidy from Parliament during its first session. In his proclamation summoning Parliament, sent out in January, 1604, he declared "that we have nothing to propound for satisfaction of any private desires, or particular profit of our own."⁷⁵ Many in the Commons interpreted this to mean that the King would seek no additional revenues in subsidy form for the time being.⁷⁶ Furthermore, James made no mention of it in his opening speech to Parliament. The probable reason for the Crown's reticence on the subject stemmed from the belief that the Lower House would be un receptive to demands for a new subsidy while those granted to Queen Elizabeth in 1601 were still unpaid.

However, the realities of the fiscal situation made such an approach to England's financial problems untenable. Elizabeth had managed her ordinary expenditures well, even amassing surpluses that supplemented the inadequate returns of the subsidy and kept the war effort in Ireland and against Spain alive. Dur-

⁷⁵C.J., I, 246. James stated: "It is true that even before, and a certain space after the sitting down of this Parliament, we were constantly resolved, neither to think, nor in case it had been offered unto us, any ways to have accepted a Subsidy at this time."

⁷⁶A Book of Proclamations, 58. Sir Francis Hastings to Sir George Hume, June 12, 1604, Cal. Salisbury MSS., XVI, 132. "Their feelings are not least in matters of this nature, having promised themselves great freedom from such payments at this time, by the words of the King's proclamation, sent abroad amongst them before the Parliament."

ing the first years of his reign, James also had to deal with these military expenditures. But his major financial difficulty stemmed from his failure to balance his ordinary income and expenditure.⁷⁷ Diary accounts abound with the laments of Lord Treasurer Dorset about lack of funds to meet daily expenses.⁷⁸ James had to maintain a larger court with increasingly diminishing returns from ordinary income as a result of the rising cost of living and the decreasing value of the subsidy. But his inability to control his spirit of giving plus the demands of courtiers and the desire to maintain patronage made it virtually impossible for him to balance the ordinary budget.⁷⁹

Speaking in mid-April, 1604, James had alluded briefly to his fiscal plight when he announced "that his occasion were infinite, and much beyond those of his predecessors . . ."⁸⁰ But neither he nor Parliament was able to turn full attention to the subsidy question until after the issues of the Union, purveyors

⁷⁷ Robert Ashton, The Crown and the Money Market, 1603-1640 (Oxford: At the Clarendon Press, 1960), 78.

⁷⁸ G.B. Harrison, A Jacobean Journal, Being a Record of those Things Most Talked of During the Years 1603-1606 (London: George Routledge and Sons, Ltd., 1946), 60, 64, 82.

⁷⁹ B.M., Add. MSS. 36970 f. 17; Lansdowne MSS. 165 f. 126; F.C. Dietz, English Public Finance, 390; Fynes Moryson, An Itinerary containing his Ten Years Travel (Glasgow: James MacLehose and Sons, 1908), III, 342.

⁸⁰ C.J., I, 171. Dated April 13, 1604.

and wardship were resolved. This came on June 2. At that time the outlook for success appeared bleak. Indeed, during the debates on purveyance, proposals for substituting subsidies in its place had been ill-received. As Sir William Strode phrased it, no subsidy was to be thought on or granted until the next Parliament.⁸¹ By early June, however, James had tentatively decided to request a subsidy. According to his own account, various members in the Commons encouraged him to proceed, so he instructed individual House members, including Sir Francis Hastings, M.P. from Somerset, Puritan and known opponent of a subsidy grant, to inform him of the attitudes, pro and contra, of the Commons. He would base his ultimate decision on the result.⁸²

Hastings received his instructions from the King "to sound out the disposition of the House to a subsidy, or some other grateful contribution not unlikely to be moved," around June 10. Personally, he believed the motion would fail and tried to discourage the proceedings. According to his evaluation, many in the Commons were reluctant to make the grant for three reasons. First, there were still Elizabethan subsidies uncollected. Secondly, Commons had made subsidy payments for twenty years and desired a respite. Finally, many members claimed the country was too poor to contribute and feared a reaction if new taxes were imposed. Though Hastings believed the demand would create hard

⁸¹Ibid., 984-85.

⁸²Ibid., 177.

feelings between King and Commons, he understood the Crown's need for funds and promised to continue "to sound out the minds of men yet further and . . . truly relate" what he discovered.⁸³

Though Hastings' report was pessimistic, financial pressure and the urging of various members in Parliament moved the King to permit his supporters to debate the issue around the third week in June. However, James would not rely solely on his support in Commons. The Lords decided on June 18 to discuss the need for a subsidy with Commons at a committee meeting the following afternoon dealing with a bill about tonnage and poundage.⁸⁴ On the morning of that day (June 19), subsidy debate began in the Commons. Sir Francis Bacon, Mr. Secretary Herbert and Sir John Higham, M.P. for Suffolk, spoke in favor of the bill. Bacon emphasized that Parliament should not end "like a Dutch feast, in Salt meats; but like an English feast in sweet meats." Higham, obviously aroused, claimed that recusants were making political hay out of the King's parsimonious, protestant Parliament. The opposition was represented by William Hakewill, M.P. from Michael Borough in Cornwall, William Brock from St. Ives Borough in Cornwall, Sir Richard Spencer, M.P. for Brackley Borough in Northants, and Mr. John Hoskins. Brock and Hakewill insisted that a subsidy grant at that time violated precedents, since the country was not at war. Hakewill noted that no subsidy

⁸³Cal. Salisbury MSS., XVI, 132-33.

⁸⁴L.J., II, 323.

had ever been given at the beginning of a prince's reign with the exception of Elizabeth's. Hoskins and Spencer dwelt on the burden that would be placed on the populace if a new subsidy were added to the old. Sir Robert Wingfield, who favored substituting subsidies for purveyance, probably favored the grant, but acted as a moderator. He believed that the objections, whether they were the poverty of the country or the violation of precedents, could be answered at a committee; and he felt that if the consultations were reasonably and dutifully undertaken by Commons, "the King is gracious, and will as well take the denial as the granting."⁸⁵

That afternoon, Cecil and Lord Treasurer Dorset presented the case for the Crown. The former insisted that the Lords were delivering a message of the King touching a subsidy or a gratuity. It was not their intention that their presentation should be construed as equivalent to proposing a motion for a subsidy. Nor was it their intention to prejudge the Commons' assent or dissent to the subsidy. They only wished to clarify the relationship between foreign affairs and the subsidy because the fiscal state of the King and the nature of the peace with Spain were "not within the knowledge of the House."⁸⁶ The Commons,

⁸⁵C.J., I, 242. Sir Edward Hoby, M.P. for Rochester in Kent suggested: "No Subsidy, but a gratuity - - . . . A Select Committee for this purpose to confer amongst ourselves.-"

⁸⁶Ibid., 245, 996-97.

Cecil noted, argued that peace abroad, cessation of war in Ireland, peace on the Anglo-Scottish border, financial support from Scotland and the unpaid Elizabethan subsidies made the request for more aid unthinkable. He carefully analyzed each objection. Peace with Spain was "Peace only between the persons of the King of England and Spain - Nothing articulate; - a mere cessation or abstinence from Hostility." Indeed, no treaty had as yet been signed, though negotiations were in progress. In Ireland, the "rebel hath put up, not put off, his sword." Furthermore there were still garrisons on the borders and in the Low Countries as well as in Ireland that had to be paid and maintained. Though Scotland might grant money in the future, it afforded the Crown nothing at present. And, as for the money voted in 1601 but as yet unpaid, "The Subsidy yet due, not of valem to pay the charges" extraordinary incurred by King James during his first year, which included the Queen's burial; the King's entry into England; his coronation; and costs connected with ambassadors. In addition, Cecil noted, there was £80,000 due the city of London for a loan and Ireland was draining £120,000 a year from the royal coffers.⁸⁷

The Commons' committee agreed that the Queen's burial was a valid charge, but insisted that the royal entry and progress were taken care of by the towns and "good hosts along the way." Also, only two ambassadors needed reimbursement and the King should have

⁸⁷ Ibid. S.P. 14/8/69.

discovered enough ready cash to pay his rewards. Cecil angrily replied that foreign ambassadors would admit "the poor people here are not so oppressed as in their country." Lord Treasurer Dorset made the final plea for the Crown. To demonstrate the impossibility of relying on the unpaid Elizabethan subsidies alone, Dorset revealed that the Crown had spent £200,000 in the previous year. The expenditures were made up largely of those enumerated by Cecil, plus "rewardes" distributed by James. The Crown was hampered by diminution in revenues because the value of fixed revenues no longer came up to par. Furthermore, Dorset revealed, subsidies were not duly paid. If no subsidy were voted, the Lord Treasurer observed, King James had no choice but to sell land, a disastrous move, for each sale reduced the potential of his Majesty to live of his own in the future.⁸⁸

The pleas fell on deaf ears. Commons was in no mood to vote a grant, forcing James and his Council to beat a graceful retreat. The King sent a personal letter to Parliament, which he later had published, requesting both Houses to halt proceedings on the subsidy because the Crown had no intention of overburdening the people. The subsidy supporters in the Commons then apologized for "misinforming the King."⁸⁹

King James' first parliamentary session was a disturbed one

⁸⁸S.P. 14/8/69.

⁸⁹C.J., I, 246-47.

that accomplished little in the realm of finance at the time it met; but it did lay the seeds for future discussion. The basic issues and aims of what would later materialize as the Great Contract were presented and debated and would continue to influence parliamentary affairs for the next six years. This meeting revealed the determination of both Crown and Commons significantly to alter the financial structure. The attempt failed in part because the Commons, though united in opposition to purveyors' abuses, were unable to decide on a course of action, and in part because the King squelched the campaign to reform wardship.

Conservatism in financial affairs was a trait prominently displayed by the Commons during this meeting. It was shown principally in their approach to the subsidy issue. But it was also indicated by the opposition of some members to purveyance composition, whether in statute form or not, which sprang from a fear of extending the taxing power of the Crown. This attitude would manifest itself even more in the second session when debate on composition for purveyance was resumed.

CHAPTER II

SECOND AND THIRD SESSIONS JANUARY-MAY AND NOVEMBER-DECEMBER, 1606

Purveyance

If King James desired anything from this meeting of Parliament which convened November 5, 1605, it was money. None of the many financial expedients tried by his ministers since July, 1604, had provided ample revenue to meet his growing daily expenditures. The King was even willing to drop from the agenda the topic of the Act of Union, a hotly contested issue between himself and the Commons, in an effort to obtain the subsidies. However, as the Venetian Ambassador reported, there was opposition in Parliament to the granting of subsidies because the country was not at war with Spain or Holland and no longer had to maintain an army on the Scottish border.¹ Fortunately for King James the Gunpowder Plot occurred, provoking a national crisis. The failure of this daring

¹C.S.P.V., 1603-1607, 280, 285.

scheme to destroy both Crown and Parliament promoted harmony between King and Commons that even extended to fiscal matters.

The King suspended parliamentary business between November 9, 1605, and January 21, 1606, because time was needed to investigate the nature of the conspiracy and to plan action against the Catholics. Within three weeks after Parliament resumed deliberations, Commons agreed to provide his Majesty with two subsidies and four fifteenths and ordered a committee to draw up a bill for that purpose.² Though this pleased the King and he sent a message thanking the Commons on February 11, he knew it was inadequate to satisfy his needs and he continued to push for additional subsidies throughout February and into March.³ He sought to obtain the funds by continuously prodding the Lower House both directly and indirectly through speeches by various Lords and members of the Commons. He was constantly demonstrating his interest in the Commons' grievances, so they would be more sympathetic to his fiscal plight. Lord Treasurer Dorset twice presented the Lower House in February, 1606, with detailed analyses of royal income and expenditure to impress it with the extent of the royal need for both ordinary and extraordinary relief.⁴ Privy Councillors in the House of Commons normally introduced appeals for subsidies, but this session they were more than ably assisted by regular members of the Commons such as Sir

²Bowyer, 31.

³Ibid., 31-33.

⁴Ibid., 42-45, 371-375.

Thomas Ridgeway. He not only made the first call for subsidy on February 10, but tried on two other occasions to persuade his fellow members to return their attention to the subsidy issue.⁵ The Commons delayed voting on the subsidy during February and early March because, after deciding on the initial grant, they resumed consideration of grievances, particularly purveyors' abuses. Ultimately, James allowed Commons to pass a bill against purveyors, which he personally opposed, in order to obtain a third subsidy.

The Commons began their discussion of purveyors' abuses on January 24 and decided to proceed against them by bill rather than meeting with representatives of the House of Lords to receive an answer to their protests against purveyors lodged the previous session. The bill, introduced by John Hare, an opponent of purveyors from Elizabethan days, was entitled "An act for the better execution of sundry statutes against purveyors and cart-takers" and received its first reading on January 29. It was given a second reading on January 30 but was not passed until March 18 because amendments were added after the second reading and Commons expended a great deal of time and energy in February and early March arguing about composition.⁶ The bill was probably suspect in the government's eyes from the beginning and was ultimately denounced by the royal Judges in April, 1606, for a variety of

⁵Ibid., 31. C.J., I, 266, 272, 278.

⁶Bowyer, 6-7, 10-11, 34. C.J., I, 259, 261, 283.

reasons foremost of which was that it threatened to take away a royal prerogative without compensation.⁷ Sir Roger Wilbraham, a member of Parliament for the borough of Collington in Cornwall, summarized the most significant points of the bill in his journal. The bill obliged the purveyors to pay market prices and ready cash for all supplies and empowered justices of the peace to set prices for carts and other forms of transportation. The Crown could never accept these because it claimed the right to set its own prices. The bill prescribed that commissions authorizing purveyors to requisition goods and services be drawn up according to the law and be shown at the time goods were taken or "els purveyors to be felons." Finally it curtailed the judicial authority of the Board of Greencloth by transferring cases involving persons arrested for resisting purveyors' illegal demands from the Board to the common law courts.⁸

The Commons were much opposed to the operations of the Board of Greencloth which, though not a court of record, did exercise the powers of a prerogative court and summoned individuals to appear and explain why they obstructed the collection of supplies. Commons claimed the Board and the purveyors abused their power by summoning and imprisoning innocent men whose only offense was resisting unlawful demands of purveyors. Members contended the Board did not have the power to call people before it

⁷Bowyer, 120-25, 134-35.

⁸Wilbraham, 79-80.

and that only the common law courts could handle such cases. The royal Judges defended this prerogative court asserting that its powers were derived from the same source as the equity courts, Star Chamber and the Privy Council itself. Members of the Lower House also criticized the Greencloth because certain of its members apparently told the King during the first session that the Commons had falsely informed him of purveyors' abuses. Although the Crown viewed the Commons' moves as a threat to the prerogative, the Commons maintained to the end that they had no intention of impairing the prerogative but sought only to curtail the authority and profit of the Greencloth.⁹

King James was aware of the explosive nature of the purviance issue and had instructed Cecil in the fall of 1605 to take action against purveyors in the hopes, one suspects, of eliminating the worst abuses and thus forestalling the Commons raising the issue when Parliament met.¹⁰ The Privy Council instructed the Judges in October, 1605, to examine mischievous purveyors; and the Court of Star Chamber punished them as well. Henry Howard, Earl of Northampton, writing in October, 1605, reported that the Privy Council in preparing for Parliament was going to

⁹C.J., I, 261-62, 273. Bowyer, 6, 122-23. Wilbraham, 85.

¹⁰Cal. Salisbury MSS., XVI, 325-26.

take action against the scandalous activities of purveyors.¹¹ However, royal progresses kept the issue of purveyors' iniquities before the public and in the minds of the members of the House of Commons.¹² In the final analysis, Cecil in his instructions to the Privy Council concerning the upcoming session of Parliament conceded that little had been done to alleviate the counties from purveyors' abuses.¹³ Thus, as much as King James wanted to prevent the issue from being raised, he was probably not totally surprised when Commons brought forth the reform bill.

In addition to the bill, the composition plan was reintroduced on January 30 by Sir Robert Johnson, an adviser to Cecil on purveyance matters, following the second reading of the purveyance bill. Sir Walter Cope, later an apologist for Cecil, supported Johnson's motion by arguing that Commons should give his Majesty a financial contribution since the many laws made in the past had no effect on curtailing purveyors' abuses.¹⁴ Johnson commended the bill as profitable to the commonwealth, but he doubted whether or not it would become law and he therefore requested the Lower House to reconsider the bill he had placed before them the previous session designed to prevent purveyors from abusing their

¹¹B.M. Add. MSS. 11402, f. 107b. John Hawarde, Les Reportes del Cases in Camera Stellata, 1593-1609, ed. by W.P. Baildon (Privately Printed, 1894), 193-94. D.H. Willson, The Privy Councillors in the House of Commons, 27.

¹²C.S.P.V. 1603-1607, 267-68.

¹³Cal. Salisbury MSS., XVI, 425-26.

¹⁴C.J., I, 361-62.

commissions. Commons acceded to his proposal. Johnson calculated that if one bill did not find its way into the statute books, the other might.¹⁵ He also suggested to Cecil that King James ought to mention in a proclamation the new forms of commissions designed to prevent purveyors from taking more than was permissible. The King later did this.¹⁶ However, Johnson's bill never got beyond its second reading in the Commons. If it had, it might have become law, since it was not such a significant threat to the prerogative as the bill introduced by John Hare. Cecil may have had Johnson's bill in mind when he told the Earl of Mar in early March, 1606, that Parliament was trying to pass a bill to punish purveyors' abuses.¹⁷

In his message thanking Commons for its promise of two subsidies, King James acceded wholeheartedly to the Lower House's desire to eliminate purveyors' oppressions. The King so detested purveyors, Speaker Phelips informed the House, that he wished both "the corruption and name of them to be utterly taken away and abolished."¹⁸ King James also wanted Commons to meet with the Lords to discuss his financial needs and to present their grievances, particularly those involving purveyance. When the King spoke of abolishing purveyors, he meant doing away with them

¹⁵Bowyer, 16-17. ¹⁶Cal. Salisbury MSS., XVIII, 55-57.

¹⁷C.J., I, 264, 304. S.P. 14/19/27.

¹⁸Bowyer, 31-33.

in return for composition money.¹⁹ The Commons probably thought this was his meaning and definitely suspected that the Lords would bring it up at their conference. They therefore instructed their representatives to the joint committee meeting scheduled for February 14 to convey their thanks to the King for his gracious message, to describe purveyors' abuses and to petition the Lords to propound some remedy for those abuses. If the Lords recommended composition, the representatives were not to discuss it with them, but only relay the information to the Lower House.²⁰

At the conference John Hare launched into a lengthy tirade against the "sorrow and grief" visited upon the King's subjects by the foul practices of purveyors and their masters, the Board of Greencloth. He then read, with the Lords' consent, the list of grievance articles against purveyors (a copy of which was later delivered to the House of Lords), and concluded by briefly alluding to the bill to redress purveyors' oppressions. Cecil reproached Hare for opening the conference on such a somber note and for sowing seeds of mistrust between the King and his subjects, especially at a time when his Majesty had asked them to present their grievances. The King was not ignorant of the dangers of asking his people to speak out on their grievances, Cecil continued, but he did not think there were members who would set themselves up as tribunes of the people.²¹

¹⁹Ibid.

²⁰C.J., I, 267.

²¹Bowyer, 38-42.

At the second conference on purveyors held Wednesday, February 19, Cecil continued his criticism of Mr. Hare, much to the annoyance of the Commons, who resented it and later protested against such public reprimands of members of their House at joint conferences.²² Cecil and Lord Knollys of the King's Household staff then presented the Lords' position on the Commons' articles against purveyors, to which the Commons had added four grievances endured by the London merchants. Cecil told them he believed they were trying not only to take away purveyors' abuses but even the use of purveyance by the Crown. Knollys insisted the old laws cited in their articles were made in terrorem to frighten purveyors and were not intended to be enforced against them. The old statutes, he asserted, did not infringe upon the King's prerogative, but such was not the case with their statutes. Nevertheless, purveyors were vexers of the commonwealth, Cecil exclaimed, and the Lords would join with Commons in chasing them out of the land.²³ After Lord Treasurer Dorset made his plea for additional royal financial supply, the Lords presented the royal plan for eliminating purveyors abuses. It was annual composition.²⁴

The Lords might want composition, but Commons were not so quick to oblige. Speaker Phelips informed Cecil that on February 24 the Commons were "in hot resolution to proceed with their bill." Lawrence Hyde wanted the bill passed and then a confer-

²² Ibid., 50-52. C.J., I, 271-73.

²³ C.J., I, 271.

²⁴ Wilbraham, 75-76.

ence with the Lords, probably to discuss composition. Sir Rowland Litton, M.P. for Hertfordshire, desired an act passed stating that their law against purveyors would bind the King, thus making it impossible for his Majesty to dispense from its provisions. He probably said this in reaction to the Lords' statements at the previous conference which tended to diminish the effect of past legislation on the activities of purveyors and on the royal prerogative. Thomas Hedley, M.P. for the borough of Huntingdon, wanted the entire jurisdiction of the Greencloth taken away by law. On the other side, Sir Thomas Ridgeway advocated consideration of composition and Mr. Humphrey May moved for a committee for composition. These advocates of composition apparently gave the Speaker his opening and, as he later wrote Cecil, he persuaded the House to delay action on the bill and instead to discuss their intended reply to the Lords' request for composition. Though Commons essentially went along with Speaker Phelps, the Lords' answer to the articles on February 19 had upset members and they decided to discuss first the Lords' objections to the articles and then consider possible objections to composition.²⁵ At any rate the Speaker had steered them clear of the bill temporarily, a fact which no doubt pleased Cecil.

In its report on February 25, this committee concluded it was too late to reply to the Lords' answers to their articles

²⁵S.P. 14/18/115. C.J., I, 273.

because, in John Hare's words, "the King found the Prerogative and will hardly be drawn to consent to have it taken away." The Lords' vigorous defense of royal rights against the Commons' articles had apparently convinced these men that any legislation infringing on the prerogative had no chance of becoming law. This did not stop the Commons from eventually passing the bill. For as Richard Martin said that day, he would "have the Bill pass, and though it be dashed above, yet we have done our duties."²⁶ Commons would later debate with the Lords about the King's prerogative and the subject's right vis-à-vis purveyance, for many members believed the old laws should be made effective to suppress abuses regardless of the interpretations given them by the Lords and Judges.

The committee had prepared a statement of doubts about composition reducing them to three categories: security, proportion and distribution. Parliament never got much beyond consideration of security before discussion of composition terminated. Security meant obtaining some kind of assurance from the King that he would permanently surrender his prerogative in purveyance and never resume it. It further involved the question of whether or not Parliament could bind the prerogative by law thus ensuring their posterity that the Crown would observe its end of the bargain. Proportion and distribution referred to the total sum the

²⁶C.J., I, 274.

country would pay and how it would be apportioned among the counties and the individual subjects. For example, would outlying areas which his Majesty rarely visited pay proportionately less in composition than those that were frequent targets of royal progresses? Since the question of security was one of overriding importance, the committee through John Hare offered a tentative solution. Hare argued that though statute law could be dispensed from, the common law could not be altered. Therefore he suggested the King issue a great charter discharging the realm of purveyors and dismissing himself of his prerogative in purveyance, which Parliament would then confirm. It could then be declared "that the common law is, that the King may dismiss /his prerogative/ by Parliament."²⁷ Thus, King and Parliament could assure the subject that according to common law the King could give up a prerogative and, by implication, that a royal prerogative surrendered in this fashion could not be revived by the King without violating common law. As for proportion, Hare stated that it should not be too costly. Richard Martin later added he thought any man who purveyed after the charter should be guilty of a felony and any official of the Greencloth who countenanced such an act should be guilty of praemunire.²⁸ Sir William Strode supported the bill

²⁷ Ibid.

²⁸ Since praemunire was originally intended to prohibit appeals from English courts to the papal court at Rome, it is difficult to understand Martin's meaning here. Perhaps he meant that officers should suffer the penalties of praemunire, that is, loss of property and imprisonment at the King's pleasure.

because he thought it would do some good in the King's time. Sir George More wanted composition as he had during the first session. Sir Henry Hobart, the Attorney General, remarked that there was never any execution of the purveyance laws, implying that they might as well compound as try to legislate the abuses out of existence. To those who objected that they could not take from the King what was allowed to former monarchs and that compositions were unjust or impossible, Hobart pointed out that composition was already there - that is, that it existed at the county level and in the city of London. The simple fact was that the King possessed purveyance and the only way to resolve their problem was to buy it from him through composition; they had no choice but to try it. Hobart did not think the more remote corners of the kingdom should be charged equally with those nearer London. John Hoskins retorted that their ancestors had never passed legislation binding future generations with such a monetary imposition as this composition. Lawrence Hyde then asserted that composition was dangerous as a precedent for redeeming grievances and also that the charter device was not warranted by law. However, there was nothing which stated the King's prerogative could not be purchased; and so he plugged for the bill and "then to think of composition." Sir John Boys, M.P. from Canterbury, followed asking that the bill be put to the question and "composition to be spoken of with the Lords notwithstanding." Even Solicitor Sir Francis Bacon desired some form of probationary

composition and he spoke in favor of both the bill and composition.²⁹

Henry Yelverton, who represented the borough of Northampton, insisted the Commons choose either composition or the bill. Personally he believed composition was dishonorable, dangerous, mischievous and fruitless. The problem, as he saw it, was not with the prerogative but with the abuse of the prerogative when transferred to the subject. Purveyors were tame thieves and he would rather compound with a common highwayman than with them. In an effort to bring matters to a vote, Phelps then proposed three questions for the Commons' consideration. First, he asked whether the subject might legally be freed from composition should the agreement be made with the King. Second, if the law could bind the King, whether then they would agree to composition. And last he inquired whether Commons would consider the bill before or after the conference. The Commons apparently did not wish to vote on any of these questions. According to the Speaker, they were "enflamed" to call for a vote on whether or not they would proceed further with the bill which had already received two readings.³⁰

To satisfy this overwhelming demand of the Lower House which he could no longer avoid, Phelps reluctantly posed the

29 C.J., I, 274.

30 S.P. 14/18/115. C.J., I, 274.

question of whether or not Commons should consider the bill and the majority voted for considering it, with only one member opposed. The Commons also pressed the Speaker to put forward the question of whether or not they would compound. Edward Phelps avoided posing that question because he knew that "as the state of the House then stood, it would be rejected."³¹ The end result of the conferences and debates held thus far had been to strengthen Commons in its resolve to pass the bill and in its suspicion of the benefits of composition.

The House of Lords, meanwhile, had expected a message from the Commons about another conference on purveyors and when they received no word from the Commons, they sent them a reminder on February 26. They informed the Lower House that the King's financial occasions were greater than ever before and, since they had demonstrated the royal care and zeal in relieving his Majesty's subjects, they hoped the Commons would harken to relieve his Majesty's great wants. The Lords wished to take away grievances caused by purveyors forever at this conference and, for that purpose, they would have the Judges present to give the Commons the assurances they needed.³² In preparing themselves for the conference, the Commons concluded it was probably impossible to make a law to root out purveyors. Their representatives were to

³¹Ibid.

³²Bowyer, 55. C.J., I, 274-75.

inform the Lords that thirty-seven laws had been made to combat purveyors' abuses including one made in the reign of Edward III intended to take away the very name of purveyors and none had worked. Whatever the Lords might say about composition, the Commons' committees were not to make any offer.³³

Sir Francis Bacon reported the results of the conference on March 1. Several interesting questions had arisen during the arguments about security. The King apparently wished to be assured what he would be given before he promised any security. Then the Lords insisted on spelling out the King's rights in purveyance and a major disagreement ensued about the extent of the royal rights and the subject's rights in purveyance. Debate seemed to stem from the Judges' assertion that the royal prerogative consisted not only of preemption, or the right to be served first for his money, but also the right to purchase goods and services at below the market price. The Commons held that the latter was not part of the royal prerogative. Bacon reported that representatives of Lords and Commons would debate this point with Commons necessarily admitting the King's right if they should lose. He then asserted that positive laws were never a corrective of the King's rights but a directive of the King's will, probably indicating that old statutes did not bind the King though they might guide him in his use of the prerogative. Bacon

also told the Commons they were to prepare to debate this point about pricing (or the King's right to set his own price) with the Judges present. Once this was settled they would move on to other issues such as assurance, convenience and proportion. Various members grumbled because they felt they would be arguing at a disadvantage with so little time to prepare and with the Lords already aware of the Judges' opinions. One member remarked he would rather listen to Judges' opinions in the courtroom than at conferences, manifesting the growing irritation of many in the Lower House with Cecil's tactic of using the Judges at these joint conferences to lend added weight to the Lords' arguments. The Commons concluded they would meet the Lords the following Monday, March 3.³⁴

The question of the King's prerogative in pricing probably arose for several reasons. If his Majesty had the right to name his own price, he could either retain it after composition, thus increasing his purchasing power; or he could surrender it in the composition agreement, thereby increasing the amount of compensation Parliament would have to pay. Either way the subject would have to absorb a financial loss which he apparently did not relish. Royal advisers generally valued purveyance for purposes of composition at £50,000 whereas Commons' estimates in the first session did not exceed £30,000. Professor Dietz estimated that

³⁴Ibid., 276. Bowyer, 57.

purveyance along with local compositions, in which the King fixed his own price, was probably worth some £37,500 in 1612.³⁵ There was probably a tendency to inflate the value of purveyance at this time to compensate for the money that would be lost if the King surrendered the right to name his own price.

The meeting of March 3, whose details were imperfectly recorded in the Commons Journal, did not satisfy the Lower House. Apparently the entire day was spent in disputing the royal right without any examination of the other points. The Lords and Judges argued that the King had more than preemption; that, indeed, he had the right to name reasonable market prices determined by himself and, in time of necessity, he could take goods without the agreement of the subject. Commons insisted his Majesty was going against the ancient statutes when he claimed he could name his own price and take goods without the subject's consent.³⁶ Cecil then warned Commons that the King's necessity could never permit the purveyors' bill to pass. The Lords would veto the measure before it ever got to the King, apparently because it deprived him of his prerogative and revenue without recompense. Commons exclaimed "if neither custom, law or love will help, the Lord help us." They would dispute the results of the

³⁵F.C. Dietz, English Public Finance, 1558-1641, 424.

³⁶Cal. Salisbury MSS., XVIII, 88. C.J., I, 277. Wilbraham, 76-77.

conference the next morning and, therefore, no member could depart without the license of the House.³⁷

Francis Moore, M.P. from the borough of Reading in Berkshire, began the discussion on March 5 by asserting that the King had just as much right to purchase below cost as any subject had to undervalue his land for tax purposes. He maintained that composition was convenient and beneficial for the subject, whereas the law they were making "would draw most of the princes of Europe into enmity." Nicholas Fuller opposed such thinking claiming he had once favored composition, but after hearing the Judges state that laws against purveyors did not bind the King, he could see no purpose in composition. If statutes could not bind the monarch then what assurance could Commons have that King James would uphold his end of the composition bargain. Fuller concluded that Commons had no such security. If the King removed some of the grievances, Fuller asserted, he could bring £60,000 a year into the royal coffers that was now entering other men's pockets.³⁸ John Hoskins then contended that the King possessed "no such valuable right in purveyance as might be woorth much . . ." He believed that if the Commons made composition, they would be like the unthrifty "who begin with a Rent charge, then proceede to a Mortgage, and in conclusion deparate with the lande

³⁷C.J., I, 277.

³⁸Bowyer, 59-60. C.J., I, 277-78.

itselfe."³⁹

Commons resumed debate on March 6 at a more agitated and emotional pitch. John Hare spoke against composition, wishing he would never hear the name again. If they returned home without affecting their will, he reasoned, the country's griefs would be doubled and the purveyors' abuses ten times trebled. Maurice Berkeley asserted the Commons could be as lawfully drawn to compound for their lands and lives as for purveyance. He felt the prerogative could not and should not be purchased or compounded for and he opposed a suggestion that the House increase its subsidy to the King in lieu of composition, because, when that money was spent, the King's needs would still remain. He wanted the bill to pass and the Commons to vote King James and his successors a perpetual revenue "without charge to the people, whereunto I shall yeld most willingly if anie such way may be devised." Perhaps he had in mind the composition for wardships proposed during the first session, which could be designed to extract money only from those who redeemed lands from the King; and, of course, it was perpetual and annual. Thomas Wilson, M.P. for Newtown in Hants., then suggested a composition continuing for a short time with conditions, while Anthony Dyott representing Lichfield in Staffordshire opposed Francis Moore's position, insisting that in buying and matters of that kind the King had no

³⁹Bowyer, 61.

right to name his own price but only preemption⁴⁰

Lawrence Hyde now wanted no composition even with security and he also opposed any increase in the subsidy. If Commons did its best in promoting the bill, he reasoned, even though it failed to put the bill on the statute books, yet it was excused in the people's eyes. But if members allowed the bill to sleep, they were killing themselves, figuratively speaking, which he considered monstrous. By pursuing the bill they did not wound his Majesty's honor because, if it were thought good that it should not pass, the Lords would quash it and so keep the wound from the King. Hyde wished the King to be helped privately in his financial plight by men who had loaned him money on privy seals. Let them surrender their seals, thereby forgiving the King his debt to them. And let those who have not lent, give as much as those who have done so already. He also pleaded for a statute of resumption to take back royal gifts to unworthy personages. Hyde would accept any course but composition or an increased subsidy payment to relieve royal want, for he believed that "if they weare heare for whome wee come they would not do it."⁴¹

Sir Francis Bacon's attempt to answer most major objections to composition dominated debate on March 7. He tried to assure Commons that composition did not mean an automatic perpetual tax.

⁴⁰Ibid., 61-64. C.J., I, 278-79.

⁴¹Ibid.

Rather, composition, if agreed upon, could be on probation between then and the next session. Commons would carefully censure the composition at that session and eliminate any inconveniences. Sir Francis then reminded those who opposed a perpetual composition of their willingness to compound in perpetuity in the previous meeting for the abolition of wardships. He then answered those who claimed King James could not dismiss himself of his prerogative by drawing a distinction between essential and unessential prerogatives. The former, such as the administration of justice, were inseparable for the Crown itself. But for the King to surrender purveyance was like breaking up his household and "not impossible for this being doon he neaverthelesse remaineth a King as before." To those who claimed the composition was the buying of justice or purchasing the removal of abuses the King should have taken away without recompense because they violated the law, Bacon insisted they were not buying justice but rather "agreeing or buying if you will of Interest of ease of quiet . . ." In other words they were recompensing the King for eliminating a necessary and legal but inconvenient and unpleasant activity. Some members asserted the existing voluntary compositions were heavy burdens and they could expect the same from nation-wide composition. Bacon replied that he had discovered at least as many who found composition desirable as considered it burdensome. Sir Francis upheld the royal right to pricing as well as preemption; and he defended the composition against those who believed

that since thirty-six laws against purveyors had not bound the King, therefore one more eliminating purveyors plus the composition would not help.⁴²

Sir Richard Spencer spoke next, opposing composition because the King could provide no safe assurance. Contracts existed only between equals and no King could be tied legally to his subjects. If the King did not perform the conditions, the only remedy was to petition him to observe them. And if they passed a law, no one could prevent the King from dispensing with it. Spencer disagreed with Bacon, maintaining that the prerogative could not be severed from the Crown and requesting the Lower House to abandon composition and proceed with the bill. Sir William Paddy, M.P. for the borough of Thetford in Norfolk, then rose and concurred with Maurice Berkeley's statement that, if they compounded to remove this grievance, the precedent established thereby would be used to have them compound for all grievances. At this point Mr. Secretary Herbert announced that the use of the prerogative could be confined by law but not taken away. He then encouraged Commons to augment its gift by repeating the royal pledge to redress grievances in return. Thomas James of Bristol then spoke, reasoning that composition would bind their posterity and the King to conditions the Crown could not keep. Even with composition, grievances and purveyors would

⁴²Bowyer, 65-66. C.J., I, 279-80.

continue and their descendants would be urged to a new composition to eliminate them. He favored the bill.⁴³

Speaker Phelips intervened then, trying to terminate debate and persuade Commons to vote on the question of composition, and then to deal with supply for his Majesty's occasions. To convenience, security and proportion, the Lords had added right. They should signify to the Lords the many difficulties in this matter of composition. Would the Commons accept composition if the security and proportion were pleasing, asked the Speaker, and would they accept it for a limited time (as Bacon discussed) or in perpetuity? But these questions were apparently not taken up. Sir Dan Dunn, a doctor of laws representing Oxford University, demanded that the arguments continue and that the speaking order be determined for the next day, which apparently was approved.⁴⁴

On the morning of March 8 at nine o'clock, Phelips brought a message from the King. King James was aware of the dispute in the Lower House and between Lords and Commons over purveyance, an issue which "the Kings Majestie saith grew originally from him selfe and was occasioned from his highnes desier to reform the abuse of purveiors and to relieve the greavances of his

⁴³Bowyer, 66-67.

⁴⁴Ibid., 67. C.J., I, 280. Cal. Salisbury MSS., XVIII, 88. Apparently, King and Lords wanted another meeting with Commons at this point.

people endured by theis meanes." He could imagine no better remedy than the rooting out of purveyors which his Majesty intended for his subjects' good and not his own gain. King James wished all questions concerning his right in purveyance or security in composition to be decided by the Judges. However, if Commons thought composition inconvenient, his Majesty desired the Lower House to proceed no further with it. He would see to it that purveyors were punished by the common law courts rather than by the Board of Greencloth or the Star Chamber or he would punish them himself. The King would also furnish himself with such sums as would make him less dependent on purveyance. He then reminded Commons of his message on the subsidy and said he would propose no course on the subsidy but leave it to their loves and wisdom.⁴⁵ Cecil's letter of March 9 to the Earl of Mar best revealed the royal mind at this juncture. The King was apparently not as interested as he once was in putting down purveyors by which he would lose £50,000 a year. According to Cecil, Parliament was to work for a law to punish purveyors' abuses but not to eliminate the use "and if it be possible to get somewhat more than two subsidies . . ."⁴⁶ King James, then, was becoming convinced that his chances of obtaining composition were indeed dim and he could better spend his time in trying, through an all-out effort, to get additional revenue.

⁴⁵Bowyer, 68-69.

⁴⁶S.P. 14/19/27.

Following the royal message, Sir Edwin Sandys delivered a one-and-a-half hour oration against composition which contained a new proposal which could be used to supply the King or to eliminate purveyance. He argued that thirty-six laws had failed to restrain purveyors and one more designed to abolish them would not succeed either. Besides, purveyance was an essential prerogative and, in addition, the King could not take at under the value. If they compounded for freedom from purveyors' abuses, they might be induced to compound for the removal of other grievances. Also, such compositions were dangerous because they might make the land tributary. He disagreed with Bacon, arguing that composition for wardship was imposed only on land held from the Crown. Sandys also illustrated that this composition was dangerous because it was like a rent charge "for which distress may be taken for the King on all the parties lands." He did not wish to see the bill sleep as had happened in the previous session when Commons failed through its own fault to do its duty. He wanted the bill prepared but not hastily sent up to the Lords, for he had no doubt but before Parliament adjourned, "wee shall give his Majestie satisfaccion." Sir Edwin's plan for supplying the King involved the fenlands. He wished the work of draining the fens which, up to that time, was in the hands of private individuals to be done at the common charge of the realm and the King to have the benefit "which wilbe woorth more then forty thowsand pounds per annum." He insisted the plan was feasible.

since the ground was above sea level. However, it would take seven years before this enterprise was perfected and before it would begin to pay the King. For the present Sandys believed they might devise some way to supply the King's occasions which he left to others. He was certain the chief undertakers, with whom he had already spoken, were willing "to receive their money disbursed and to yield the advantage to the King." Finally, he was convinced the people would find it a more acceptable method for royal profit than any other. It certainly met Berkeley's criteria for an annual revenue without burdening the people.⁴⁷

Apparently Cecil did consider the offer, even though it came to nothing. When Speaker Phelps wrote to James renewing the proposal on May 6, 1606, Sir Thomas Lake, the King's secretary, informed Cecil that the King had made light reckoning of it because he had read it too hastily and did not pay much attention to the particulars. But Lake thought Cecil might speak to the King about it when he returned; for Lake did not think the Speaker would have written about it to the King without Cecil's knowledge. According to the May 6 proposal, King James would surrender purveyance when his profit from the recovered lands reached at least £30,000 a year. Among those supporting the plan were some of the chief opponents and critics of the composition, Sir Maurice Berkeley, Sir Edwin Sandys, Mr. Henry Yelverton and

⁴⁷ Bowyer, 70-72. C.J., I, 280-81.

Mr. Lawrence Hyde.⁴⁸

After several members spoke following Sandys, Speaker Phelps concluded the day's proceedings by explaining that "his Majesty's pleasure is, if we like, not to meddle any further with composition." Phelps met with King James on Sunday, March 9 and he conveyed the King's thoughts to Commons the following day. His Majesty wished them to expedite the composition business. If they still doubted the security, the King referred them again to the Judges. However, if they were satisfied with the security, but still found it inconvenient the King was well pleased that they forbear to compound. The Speaker then prodded them, probably under instructions from the King, to proceed with the subsidy.⁴⁹ James' desire for the third subsidy and his growing dissatisfaction with what seemed to him a long, fruitless debate in the Lower House certainly influenced his decision. He had told Cecil earlier in this meeting that subsidies were more important to him for paying off his extraordinary debts than these annual grants.⁵⁰ King James also believed that if Commons would agree to composition only on the condition that the abuses of purveyors

⁴⁸Bowyer, 71-72. S.P. 14/21/11, 14/21/13. Other supporters were Sir Henry Neville, M.P. for Lewes Borough in Sussex, Sir John Hollis, Sir Herbert Crofts, M.P. for the borough of Hereford, Sir John Scott, M.P. for Kent, Sir William Wray, M.P. for the borough of Great Grimsby in Lincolnshire, and Sir William Burlacy or Borlace, M.P. for Aylesbury Borough in Buckinghamshire.

⁴⁹C.J., I, 281-82. Bowyer, 72.

⁵⁰S.P. 14/18/77. Bowyer, 27.

were first eliminated and he could not assure them he could eliminate the abuses as long as purveyance existed, further discussion of composition was useless. Furthermore, he was offended by those who believed he proposed composition "because his eye was only on his own profit and he meant to leave the rest to adventure if the cares and doubts had not moved from ourselves (that is the Commons)."⁵¹ Regardless of the royal attitude, the Commons were determined to continue the debate.⁵²

John Bond, M.P. for Taunton in Somersetshire, initiated debate on March 11, the final day of discussion in the House of Commons on composition. He had once said that agreeing to composition for purveyance was like leaping from the frying pan into the fire. Bond liked Sandys' project best of all, yet he felt there was no time now to fish for money under water. He favored the bill and wished composition to sleep because the country expected them to proceed by bill. Perhaps they could pass a short law against the Masters of the Greencloth, whom he dubbed "fundus nostrae calamitatis." But whether an old bill or a new bill, he favored a bill. He also encouraged Commons to vote his Majesty two more subsidies.⁵³ Sir James Perrott, M.P. for the borough of Haverfordwest in Pembrokeshire, wanted to see reciprocity on the one hand between relief of royal wants and redress of the sub-

⁵¹ Cal. Salisbury MSS., XVIII, 88-89.

⁵² C.J., I, 282.

⁵³ Ibid., 278. Bowyer, 73-74.

jects' grievances, and on the other a committee to consider both. Sir William Morrice (Sir William Maurice, M.P. from Caenarvonshire?) favored the bill and opposed composition, whereas Mr. Henings (Edward Honyng, M.P. for the borough of Eye in Suffolk?) argued for composition, citing a twenty-year-old statement by Sir Francis Knollys to the effect that if there was no composition, there could be no ease from purveyors. Sir John Boys supported composition, stating the King could grant away purveyance and take away the Greencloth's authority since the latter was not a court of justice anyway. The King, he pointed out, had exempted whole counties from purveyance. If in conference with the Lords, the Judges gave assurance and the Lords devised easy proportion then they should proceed "but not so as if the King had any right to take under the valew or without ready money." Thomas Hedley supported the bill against composition, reasoning that one law against the clerks and Greencloth officers was better than the thirty-six previously made. He held that the increase in the King's debts was no excuse for subsidies but rather a dangerous precedent, since it could always be alleged as a reason for squeezing more money out of Parliament. Robert Johnson plugged for his bill to prevent purveyors from exceeding the limits of their commissions and Sir William Strode opposed voting two more subsidies, as suggested by Mr. Bond, since Commons had already approved two.⁵⁴

⁵⁴Bowyer, 74-75. C.J., I, 282-83.

Henry Yelverton, the old tribune, capped all arguments, asserting that even with security and proportion composition was inconvenient, impossible and most dangerous. For, he continued, composition must fall on either lands, persons or goods. He considered it dangerous if assessed on lands because it would mean a general survey of the propertied wealth of the realm which would reveal what the country contained in taxable landed wealth and what every man possessed and would lead to the erection of new offices in the Exchequer and new fees to its officials. The land survey would be a virtual "devil's walk" across England considering the evil it would cause. The King's officers would distrain on all of a man's lands in every acre for what was due without replevin, thus undoing the farmers. If the composition were laid on goods, then it would give great power to the justices of the peace, who would spare only themselves when it came to assessing the composition. And, if it were imposed on persons, the government would have to build new prisons for the old ones would not suffice. He believed the Privy Council would advise the King to impose on the lands as the most convenient for the Crown, but so mischievous for the subject. He opposed any probation because, after the composition period had terminated, the restrained purveyors would be worse than before. He concluded that composition should sleep and not be put to the question.⁵⁵

⁵⁵Bowyer, 75-76.

Henry Hobart made the final plea for composition, emphasizing how beneficial it was to compound for the King's right to purchase below existing market rates, since it would eliminate precedents favoring the royal right going back to Magna Carta. If the King could discharge all the clergy of purveyance, why not everyone else?⁵⁶ However, Speaker Phelips understood the drift of the Commons' thinking as well as the will of his sovereign. "Composition was not to be put to the question," he announced, "but to be left dormant; not to be disgraced." He followed this statement with a proposal that the House call for a committee to consider of supply and "of a standing revenue." The Commons agreed to discuss supply, but the question of the standing revenue would have to wait until a later session of this Parliament.⁵⁷

Commons now turned its attention to the bill against purveyors and the subsidy, both of which issues came to a head on March 18, 1606. It was on that date that the Lower House passed the bill following its third reading and also, by a very close vote of 140 to 139, agreed to provide James with additional supply, thus assuring him of his third subsidy. That the bill was approved the same day as the additional supply was no coincidence. The Commons had been pressing the Speaker to bring the bill to a vote, but on March 17 he excused himself on the ground that it was not wholly engrossed. But Phelips realized, as he

⁵⁶Ibid.

⁵⁷C.J., I, 283.

informed Cecil, that the violence of the Commons' humor would call for it the next day, and "except your Lordship command me to the contrary I yet think fit to give way to the same before I propound his Majesty's gracious pleasure in those things that I shall receive in commandment to deliver." The Lords did not command him otherwise and so Commons passed the bill and the King's gracious pleasure -- the subsidy -- was approved.⁵⁸

The bill had passed the Commons over the protests of Sir Robert Wingfield, who wished it stayed from the question because he thought "there shall be some other project to do more good than this bill." Perhaps he was considering reviving composition for he was followed by Sir Henry Montague, Recorder of London, who endorsed composition in his city and Sir Oliver St. John, M.P. for Bedfordshire, who supported composition in Middlesex. But upon the question the bill passed and was brought up to the House of Lords on March 20 by Sir Francis Bacon. It was sent up alone to emphasize the special care which Commons had for it.⁵⁹ The bill received two readings and then was closely scrutinized in a committee by the Judges and his Majesty's Learned Council. Richard Bancroft, the Archbishop of Canterbury, reported the findings of this committee of the House of Lords on April 10. It determined the bill was "in many things inconvenient, and not fit to be further proceeded in, unless the Lords will confer again

⁵⁸S.P. 14/19/51. Bowyer, 82-85. C.J., I, 286.

⁵⁹C.J., I, 286-87.

therein with the Lower House; whereunto the Committee did incline."⁶⁰

Lords' and Commons' representatives met to discuss the bill on April 11 and again on April 15. In the course of those proceedings, the Lords took exception nineteen times to the preamble and the body of the bill. To the Commons contention that no form of commission was written down, the Lords responded that no form could be devised to take care of all the statutes in force "but it would be so long that 40. Scriveners must be assigned to every Purveyor." The Lords further contended that a real danger lurked to law and order in this bill because it allowed people to resist purveyors since such action would lead to tumults. Their Lordships insisted it was humanly impossible for each purveyor to know every law. They criticized the provision making purveyors guilty of felonies if they took contrary to the law, and they contended that Commons had constructed a bill sanctioning sedition by giving the subject power to resist if the purveyor took without ready money or contrary to the law. Then too, they stigmatized the bill as a law to famish the King, apparently because it limited the use of purveyance as well as trying to obliterate the abuse.⁶¹

Finally, the Lords argued that the King had the right to name his own price and they contended that the provision in the

⁶⁰L.J., II, 411-12.

⁶¹Bowyer, 120-25, 134-35.

bill requiring his Majesty to pay ready money was void. They further insisted that reasonable prices meant a more favorable price than the market price or else "the King's charges of collection will be greater than those subjects pay," thus increasing royal costs greatly.⁶² When Commons asserted that statutes of Edward III and other monarchs ordaining suitable prices meant market prices benefiting the subject, Attorney General Hobart and Lord Chancellor Ellesmere insisted that in practice these statutes were never invoked, and that, since Henry VII's time, commissions spoke of reasonable and royal prices and the Exchequer accounts proved the King was favored.⁶³

John Chamberlain wrote Dudley Carlton, M.P. for the borough of St. Mawes in Cornwall, that, though the material points of this debate were handled well, the Judges overruled all in favor of the royal prerogative and maintained that legally the King had both pricing and preemption and was not bound to pay immediately for goods taken by purveyors. He also reported that Lord Chief Justice Popham had declared that acts of Parliament might expound and limit the prerogative but they could not take it away without recompense -- an allusion to composition. If the Commons wished reform, the Lord Chief Justice seemed to suggest, the only way to secure it was by composition on the King's terms, something many of the Lower House could not accept because they believed reforms

⁶²Wilbraham, 82-84.

⁶³Ibid., 83-86.

should be instituted without payment. Why should all of the abuses disappear after composition, when none could be eliminated by their law without composition, must have been a thought in the minds of many. The Judges, Chamberlain continued, went on to deliver one judgment which in all men's minds contained dangerous consequences, that the prerogative was not subject to law, but that it was transcendent and above the reach of Parliament. The Lords concluded, according to Chamberlain, by stating that the King, out of his goodness, would do much, but upon constraint nothing. They said he would provide a remedy for disorder which this Parliament could not, apparently an allusion to the proclamation against purveyors' abuses which he intended to issue.⁶⁴

Commons apparently inserted a provision in its bill that made it impossible for the Crown to exempt any one from its provisions, even by a non obstante. Lord Chief Justice Popham insisted such a provision was void "for the Statute of [Henry VI] is, that no man shall be Sheriffe longer then one yeare, no not with a Non obstante and yet the King with a Non obstante of that Non obstante may continue Sheriffe longer then one yeare."⁶⁵ As diarist Walter Yonge phrased it, the purveyors' bill was "not so well listened unto of the higher house, because of the manner of seeking relief." The Lords had virtually made up their minds after the first conference when they adjudged "the bill unfit to

⁶⁴Bowyer, 123.

⁶⁵Ibid., 134-35.

be any further proceeded in." They considered the second meeting on the same bill held April 15 as "rare and extraordinary" and agreed to it so as probably not to appear totally unreasonable.⁶⁶

The royal proclamation for prevention of future abuses in purveyance was released on April 23 and read in the House of Commons two days later. According to its provisions, purveyors and other inferior ministers who used the prerogative to promote corruption and rapine were now and would continue to be punished by both the Greencloth and the Star Chamber. If it could be shown before the Greencloth that a purveyor had committed an offense, he was to be delivered to the justices of the peace in the county where the offence was committed and there tried and punished "in as severe a manner, as the Lawe and Justice of our Realm requireth, or alloweth." Also a man punished or awaiting punishment by the Star Chamber, could also be proceeded against in the quarter session by the local justices. In accordance with Robert Johnson's suggestion, commissions for purveyance were required to have blank schedules attached so the amount taken could be entered and witnessed and a duplicate copy left with the justices of the peace in order that purveyors would take only what was authorized. The Judges at Westminster were to issue writs of habeas corpus for the relief of those wrongfully imprisoned by the Board of Greencloth. And purveyors' receipts were to be examined to

⁶⁶Ibid., 123, note 2. L.J., II, 412-13.

see that they had not taken more than they delivered to the King. The King had instructed the Privy Council and the Board of Green-cloth to consider "how to provide some such convenient number of carts, wholly to be maintained upon our own charge, as may serve us whenever we shall make any sudden remove or private journey," so the people would not be charged with furnishing them upon any of these uncertain occasions.⁶⁷

The proclamation left most of the disputed points untouched and Commons' immediate reaction was to introduce another bill with a similar title on May 3 "whereat his Majesty was much moved," so Sir Thomas Lake informed Cecil on May 4.⁶⁸ The Lords refused to consider the bill because they had already rejected a bill of the same title and subject matter earlier in the session.⁶⁹ The Commons also revived Johnson's bill but gave it only two readings and left it to die in committee.⁷⁰

In the section on purveyance in their formal list of grievances, the Commons dwelled at length on the same abuses, including the use of unlawful warrants and commissions, the assessing of inferior prices and the unlawful judicial proceedings of the Board of Greencloth.⁷¹ In his response to their grievances on

⁶⁷ A Book of Proclamations, 124-29. C.J., I, 300.

⁶⁸ Cal. Salisbury MSS., XVIII, 129.

⁶⁹ L.J., II, 435.

⁷⁰ C.J., I, 303-04.

⁷¹ B.M. Cotton MSS., Titus F IV, f. 32-32r.

May 15, King James went into a long, essentially unrecorded, discourse on purveyors in which he said of the officers of the Greencloth that as the Commons did not flatter them, so he would flatter them less if he found them at fault.⁷² The following November King James reiterated his promise to punish those purveyors who harmed his subjects and also warned Commons not to infringe on his prerogative when discussing such issues as purveyance and to punish those members who acted like tribunes of the people.⁷³ A week after his Majesty's speech, Sir Nicholas Saunders, M.P. for the borough of Gatton in Staffordshire, moved that the House think about a bill against purveyors and cart-takers.⁷⁴ No bill was passed that session which was almost totally taken up with the question of the Union. But the Commons were still dissatisfied, a fact of which the Crown was aware, and Cecil would propose the elimination of purveyance as part of the original Great Contract in February, 1610.

Composition as a means of eliminating purveyors and their abuses had failed for a variety of reasons. The House of Commons generally was opposed to a permanent increase in taxes, particularly if this increment fell on the property of the wealthy and numerous landholding gentry. They were undertaxed and not inclined to allow the government to discover just how rich they really were. They also disliked the idea of redeeming some of

⁷² Bowyer, 165-66.

⁷³ C.J., I, 314.

⁷⁴ Ibid., 325.

the rights which the Crown claimed it had in purveyance such as pricing. In addition members believed the purveyors were guilty of criminal acts which the Crown should punish and prevent according to law; and they should not have to purchase justice from the King. For some members if the King would approve their bill and reform his household, particularly the Greencloth, then they might consider composition on a nationwide basis, but not before. They doubted whether or not any degree of security could be given by the King that composition would mean the end of purveyors. If the King could not control them before composition, what assurance did they have that he would afterward? Complicating this was the issue of the royal prerogative itself and the wide powers the Judges attributed to it. Commons saw the old laws as limiting the prerogative and having positive force against the purveyors. But the Judges insisted the laws had little effect and that the royal prerogative was in no way bound by those statutes or could it ever be bound. If the Judges were correct, then the King ruled in an arbitrary manner and they could have no real assurance that he would honor his side of a contract involving composition.

For his part King James held the need for subsidies as far and away the principal aim of this Parliament. His interest in such a scheme as composition was transitory and terminated when he discovered that it would take a long time to work it out and that it was inspiring Commons to deal with other grievances. As in the first session, he had no hesitation about dropping such a

scheme when financial needs became overly pressing. On the other hand, he apparently was convinced that the only way to rid the land permanently of such abuses was to exchange purveyance for composition, something not all members of the Commons found agreeable. Those members reasoned that purveyors must be controlled first. This meant passing legislation which King James viewed as a threat to his prerogative. Thus negotiations broke down.

These considerations are important for understanding the ultimate failure of the Great Contract. The royal desire for subsidies and royal impatience with financial schemes that would take time to mature and would allow Commons to sit around discussing his prerogative and proposing more and more grievances would appear again in 1610. On the other side, Commons' desire to have its grievances remedied, its growing suspicions of the royal intentions and its disinclination to part with the large sums of money demanded by the Crown would also come into play. These helped to create the crisis of confidence between Crown and Parliament that even Cecil's great scheme could not bridge.

Wardship

Though no bill concerning wardship was introduced into Parliament during its second meeting, the Crown's legal minds were discussing several possible acts behind the scenes. Both John Popham, the Lord Chief Justice, and Edward Coke, Chief Justice of the Court of Common Pleas, suggested laws to eliminate wardships and various other feudal incidents by changing all lands held by

military tenure such as knight's service or tenures-in-chief into socage or non-military tenure. Commissioners would compound with subjects holding land from the Crown by such tenures, thereby accomplishing this alteration in land tenure and freeing subjects from almost all aspects of fiscal feudalism except escheats and relief payments. Coke estimated the Crown would receive £100,000, an increase of £14,000 over that which it obtained from feudal revenue sources. Both Coke and Popham believed the Court of Wards should remain in existence to collect relief payments and to aid lunatics, idiots and infants. Popham thought the Court of Wards should handle the composition moneys too. He also hoped that the revenue would be permanently annexed to the Crown, thus making it impossible for any monarch to dissipate it unwisely through alienation. Such annexation schemes had been proposed unsuccessfully in the first two sessions of this Parliament in an effort to get some £50,000 worth of royal lands attached in perpetuity to the monarchy.⁷⁵

There were criticisms of composition for wardship and Sir Edward Coke noted some problems inherent in his own proposals. It was thought, for example, that altering tenures was harmful since it meant the termination of an ancient royal prerogative which tied all that was best socially in the realm (i.e. the nobility) to the Crown. It was also maintained that the absolute

⁷⁵S.P. 14/24/61, 62, 63, 64.

extinguishing of tenures meant the overthrow of the Court of Wards, thus leaving no agency in existence to care for orphans. It was concluded that to please the general fancy of the multitude or to supply present financial necessities were inadequate reasons for the King to merchandize the chief honor and dignity of the Crown.⁷⁶ That King James was influenced by these arguments appealing to his honor and dignity became apparent in the fourth session of this Parliament.⁷⁷

It was further contended that committees compounding for wards did so primarily to marry them to their sons, daughters or relatives and, for that reason, they had a vested interest in providing the wards with a proper education and in taking good care of their estates. The Court of Wards also saw to it that this was done "by taking strict bonds and covenants" for a ward's education and the maintenance of his houses and lands, something that would be missing if the self-interest of a committee and the wary eye of the Court were eliminated.⁷⁸ It was also believed to be extremely difficult to levy the composition tax since it would never be resolved where it would lie. If it were levied only on those who held lands in capite, that is, tenants in chief, it would prove very injurious to those whose entire estates were held in capite. The man who held most of his land in socage and only a small por-

⁷⁶ Ibid., 14/24/65.

⁷⁷ Parl. Debates 1610, 20-21.

⁷⁸ S.P. 14/24/65.

tion in capite would not object, but those who held much land in chief would never agree to such an assessment. And if it were determined "that all lands being drawn into subjection by lands in capite [so] all lands should bear a proportion of the new charge," those who held lands by knight's service of mesne or intermediate lords would protest and so would those holding land in socage claiming "it is no reason that they which are free from the subjection should be burdened with a new charge." Popham believed any man holding land in capite should compound for all his lands whether held by socage tenure or by knight's service.⁷⁹ One method of assessing the composition of £100,000 discussed during the first session of this Parliament was to estimate the total mileage of England and Wales, which came to 34,866 miles, and then apportion to each county its share of the money on the basis of the total mileage of the county. So Yorkshire with its 3,425 miles would pay £9,821 1s. 6d., whereas Rutland with only 100 miles would pay £286 16s. 5d.⁸⁰

Other arguments maintained that the promised composition revenues would decay if no provision were made to continue to reward those who discovered concealed wards. In the past those who discovered wards were rewarded by the Court with "reasonable bargains." But even though there was a reward for discovering the

⁷⁹Ibid., 14/24/64, 65.

⁸⁰B.M. Harley MSS. 1877, f. 89r.-89v.

royal tenures and compounding for wards, many tenures still remained concealed. This practice of concealment would be even more effective with no one to benefit from discovering the tenures. It was also asserted that, even if all the criticisms were answered and composition agreed to, it must be set in motion as soon as it was announced in Parliament. For, any speech in Parliament proposing the least alteration in wardship "will breed such confidence in men of all sorts as they will wholly neglect their duty in acknowledging tenures and suing for wardships" since they will hope with the change no one will search for wards any longer because no one will benefit from revealing them." So even the present revenue of the Court of Wards would decrease as it had during the first meeting of this Parliament when proposals about wardship were initiated and debated.⁸¹

Sir Edward Coke brought up a number of difficulties. There was danger in composition because each man's lands would be surveyed to determine the true value of lands held in capite so proportionable recompense could be established. Men did not wish the true value of their lands known because it could mean increased taxes in an age when men were lightly taxed and opposed to taxes that threatened to become or were, when enacted, permanent burdens. Coke was also apprehensive of what would happen if

⁸¹ S.P. 14/24/65. This state paper was probably drawn up as the result of discussions on wardship and does not contain the names of individual advisers or critics.

men no longer sought out concealed tenures. As he put it, "take away wards, take away feodaries and other officers that hath charge of tenures. It cannot be experienced what consequents would follow upon this innovation." In a short time, Coke conjectured, by use of patents of concealment and other devices, tenures would completely disappear.⁸²

The subject of tenures and wardships was finally broached in the House of Commons during the third session while members were debating the abolition of hostile laws toward Scotland during the discussions on the Act of Union in December, 1606. King James had proclaimed the discontinuation of escuage, the tax money paid to support armies against invading Scots, Irish and Welsh.⁸³ However, escuage was based originally on feudal tenure and carried with it such incidents as wardship. The question was whether or not the tenure ceased because the service was no longer required. According to Thomas Wilson, writing to Cecil in December, 1606, escuage was hotly argued pro and contra with Nicholas Fuller insisting wardship be taken away, particularly in light of the King's proclamation and also because it was against the laws of God and nature "that a widdoe depryved of her husband shol presently (to the redoubling of her greef) have her child taken from her." To which Francis Bacon replied that the wisest

⁸²Ibid. 14/24/62.

⁸³A Book of Proclamations, 83.

and best lawgivers in the best governed commonwealths ordained that children should be raised by the state and not according to the "humorous education of the parents."⁸⁴

Some of the Commons' lawyers opposing escuage grounded their arguments simply on a point of logic. If the cause ceased (in this case the wars with Scotland), then so would the effects (in this instance the feudal incidents). Those arguing for the Crown, such as Bacon, claimed escuage existed in two forms, general and special. In general escuage one had to serve the King in Scotland, Wales, France or elsewhere according to the place mentioned. In special escuage one followed the King "whither soever" he led. According to this interpretation of escuage, the service remained permanently as did the incidents connected with the tenure. Mr. Francis Tate, M.P. for the borough of Shrewsbury in Salop, agreed when he stated that though the payment for the various kinds of tenures was uncertain "yett the tenure was perpetuall, though ther was noe use of the service for a tyme as in murage one holdes land to build up a wale of a towne or fortress the wale once built noe use in 2 or 3 hundred yeares, yet the tenure remaynes though the use sleeps, the lyk in escuage."⁸⁵ According to Dudley Carleton writing to John Chamberlain on December 18, 1606, "the matter of Escuage which you left so hott in

⁸⁴S.P. 14/24/13. C.J., I, 328, 1006-08. Bowyer, 201-02.

⁸⁵S.P. 14/24/13.

dispute was concluded by the Chiefe Justice in one word, that though the service ceaseth the King's profit must continue . . ."⁸⁶ Thus even though hostile laws would be abolished as the King desired, he would still retain his right to the feudal incidents.

Wilson explained to Cecil that the most and best spoke in favor of escuage remaining, but the most general applause was for those who wished it taken away. Wilson also remarked that he was approached by a certain Mr. Nanton who said it was privately voiced in the Commons that Cecil was promoting this debate and was willing, for the glory it would bring his name, to see wards eliminated while he was master of the Court. Apparently, Cecil was taking advantage of the discussion to suggest another scheme such as that discussed in 1604. Though many members wished to see wardships eliminated, they realized it could not be done immediately. For, when one man proposed the elimination of wardships, others said in jest that they wished wardships might be taken away in a day.⁸⁷

The House of Commons, then still very much desired the removal of wardships and it would be as a result of their pressure that such a proposal would become part of the Great Contract in the fourth session. However, difficulties would still abound. The King's need for subsidies and the influence of his more con-

⁸⁶ Bowyer, 209.

⁸⁷ S.P. 14/24/13.

servative advisers would have an impact. And for the Commons, the idea of paying a very large sum of money to redeem wardship would prove a difficult pill to swallow as would the entire problem of assessing the money and trying to get the King to give them a respectable hearing on their grievances.

CHAPTER III

FOURTH SESSION THE GREAT CONTRACT FEBRUARY 9-MAY 8, 1610

By the end of 1609, Cecil had concluded that the only way to solve the royal fiscal dilemma was to call another session of Parliament. For three years he had tried to balance the budget by improving yields from existing revenue sources, initiating new financial projects and urging King James to restrain his spend-thrift urges. As a result of his efforts to raise money which were partially documented by Sir Julius Caesar, the Chancellor of the Exchequer, the debt was reduced to £300,000, one half of which was a forced loan from Queen Elizabeth's time that stood little chance of being repaid. However, ordinary expenditures still exceeded receipts by £40,000 a year in September, 1609. And Cecil lamented to Sir Julius Caesar the following month that "having disbursed all we have I am here only a bear baited for that we have not." Furthermore, troubles in Ireland since 1608 and the Ulster Plantation had increased fiscal outlays and the subsidy money voted in 1606 was nearly exhausted. Finally, money

was needed to aid the Protestant cause against the Emperor in the Cleves-Julich dispute.¹

On this vital issue of reconvening Parliament, Cecil approached the King by personal message and through advice given by the Privy Council. Cecil explained to James that the methods used over the past years to raise revenue were viewed as extending the royal prerogative and had aroused dissatisfaction among the Commons. This was particularly true in the case of impositions which Cecil seemed to think should not be extended for the time being. The populace felt harassed when the King "constrained for want of means to reward others" allowed his people to be "molested and inquired after upon every claim and obscure title, some being searched for debts beyond the memory of man, some pursued for concealments, some troubled upon new projects and hard inquisitions not only for the public, but for the use of private men . . ." The Council implored King James to abandon "these sour and harsh supplies, attending rather what may be obtained in Parliament upon divers propositions that may be thought of . . ." They encouraged his Majesty to withhold extraordinary gifts to private individuals during Parliament time when he was demanding help for himself and his posterity. The Council also did not wish the King to insist on his prerogative "because the causes to

¹F.C. Dietz, English Public Finance, 125-126, 147. B.M. Additional MSS. 36767, f. 266. B.M. Lansdowne MSS. 165, f. 121 and 168, ff. 297-304.

be held in Parliament and the use of that power (as it reacheth at the money and means of the people) coming now both together, make the worse passage to both." Rather the Council admonished the King to dispense with monarchical powers which would not diminish his sovereign and absolute authority in return for a contribution to his necessary occasions. The Councillors hoped to make the King's wants known to Commons in such a way that it could not refuse to grant him money, but, on the other hand, the Lower House would not become the royal auditor.²

For his part King James did not wish to part with such prerogatives as had made his progenitors great.³ He wanted Cecil to purge Parliament of as much evil as possible so that "nothing improvised may befall unto us." In addition he instructed Cecil to sound out and prevent all occasions of scandal or grudge that might trouble Parliament. Though Cecil was paying closer attention to supervising by-elections than in 1604, this royal demand would be almost impossible to fulfill. Disagreements were bound to arise between an intelligent, perceptive opposition leadership in the Commons, parsimonious and jealous of its privileges, and a spendthrift monarch with a very exalted concept of his prerogatives.⁴

²B.M. Additional MSS. 22591, ff. 416-421, 426-437.

³Ibid., ff. 426-427.

⁴D.H. Willson, The Privy Councillors in the House of Commons, 102-05. C.P. 134/145.

In his two-hour opening speech to the House of Commons on February 15, Cecil explained that Parliament had been reconvened for two reasons: first, to replenish the royal coffers; and second, to witness the creation of the Lord Henry as Prince of Wales, a ceremony designed to encourage contribution toward the Prince's support. Ordinary revenues, Cecil stated, were used in Queen Elizabeth's day to pay for the extraordinary expenditures of foreign wars; now the King could not balance ordinary revenue and ordinary expenditures. The total debt had been reduced from £735,000 in 1606 to £300,000; but there was still a gap of some £81,000 between ordinary receipts and expenditures. In addition the King was paying £100,000 in extraordinary money for Ireland as the result of O'Daugherty's uprising in 1608 and also for the Low Countries. And there was the distinct possibility of joining with France to defend Protestant interests in the Cleves dispute.⁵

Cecil defended royal expenditures, asserting that royal bounty was inseparable from the King. He appealed to Commons not to allow the ship of state to come so near the port only to perish for want of assistance. Parliaments had helped Queen Elizabeth and they should do the same for King James. He proposed that Commons grant supply, in effect subsidies, to eliminate the remaining debt and help with extraordinary expenditures, and he further proposed that Commons grant support, an annual allowance to meet the ordinary expenses of the King and the royal family.

He was aware that the demand was novel and he hoped that the Commons would not waste their time sorting through old precedents, for he could show them many unusual examples of how kings were supplied in the past. Cecil assured them of the Lords' willingness to help them achieve a favorable retribution or compensation in return for their contribution. The Lords were already considering various types of obsolete penal laws which the Commons considered obnoxious and which could be offered as retribution. The Lords hoped, as did the King, that the financial settlement and retribution would not become hopelessly entangled "so far as to breed notorious delay and confusion." Cecil wanted the conferences between the Houses to be useful forms of communication and not simply meetings at which reports were delivered and nothing effectively discussed. He believed discussion and rational argument, in which he could exercise his persuasive influence to the fullest, would obtain the needed money for the King and also achieve satisfaction for the people.⁶

Cecil's oration was considered very persuasive by one contemporary who thought it satisfied the minds and judgments of all the Commons.⁷ Be this as it may, when the Commons discussed the issues of supply and grievances on February 19, they revealed their independent thinking and the resolutions emanating from these early debates influenced essential issues for the remainder

⁶Ibid.

⁷Winwood, III, 123.

of the session. First, there was opposition to the idea of translating Cecil's motion for supply into reality by means of a subsidy. Nicholas Hyde, M.P. for the borough of Christchurch in Hants., and John Hoskins suspected that Cecil and the Lords were trying to usurp a right of the Commons, and so they asserted that motions for subsidies had originated from the Commons in the past and not from the House of Lords. Furthermore, the subsidy could not remedy the King's annual ordinary deficit of £46,000. Besides, a request for a subsidy now violated precedent since the subsidies granted in 1606 were not entirely collected. Hyde and Hoskins feared the establishment of a precedent in favor of frequent subsidies and reminded Commons that the King had originally called Parliament in 1604 for the good of the commonwealth and not for his private benefit. Such sentiments made it virtually impossible to obtain an early subsidy in this session and foreshadowed the later difficulty King James would encounter in trying to obtain a large grant.⁸

Commons also considered whether it would deal with contribution separately or contribution and retribution together, and whether in the latter instance, to give precedence to contribution or to discuss both equally. The answer to these questions would determine if they would deal with financial assistance first as they had done in the second session, and which Cecil and the

⁸Parl. Debates 1610, 9-10.

King no doubt hoped they would do again. But it was not to be. With Sir Edwin Sandys leading the way and even Crown supporters like Attorney General Hobart, Sir Francis Bacon and Sir George More concurring, the Commons enlarged the authority of their committee for grievances "to propound, treat and debate liberally and freely of anything that may concern contribution to the King or retribution from the King to the Subjects."⁹ As one contemporary phrased it, they were afraid to engage themselves in any offer or promise of contribution before they were sure of certain and sound retribution, lest after they grant the former, they lose the latter. The Commons apparently felt that they should have gotten a better return on their grievances for the amount of money which they had given the King during the second meeting. As it turned out, King James repealed a few objectionable grants but upheld the majority, among which was impositions, as a legitimate use of his prerogative.¹⁰ The committee was to meet that afternoon.

At that meeting suggestions poured in from all sides on how the King could recompense the subject while simultaneously deriving the needed yearly support. Proper execution of the laws against papists and recusants and the entailing of attainted lands to the Crown were suggested as potential sources of support which had the advantage of being no burden to the average sub-

⁹Foster, II, 31-32.

¹⁰Winwood, III, 125. Wilbraham, 89.

ject. Nicholas Fuller proposed that the King resume patents of customs and imposts, thus placing the collection of such revenues under direct Crown supervision, and also thereby putting money normally siphoned away by the tax farmers into the royal coffers. Another member advocated the elimination of purveyance and its replacement by a market at the court gate charging "reasonable prices for ready money." John Hoskins moved the termination of tenures and wardships in return for a yearly rent from the lands held from the Crown. Lastly, Thomas Wentworth, son of Peter Wentworth, an outspoken member of Commons under Queen Elizabeth, asserted that "all theis courses would be to no purpose, except that it would please the King to resume his pencies granted to cortiers out of exchequer and to diminish his charge and expenses." The King should live of his own, especially in times of peace. (Cecil had concluded in the introduction to his Book of Rates of 1608 that the King's expenses were such that he could no longer be expected to live of his own.) Further, according to Wentworth, what good was it "to drawe a silver stream out of the contry into the royal cisterne, if it shall dayly runne out thence by private cocks?" Continuing, he maintained that the Commons should do as their predecessors had done in the days of Richard II and Henry IV and establish a council to supervise royal spending. He was expressing the frustration of many in the realm who were disgusted with James' spendthrift ways and were seeking in some manner to restrain him since he could not seem to manage his own fiscal affairs. Sir Julius Caesar, in turn, now

defended the King against Wentworth's attacks, insisting that the regulations which applied in the early fourteenth century did not apply in this situation. And he further defended royal retention of wardships and purveyance, which he calculated were worth £60,000 and £40,000 a year respectively, stating that "if theis were taken away, the want would be farre greater." And lastly he said he would explain this matter more fully to any member of Parliament who asked him.¹¹

Edwin Sandys reported the results of the Committee's deliberations to the whole House on February 21. For purposes of the contract, the Committee "could find nothing to pitch upon but tenures and wardships, nothing else valuable." Old debts, penal laws, defective titles and other like grievances would not be ignored but "no contract with the King would be fitter than the matter of the wards and fines for alienations and the right of purveyance." The Committee therefore desired the House to request a meeting with the Lords committees about retribution and contribution. If, in the course of their meeting, the Lords did not offer tenures, "which was thought to be handled single of itself," then the Commons' representatives should request the Lords to ask King James for permission for Parliament to treat of tenures.¹²

¹¹Parl. Debates 1610, 10-12.

¹²Ibid., 12-13. Foster, II, 32.

The Lords accepted the Commons' invitation and on the morning of February 24 discussed how they would present the royal case to the Lower House. During a previous speech to the Lords, Cecil had stated that the King's ordinary payments exceeded his receipts by £200,000 a year, which sum he hoped could be raised so that they would not need to call such frequent Parliaments. At this meeting he revealed that the King needed £600,000 in supply, of which £300,000 would pay royal debts, £100,000 would assist the war in Cleves, another £100,000 would repair the King's household furnishings, £50,000 would go to the navy for four newly constructed ships, and the last £50,000 would be held in reserve. As for the ordinary revenue, Cecil explained he would tell Commons it was inadequate by £200,000. He would also admonish the Lower House that requesting retribution from the King before he received the contribution from them was altogether unfit because "without the one the kingdom cannot consist, without the other it may . . ." His fellow Lords concurred in this sentiment.¹³ Cecil was apparently aware of Commons' intent and hoped to obtain financial assistance before Parliament became hopelessly bogged down in discussions of grievances and contracts.

The conference began that afternoon with a speech by Sir Julius Caesar. The Commons, he said, wished to know the amount

¹³Foster, I, 8, 12-13.

of contribution expected because, though they were very willing to do the King's service, the initial demand was so great that without "an exceeding noble retribution" they could not satisfy it. They also wanted to know what specific items would constitute the retribution. Cecil thereupon mildly rebuked them for their disrespectful proceedings toward the King. It was the monarch's sovereign power to call a Parliament and, he insisted, there was no precedent which required the King to retribute before he declared his causes for summoning it and before Commons satisfied those causes. Once the royal requests were satisfied, the King would hear proposals from Commons. The King had called the Parliament to supply his wants, not his wantonness and yet, Cecil reproached them, before they offered to assist his Majesty, they demanded retribution. How would it look in the eyes of enemies like Spain to see Parliament demand retribution before helping the King? In this way Cecil tried to press home the royal desire for contribution before retribution.¹⁴

The Crown needed, according to Cecil, £600,000 supply and £200,000 support so the Council would not be driven, as it had been of late, to borrow from the usurers. The £200,000 support for the annual maintenance of the King and the royal family "would be little enough if any yearly benefite which the crowne now receaveth be taken from it." Though the demand was so great and

¹⁴Ibid., 13-16; II, 34-36.

rare, yet it was so necessary and Cecil wished to know what Commons would offer. If the Lords' demands were too great, he continued, let Commons make an offer and then the Lords would show their own reasons without prevarication. Caesar explained that the conferees from the Commons had no commission to deal with the Lords until they had reported to their House. The only matter which they were commanded to deliver to the Lords, stated Sir Henry Montague, was to request them to petition the King for permission for both Houses to treat of tenures and wardships. Cecil, however, said he would have to consult with the other Lords before deciding. As for retribution and contribution, the Lords never thought the Commons would have mentioned the former before they granted the latter. Seeing that they had, Cecil, while trying to keep contribution in the spotlight as the more important of the two, suggested ten items which the "King might haply be persuaded upon good consideracions to yeald to his subjects." However, Cecil did not promise them, but only moved them as possibilities, probably with the idea of future discussion about them between King and Commons.¹⁵

First, the King would bind himself in the same manner as his subjects to the Statute of Limitations of 32 Henry VIII, which provided that no individual could bring legal action for lands, pensions, rents and annuities which he claimed once be-

¹⁵Ibid. Parl. Debates 1610, 14.

longed to his ancestors, if the present owner or his ancestors had been in possession for sixty years. If applied to the Crown, this could prevent informers from looking into the land titles of many persons whose properties once belonged to the Crown. Second, his Majesty would permit subjects to perform respite of homage in the counties, thereby eliminating costly journeys to London. The King would also completely eliminate purveyance and purveyors and establish a market at the court gate, and would also discharge all old debts from 1 Henry VII to 30 Elizabeth and make a fair offer for those contracted by subjects since 30 Elizabeth. Further his Majesty would take away informers and deliver his subjects from the snares and vexations of outmoded penal laws, allowing Parliament to devise a course "to keep in use the discipline of necessary statutes." The Crown would grant licenses to alienate lands held from it at reasonable rates; also, those holding royal leases would not automatically forfeit them for non-payment of rent or for any defect or imperfection in the lease. The maxim that the King's grants ought to be construed strictly and precisely according to the letter could be changed so that they would be taken most beneficially for the subject, and the subject upon information of intrusion would be admitted to a general plea of not guilty and not be forced to plead specially. Nor would any subject fear that any injunction might turn him out of possession of property when he possessed for a certain time. Finally, the friends of wards were to have these wards at reason-

able rates, so they would not fall into the hands of strangers who could exploit their possessions for their own profit. And no committee could sell a ward for more than he paid the Crown. Cecil repeated that he would report the Commons' request about tenures and wardships to their Lordships and they in turn would choose a committee to meet the King to know his pleasure. Though he was forced to recognize the Commons' desire for retribution before contribution, Cecil cautioned them that they must still open their hearts before they could expect anything from the King.¹⁶

Sir Roger Wilbraham reported that Cecil's proposals were "being considered by the Commons, yet were they not embraced as things of so great value as the annual support demanded."¹⁷ And, indeed, Cecil himself in the fifth session, when discussing six of the originally proposed items, remarked "that these are worth £200,000 a year I do not say; 'twere vanity to expect that, but that they are worth nothing, I desire you to excuse me if I think not so."¹⁸ He was in effect contracting for a needed increase in royal revenue. At that moment the items offered were not worth the money requested; but the value of many of them could be increased if Cecil continued to expand them as he had between 1608 and 1610. What he offered Commons, if it gave the King what he required, was freedom from this burden of nuisance taxes

¹⁶Foster, II, 35-36. Parl. Debates 1610, 14-15.

¹⁷Wilbraham, 103.

¹⁸Foster, II, 298.

whose administration and collection threatened the security of their property and left them at the mercy of profiteers only too eager to separate them from their money. It should be noted in this context that the House of Commons was eagerly prosecuting one of these royal profiteers, a certain Stephen Proctor, during this session. Proctor was accused, among other things, of using royal commissions to extort money from people and of taking bribes.¹⁹

During their discussions on February 28, the Commons revealed that they were somewhat upset because Cecil had chided them about demanding retribution and contracting with the King before offering money for his needs. Sir Maurice Berkeley felt the Lords were mistaken because the Commons had no intention of setting up a "pre-contract" before dealing with supply. And Sir Anthony Cope, M.P. for Oxfordshire, wished them cleared of the opinion that they sought first a contract. Sir George More, a royal supporter, suggested that they should not stay their offer as if they were lingering upon a bargain but rather they should make an overture that they were willing to grant further relief after they had debated the question. Sir Francis Bacon explained that Cecil's rebuke derived from the fact that the "subject passed over contribution in silence [and] fled to the sweetness of contract," in effect bypassing a point of honor, -- that is,

19B.M. Lansdowne MSS., 167, f. 27.

that contribution come before retribution. Furthermore, he praised Cecil's points of retribution as a "brazen wall about the Subject's possessions, that the King's prerogative shall never touch." Bacon, however, wished a continuation of the conferences and wanted the Commons to deliver themselves from this point of honor. Likewise, Sir Herbert Crofts also suggested they send a message to clear themselves in this point of honor.²⁰

Henry Yelverton explained there was only one sensible way to clear themselves. They must realize first of all that the Lords wanted to know their resolution either "to give or not to give;" and secondly it must be made clear that the Commons would not receive permission to treat of tenures, a point which Yelverton insisted upon, until they had demonstrated their willingness to give. Just as the first session was dominated by the question of justice to the subject, so this session was concerned with supply of the King. They should sacrifice additional apparel and excesses in building and diet if required, and give that money to James. Sir Roger Owen, an M.P. for Shropshire, retorted that he did not think that they should say they will give but rather that they were inclined to give. There was no precedent which said they had to say they will give, so they should send a message

²⁰C.J., I, 402. Maurice Berkeley also said that he could see no reason why they could not compound for tenures and he hoped, once Commons had assured the Lords of its desire to do the King's service, it could proceed "pari passu, to annual support, and present supply."

stating there was a general inclination. Owen further believed that when grievances were known to be relieved, then they could afford to make a more expansive offer. Apparently he (Owen) was smarting from the lessons of the second session in which Commons had voted large subsidies, only to discover a general unwillingness on the King's side to redress their most significant grievances.²¹

Mr. Hyde, whether Lawrence or Nicholas is not specified in the Commons Journal, spoke in opposition to present supply, saying it was unfit for the Commons to engage themselves because, after all, it had not been until her fourteenth year that Elizabeth had received her first subsidy. The Crown should obtain present supply by executing the laws against Jesuits and recusants and seizing the property of Catholics and annexing it permanently to the Crown. John Hoskins, a royal critic, felt that they should send the Lords a message stating they were not yet determined on a course. But Attorney General Hobart, M.P. for the city of Norwich, reminded them that they could have no hope of retribution unless they gave the King good contentment. Furthermore, the Crown did not consider an inclination to give, as suggested by Roger Owen, an assurance. They could best redeem their honor by saying that they had no aversion from giving at all, that they meant to give, though they did not have to go into

²¹Ibid.

details about the amount. Following several more speakers, a motion was finally introduced to end the debate, but it was defeated 160 to 148. After the Commons had again settled down and three speakers had declared in favor of expressing a willingness to give, Sir Henry Montague moved that for supply they should tell the Lords that they will think on it in due time and like dutiful subjects "do not doubt but to give his Majesty Satisfaction." Sir Julius Caesar reinforced Montague's approach by insisting they give "a plain, open, English answer, that we purpose to give somewhat." Speaker Phelps then put Montague's motion to the vote and it was adopted. A draft message then was drawn up for the Lords including Montague's motion on support, which stated that since the Commons had not heard from the Lords about tenures, they had not given it any consideration; but when they had heard from the Upper House, they would be ready to join in a conference.²²

However, the next morning, March 1, there were some second thoughts about the message for supply. It was asserted that mistakes had been made in drafting it, particularly in the section stating that the Commons would give in due time as became dutiful subjects. A committee containing both Crown supporters such as Sir Julius Caesar and Sir Thomas Lake and royal critics such as Sir Maurice Berkeley and Sir Edwin Sandys met and significantly

²²Ibid., 402-03.

changed the portion of the message dealing with supply, making it to read that for supply they could not conceive of any other ordinary means than by way of subsidy and that they would take consideration of supply in due time and "do therein that which shall become loving and dutiful subjects."²³ This language was much less binding on the Commons than that of the original draft and showed the influence of the opposition. For what King James might consider good satisfaction, might be poles apart from what the Commons might decide was a subsidy of loving and dutiful subjects. And the fact remained that his Majesty's supporters had dominated the debate on February 28 and had pushed through the Lower House a statement concerning supply which was extremely favorable to the Crown in terms of the type of commitment it imposed on the Commons and which was only modified through the efforts of the opposition. The demands of the Crown were considerable and the doubts in the minds of many members as to whether they could meet those fiscal demands were great; hence the reluctance on the part of members to make too binding a commitment.

Meanwhile in the House of Lords, Cecil reported the results of his meeting of February 24 with the Commons' conferees. Following his presentation the Earl of Nottingham, Lord Admiral, wished to know the Lords' opinion about the last part of Cecil's speech, which dealt with the Commons' request about wardship. Lord Zouch, who had been raised as a ward in the household of

²³Ibid., 403. Winwood, III, 125.

Cecil's father, Baron Burghley, defended the existing system of wardship. He believed that Burghley had treated him so honorably as a ward that he wished wardship to remain as it was rather than to be altered or taken away. Cecil proudly added that the Lord Chamberlain and other members of the House could testify to the good treatment they had received from the Court of Wards. And if there were any abuses, they arose from administrative failings of either himself or the barons and if they were informed of such abuses they would willingly amend them. He hoped that if the Court of Wards were eliminated, a court of orphanage would be erected "where the father may know what he shall pay for his child." The Lord Chancellor Ellesmere then insisted that Parliament ought first to discuss and decide what it would give the King and then what the King would grant in return. The Commons had proposed discussing the wards but he argued that the Lords could not answer their request until they had heard the Commons' reply concerning contribution, "for that were to bargain." First, Lords and Commons must consider and make an offer for present supply, Ellesmere maintained, and then they could talk of wards and other portions of the contract. Cecil admitted he had little heart to speak of retribution before contribution and he hoped to feel some sweet odors of fiscal sacrifice from the Lower House. Further, he reminded Ellesmere that they had promised to inform the King of the Lower House's desire and it was only proper that they be as good as their words. Besides, all the Lower House requested was that the Lords ask King James for

permission to treat of wards. The Lords did not now have to debate whether to advise the King to surrender wardships, but only to understand whether his Majesty would allow the matter to be disputed.²⁴

That various Lords opposed the abolition of the Court of Wards is very probable. John Beaulieu wrote William Trumbull that some members of the royal entourage were influencing the King against composition for wardships.²⁵ And Professor Lawrence Stone has stated that the peerage were the one group with a strong and continuous vested interest in the perpetuation of the Court of Wards because they were generally well treated by the Court and because, through the Court, they "could prey upon and patronize the gentry."²⁶ Furthermore, as H.E. Bell has indicated, what was hateful to men as tenants-in-chief, was profitable to them as royal committees and, one might add, as mesne lords.²⁷ Nevertheless the Lords were aware of the criticisms of the Court of Wards and they did approve the Commons' Memorial on the contract (contained in Appendix III) and would probably have approved

²⁴ Foster, I, 16-18, 178-79.

²⁵ Beaulieu to Trumbull, March 15, 1610, Winwood, III, 131. Beaulieu was an older and frequent correspondent of Trumbull, King James' ambassador in Brussels.

²⁶ Lawrence Stone, The Crisis of the Aristocracy 1558-1641 (Oxford: At the University Press, 1965), 600-04.

²⁷ H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries, 127-28.

the final version of the Contract had it been successfully negotiated by the King, Cecil, and the House of Commons.

Cecil and selected members of the Upper House met with King James concerning tenures and wardships on February 28. The King insisted he could not give any definite answer on such a short notice. He then reminded the Lords of the priority that supply had in his mind when he said: "In order, honor and matter itself, contribution hath the first place and to retribute before you contribute is nothing else but to deal with me in the way of bargain." He would neither deny nor grant the petition to treat of tenures, but answered them as Queen Elizabeth once did concerning wards by giving Parliament "an answer answerless." King James felt none could be grieved at the wards "unless they would be grieved at the monarchy." Cecil stated that his Majesty reserved to himself the power to grant or not to grant the Commons' petition "as upon farther deliberation his Majesty shall see cause." Lord St. John wished his colleagues in the Upper House to send a message to the Lower House inquiring whether they would meet with the Lords to hear the royal message, but the Lord Privy Seal disagreed, thinking it too soon to send the message. Northampton suggested a delay of two or three days so that they could prepare themselves for the Commons' objections to the King's message which he was sure would arise. He feared that if they delivered the message at once some incident might happen that could give an advantage to the Commons, "for the Lower House useth with us

deliberation in all their proceedings."²⁸

On March 1 Cecil told the Lords that Commons expected them to deliver the King's answer to the petition requesting permission to treat of tenures. It was fit the Lower House should have the answer, admitted Cecil, the only question was when. If the Lords delivered the royal reply that day, he reasoned, "it will hinder their consultations [about supply] which they now have in hand." The Lords, however, expected the Commons' answer touching contribution that day. Cecil therefore wished to defer transferring the royal answer to the Lower House until after the Commons had answered concerning contribution, which meant that they would send to Commons on March 2 to desire a conference at which the King's reply would be delivered. Cecil probably feared that if the Commons heard the King's non-committal reply, it might disrupt their deliberations concerning supply and hurt his Majesty's chances of obtaining even a promise of financial assistance.²⁹

James revealed a reason for not giving a direct answer to the Lords concerning the Commons' request to treat about tenures in a speech delivered to the House of Commons during the fifth session. According to the King it was never his intention to proceed with the contract unless he received both supply and support. And though he was not entirely averse to letting Parliament deal

²⁸Ibid., 21, 182.

²⁹Ibid., 183.

with support first, he would not allow them to discuss tenures until he had received a general promise that it would eventually grant him supply.³⁰ This was a fact which Sir George More and Henry Yelverton had tried to impress on the Commons during the debates of February 28. The King received his promise of supply at the joint committee meeting on the afternoon of March 1 when the Chancellor of the Exchequer delivered the message for supply and support as agreed to by the Commons that same morning. The Earl of Northampton replied for the Lords that they were satisfied with the Message about support and for supply "doubted not but as the beginning was full of hope so the end would prove full of good satisfaction." During the remainder of this lengthy and flowery oration, the Lord Privy Seal tried to impress upon the Commons the need for filling the royal coffers with supply as soon as possible. The cisterns were dry and England's enemies, be they Pope or Austrian Archduke, were furnishing themselves in this time of calm against the future storm. He insisted his Majesty was virtuous and free from excesses and had done much to repair the fabric of the Church, provide ships for the navy and suppress piracy. His debts were large, but Englishmen had rescued their monarchs in the past from near bankruptcy. Beside, exclaimed Northampton, "upon occasions of great employments not usage, but necessity [was] the only rule." To those doubters who contended this fiscal aid would ease but not cure the disease,

³⁰Ibid., II, 314.

the Lord Privy Seal claimed the King now meant to restrain his generosity.³¹ The whole speech was designed to promote the royal desire for immediate financial aid. However, as the Commons became engrossed in discussions of tenure and wardships, the hope for any immediate relief would recede into the background, much to the King's dismay.

Cecil presented on March 2 King James' answer to the petition to treat of wardships. According to him, the King needed more time to resolve a matter involving such serious questions as royal honor, conscience and utility. To relinquish tutelage over his nobility which, Cecil emphasized, the King believed was an arm of his prerogative and certainly no grievances to the subject would diminish his honor. Furthermore, his Majesty could not in good conscience abandon royal care and protection over noble progeny. As for utility or profit, the King could not think of plucking such a rich and beneficial flower from his hat because of the loss of honor and pain of conscience it would entail. However, Cecil added, King James would provide a definite answer before the parliamentary Easter recess. Meanwhile he reminded the Commons they had full liberty to treat of the ten original proposals which he laid before them the afternoon of February 24 and which they should value highly because they had never before been offered. Also Cecil instructed them in a rule

³¹Ibid., I, 22-23; II, 39-45.

of valuation which was that if they did finally compound with the King for wardships they had to consider not only the present profits derived from them but also the possibility of increased profits in the future. The current profit derived from wards and the additional profit that could be obtained had to be evaluated when making his Majesty a concrete offer for surrender of wardship. If the Commons went along with these royal considerations they need not despair because they might obtain their desires, and then they could return home and tell their neighbors that by agreeing to the ten points of retribution they had done much to protect their property rights and relieve the counties of fiscal nuisances and abuses. In Cecil's words the Commons "had made a pretye hedge about theyme," that is, their rights.³²

Commons were apparently none too happy with Cecil's speech and some members were pessimistic because he had not given them the absolute assurance regarding the King's ultimate intentions that they sought. They viewed Cecil as the man who would deliver the gentry of what some called its greatest burden, namely wardships. Indeed, John Beaulieu had written to William Trumbull on March 1 that Cecil was earnestly promoting the elimination of wardships, knowing what a great service he would render thereby to his Prince and his country, and what love and commendation he would bring to himself and his posterity by such a worthy deed.³³

³²Ibid., II, 26. Parl. Debates 1610, 19-22.

³³Winwood, III, 125-26.

Now this man who had so intimated that wards would be removed that the whole House took it for granted and who, rumor had it, would surrender his position as Master of the Court of Wards for a £5,000 annual pension to facilitate their desires, would not budge but merely spouted weak royal arguments which many members reasoned were designed to inflate artificially the value of these feudal relics to obtain more money for them in the end.³⁴ These arguments about honor and conscience had been floating around court circles since the first session and may have been urged upon the King by advisers who opposed either the contract or Cecil or both. It was rumored that Prince Henry coveted the position of Master of the Court of Wards for himself.³⁵ The truth probably was that Cecil had not given up on the possibility of doing away with wards but rather that he was mouthing arguments which his Majesty instructed him to present. Of course, it would be naive to think ideas such as honor and conscience would have much appeal to the King unless he himself was somewhat indisposed to surrender tenures because he believed they enhanced the value

³⁴Beaulieu to Trumbull, March 8, 1610, Ibid., 129. R. Taverner to Trumbull, March 30, 1610, H.M.C. Downshire, II, 86.

³⁵C.S.P.V. 1607-1610, 451. "The Prince does not like the abolition of Wardships. He always aspired to the post on the suggestion of his intimates, . . . Lord Salisbury, . . . , is well aware of this; he thinks that by abolishing it he will increase the royal revenue, . . . , then he will relieve and console the Commons of the Kingdom; this his pension will more than recoup him for the revenue he loses, and that he will remove a possible reason for one day falling under his Highness's displeasure."

of his kingship. This would be borne out later when King James refused to surrender certain tenures in chief because of the "honors" connected with them.

After the report of Cecil's speech to the Commons, Thomas Crewe, M.P. for the city of Lichfield in Staffordshire, concluded that nothing had been said to destroy their hope. Sir Francis Bacon proposed that a subcommittee should be appointed to consider reasons to counter the royal hesitation and objections. In this Nicholas Fuller concurred. Sir Edward Montague, an M.P. for Northamptonshire, did not think the Commons should argue the King's reasons; nor did he feel there was anything fit to contract for in Cecil's original ten proposals. He wanted Speaker Phelips to go with the Lords to the King and receive a direct reply from him. Sir William Strode opposed this, insisting they inform the Lords that they could give neither supply nor support unless his Majesty permitted them to treat of tenures and wardships. This was too strong an approach and the Attorney General Hobart suggested that they should confer with the Lords "as between the King and us," acknowledging the royal right to take time deliberating because his Majesty's reasons were weighty and should not be rebutted. In the end Commons appointed a committee composed of Henry Hobart, Sir Francis Bacon and Henry Montague to draft a reply which was then presented to the Lords by Bacon.³⁶

Sir Francis Bacon's speech, delivered March 8, was a moderate and tactful yet frank undermining of the royal arguments, which certainly revealed the determination of the Commons and may well have impressed the King and his advisers. According to Bacon the Lower House did not view the removal of tenures as contrary to the King's honor, conscience or utility. What belonged to the royal honor or prerogative were the regalia, those powers not communicable to anyone. But, insisted the Solicitor, "there is none of your Lordships but hath tenures, nay I think a few of us but have." It was only in recent years that laws concerning tenures had been annexed to the civil law, which indicated they did not belong to the Roman monarchy. And if the Romans did not possess them, Bacon asked rhetorically, what dishonor would it be for the King not to have them? Tenures were no longer the ligaments of government since men obtained positions in the military service on the basis of ability, merit and rank, not because they held lands as tenants-in-chief. As for the royal conscience, Bacon reasoned, the King was not so much giving up protection of the wards as transferring them to the protection of family and friends who had a greater natural claim to these children than the body politic whether regal or vulgar. As for utility the Commons would provide proper recompense in the form of a perpetual pillar of support for the Crown. Sir Francis concluded by requesting that the King grant the Parliament the right to deal

with tenures.³⁷

The Commons received their answer from King James through the Earl of Northampton on March 12. Since they had exercised humility in not dealing with the wards until permission was granted; and since they were dutiful in referring it to the King's judgment and understanding and in joining the Lords with them; and, finally, since they were discreet in not requesting it gratis but promising recompense, the King would allow them to treat for the taking away of tenures, wardships and purveyance. Never was a King "any forwarder (reserving his honor) to do you good than himself," Northampton exclaimed. However, the King, according to the Lord Privy Seal, cautioned them not to meddle in the course of their work with his royal prerogative nor to encroach on his sovereignty.³⁸

King James probably acceded to the Commons' request at this juncture for several reasons. Beaulieu reported of the King that "though by whisperings and dissuasions of some of those about him" he was made more averse than he had been before from yielding to this composition and the taking away of wardship from the Crown, yet in the end he had been brought to it.³⁹ He was probably persuaded by Cecil who, contemporaries noted, supported the

³⁷ Foster, II, 52.

³⁸ Ibid., 53-56..

³⁹ Beaulieu to Trumbull, March 15, 1610, Winwood, III, 131.

abolition of wardships because it would increase royal revenue and console and relieve the Commons. Cecil had apparently won great favor by declaring that for the future he would draw no profit from the mastership of the wards, but would place all funds at the King's disposal.⁴⁰ And along with Cecil's persuasiveness went the staunch stand of the Commons as represented in Sir Francis Bacon's speech and also the fact that the Commons had promised his Majesty some supply, thus meeting his prime condition. It should be noted that Beaulieu thought King James was more averse than before, thus indicating the King's past opposition to an outright surrender of tenures, something he would manifest again following the Commons' offer for tenures and wards.

On March 21, before the Commons had completed their deliberations about tenures, King James spoke to both Houses of Parliament, emphasizing particularly the problem of grievances and supply. His Majesty spoke for two hours, stating first his dislike of Cowell's Interpreter and his resolution to suppress it, and insisting he had no intention of assuming any such extravagant authority as was described in that book. Dr. Cowell, a reader in civil law at Cambridge University, had been attacked in the Commons for exalting the royal prerogative against the fundamental laws of the realm in this book, Interpreter. It should be noted in this context that during the debate on Interpreter in the Upper House on February 27, Lord Saye had said he wished

⁴⁰C.S.P.V. 1607-1610, 447, 451.

the Lords would deal "lovingly and respectfully" with the Commons in that matter "for else it might much hinder matters of greater consequence, which we now had in hand." Cecil replied that it was a good consideration. The Lords, then, were not ignorant of the political implications of such an incident in obtaining the support which Cecil ardently desired for the Crown.⁴¹

The King then delivered his opinion on the almost divine position which he felt monarchy held on earth, though he willingly conceded that it was fit for him and all other princes to rule according to the proper fundamental laws of their respective countries. He commended the civil law as being more universal in application and declared the defects of the Common Law that he desired to see reformed. He admonished the Commons to concern themselves with real grievances affecting the commonwealth and "not to buzz things into people's heads which they never thought grievous." He wanted a speedy relieving of his wants according to the propositions made to them by Cecil under his instruction. If they gave not freely and speedily, the greatness of their gift was reduced, and the longer it took for them to supply him, the more he must have from them.⁴² The speech was generally well received; however, some of the most strictly religious members wished King James had been more sparing in using the name of God

⁴¹Foster, I, 44-52. Edmondes to Trumbull, March 22, 1610, H.M.C. Downshire, II, 267.

⁴²Ibid.

and comparing the Deity with princes' sovereignty.⁴³ Unfortunately for James it did not inspire the Commons to vote subsidies any faster, as apparently it was his hope it would, judging from his statements.

The Commons were spending almost all their time in these waning weeks of March considering what offers they would make for redeeming tenures and wardships as well as for purveyance and how to go about raising the large revenue demanded of them. It was obvious it would require much time to reconcile all the differences "which will arise on both sides, in the dissolving and framing anew againe of so great and strong a work of state."⁴⁴ To assure themselves of completing their work, no burgess was permitted to leave without special license and absent members were to be called back. The Committee of the whole House for wards was to begin discussions at seven or eight o'clock in the morning continuing until nine-thirty. Then the House would debate until half past eleven and the committee for grievances would meet in the afternoon. No lawyers were to depart without leave and if they did not come "before this day sennight, they were⁷ to be sent for by warrant."⁴⁵

By March 22 the Commons had broken down into four parts the matters for discussion concerning wardships. First, they would determine which things belonging to wardships that they desired

⁴³ Ibid.

⁴⁴ Winwood, III, 131.

⁴⁵ C.J., I, 411-14.

to eliminate. Second, they would discuss how they could be legally assured that what was taken away would not be reinstated by the King. Third, they would consider what offer to make to King James for the tenures and wards, and last, what course they would take for levying payments on the country. When these last two points were examined, they would also consider what composition they should offer for the elimination of purveyance, "which will be a matter of great ease to the country."⁴⁶

Commons debated its way through a labyrinth of difficulties and finally succeeded in enumerating what it wished King James to surrender in return for a fixed annual revenue. Members proceeded cautiously for fear of being circumvented by the Crown in this contract. For they believed wardships "to be so fast annexed to the King's prerogative" that they could not be separated from it entirely except by extinguishing the tenures by which his Majesty held them. This meant the abolition of all tenures in capite and knight's service and the reduction of all tenures to free and common socage or non-military tenures. They feared that if the Crown retained any military tenures, then tenant obligations, abolished by the contract, could later be revived. Since there were other rights arising from tenures beside wardships, there were discussions about which royal rights should be suppressed and which reserved to the King. The Commons agreed that such

⁴⁶Foster, II, 58.

dependencies as escheats, heriots, suits of court, ancient rents and reliefs would remain whereas primer seisin, livery and licenses of alienation would be eliminated and "concealed wards whose offices had not been proved within three years after the death of the ancestor should not be called into question," but given a general pardon and quietus est. The royal aid for princes and princesses was set at £25,000.⁴⁷

Sir Henry Montague presented these demands to the Lords on March 26, 1610. Commons wanted all tenures in general and tenures in knight's service reduced to socage. They wished royal marriage rights eliminated along with respite of homage and they allowed the King to take advantage of wards that fell to him up to three years prior to the beginning of this session of Parliament. Montague explained that, though the Commons considered the ten articles of retribution offered by Cecil as rubies and of such an excellent nature for the subject's good that they were not forgotten or deserted by them, yet wardship was the diamond. The Lower House, he continued, had considered the dignity of the person to whom they were making the offer, the value of what they asked and the state of the persons they bound. After considering these they decided to offer "for this of tenures alone, and the dependencies thereupon, the sum of £100,000 per annum."⁴⁸ Ac-

⁴⁷ Beaulieu to Trumbull, March 29, 1610, Winwood, III, 144-45. Foster, II, 64-65.

⁴⁸ Foster, II, 66.

cording to Edmondes the Commons thought their offer an "increase of more than £60,000 than the King now raises."⁴⁹ It was unclear whether they included purveyance in this offer and it is possible they may not have, though earlier speeches seemed to imply that they would include it, and it was ultimately included in the Commons Memorial. The Lords declared they were not so well skilled in such matters as the members of the Lower House, so they requested time to deliberate about them before answering the Commons. They were probably somewhat taken aback by the Commons' proposals and realized they would have to consult among themselves and with the King as well before giving an answer.

One point which Commons and Lords passed over in silence was the rating and collecting of this annual sum. Contemporaries felt that assessing everyone who had "Wardable land" would be no small problem. The Commons apparently meant to include individuals who held land from inferior lords as well as those who were tenants-in-chief of the Crown. There was no doubt that the establishment of the great revenue propounded would be a work of considerable difficulty and because of the respect that would be had to private interests, would be subjected to great opposition. Certainly those jealous and circumspect spirits in the Commons would not a little belabor their brains for the well building and

⁴⁹ Edmondes to Trumbull, March 29, 1610, H.M.C. Downshire, II, 269.

assuring of this contract.⁵⁰

The Lords, who were scrutinizing each aspect of the offer, were unprepared to answer the Commons by the time Parliament recessed for the Easter holidays on Monday, April 2, so Cecil told the Lower House they would arrange to meet with them some time after Parliament resumed work on April 16. Even before Parliament recessed it was known that King James desired to raise the Commons to a higher figure. On April 2 Edmondes wrote that King James correctly wished to raise them to £300,000.⁵¹ Added to this was his Majesty's continuing interest in preserving his honor. For when the Lords resumed deliberations on April 17 and the Lord Chancellor raised the question of meeting with the Lower House, Cecil, though agreeing with him in principal, insisted they could not proceed to take away the royal prerogative until they understood the royal terms. He requested the Upper House to grant authority to selected members to discover whether the King approved the manner in which the Commons wished to eliminate tenures, which was by reducing them all to free and common socage, and once his Majesty had decided on the manner in which he would part with tenures, "then what sum he will require, so we may proceed, otherwise we will beat the air."⁵²

⁵⁰Edmondes to Trumbull, March 15, 1610, H.M.C. Downshire, II, 262-63. Winwood, III, 145.

⁵¹Foster, I, 55-60, 197-205. Edmondes to Trumbull, April 5, 1610, H.M.C. Downshire, II, 271.

⁵²Foster, I, 207-08.

Beaulieu had written to Trumbull that during the long meeting of the Lords of the Council with King James on April 17, his Majesty was more averse than before to parting with tenures.⁵³ And on April 19, Cecil told the Lords that the King refused to compound for tenures if the Lower House insisted on changing all tenures into free and common socage, "in the end that all land be holden by fealty alone and tenure of the crown left in fealty."⁵⁴ King James was willing to surrender the various tenant obligations, such as wardship and primer seisin, but he wanted to retain his "honors" as a feudal lord. Now, these "honors" consisted of the various honorable services and rents connected with certain tenures in chief such as knight's service in chief and grand serjeanty. If all tenures were changed into free and common socage, which was a form of non-military tenure in which no services were due and to which no special customs applied, James apparently feared this would mean the end of his "honors."⁵⁵ Thus only by preserving these tenures in chief could he save his "honors." The King also opposed the abolition of these tenures in chief because he thought it was too prejudicial and dishonorable both to himself and the gentility of England to reduce all of his subjects, regardless of wealth or status,

⁵³ Beaulieu to Trumbull, April 19, 1610, Downshire, II, 279.

⁵⁴ Foster, I, 209.

⁵⁵ A. W. B. Simpson, An Introduction to the History of the Land Law (Oxford: At the University Press, 1961), 187.

"to one Tenure of Lands."⁵⁶

The Commons, however, felt that if the King retained these tenures in chief and the "honors" connected with them it would threaten the security of the contract. They believed that the monarchy might use these "points of honor" as an excuse to revive at some later date all the tenant obligations abolished by the contract. So when Cecil told the Commons' committees on April 20 that James refused to allow such tenures in chief as knight's service and grand serjeanty to be transplanted to a manor, that is, changed into free and common socage, they were quite perturbed. His Majesty saw these tenures and the "honors" attached to them as marks of his sovereignty which indicated that he was "Lord of these Dominions." And Cecil reminded the Commons that the King in his messages had insisted that they not tamper with his sovereignty, and they, in turn, had promised not to meddle with points affecting his sovereignty or regality. James desired them to proceed with the contract without jealousy, without suspicion, and without needless fears. The Commons, however, thought the King's proposition would greatly interrupt the business at hand, because they believed "that they could not safely contract for the tenures unless the same were wholly extinguished and destroyed in the roots . . ."⁵⁷

⁵⁶Beaulieu to Trumbull, April 26, 1610, Winwood, III, 153.

⁵⁷Foster, I, 65-66; II, 69-70. C.J., I, 420.

Fortunately a solution was reached that allowed the Contract negotiations to proceed. A great committee of the Lower House met from seven to nine o'clock on the morning of Monday, April 23, with all the lawyers present and decided, after the King's counsel had presented the considerations of the Judges, that there was no danger in permitting the King to retain his "honors." The Judges had determined that the King could lawfully relinquish his tenant obligations and such tenures in chief as knight's service in chief and grand serjeanty and still retain his "honors" as a feudal lord. He could accomplish this by reducing the various feudal tenures in chief with their military obligations into a form of socage in chief. This meant that though the tenures by knight's service and grand serjeanty were eliminated the rents and honorable services would be retained. This could all be accomplished by an act of Parliament.⁵⁸ Military tenures in general would be changed into free and common socage with the exception of those few tenures in chief which would be changed into socage in chief. Thus the King would have his "honors" and the Commons could rest secure in the knowledge that, although not all the King's tenures were reduced to free and common socage, all the military tenures and the tenant obli-

⁵⁸Ibid., I, 64-65, 212-15; II, 69-70. C.J., I, 420. The Commons Journal states: "Honour and profit; Honour he [the King] would reserve - Knights service to his person - They that held of manors to hold still - They that in Knights service to hold now in socage in chief. All matters incident to be taken off, may safely by act of Parliament."

gations springing from them would be taken away permanently.⁵⁹ The Commons insisted that the Judges and King's counsel "that be actors in this business be named in the act of parliament, their memory to be recorded to all posterity."⁶⁰

The conference at which Commons received the royal answer to their offer of £100,000 met April 26. The answer delivered by Cecil was not what the Commons' committees expected. Attorney General Hobart began the conference by reviewing the Commons considerations regarding wardships and mentioning, without authorization from the Lower House, the need for a court of orphanage for the protection of minors if and when the Court of Wards ceased to exist. The Commons would allow the King to retain his "honors" and desired to know the King's pleasure touching their offer of £100,000.⁶¹ Cecil answered that, before leaving for Newmarket the previous day, King James had called a number of Lords before him and had granted them provisional authority to reply to the Commons. The King believed he would be in a bad way financially if he did not receive £200,000 support and

⁵⁹Beaulieu wrote to Trumbull, May 2, 1610, that: "The Parliament House having considered the King's Reasons against the extinguishing of the Tenures in Capite, have been contented to yield to his Desire therein; and leaving the Root, to accept of the cutting off of the Stock, upon the Assurance which he promiseth them that it shall never spring out again." Winwood, III, 153.

⁶⁰Foster, II, 70.

⁶¹C.J., I, 421-22. Foster, I, 69-70.

£600,000 supply. He also argued that, since he was departing with something only he could grant, the Lower House had to contribute at a greater rate than they had previously offered, "for no less than hath been demanded can his Majesty accept of than £200,000 per annum more than he now hath."⁶² The King now justified his demand by insisting that when the first proposal had been made by Cecil, there was no thought that he should part with the wards. In effect, the Commons had given cause for the augmentation by their demand for wards and tenures. (However, if Cecil's speech to the Lords in which he said that the King needed an increase of £200,000 were meaningful, the royal demand could have been increased even without wards being added or as if wards had never been part of the contract.) James insisted the royal estate had to be helped in gross which meant the Commons must redeem everything or receive nothing. For the King was not intending, Cecil said, that £100,000 was too much or too little for wards, but rather that the wards were too much for anything short of his Majesty's original demand. Cecil reminded the Commons that they were to consider not only present profits but also future increases in the profits from wardships in their calculations, which the King had apparently done before arriving at his figures. Cecil ended this portion of his speech by warning Commons that the wards could not be had unless it gave King James

⁶²Parl. Debates 1610, 147-149.

complete satisfaction by redeeming everything offered, and not simply individually selected items, for £200,000 a year in addition to the money it would have to pay him for whatever revenue sources, including feudal incidents, it took from his Majesty by the contract. If the members agreed to these terms, they could take wards, purveyance and the other incidents with whatever else Parliament thought fit, which Cecil thought might amount "to some few things not meddling with any matter that bears the mark of Sovereignty."⁶³ When Commons later began to multiply the number of grievances it wished redeemed by the contract, Cecil would rue the day he ever had made such a generous offer.

Cecil then proceeded to advise them on the proper procedure in the future for negotiating with the King. He believed the King's just necessities must be relieved by his people but, although the King was governor of his subjects, he did not have to depend absolutely on the will of his people for subsistence, possessing a prerogative by the law of nations as much as any Christian prince, if it were not restrained by the municipal laws of the Kingdom. He believed, however, that the seal of the prerogative was not so boundless in any matter involving the subject's money "but the weale of the publique was the measure of it." When princes extended their prerogative so far that it brought grief instead of good to the subject, they undermined their own greatness. And if the King should act in an excessive

⁶³Ibid., 149-51.

manner, Parliament was the proper place to complain and at that time the subject might dispute against the prerogative and desire moderation "yet so as not to strike in radice, for such root may not be pulled up." Furthermore, if the Commons challenged judicial decisions in cases carefully decided by the Judges on the basis of precedents and acts of Parliament, "this were but to bark against the moone."⁶⁴ Cecil wished them to spend no time in such a matter for he knew they would never obtain what they sought. Rather, he thought subjects should refuse taxes when kings asked more than the subject could afford to pay. On the other hand, if the subjects did not desire a "da pacem in diebus nostris," but a benefit so fixed as to descend to his posterity, they must pay for that. In summary, Cecil repeated that King James knew no reason why he should alter his first demand and he wished Commons to take all that was offered, adding any flower which would not deface the royal garland or prerogative. The King would be just as firm about not lowering his price as he had been about retaining his honor. Cecil ended by thanking the conferees for proposing the Court of Orphans, something, by the way, which Montague had not been authorized to offer.⁶⁵

⁶⁴Ibid., 151-52. Here, Cecil is referring to the Commons' questioning of the Judges' decision in Bate's Case which permitted the King to levy impositions without Parliament's consent.

⁶⁵Ibid.

Cecil's warnings to the Commons not to tread on the prerogative and particularly not to challenge judicial decisions were also very subtle reminders not to meddle with impositions. The Judges in Bate's Case had ruled that the King could levy impositions without parliamentary consent and, though Commons had come to the defense of John Bate in the second parliamentary session and listed the impositions as one of its prime grievances, King James had continued to levy them as part of his prerogative. Indeed, Cecil had revised the Book of Rates in 1608 and levied what were labelled as new impositions to assist in financing the suppression of O'Dougherty's revolt in Ireland.⁶⁶ According to the Commons Journal, Sir Edwin Sandys reported impositions out from the Committee on Grievances on April 25. On the morning of April 26, while preparing the Lords for the afternoon conference with the Commons' committee, Cecil stated that he thought it was pernicious for the Lower House to dispute the King's right to levy impositions, even though he conceded it could protest against excessive amounts of money being demanded in duties or against officers' abuses. He did not think that members of the Lower House should dispute the King's prerogative in that manner and he was going to warn them that they should halt such proceedings. If his Majesty were deprived of the right to levy impositions, Cecil believed he would lose a million pounds plus power which Queen

⁶⁶ C.J., I, 421. Dietz, English Public Finance, 120.

Mary and Queen Elizabeth had had and which the Judges had decided that James possessed as well. Of course, there were some commodities upon which the King could not impose duties because of municipal laws.⁶⁷

Lord Knollys felt, however, that for Cecil to inform the Lower House directly that the Lords understood that the Commons objected to the impositions would be harmful to the negotiations and make the Commons less cooperative in the business of supply and support. He therefore recommended that Cecil frame his admonition to the Commons in general terms so as "not to particularize in the point of impositions upon foreign commodities; for I think we cannot take notice of things in dispute in the lower House." Cecil saw the logic of Knollys' argument and agreed he would not speak about impositions as the Lords' opinion, but instead deliver a speech "by way of caveat that they in demanding do not fall upon demand of this or the like matter of sovereign prerogative."⁶⁸ Hence, Cecil's long rambling dissertation evolved as the result of a discussion of strategy in the Upper House. It was designed to warn the Commons about challenging the royal right to impose in a manner that would not harm the King's chances for obtaining supply and support from the Lower House.

According to the Venetian ambassador, the Commons took Cecil's reply as a refusal and became so passionate that they were

⁶⁷Foster, I, 67-69.

⁶⁸Ibid., 217-18.

on the verge of adjourning Parliament without voting subsidies and were restrained only by the members of the "King's party." Edmondes and Beaulieu both reported that the Commons calculated that if they "made good and answer(ed) the value of all the yearly profits which the King now receiveth by those things," including wardships and the items originally offered by Cecil, it would amount to a rent of £100,000 a year in addition to the £200,000.⁶⁹ They concluded that the King's demand so far exceeded reason and the worth of the things offered "as they would give no answer to it at all, but remain silent till the King will be pleased to make some more reasonable Proposition unto them, or break absolutely the Bargain." As far as the Commons were concerned, they had dealt very liberally with the King in offering him £100,000 for wardships alone.⁷⁰

On April 30, 1610, Sir Thomas Lake wrote Cecil a very long letter which went far toward revealing the discussions taking place between the King and Cecil concerning the contract and the King's feeling about the contract at this stage of negotiations. Lake posed a hypothetical question to the King to the effect that when the Commons delivered their answer to the royal demand "admit it were (as some already had spoken) that in regard of the greatness of the sum demanded the House thought not fit for them to proceed any farther in a matter impossible for them to under-

⁶⁹Ibid., II, 73-74.

⁷⁰Ibid. Winwood, III, 153.

goe." Could the Lords, Lake asked James, with the royal honor at stake make any new propositions that should not savor of begging and thereby encourage the Commons the more to stand off? First, answered King James, Cecil had given him the impression by his letters that the answer from the Commons would not be so peremptory. Secondly, if it were so conslusive, the King believed the Lords might justly reply that it was not an answer for them to make to the King nor was it agreeable to the King's honor especially in something desired by the Lords. Rather, if the Commons thought the sum demanded to be too great, they should make a new offer. Thirdly, James stated that Cecil could explain to the Commons that the King's offer was not so absolute, but that if there came from them any offer proportionate, it might be moved to his Majesty to be considered of. But if the Commons insisted on their former offer, King James believed it was a sign they had no desire to deal with him and, in that case, it were vain for the King to woo them. But the King supposed, Lake informed Cecil, out of some hope given him by Cecil "that it will not come to so great a pertinacy, but that either out of their answer or otherwise your Lordships will find matter to keep it still in life." King James thought that if the Commons were drawn to a conference, although his meaning was not to compeund for his various offerings except in their entirety, yet at such a debate every segment might be particularly described for them so they might understand the value of it and so be more disposed to compound for the whole. Lake informed James, as he explained to Cecil,

that there was no doubt that the Lords would use their wisdom to keep the matter from a rupture until his return, the King being at the moment at Newmarket.⁷¹

By May 3 Cecil could report that the Lords would have a "conference to have their [the Commons'] answer for wardships at which time I hear they mean to refuse the offer for impossibility, but not with any such protestation to hear no more, but that the King may at his coming reply what he pleaseth or we procure a new conference, without disruption though we can not judge of the success."⁷²

King James had refused the Commons' offer and interjected his own for a number of probable reasons. He held both tenures and wardships as valuable parts of the monarchy both financially and symbolically and would not part with them except for a large sum. This may have been why Cecil did not include any offer of composition for wards in his original ten retribution suggestions to the Commons. James was probably also encouraged by members of the court who wanted to see the contract defeated because it would discredit Cecil or who wanted to see him financially independent of Parliament.⁷³ Finally, the fact that the King had just finish-

⁷¹Cal. Salisbury MSS., XX, 216-17. Sir Thomas Lake to Cecil, April 30, 1610, C.P., 128/118.

⁷²Salisbury to Sir Roger Aston, undated, C.P., 128/92. Foster, II, 82, note 2.

⁷³Wallace Notestein, The House of Commons 1604-1610 (New Haven: Yale University Press, 1971), 304-05.

ed negotiating a loan with the aldermen of the city of London for £100,000 might have turned his head. He needed the money and had hoped to keep the negotiations secret, but the information leaked out. The money probably would have been sought under any circumstances. But when members of Parliament heard about it, it may have soured them on the King's huge demand. On the other side, it may have given James the inspiration to ask for the increased sum, calculating that even if he did not receive it, he had money to fall back on.⁷⁴ Whatever the royal motive, one fact was certain: the King was still interested in keeping the contract alive. This in itself would indicate that Cecil's influence was still paramount. The Lake letter of April 30 indicated that Cecil had left options open in dealing with the Commons and with the King. While he may not have thought the King's demand of £300,000 had much chance of success, he had to go along with the royal wishes. He probably realized that after the Commons had refused the royal demands, it would still be possible to pick up the pieces and attempt new negotiations between the King and the Commons.

In the House of Commons on the morning of May 1, Richard Martin proposed that they compose an answer to the Lords and Speaker Phelps moved that the House pen a message. Thomas Wentworth insisted, however, that they first debate the answer. And Sir Robert Johnson stated "that seeing £300,000 for all our offer

⁷⁴H.M.C. Downshire, II, 285-86. Foster, II, 76.

for part, not to sit down thus." He apparently found the Lords' demand unacceptable. Edward Duncombe, M.P. for Tavistock in Devonshire, suggested debate in a committee and then a subcommittee to pen the reply. Sir Roger Owen argued that either they remain silent on the issue or send a message to the Lords stating that they could not increase their offer and leave the matter in their Lordships' hands. Sir George More believed that they should explain why they could not raise their offer in the message to the Lords since this would double the value of the message. Sir Thomas Beaumont contested that they first had to understand clearly what was demanded, since the King's proposal was "darkly propounded." Sir William Strode insisted that the Commons' offer might be explained to be for wardship only. Sir Julius Caesar wished the members to vote whether to debate the message in a committee or in the House. Sir Edwin Sandys then arose and insisted there should be no silence in anything that was between King James and the House. The answer they had to give to the Lords was a weighty one but not a difficult one to compose. He objected to the King's insistence that Parliament bargain for everything offered it, arguing that they should bargain for individual items in the contract. He thought they should debate the message in the House and if there were disagreements they should be resolved in a committee. Once an answer was agreed upon, he wished the actual writing of the message done by a subcommittee. Commons then resolved to have a committee fashion a reply which

the House would dispute the next day.⁷⁵

The form of the answer to the Lords was brought into the House by Sir Maurice Berkeley and read by the clerk and Speaker Phelips. John Bond abhorred the impertinent speech and the hissing and spitting of some members while the answer was being read and wanted it conceived as a rule that the Speaker might prevent impertinent speeches. Sir William Twysden, M.P. for the borough of Thetford in Norfolk, wanted an addition made to the answer, stating that in the matter of tenures the Commons had care of support as well as the Lords. He then cited a precedent of Edward III's reign wherein the Commons requested that they be allowed to go into the country and receive resolution and authority from those who sent them. Sir William Cope, M.P. for the borough of Banbury in Oxfordshire, objected that the answer included the manner of the levy, a topic which had not yet been agreed on or disputed in the House. Sir Edwin Sandys defended the answer and he, along with Sir Roger Owen, Sir Herbert Crofts and Sir Maurice Berkeley were to review the answer. Sir William Twysden, Sir George Cary, Thomas Crew, Sir George More and Sir William Cope were to attend them and give satisfaction to such objections as were made. Following the meeting Sir Edwin Sandys returned to the House, bringing with him the Project of Answer containing certain alterations. Many members then questioned the use of the words "levying upon the Lords and owners." The Attorney General

thought the words needless and prejudicial to the Commons' proceeding regarding the levy. A motion was made by the opponents of the wording to recommit the answer, but it was defeated in a division, 135-125. The answer as presented by Sandys then was resolved to be the message and Sir Julius Caesar was appointed to deliver it to the Lords.⁷⁶

The Lords agreed to meet with the Commons on May 4. Cecil told his fellow Lords that for his part he would speak what he thought fit, making sure the Commons' conferees understood that he was expressing his own opinions and not stating anything warranted or commanded by the Upper House. He was ashamed to look back over the first nine weeks of this meeting and observe what had not been accomplished and he hoped the Commons, whom he knew were going to tell him the King's demand was too great, would have liberty to hear propositions and questions and discuss issues, even though there was nothing concluded on either side. Mr. Brook,⁷⁷ Sir Nathaniel Bacon and John Hoskins opposed granting such liberty to the Commons' committees for fear of making a mistake in answering, while Sir George More favored more liberty. Nevertheless, when the motion was put to a vote it was defeated and the Commons' conferees were instructed to tell the Lords they

⁷⁶Ibid., 423-24.

⁷⁷This could either be Giles Brook, M.P. for Liverpool or Christopher Brooke, M.P. for York.

had no authority to answer or dispute.⁷⁸

The Commons' representatives delivered the written reasons for their refusal of the royal offer to the Lords on May 4. They first reviewed the history of the negotiations, emphasizing their desire to offer £100,000 per annum for tenures, wardships and the other incidents, and the King's answer that he knew no reason to depart from his first proposition and his demand of £200,000 (clear of obligations) yearly revenue above his present profit for those matters of extraordinary ease and security. Next the Commons' discovered they had to contract for all those items in gross and not for tenures and wardships separately as they had desired. This they found objectionable and wished to contract for tenures and wards by themselves; in brief, they desired in raising such a sum to impose the burden and charge only on those who really benefited, which meant "the Lords and owners of the lands should bear the same and not the generality or meaner sort of his Majesty's subjects." For that reason they could not contract in gross for the £200,000; it would inevitably impose on a considerable number of subjects who had placed their trust in the Commons' judgment "a burthen in former ages never heard of, and in their present known poverty impossible for them to bear."⁷⁹

In reply Cecil expressed his displeasure because Commons refused to confer openly with the Lords. He maintained that the

⁷⁸Foster, I, 74-75. C.J., I, 424.

⁷⁹Foster, II, 75.

Lords trusted their committees more than the Commons trusted theirs, and that the Upper House had the interests of the people at heart as much as did the Lower House. Such dry conferences in which the issues were avoided rather than faced would never bring a conclusion to their problems. They had "to entertain a free commerce of the mind" with the Lords or they would spend many more days in vain. Cecil explained that by their "bare replies" they indicated the ten items he originally offered were not worth considering. If they so freely discarded those items, then they did not truly value wardships alone, and he continued quite candidly that King James could make more from wardships and tenures with their incidents than the Commons offered. The implication here, of course, was that the King might enforce his rights to wards even more than before in order to increase his revenues if they came to no agreement. What tempest had moved the Commons that they considered the demand of £200,000 so great, inquired Cecil? Had the Lords not informed the Commons that they would not take less than the £200,000? On the other hand the Lords had never said that the Commons should not have their bargain for less than the King's demand of April 26 (£300,000). If the offer were displeasing, they could have disliked it but why refuse to discuss it? Some claimed the royal demands would turn England into a Tuscan Commonwealth because of the burdens they would entail. Cecil answered that this was true if the Kingdom were ruled by Tuscan law, but not so if ruled by Parliament. Others claimed that through such taxes the King would come to possess

one eighth of the wealth of the kingdom. If the King did, Cecil retorted, it would be a significant accomplishment considering that most men did not contribute even a twentieth part of their estates in subsidies. If he did not make more from wards than they offered, exclaimed Cecil, he would quit his position. In the end the King's necessities had to be relieved, if not by the subject, then by moderate use of his own. But since King and Commons disagreed, they must allow his Majesty to improve his own revenue sources, which meant obtaining increased financial yields from his ordinary sources of income. However, Cecil terminated his speech by promising satisfaction to all who conferred with him privately and requesting the Commons to meet with the Lords in a free and open conference such as they had had in the past concerning issues such as free trade and recusants.⁸⁰

As Cecil later reported to the House of Lords, the Lords' conferees took the liberty given them by the Upper House and told the Commons that their reluctance to contract with the King "might cause the King to take more benefit of his own in things in point whereof no man could find a grievance, and yet may be burdened."⁸¹ If the Commons did not contract then, they would be faced with those hated burdens that Cecil had offered them the chance to be rid of at the beginning of the session. And though profits from

⁸⁰ Ibid., 77-78; I, 80-82. C.J., I, 425.

⁸¹ Foster, I, 237.

all such improved revenue would not come to the King, they would come out of the subjects' pocketbooks and into the hands of officers and tax farmers. However, as has been indicated, Cecil was prepared to make a concession. Beaulieu reported that Cecil knew the Commons had cooled toward the bargain and were considering retracting their offer, and he told them "that those sums which had been propounded unto them, had been tendered rather by way of estimation than of demand" and desired them to consider how they were letting an opportunity to free themselves from tenures and other grievances slip through their hands which they might not subsequently recover.⁸² According to the Commons Journal report of Cecil's concession, the Commons could compound for wardships and the other grievances for less than had been demanded.⁸³

On May 8 the news of the assassination of King Henry IV of France was transmitted by Cecil to the House of Lords and the committees of the House of Commons. Cecil used this opportunity to request once more the supply which King James so badly needed. Of course, he denied that this was the point of his speech, but Commons saw through this weak excuse. According to Beaulieu the speech "was scarce well taken by the House of Commons."⁸⁴ As

⁸² Beaulieu to Trumbull, May 9, 1610, Winwood, III, 159-60.

⁸³ C.J., I, 425. According to the Journal, Cecil said "In general more:- for the particular we should have it for less than demanded."

⁸⁴ Winwood, III, 159-60.

Cecil phrased his message at one point "we must now give occasion for foreign dispatches to advertise how careful we are of our King and how we provide for him and money is the only antidote for future mischief."⁸⁵ There was much real concern, however, for the King's safety and Cecil would make another plea for a subsidy based on the same issue, the death of Henry IV, later in May.⁸⁶

But for several weeks the issues of supply and support would take second place to the debates between King and Commons over the latter's right to challenge his Majesty's prerogative to levy impositions without Parliament's consent. Cecil could credit himself with at least keeping the subject of the contract alive; but it would take some time to interest Commons again in discussing it. They had not yet gotten over their distaste for the King's excessive demands; and they were not likely to trouble themselves much further in the matter until the King had modified and reformed his propositions.⁸⁷

⁸⁵Foster, I, 83-84; II, 80-81.

⁸⁶Ibid., II, 121.

⁸⁷Winwood, III, 160.

CHAPTER IV

FOURTH SESSION THE GREAT CONTRACT MAY 11-JULY 23, 1610

Despite Cecil's warning of April 26, the House of Commons continued to debate the King's right to levy impositions without Parliament's consent. King James, through the Privy Council, prohibited such discussions on May 11, provoking a very strong reaction from the Lower House whose members insisted that they had the right to dispute the prerogative.¹ In a long speech on May 21, his Majesty defended his right to levy impositions without recourse to Parliament and, though he would allow Parliament to investigate and object to abuses concerning them, he would not permit it to debate his right to levy impositions. However, King James did propose a compromise. He would retain all impositions levied in the past but would not levy any new ones without the advice and consent of Parliament. But this would not bind the royal prerogative nor his posterity. This meant that, if Parliament did not consent to levy impositions in a particular

¹Foster, II, 82-100.

instance, the King could make the final decision and levy them anyway.²

This royal speech "bred generally much discomfort" in the House of Commons. As Thomas Wentworth phrased it, there was nothing in the royal speech "to restrain the power of imposing, even upon our lands and goods, our property, but that we must be still at the mercy (for the moderation therein) of a good and gracious king."³ The Lower House drew up and presented to the King a petition of right in which they maintained that they had the right to discuss the prerogative as it pertained to the subjects' possessions as part of their freedom of speech.⁴ As the result of the Commons' determination, King James gave in, claiming that he never really meant to prevent permanently their discussing his right to levy impositions but that he had interfered only until he clearly understood their intentions. He would allow them to debate his right to impose adding "that as the cause of impositions was fit to be handled for the ease [*i.e.* relief] of the subject, so this other business of support was fit to be handled for the good of the kingdom . . . and therefore he desired us to proceed pari passu in both." The King, then, was also motivated in changing his mind by a desire to revive discussion of the contract. He had mentioned the need for the subsidy

²Ibid., 100-07.

³Ibid., 108.

⁴C.J., I, 430-33.

in his May 21 speech and also assured the Lower House he would not renege on any bargain made with them involving wardships. One can reasonably assume his Majesty conceded to the Commons' demand because he wished them to get on with a discussion of his fiscal needs.⁵

The royal proposals satisfied the Commons, who decided after some discussion that, since the King had linked impositions and support, they would consider them together. On May 26 the Lower House's committees met with those of the House of Lords. Cecil emphasized the need for real conferences at which there would be a free interchange of ideas rather than simply listening and reporting. As for the contract, the King had concluded that the distance between what he had requested and what the Commons were willing to deliver made agreement impossible. Cecil assured them, however, that his Majesty was determined to fall from his high demand (some £300,000) and "we take it in consequence if he fall you shall rise." Cecil, whose figures in this instance are difficult to follow, seemed to intimate that the new sum requested would be closer to £200,000. But, he asserted, exactly how far the King would fall would not be revealed to them that day "neither shall you know it by a message, by a conference you may, which if you shall not now admit, I shall never hope for any good end of the business."⁶ His Majesty was resolved to take less and

⁵Foster, II, 114-17.

⁶Ibid., 119-124.

the Lords wanted a conference though it would not result in binding decisions. If the Commons' taste were agreeable, continued Cecil, there would be a conference; if not, it was not the Lords' fault. He acknowledged the fact that many members of the Lower House were absent and would be away for two or three days because of the Whitsuntide holiday. However, even though they could resolve nothing now, Cecil thought it well for those present to meditate on his preposition in the meantime "and consider whether you shall think fit to give way to it when you meet again . . ." For it was time to proceed to something now "or that we took a resolution to part."⁷

In response to Cecil's speech, the Commons decided on Friday, June 1, that a general committee should presently sit and consider the value of the ten propositions of ease or relief formerly offered by Cecil on February 24 and of any other like matter of ease that they might discover. The following day the general committee decided that a subcommittee made up of all the lawyers and others named by the House were to draw up the seven offerings of Cecil into such a form as might be most beneficial to the subject. Three of Cecil's original proposals, those for licenses of alienation, respite of homage and protection of wards, were included under the proposal for abolishing wardship and tenures. The "Grand Committee" would then consider whether they were valuable and whether they would bargain for them to-

⁷Ibid.

gether with wardships or not. The subcommittee was not to value them.⁸

Several men appointed to the committee, namely Sir John Savile, an M.P. for Hewley in Yorkshire, John Tey, M.P. for Arundel in Sussex, and James Whitelock, M.P. for Woodstock in Oxford, were unwilling to serve. Savile did not think the seven offerings worth the bargain either for supply or support; he further thought the £100,000 a year previously offered was all the subject could afford to yield. Savile wished the name of support had never been known for, though now it was a word unfamiliar to them, he had no doubt that it would become a household expression in the future. Since, if they bargained for the seven offerings, "which all are either the straying of the prerogative royall upon the liberties of the subjects, or abuses of inferier officers," they will find that in every succeeding Parliament there will be some other thing found which will grieve the subject and they will be "inforced to give a further support for the discharge thereof to the kinge, so that it will be as usuall to give support as a subsidy." He gave an example from one of Queen Elizabeth's Parliaments in which Sir Walter Mildmay, the Chancellor of the Exchequer, requested two subsidies. Mildmay admitted the novelty of the request but promised it would never be repeated. But, Savile concluded, they all knew as well as he

⁸Ibid., 125-26. C.J., I, 434.

how well that promise was kept.⁹

John Tey held that grievances of purveyance consisted of the abuses of lower officers and were not fit to be purchased for they would spring up the next year and the Lower House would be forced to buy them again. If they could give more than £100,000 a year, he wished they might buy a general explanation of the royal prerogative so far as it affected the rights and liberty of the subject in his body, lands and goods.¹⁰

James Whiteleock insisted that the only precedent for support came from the reign of Henry VI. As for purveyance there was no reason to compound because the abuses would reappear, as was the case with impositions. The roll of Parliament stated that tennage and poundage were given first for the total discharge of impositions, but the impositions were still there and daily increased. For the other matters offered by Cecil, Whiteleock claimed they were particular and affected only some individuals, such as the matter of entry for broken leases. There were also things depending on decisions of the Judges and therefore unfit to be bought out.¹¹

On June 4 the ceremony creating James' elder son, Henry, the Prince of Wales was held in Parliament as part of a plan to encourage contributions toward the Prince's support.¹² The Lords

⁹Parl. Debates 1610, 46.

¹⁰Ibid., 47.

¹¹Ibid., 47-48.

¹²Foster, II, 127.

sent a message to the Commons on June 8 encouraging them, in light of the numerous interruptions and the time of the year with the need for many men to return to their counties, to go roundly about their business and to avoid all unnecessary delays so that business would not be protracted. The Commons apparently took exception to this message, feeling that the Lords were poking their noses too far into the affairs of the Lower House, but they returned no answer. The Commons were proceeding slowly and somewhat confusedly and the King, even though distracted by the variety of opinions given him at court, was becoming somewhat impatient with the Lower House.¹³

By June 11 King James had arrived at a decision. He was apparently being tugged this way and that by factions at the court, many of whom were Scots, as to whether to continue with the contract, considering the time of year, or to try to get the subsidy and leave the contract until some later day because of the ever increasing need for supply. At the conference held that day, Cecil emphasized the enormous growth of the King's necessities since the beginning of the Parliament. England badly needed money to play a vital role in European affairs and, if it were not voted soon, it would be too late. If the Commons continued at their present pace, nothing would be accomplished and a great deal of time would be wasted. Cecil insisted that what was needed was

¹³Ibid., 132-33.

a real conference. As for the contract, it was a great and strange demand, but then a new reason might beget a new precedent. As for the negotiations thus far, as Cecil reviewed them, the King had asked too much and the Commons offered too little, though they had made a fair, honorable offer. The distance between the demand of the King and the offer of the Lower House was too great, the time left to unravel such difficulties too short, and the difficulties themselves infinite. To reconcile the differences "a mediocrity is fit to be sought after, but in another time in another season than in the heat of summer." Further the King will make a great fall from his great demand. But Cecil did not know why any member of the Commons' committees should wish to know the new royal demand because they had no power to conclude any agreement. In addition, King James could only obtain his money by some form of levy and whether Lords and Commons would agree on a form of levy it was impossible to tell. Indeed, Cecil told them he had heard bitter and sour reports that some of the Commons were speaking as if their counties were already angry and discontented about what they had already offered (a reference to the £100,000). Cecil concluded that King James was pleased that the contract should be suspended until the next session by which time he hoped the Commons would understand plainly the disposition "of those that now make you startle."¹⁴ Also, since both the time was short and the grievances necessitated a good deal of deliber-

¹⁴Ibid., 134-39.

ation, the King wished the Lower House to drop the subject of grievances so that, instead of support and grievances proceeding pari passu, they might both rest until the next session. Instead, they should focus all their attention on furnishing supply. The interest on the debt of £500,000 was £50,000 a year. They should supply what they pleased and also grant some surplus for the defense of the realm, for the navy and also in case of sudden revolt in Ireland. However exorbitant earlier demands might have seemed, Cecil explained, if the Crown were not supplied, England would stand in a miserable position which no honest servant, no faithful subject or good patriot could deny. Essentially then the Commons were to forbear all until supply were provided and some surplus voted. The contract would remain alive in the interim.¹⁵

As for the impositions, his Majesty had presently given order for relief to the merchants to his own loss of £20,000 per annum. In addition to taking away impositions from various types of merchandise, allowing his power to impose to be disputed in radice and offering not to impose in the future without parliamentary consent, King James had informed the Lords that, until Parliament met again, no impositions would be laid. Cecil thought this alone was worth thanks, coming on top of the royal concession allowing Commons to dispute the royal power to impose. If the Commons would only confer openly with the Lords, Cecil told them,

¹⁵Ibid.

he would convince them that they were mistaken in attributing the shortages of merchandise to the levying of impositions.¹⁶

The Commons heard the report of this speech on June 13 and most members agreed that the King should be supplied, but beyond that fact disagreement reigned. Some members felt the subsidy should be delayed until they had an answer to their grievances and had concluded the contract for tenures. They had sat so long that if they returned to their counties empty-handed, they would be judged by their constituents as little better than children chasing butterflies. Dudley Carleton wrote Edmondes that the debate continued for two days, well past dinner time on both June 13 and 14. During the first day, three subsidies were proposed by 'some and two subsidies by others, but they were strongly disputed "in regard that the answer of the grievances was so leng deferred." At least one member specifically proposed the Commons defer any talk of the subsidies until some relief from the impositions was granted. Sir Julius Caesar then tried to dispel the fears that once the supply was voted, the King would dissolve Parliament because, though his Majesty had offered tenures in the bargain, he really did not mean to part with them. Parliament, the Chancellor exclaimed, would meet again and those who feared that the grievances would not be answered had the royal word that as soon as supply was voted they would be considered. It was the royal pleasure that they should present all their grievances,

¹⁶Ibid., 140-41.

including impositions, before they recessed. His Majesty would even grant a larger pardon. This moved Mr. Martin, probably Richard Martin,¹⁷ to remark that he would rather see three subsidies than the pardon extended because it might free Stephen Proctor. As debate concluded that day, it seemed the greater part of the House did not want to grant the subsidy. So, when the call was made to put it to the question, those who favored the subsidy insisted it be put off until the next day which, since it was very late, the rest of the House agreed to.¹⁸

The next morning Caesar had new proposals from the King designed to spur the Lower House on to favorable action on the subsidy. King James was willing now not only to hear the grievances before the Commons departed for home but to answer them as well. In addition, stated Sir Julius, after the King had received the grievances, "whereby it might appear unto him what yearly proffit wee desyred to take from him, he would before the recess give the lowest rate for the tenures and other things contracted for," not doubting but that in the mean time the Commons would agree on some supply for him.¹⁹

¹⁷As far as can be determined the only other Martin in this Parliament, Henry by name, M.P. for Wooten Bassett in Wiltshire, did not speak. In addition, Richard Martin was certainly one of the recognized leaders in the House of Commons. See Wallace Notestein, The House of Commons 1604-1610, 536, note 24; 548, note 8.

¹⁸Ibid., 141-43. Parl. Debates 1610, 55-56.

¹⁹Parl. Debates 1610, 56.

After Caesar's speech the Commons resumed debate, which centered on whether they should give at that time or not, for members generally agreed that they should give the King some supply. Those who supported the granting of the supply immediately differed among themselves as to the quantity of the gift. Some, such as Sir William Strode, Sir Edward Montague, Sir Henry Peole, M.P. for the borough of Cricklade in Wiltshire, Sir William Padddy, Sir Henry Hobart and Sir Edward Duncembe, M.P. for the borough of Tavistock in Devonshire, wanted one subsidy and two fifteenths; others, including Humphrey May, M.P. for Beeralston in Devonshire, Sir Thomas Lowe, an M.P. for London, Sir Edward Grevill, an M.P. for Warwickshire, and Sir George More favored two subsidies and four fifteenths. Apparently most speakers were inclined to favor two subsidies on June 13 but only one subsidy on June 14. In the end most members thought it fit that no question should be made that day at all concerning the subsidy. And when the question was put whether there should be a vote on the subsidy, the negative voices prevailed.²⁰

Lord Chief Justice Popham later claimed that certain members of the Commons had organized the defeat of this first attempt to obtain the subsidy.²¹ This may have been true, but it would be difficult to substantiate for lack of documentation. Certainly during the second day of debate the members of the Lower House

²⁰Fester, II, 144.

²¹Ibid., I, 279.

were quite critical of the various maneuvers employed by the Crown to persuade the Commons into voting money. Thomas Wentworth claimed that those who used the argument of the French King's death to draw money from the people were in error because, as everyone knew, King Henry IV did not die because he lacked money but rather because he lost the grace and good will of his people when he submitted to Rome. Wentworth therefore wished that King James would be more careful to banish prelacy and to punish Jesuits and priests "for without theise things supplie nor support are to no purpose." As for the message delivered by Caesar, they had formerly received messages of that kind with similar promises about grievances and with additional promise that they should be inserted in the preamble to the subsidy; but messages from the King might be disavowed or not well understood. The Commons felt that no relief was given to the subject when a patent to fleece the public was taken from one man like Lord Danvers during the second session of Parliament and a worse one given later to the likes of Sir Stephen Proctor. Also, the sudden demand for just one subsidy as compared with the actual royal needs gave the members cause to fear that they would have no good answer to their grievances. The King would simply take his subsidy and dismiss them. Therefore they thought it more fitting to withhold the gift a while so that, by deferring it, the gift might double. Then they would give a substantial subsidy rather than a trifling amount that would in no way supply the royal wants. Besides, how could a suspension of twenty or thirty days be as

dangerous and prejudicial to the King as those who argued for the immediate granting of the subsidy asserted? On the contrary those who argued that a thirty-day delay was disastrous aroused the suspicion of those who opposed an immediate grant and gave them more reason to defer it. In the last analysis, the Lower House desired relief from abuses of purveyance and impositions. They felt that some of these oppressions were committed under the color of justice and others resulted from the overextension of the prerogative. Consequently, they reasoned that they would look very silly if they returned to their counties after sixteen weeks like empty-handed little children who had done nothing but try to catch butterflies. Some also feared that the subsidy was becoming nothing more than an annual rent. The House resolved then not to proceed with the subsidy but to send a message to the King explaining that, though this supply was deferred for a time, yet their purpose was to set all other business aside and attend to supply and the subjects' grievances principally and they hoped in due time to give his Majesty satisfaction to his good contentment.²²

King James was not too happy with this turn of events. His supporters in the Lower House had failed to turn the tide and obtain the needed funds. On Saturday, June 16, the Chancellor of the Exchequer brought another message from his Majesty who thought it strange, so Caesar told the Commons, that so mean a matter as

22 Ibid., II, 144-48.

one subsidy and two fifteenths were thus argued by the Commons, especially considering his former offer and his promise to receive and answer grievances. It was never his intention but to give them such an answer as might have satisfied any reasonable man. And, though he might feel justly offended by those who were too bold with his government, using arguments from former ages that were not applicable to his reign, yet he hoped it sufficient to warn them to refrain from the like hereafter or he might have just cause to doubt their intentions. He was not going to misjudge the proceedings in the House in not giving him the subsidy; and he was indifferent as to whether they made any other motion concerning the subsidy until they received full answer to their grievances. "At what tyme if our hearts and words which wee have already spoake doe agree together (as his dothe) then hee doth assure hymself of a happy issue of this Parliament . . ."²³

The Commons turned to the business of support and on June 15 instructed the Grand Committee to prepare a message to the Lords about it. The message, in its final form, was delivered by Sir Julius Caesar to the House of Lords on Monday, June 18. The Commons agreed to meet with the committees of the Upper House at a time and place determined by their Lordships. In the meantime they hoped the Lords would prepare themselves to satisfy the committees of the Lower House on the following three points.

²³Parl. Debates 1610, 58.

1. What more the Lords will offer unto the Commons, to be considered of, above the Ten things already proposed, and above that which they of the House have thought on to be yielded by Way of Retribution.
2. That the Lords will deliver unto them the lowest and certain price of those Things which they shall have and contract for.
3. What course may be taken, and what Project their Lordships will propound for levying that which shall be given, other than upon lands.²⁴

Cecil was somewhat exasperated by the Commons' constantly demanding what the King should give and he felt it might provoke a crisis, apparently because the King was tired of hearing what the Commons wanted without hearing them increase the size of their contribution. Cecil informed the Lords that such a demand of the Commons necessitated consultation with King James. At the meeting on the afternoon of June 19, James told the Lords' representatives that, on such a sudden notice, he could not set a price but would need more time to think about it.²⁵ He would tell the Lords his price the next Tuesday, June 26, at noon. On that date he told the Lords that he needed another night to sleep on the question of the price. But, as for the first and third requests of the Commons, they should use their own discretion. The King admonished them to "treat of whatsoever may tend to the Good and Ease of the Subject, without Touch to his Honor, or taking from him which

²⁴C.J., I, 441.

²⁵Foster, I, 110. L.J., II, 619.

he may not spare."²⁶

At the Lords' conference on June 26, Cecil briefly reviewed the history of the contract talks and then stated:

It is said that the word support is a pernicious word. But it was not mine but came from the Lower House. If I had moved a thing not fit for the people but such a one as was fit for the King and so made a separation between the King and the Subject,²⁷

he was unworthy to sit in the House of Lords. And if he had not presented the royal necessities, he was unworthy to be a member of his Majesty's staff. If the King did not reduce his price, then he was not acting as he had informed Cecil he would; or else Cecil had misunderstood him and, if that were so, he confessed his error. And, if he had misunderstood and his Majesty did not reduce his demand, he would repent for having been the first mover and beginner of this business of the contract. He did not know of anything new to offer the Commons and, as for the price, the Lords would know it as soon as he did. As for the assurance, he had many hammers knocking inside his head, "which should be the fittest way to levy it." Cecil further observed that, though they would have a conference, "yet it will be none in respect of a full conference." He doubted if the Commons would request to know much more than the royal price. He was pessimistic, then, about the outcome of this conference, for he believed nothing would be achieved unless they had a free conference. As far as

²⁶Ibid., 622-24.

²⁷Foster, I, 114-15.

the actual payment was concerned, Cecil observed that if the Lower House paid as much in subsidies and aids as the Lords, the King would need neither supply nor support. The justices of the peace never paid a twentieth part of their estates, though they should have paid as much as the Lords. He did not think, however, that the Commons should be charged as much for wardships' redemption as the Lords because it concerned the Lords more.²⁸

At the conference on June 26, Cecil revealed the King's new price. His Majesty craved seven score thousand pounds (£140,000) above the value of those items which would be taken from him as retribution, bringing the total sum of the contract to around £220,000. Cecil's pessimism was partially justified when the Chancellor of the Exchequer informed him that the Commons' conferees had no commission to treat with the Lords until they had reported to the Lower House. However, a certain Mr. Martin, probably Richard Martin, added that they could treat concerning the ten heads proposed by Cecil on February 24, which the joint committees proceeded to do. Cecil stated he was glad to have encountered Martin, and he sparred with him verbally about the ten offerings and other points of the contract. At one point he explained to Martin that the ten items of retribution originally proposed by him were worth more than the Commons offered. And when Martin insisted the Commons had offered more for wards than

28 Ibid.

they were worth with respect to relieving the subject, Cecil retorted that the sum might relieve the subject as far as the incidents were concerned, but it was inadequate to compensate the King for his loss of profit.²⁹

Cecil made several interesting observations in the course of his speech. The King, he noted, had fallen some sixty stairs (that is, £60,000 from the original £200,000) but the Commons had not risen one step. If they wished to deal for assarted lands (that is, royal wastelands and woodlands held for little or no rent) they would have to pay roundly, "for the King hath 4 or 5 thousand pounds or more every term . . ." for them. In addition they would have to meet the King's price for purveyance. If, however, they left purveyance out of the contract, they would pay £40,000 less. Cecil believed the latter to be the best course because he thought it was impossible to maintain the King's household without purveyance. He would rather see this entire business collapse than that the subject should pay for anything and then see that same thing spring up again. He wanted to see them rise in their offering; then he could hope for a good end. Otherwise they would adjourn after twenty weeks without accomplishing anything. To encourage them to rise to the occasion, he told them that in this price they could have whatsoever else they could think of by way of retribution provided it did not

²⁹Ibid., I, 117-20; II, 167-69.

touch the King either in honor or profit. Here, Cecil was doing no more than echoing the sentiments of the King as expressed to the Lords. However, subsequently, the Commons would add so many things that Cecil would later regret having made that offer. On the whole, Cecil liked the conference and, even though it was not quite the free conference he had envisioned, he hoped it would produce some good effects.³⁰

When Sir Edwin Sandys reported the conference to the Commons, he estimated that support would amount to £220,000, which meant £140,000 plus £40,000 each for wardships and purveyance. Some progress had been made in the joint discussion of the seven heads of retribution and eight additional heads, as proposed by the Commons, were "accepted into consideration." These included assarted lands and a request that outlaws ought not to forfeit all goods and properties to the Crown until their creditors were satisfied. As for purveyance Sandys carried home Cecil's stricture that it was "good to be advised of the security whether the King must not need purvey." If the Commons could not afford to redeem purveyance for a very good price, then they could have no real security that it would not spring up again, and had best give up the idea of and concede that the King needed purveyance. Even the Commons' lawyers held they "could hardly have good assurance, doubting generally the King's house could not subsist without . ." purveyance. As for the levy, the Commons' committees did not

³⁰Ibid.

think more than £100,000 should fall on the land. According to Sandys the Lords suggested that the Commons should come up with some "projects of levy." As Sandys reported it, there seemed to be some thought that the money could be raised by rating of the subsidy.³¹ The Commons apparently concluded that the sum demanded for the contract was too high. However, they were not unwilling to contract with the Crown, if King James would lower his price to a sum they could afford to pay. Finally, they did not think it fit to lay a greater burden upon the land than £100,000 per annum. The question of the amount of support was referred, along with all matters connected with it, to the Grand Committee.³²

The Commons presented their grievances to King James on July 7. In the area of ecclesiastical affairs, they desired that laws against papists and recusants should be duly executed and the fines resulting therefrom be placed directly in the royal coffers and not be diverted to private gain. They wished those ministers who had been deprived of their livings and silenced because they had failed to conform to certain canons and ceremonies

³¹C.J., I, 444. Parl. Debates 1610, 121-22. Foster, II, 169. Sandys said: "Projects of levy from us. Answer. We in the valley, the Lords upon the hill. The Lords have general intelligence, we but particular, ergo. In the books of subsidy the lands of the kingdom 200,000 li. at 4s. in the li., 40,000 li. The posse of the King laid before us. Answer. Extreme justice no justice in a just and gracious king."

³²Parl. Debates 1610, 123. The Commons' statement saying they would be willing to bargain reads, "Not unwilling to rise if the fall be such as we may effect."

should be restored to their livings. They also wanted non-residency and dispensations enabling clergymen to hold a plurality of benefices to be eliminated. And they also desired the Crown to remedy abuses of excommunication and to curtail the powers of the Court of High Commission.³³

As for civil grievances, the Lower House objected to the royal use of proclamations and requested King James to order the cessation of the jurisdiction of the Council of the Marches of Wales, which they felt had falsely assumed certain authority to itself, using a statute of King Henry VIII as a pretext. They also wanted the elimination of impositions not voted by Parliament and desired that no imposition be levied without consent of Parliament. They requested the King to terminate the imposition on sea coals shipped from Blyth and Sunderland and to withdraw the patent of the Duke of Lennox for sealing new draperies, which the King had promised to reform in the third session but about which he had done nothing. They further wanted the tax on alehouses eliminated because this tax was paid to a royal favorite who then exempted the houses from control by the local justices of the peace for a year, thus allowing vice to flourish. They also opposed the wine-licensing power of the Earl of Nottingham, the Lord Admiral of Armada fame, which they claimed was based on an obsolete law and gave to a subject the right to dispense from penal

³³Foster, II, 253-57.

laws and the benefits of penalties. Finally, they desired the King to permit the more liberal granting of writs of prohibition and habeas corpus.³⁴

King James responded to the grievances, as he had promised, on July 10 and again on July 23. He did not see the need for any further action against the Jesuits and papists than he had already taken in his proclamations, speeches and writings. As for deprived ministers, he defended conformity and stated that he would do what he thought fit in each individual case. He would not eliminate pluralism until single benefices generated enough income to support a clergyman. But he would see to it that when two benefices were controlled by the same man, a preacher would be maintained in the vacant benefice in accordance with the canons. He would no longer permit excommunications for contumacy or contempt if the Commons would pass a bill (previously rejected by them) enabling judges to punish such contempt otherwise than by excommunication. The King also promised reforms in the Court of High Commission and for ecclesiastical commissions in general.³⁵

The King and his Council would reform existing proclamations and make none in the future "but such as would stand with former laws and statutes and such as in cases of necessity former Kings made." He would allow prohibitions; but he would also continue

³⁴Ibid., 257-71.

³⁵L.J., II, 658-60. Foster, I, 133-34.

to maintain the jurisdiction of the Council of the Marches of Wales. The payment for alehouses would cease and the impost on sea coals would be removed. He would suspend Lennox's patent until new judgments were given. As for impositions "he would be willing to assent to an act by which his power should be suspended from imposing any more upon merchandises without consent of Parliament." He also stated that certain of the new impositions would be eliminated and that those which were abated would be listed in a published book. Whether his answer to the ecclesiastical grievances satisfied all of the Commons was debatable as seen by actions of the membership later in this session and in the fifth session. Roger Wilbraham judged the royal reply to the grievances in general as "not wholly satisfactory" in the eyes of the members of the Lower House.³⁶

Following the royal reply to the grievances on July 10, Cecil defended his policy of imposing. The House of Commons had just completed its great debate on the King's power to impose without its consent on July 3 by concluding "not to put the question of the right to condemn hereby the judgment of the Exchequer in the matter of currants, whereof all this is the consequence, but to frame a petition by way of grievances, implying the right, though not in express terms, which was accordingly done . . ." Cecil insisted his policy of imposing was necessitated by the troubles in Ireland and that it had the approbation of the mer-

³⁶Wilbraham, 105. L.J., II, 658-60. Foster, I, 133-34.

chant community and, of course, the impartial judgment of the court in Bate's case. He hoped that he had not abused the royal trust and maintained that he did not deserve to be placed in the same category of Empson and Dudley. Cogently he argued that many of the economic ills of England, which the Commons blamed on impositions, were really the result of economic and fiscal changes on the Continent. Further, he wished the need for impositions would cease with this Parliament. This would happen, naturally, if the King's estate were so well provided for that he no longer had to rely upon them. The speech was, along with the royal reply to the grievances, not particularly well received. To justify himself further, Cecil met with a select group from the House of Commons, namely, Sir Edwin Sandys, Herbert Croft, Sir Francis Goodwin, M.P. for the borough of Buckingham in Bucks. County, Edward Alford, M.P. for Colchester in Essex, Sir John Scott, M.P. for Kent, Sir Henry Neville and Sir Maurice Berkeley, in Hyde Park. When the Commons heard of this, "they were all suspected as plotters of some new designs. And the great matter of the contract was in danger by this jealousy, to have sped the worse, which most of these did seek to advance."³⁷ The Lower House eventually passed an impositions bill on July 17 which died in committee in the House of Lords. King James had not opposed the passage of such a bill by the Commons because it would give the members of the Lower House a feeling of satisfaction and perhaps

³⁷ Foster, II, 250, 274.

incline them to be more generous in supplying the royal wants. He knew, of course, that it would be defeated in the Upper House.³⁸

On July 11 the House of Commons agreed to vote his Majesty one subsidy, but only one fifteenth instead of the traditional two. The vote in favor of one fifteenth was 149-129. The subsequent attempt to obtain a second fifteenth was defeated, 145 to 130. Dudley Carleton felt that because the King did not remove the new impositions the Commons went away ill-satisfied and demonstrated their hostility by voting as they did to serve the King with a warning, a subpoena melius respondendum. If King James granted more concessions then, perhaps, the Lower House might find it in their hearts to be more generous. Cecil judged the subsidy as a drop in the bucket, but, of course, it was better than nothing at all.³⁹

Speaker Phelips moved on Thursday, July 12, that, after the subsidy was agreed upon, the remainder of the session should be devoted to the question of tenures. The House decided to continue the matter of support that afternoon in committee. The following morning Sir Edwin Sandys reported that the committee had designated the sum of £180,000 to be offered to his Majesty, "no penny to be offered more," and an offer of 2d. in the pound over all the land for the payment thereof. John Hoskins and

³⁸Ibid., I, 157; II, 275, note 2, 283.

³⁹Ibid., I, 149; II, 275-76.

William Noy, M.P. for Grampound in Cornwall, wanted to confer with their counties before making any commitment. Sir George More wanted £100,000 levied on the land and the rest by some other method. Both Nicholas Fuller and Richard Gore (or Gower), M.P. for the city of London, opposed the rating of the 2d. in the pound and Sir Edward Alford suggested that, since much of the money coming to the Crown went to the officers and clerks, these funds ought to be given only on condition that they went directly to the royal coffers. When the question was posed whether or not to give the sum of £180,000 for the tenures and the matters of relief propounded or which would be propounded, provided they did not concern the King directly in honor or profit, it was passed immediately.⁴⁰

The subsidy received its first reading at this time and the French Ambassador Boderie wrote that subsidies would be granted only on condition they were used to pay royal debts, the remainder going into a treasury controlled by Parliament. He was probably only reporting the wishful thinking of a few members. But this idea of controlling royal funds recurred in the State Papers (14/55/61), when it was suggested "to have the King barred from alienating any part of his support." Cecil also believed the support had to be tied to the monarchy. If the King overspent, he would have to look to some other source of revenue to bail him-

⁴⁰Ibid., II, 276-77. C.J., I, 449.

self out.⁴¹

Commons' committees were appointed on Saturday, July 14, to prepare themselves for argument and dispute with the Lords at a conference the following Monday. Sir Julius Caesar delivered from the officers of the Greencloth certain propositions connected with purveyance touching preemption and provisions of coal and wood that were referred to the committee. Perhaps these were designed to coax a good high sum out of the Commons for securely redeeming purveyance. The committee utterly disallowed them and did not think fit to mention them. They determined instead that at the meeting with the Lords Sir Henry Montague would handle the tenures, Richard Martin would cover the seven heads and Sir Edwin Sandys the demands and offers of price. They resolved further to propound to the Lords that the government refrain from certain disturbing practices, such as searches for concealed wards, during the interim between sessions. These items were to be proposed along with a reservation permitting the Lower House liberty to propound or add anything else thereafter that did not concern the King in honor or profit. For all this £180,000 was to be offered. Eight other articles were added, probably made up of the eight articles Sir Edwin Sandys had previously mentioned. They included a request that no man be forced to lend money to the Crown, that the government arrest guilty royal servants, that the statute of Henry VIII allowing the King to make arbitrary laws for Wales be

⁴¹Foster, I, 158; II, 278. S.P. 14/55/61.

repealed, that debts of persons outlawed or attainted be paid to other creditors before the Crown took its share and that witnesses be allowed to testify under oath on behalf of the defendant in criminal cases.⁴²

At the conference on the afternoon of July 16, Richard Martin presented the grievances and Sir Edwin Sandys spoke on the offer of £180,000. He designated £30,000 for wards plus £10,000 for compensation for the officers of the Court of Wards. He estimated that purveyance was worth £27,000 plus £3,000 for carts and concluded that the Commons' offer of £40,000 was quite generous. Sandys insisted that other nations did not spend as much on purveyance. According to Sir Edwin, the Commons offered for wardship, purveyance and the other items of retribution £180,000. They had arrived at this figure by evaluating the royal needs and the subjects ability to pay.⁴³ To emphasize the Commons' generosity, Sandys insisted that the other items of retribution did not bring to the King £100,000 a year. Cecil replied that they must meet again for he had heard his master the King say that unless the Commons married his virgin (that is, agreed to his Majesty's terms) they could no longer have her in their hands. He disagreed with Sandys on the value of wardships, insisting that the Court collected £28,000 and could get another £10,000 "for now where much goeth secretly from the ward to his undoings the court shall

⁴²Foster, I, 140-41; II, 277-79. C.J., I, 450.

⁴³Foster, I, 140-43; II, 283.

take notice thereof." If the King had sufficient funds, he could live without purveyors' commissions and compositions would cease. But Cecil did not see how the need to obtain fowls, woods and carts could cease. If they could not agree on adequate financial security for purveyance, they were simply beating the air. His Majesty could only live without purveyance if he had sufficient funds. Sandys responded that he had no doubt but that there would be security on both sides and King James would have what he wanted. And Cecil further wished that he himself might perish if he did not mean that the Commons should have those things "if it pleased the King, so he had worthy satisfaction for them."⁴⁴

Following the meeting, Cecil, the Earls of Northampton and Worcester and the Lord Chamberlain met the King at Theobalds "where they long debated the weight of this great business," and also presented the most recent demands of the Commons. According to Cecil, his Majesty wished to know what transpired at the conference and marveled that the Commons questioned things never spoken of in former times. King James considered it some disparagement for a prince to fall in point of honor, "for although the lower House do not fall from their former offer, yet they do descend into more particulars than they did before." He would send them his answer by letter and, if he did not like their offer, he would dissolve Parliament and carry on no longer with such hopes. As for the grievances, his Majesty was willing to surrender his

⁴⁴Ibid.

right to make arbitrary laws for Wales and to allow outlaws to pay their creditors before forfeiting their goods to the Crown. But he would not allow testimony on behalf of the defendant in criminal cases because it would be an occasion for perjury. Nor would he permit the imprisonment of royal servants who were at fault; nor would he accept the Commons' complaint against forced loans as valid.⁴⁵

Cecil presented the King's final demand for £200,000 to the Commons on the afternoon of July 17. He emphasized his own sacrifice, stressing that in surrendering the Court of Wards he was offering to the country a sacrifice which no one else offered. As the Commons were departing, he called them back with a final and peremptory resolution. The distance was so little, the bargain so advantageous and the contentment of both the King and his people so great, that if they did not accept the royal terms, they would repent hereafter. He assured them that if they did not accept the King's offer, his Majesty would never again make a similar offer to that assembly and he would instantly dissolve Parliament. After the report Sir Julius Caesar called it a sacred offer and begged the Commons not to let their posterity curse them for having refused it. The Commons accepted the royal offer by a majority of sixty votes. Following the vote, the members agreed that the general committee should meet that afternoon to

⁴⁵Ibid., I, 144-45; II, 283-86. C.J., I, 451. John Pory to Sir Ralph Winwood, July 17, 1610, Winwood, III, 193.

review the particulars of the contract and the grievances (whether already presented or to be presented) and further to propound any new demand in connection with the contract provided it did not directly concern the King in honor or profit.⁴⁶

The Lower House appointed a committee to consider distribution of the money on July 18. Richard Martin, seconded by Sir Edwin Sandys, proposed that something be said in the next conference about compensating the officers of the Court of Wards and the mesne lords. Ultimately, the Commons would include a statement in their Memorial of the contract requesting the Lords to join with them in petitioning his Majesty to recompense from his own funds the officers of the Court of Wards hurt by the contract. Sandys also offered a petition that requested that the four English counties of Gloucester, Hereford, Shropshire and Worcester be exempted from the jurisdiction of the President and Council of Wales. It was argued that the people in those counties should be exempted because they were remote from purveyance and subject to few tenures and would therefore receive few benefits from the contract. The Commons also felt that the royal reply to the forced loans and the arresting of royal servants should be entered as grievances.⁴⁷

The Commons entertained further proposals and consideration

⁴⁶Foster, I, 145-46; II, 284, 286. C.J., I, 451. Winwood, III, 194.

⁴⁷Foster, II, 286-87. C.J., I, 451. L.J., II, 661.

of the conference on July 19. George More proposed that since they were offering out of love £200,000, they could therefore hope the King would admit any proposal of theirs in this contract that did not touch his honor or sovereignty. Certainly some in the House of Commons intended to increase the list of grievances very extensively. Sir Maurice Berkeley wished the House to keep in mind the sacrifice of Cecil in surrendering so much profit since "no subject in the world departeth with greater." He also proposed that they move that no more than £100,000 should be assessed on the land, but this was not thought fit.⁴⁸

The Lords also prepared for the conference by debating issues on the morning of July 19. Cecil began by illustrating that, as a consequence of the last meeting, the Commons knew what they would obtain but the Lords did not know what his Majesty would receive. He viewed the tenures as the sinews of the bargain and thought that £100,000 should be assessed on the land and that the contribution for purveyance should be derived from the land since the land was a certain source of revenue and income derived from it was less likely to decline in value. Cecil also noted that there were a mere handful of members presently in the Lower House and they were more likely to pass measures now than when the House was full. The Lord Exeter, Cecil's older brother, added that the Commons would not be bound until they knew how the money would be levied. The Earl of Northampton wanted to know if any

⁴⁸C.J., I, 452.

Lords could suggest any other manner of levy "or else to follow my Lord's Cecil's motion." Lord Zouch felt the Lords had to devise some means for the levy and he liked Cecil's proposition, but he believed the Commons would do nothing about the levy until Parliament met again. Lord Petre considered it wise to have a committee devise how to make the levy "for the land ought to bear that it now doth." Cecil then suggested they draw up a memorial of what was agreed upon so there would be no mistaking between them and the Commons as to the terms of the contract. Lord Sheffield contended that, if the Lords insisted on arriving at some conclusion about the manner of the levy now, it would break the bargain. For the Lords had left the determination of the manner of the levy to the Lower House. The Bishop of London thought the bargain should be set down in certain terms "lest the state should be deceived of his expectation and the gentlemen not know what they may deliver unto their countries . . ." For the King's money should be obtained from "certain things so his Majesty may receive it certainly." The Lord Chancellor wished to know whether his associates considered it possible to determine how to levy the money without sending commissions into every county as the Lower House desired. Cecil believed the Lords were all agreed as regards the levy and he would use caution, as Lord Sheffield had advised, "that we may not break for I desire that the contract may hold and am as much enamored with it as any." But he did not want to make a bad bargain for the King by taking silver in return for gold and certainly not mercury for silver. He concurred with the Bishop of

London in desiring that the bargain might be written down as now agreed, "and if an instrument cannot be drawn to bind it then by my Lord Chancellor that the King would be pleased to deliver his pleasure and liking of the bargain." The Lord Chancellor believed the King's counsel would observe their duty to the Lower House while seeing that nothing was done to prejudice the King. The Bishop of Rochester hoped the Lords would settle a certain sum upon the King and that royal officers would not be forced to trudge around the country for it, "which if it be not cared for, this hundred thousand pounds a year may be spent in gathering."⁴⁹

At the joint committee meeting that same day, Sandys explained that the Commons' lawyers had departed and their own bodies were fatigued. Therefore he trusted the Lords would not expect them to make a final end to the business. He submitted some new additions to the contract: (1) that the four shires be exempted from the Council for the Marches of Wales and placed under the legal jurisdiction of the common law courts at Westminster; (2) that commissions be issued to declare just and proper fees for all courts and offices of the realm; (3) that the King be bound in demurrers as in 27 Elizabeth; (4) that there be a survey of penal laws and those judged obsolete and unprofitable ought to be repealed and those of a similar nature that were beneficial ought to be consolidated; and (5) that there was nothing more requisite than to yield justice to the King's good subjects. By

⁴⁹Foster, I, 152-54.

this he meant that officers of the Court of Wards should be compensated. Sandys enunciated the consensus of the House of Commons that the man who stood to lose the most, namely Cecil, had dealt most honorably with them. Members of the Lower House therefore wished their Lordships to join with them in requesting "that his Majesty would be pleased to consider of the officers' losses, especially of My Lord Treasurer, being Master of the Wards." As for the levy, seeing that they had added purveyance, Sandys thought they must levy more on the land, though not all lest the people should be grieved. Time was too short to think of the form of the levy that session.⁵⁰

Cecil answered that he could envision no cause that could break the contract except the rumor of the world if Parliament adjourned before expressing its intention by some act. The Lords wanted the bargain set down in certain terms so there would be no doubt that a contract had been concluded and so there would be no misunderstanding, then or later, as to what had been agreed to. They should not leave the matter so that another meeting might alter it, and the people should know that they had not been undone. Such uncertainty and misconception could lead to rumors that would eat through the contract like worms and destroy it. Cecil further felt that they were a competent number to make a binding agreement even though their lawyers were gone. They must have some act or ordinance that could bind the contract so the

⁵⁰Ibid., I, 154-56; II, 287-89.

King would know for sure what was given him. In the Lords' conference that morning, when it was moved what security should be required from the Commons for true payment to the King of what he was to have by the contract, Cecil stated that an act could not pass for lack of time, but an ordinance might, because the former necessitated passage by both Houses and royal approval and the latter could be assented to by one House and the King. Cecil told the Commons he longed to have his master approve the contract, indeed, King James did give his consent to the Memorial of the contract which contained its basic terms.⁵¹ And finally Cecil instructed the Lower House to settle the contract on terra firma lest the King reject it. (By terra firma Cecil may well have meant that the entire levy should come from the land.) He remarked that he had not hindered the contract but, in his affection, had furthered it. He had given of himself and the Commons will have given him himself again, if they conferred on him the mark of love and of a good servant. The Commons interpreted Cecil's speech to mean "that no difficulty in the levy, no difference in

⁵¹Ibid. The Lords Journal stated that "The Lords also . . . thought it fit and Necessary, not only to acknowledge their personal Consent to the substantial parts of this Contract, but have (with the Privity of His Majesty, as an Argument of His Consent) given Order likewise for an Entry to be made of the same Memorial, in Manner as is aforesaid . . ." (L.J., II, 662). Parliament passed no act or ordinance regarding the Contract. As Samuel Calvert wrote William Trumbull on July 25, 1610, "Interchangeable instruments were demanded for performance on the King's part, which by artifice is denied, and in the meantime the King's word must secure all which is passed." (H.M.C. Downshire, II, 328.)

the assurance should break the bargain."⁵²

Sir George More offered a project in writing on July 20 to the Lower House designed to settle the contract so far as it was already agreed upon. Indeed, his proposals strongly influenced the final version of the Commons' Memorial. It was read twice and then referred to a grand committee charged to consider all the articles agreed to and assented to by both Houses. According to More the contract was "concluded but not finished," the Commons agreeing to the amount but deferring the way, means and time of payment and the King agreeing to yield wards, tenures, purveyance and other things

and in general whatsoever before the bargain ended by the subjects shall be offered which shall not impair the honor of the King in sovereignty nor diminish his estate in profit; but of these things from his Majesty no assurance given nor otherwise agreed on, but that by act of parliament it shall be given with as much strength as can be devised.⁵³

To avoid any misunderstanding, the preliminary bargain was to be set down and a memorial of the agreement between King James and Parliament made and recorded in both Houses so "this contract and agreement may stand upright and firm in substance and manner as it now doth," in order that both King and subject would be tied for the just performance of it. In the meantime, for the ease of the subject, it would be announced in the counties that, until the finalization of the contract, the people would not be molested for payment of old debts, or by searches for concealed wards,

⁵²Foster, I, 154-56; II, 287-89.

⁵³Ibid., 289-90.

land titles, assarted lands or lands rescued from the sea. Furthermore knights and burgesses were to carry a written copy of the agreement home so the people would know what payments they would have to make and what benefits they would receive. Finally, the contract should state that "cottagers having some small quantity of land shall not be rated towards this payment nor townsmen but in a moderate manner although they have estates of free land."⁵⁴

On July 21 the Lords received the Memorial from the committees of the Lower House and ordered a similar instrument drawn to signify their assent to what was at best a very tentative agreement.⁵⁵ The reason for this was that in their Memorial the Commons had reserved to themselves the right to add, diminish and interpret the various clauses of the contract. Consequently, the Lords also retained the same liberties to themselves and the King. The Commons apparently wished these reservations to apply more to the additional concessions demanded from King James, which were to benefit the subject while not depriving his Majesty of honor or profit, than to essential portions of the contract such as the price and the surrender of wards and purveyance.⁵⁶ This does not

⁵⁴Ibid.

⁵⁵See Appendices II and III.

⁵⁶Commons inserted a clause in its Memorial stating "That the Extent of every Article that is desired for the Good of the Commons in this great Contract with His Majesty, should be expounded and explained, in all Clauses doubtful, by the House of Commons, according to their true Meaning." Sir Edwin Sandys explained to the Lords that, notwithstanding the said clause, "it was not intended to make any Question of the Price, or of any

mask the fact that the Commons were proceeding very cautiously and that their reservations weakened considerably the binding force of the agreement contained in their Memorial.

On the same date, Cecil stated he wished to be left out of any compensation to the officers of the Court of Wards because the King's favor was enough for him and, if he deserved anything, King James would reward him. However, he would join with the Lords in obtaining compensation for the officers. He believed the contract involved a great sacrifice by the King and a large financial undertaking on the part of the people. Therefore, he concluded, the sum given must be tied to the Crown and if King James spent for objects of magnificence more than he possessed he must find the needed revenue from some other source and not the contract.⁵⁷

Sir Edwin Sandys discussed Cecil's request that the assurance the King desired should be on a firm foundation at the conference with the Lords on July 21. He stated that the House of Commons had not entered into that consideration, but that they did determine the revenue would be firm and stable. They assented to the £200,000 and were pleased that King James had agreed to

main Part of the Contract (because they were agreed in Substance) but only to reserve some Liberty for the Exposition of the Extent of some Branches, which contained those Requests which they had made (under that Liberty which His Majesty gave them to propound such other things as should not derogate from His Honour and Profit); in all which they desired also, by the Mouth of Sir Edwin Sandys, to retain Liberty, in addendo, diminuendo, & interpretando." (L.J., II, 662)

⁵⁷ Foster, I, 158.

their requests to surrender purveyance, tenures and wardships and whatever items they would insert at the next meeting of Parliament that did not touch the King in point of honor or profit. As for the assurance, said Sandys, the Commons had resolved upon an act of Parliament, "in such sort as by the advice of my Lords, the Judges, shall be thought sufficient both for his Majesty's annual revenue by this contract and also for the people's security." He then justified the smallness of the subsidy grant by attributing it to the fires, plagues, violent floods, famine and drought that had occurred in the land. The Commons did not wish to levy any more on the poorer sort because they felt it would drive them to sell their clothing to meet the payments, and therefore accompanied this subsidy with only one fifteenth. The Commons requested that for the sake of the poor no money for the contract come from a tax laid on foodstuffs. They also wished to announce three benefits to the "better part" of the population socially speaking. First they wanted to carry down copies of the contract agreement. Second they wanted to announce his Majesty's gracious answer to the grievances. And third, since they had no new laws because they had spent most of their time with grievances and the contract, they wished the Lords to ask his Majesty that such penal laws might be preserved as were best for the subject; that all purveyors might be taken away both by land and water; that the composition or payments made in place of purveyance might be dissolved; that no royal documents would be issued granting immunity from arrest; that all exposition of the contract would

be left to the Commons; and that they be allowed to make any addition to the contract during the next session provided it did not touch the King in profit or sovereignty. As far as the Commons were concerned, Sandys remarked, four points were vitally essential to the contract: (1) that the sum be stable and firm in lieu of the things granted; (2) that the assurance be the best they could have by their own advice; (3) that the levy be with greatest ease to the people; and (4) that the grievances be satisfied and the contract perfected.⁵⁸

Cecil replied that no man could make him believe the King of France received only £400,000 in revenue, an example used by Sandys in his speech to make the grant of £200,000 to King James seem so much the greater by comparison. Cecil further could show that King Louis XI got closer to one million pounds, and he believed that if there were anything in the contract prejudicial to the King it would be amended, since both the King and the people were working toward the selfsame end, which is the public good. And, continued Cecil, speaking about the Commons' insistence on adding, diminishing and interpreting the contract, particularly in their requests for redress of grievances which did not detract from the King in honor or profit, the Lower House would discover that to those things he offered for the King "there should not so

⁵⁸Ibid., I, 159-61.

many things have been inserted."⁵⁹ He felt there was nothing more ordinary and predictable than that the King never made a bargain with a subject "but he is the loser though the people will not think so." The assarted lands, defective titles and drowned lands would bring in the equivalent of a treble subsidy, not to mention the post fines and the fact that the Commons were £8,000 short in their offer for purveyance. Though Cecil hoped to bring a straw to his nest, he had to say he could not yield to all the things in this Memorial although he desired to do as an honest man.⁶⁰

Cecil added later that day that the King would keep the four shires under the Marches of Wales even though he was unresolved as to their future. King James on his part would grant the Commons the right to search out the number and nature of the penal laws and the courts' and the lawyers' fees. The Lords, however, would join with the Commons in the petition for demurrers even though it touched the King in point of honor. The Lords would also join with the Lower House in a petition to his Majesty for satisfaction for all the officers of the Court of Wards except the principal officer who thought he had satisfaction enough in their remembrance of him. Cecil concluded by reminding the Commons that as the sun was now bound within its tropics, so their demands must be

⁵⁹Ibid., I, 161. Cecil's actual words were "If I should speak addendo diminuendo et interpretando, then shall you find that to those things I offered for my master there should not so many things have been inserted."

⁶⁰Ibid., 161-62.

bound. Yet if they dealt with his Majesty more bountifully in the matter of supply in the next session, Cecil did not doubt that King James would deal with them "with a more open hand," for he was a most benign prince. Cecil assured himself of these things and, looking for no more answers to their new Memorial until the next meeting, he left these admonitions to their judgments.⁶¹

Cecil presented the Lords' version of the Memorial to the Upper House on June 23, insisting that the Upper House granted nothing nor denied anything but maintained the same reservations regarding the contract as the House of Commons.⁶² It was during this meeting that the bishops complained that without their customary income from the feudal dues they could not meet their obligations. The question of compensation to the officers of the Court of Wards was also raised.⁶³ It must be admitted that for all the talk about compensation for these men, the outlook for substantial aid was dim. The Commons wanted the King to make suitable provision, presumably from the contract money; and King James wished to make the officers' pensions the responsibility of Parliament and something not paid from his £200,000.⁶⁴ After this meeting was prorogued and the King had gone on progress toward Northamptonshire, he was pursued by escheators, feodaries and

⁶¹ Ibid., 162-63.

⁶² See Appendix III.

⁶³ Foster, I, 164-65.

⁶⁴ H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries, 144-45.

other officers whose jobs would be abolished if the contract were perfected.⁶⁵

Parliament and the King had agreed tentatively, then, to the basic provisions of the contract in the respective Memorials; but much remained to be done and the path to success was filled with thorns. Cecil had warned the Commons at the end of the session about adding too many more articles containing grievances to the contract; and he had also raised the subject of the need for additional subsidies in order to keep his Majesty in a cooperative mood. On top of these, Parliament itself had left the manner of the levy which, according to a contemporary, would prove a business of great intricacy, and the form of the assurance, that is, the means of binding the King's prerogative, until the next session.⁶⁶

Henry Hastings, Earl of Huntingdon and parliamentary dia-
rist, believed that one of the reasons the contract failed was because King James wanted the entire sum levied upon the land, the terra firma, and the Commons simply did not wish it. Certainly, the landed classes showed no great desire to increase their con-
tribution to the Exchequer and, when wardships and purveyance were finally eliminated in 1660, they saw to it that they were

⁶⁵H.M.C. Downshire, II, 328.

⁶⁶Foster, I, 161, 163. Winwood, III, 194. Dudley Carleton wrote to Edmondes that "the manner of the levy and assurances are . . . put off till next meeting, without so much as any course taken to be more ready in them in this time of vacation . . ." (Foster, II, 290, note 3).

replaced by excise taxes on beer and cider payable by all subjects.⁶⁷ Cecil apparently wanted a fixed and certain revenue which he felt could only be derived from a land tax and it was most probable that his Majesty agreed with him. The landed gentry in the Commons did not wish the full amount assessed on the land, claiming that land could not bear such a charge for a long period of time. If the entire amount were assessed on land, many groups such as usurers, merchants, tradesmen and officers of the court would be exempt. It was probably not fair to tax all lands equally regardless of tenure because some groups benefited more from the contract than others. It was argued that it was unfair to tax a socage tenant of a copyholder for something which benefited only a tenant by knight's service. On the other hand, there were portions of the contract, such as those affecting purveyance, discharge of old debts and the execution of penal laws which helped most people. The ideal was to survey the entire kingdom, determine each man's value in property and moveable goods and then make the proper assessments. This would prove an impossibility, however, particularly since the wealthiest men sitting in Parliament were not interested in permitting the government to discover their true worth.⁶⁸ Certain parts of the country, the northern

⁶⁷H.M.C. Hastings, IV, 227. Menna Prestwich, Lionel Cranfield (Oxford: At the University Press, 1967), 43.

⁶⁸S.P. 14/55/61 (Considerations on the best means for raising £100,000 yearly, to be granted by Parliament to the King, for relinquishment of wardships &c.). Foster, I, xix.

parts for example, wanted to bargain only for wards since purveyance did not affect them. When Sir John Hollis queried his people in Nottinghamshire, he found the better sort of people more enthusiastic about the contract than the common people. Even Cecil, as much as he seemed to favor the land tax, expressed uncertainty at times over the best way to levy the sum. Certainly such difficulties as these contributed to the ultimate failure of the contract.⁶⁹

As for the form of the assurance, there was a good deal of suspicion about whether security could be obtained from the King that he would maintain his end of the bargain. Again, Henry Hastings, Earl of Huntingdon, believed the contract had failed because the King would not acknowledge his prerogative as inferior to the law "and therefore noe good assurance and tie can be made but his prerogative wilbe above it." There was a desire to bar King James from ever alienating any of the support because of the fear that he would spend it rashly; and there was also suspicion that subjects would succeed, either by purchase or by royal favor, in getting themselves discharged from paying their just amount of the contract assessment. And some felt also that the King or his successors might use such incidents as grounds for

⁶⁹S.P. 14/57/62. Foster, I, 115. Wilbraham, 104.

demanding a new support.⁷⁰

⁷⁰H.M.C. Hastings, IV, 227. S.P. 14/55/61. This State Paper contains a summary of general observations on the problems of raising the money and does not specifically attribute statements to individuals or groups.

CHAPTER V

FIFTH SESSION THE GREAT CONTRACT OCTOBER 16-DECEMBER 6, 1610

Sir Julius Caesar's Criticism of the Contract

During the summer of 1610, one of the most serious criticisms of the Great Contract extant today appeared. Written by Sir Julius Caesar, Chancellor of the Exchequer, it undoubtedly provided ammunition for the opponents of the contract at Court and may well have influenced King James against the bargain; though, in his Majesty's case, it could not be considered the only thing to turn him against Cecil's plan for financial reform. The memorandum was drawn up in the form of arguments followed by objections on August 17, 1610, the day before Sir Julius was to meet with Cecil.¹ It has been said that Cecil agreed with this

¹Parl. Debates 1610, 163-79. B.M. Additional MSS. 36767, f. 284, Earl of Salisbury to Sir Julius Caesar, August 13, 1610.

critique of the contract.² Certainly he could not have ignored it. On the other hand, some of the objections to Caesar's arguments which the Chancellor refuted in his memorandum may have reflected ideas of Cecil.

Sir Julius Caesar calculated that King James was surrendering £44,000 in wards, £50,000 in purveyance, and £21,000 in assarts, defective titles and informations on penal statutes, £115,000 in all, thus leaving himself with a net gain of only £85,000. Such a sum of money was insufficient to pay off the existing deficit of some £198,000. And, seeing that the House of Commons had so far voted only one subsidy, nothing substantial had been provided for payment of the £600,000 debt. Thus, Caesar argued, the King would part "with the fairest flowers for profit and commaund in all his garland" for a sum which could not pay his debts and which would in fact permit his miserable wants to continue. Since the Commons had provided nothing to take care of the £600,000 debt, almost £60,000 of the £85,000 profit from the contract would be needed to pay the interest on that debt. Furthermore, the true value of the revenue King James was surrendering was at least £100,000 a year more than the Commons offered by Caesar's calculations. Besides which, if the contract were enacted into law, many persons would lose offices for which they had paid dearly; and the lawyers alone would lose thirty per cent of

²F.C. Dietz, English Public Finance, 141. Joan Thirsk (ed.), The Agrarian History of England and Wales, Vol. IV, 1500-1640 (Cambridge: At the University Press, 1967), 273.

their business. Caesar figured that after the contract became law his Majesty would receive no more subsidies in peacetime. As a matter of fact, the Chancellor believed the Commons were using this argument to get their constituents to approve the contract. The contract, he concluded, represented a ready passage to democracy "which is the deadliest enemy to a monarchy." Rather than have to resort to such contracts, which were really the result of financial desperation, the King should use greater foresight in his fiscal planning.³

The Chancellor estimated that his Majesty could obtain £85,000 in additional revenue, equivalent to his net gain by the contract, by increasing his income from wards by £44,000, from purveyance by £20,000, from penal statutes by £12,000 and from assarts, defective titles, forfeitures, outlawries and the like by £13,000. This type of financing probably appealed to Caesar because he had witnessed Cecil's success in increasing money for the Exchequer by these and similar means during the early days of his lord treasurership.⁴ There was, however, a definite risk in this sort of financing which Caesar recognized and which Cecil may have pointed out to him. The people, too, were already complaining about the present profits made from such levies as wards, purveyance and penal statutes. If the revenue from these

³Parl. Debates 1610, 164-79.

⁴Ibid. B.M. Lansdowne MSS. 168, ff. 297-306. In these folios Caesar calendared Cecil's financial transactions during his first months as Lord Treasurer in 1608.

sources was increased, the complaints would double and the people might be stirred, if not to rebellion, "yet to such a coldness of future contributions, that maie justlie occasion despaire in the King never to receive relieff hereafter from his subjects by fifteenths, subsidies or the like . . ." Caesar insisted, however, that the profits from such sources of income could be increased to the King's benefit "by diverting the current of private men's gain to his right course into the Exchequer, and bringing that benefit to the King's purse, which heretofore hath served to raise the fortunes of others . . ." In this way the people would receive contentment by seeing their money, formerly the object of private men's desires, now employed for the King's use and benefit. If the officials, inferior ministers or clerks abused the people, they would be properly punished.⁵

Caesar's proposal was far from fool-proof. It was certainly possible for King James to eliminate some of the gross incidents of corruption if he so desired. But for the King to prevent the taking of all excess fees and gratuities and thus divert all public monies to public ends was impossible. If the contract became law, many people who made a living by giving information about violations of penal statutes, by reporting and collecting old debts and through searching and revealing concealed wardships would lose their positions. Officials who made up deficiencies in their salaries by taking fees, gifts and other gratuities

would suffer as well. There were simply too many people diverting public monies to private ends and without them the government might not be able to function. On the other hand, Caesar's proposal that yields from wardships, penal statutes and old debts could be improved by considerable amounts while eliminating the private gain of the officials responsible for obtaining the increases was pure fantasy. The English monarchy of the early seventeenth century did not possess the machinery necessary to raise sufficient revenue to provide for a properly salaried ministry and civil service. And increases in taxation were resisted as were increases in fees. Since the Crown lacked sufficient tax revenue to pay its servants a living wage, these officials, who collected the old debts and revealed the concealed wardships, made up the difference by collecting money from the public through these various fees. Such fees generally irritated the public and were another example, like monopolies and patents, of the indirect taxation practised by the monarchy to obtain needed funds and to dispense patronage. Cecil apparently felt the elimination of wardships, purveyance and many penal laws would not only do away with these feudal remnants but also do away with some of the officials whom the public abhorred as a great burden. Of course, such officials and their supporters were trying to prevent this and also were pressuring the King and making the outlook for a successful negotiation of the contract bleak in-

deed.⁶

The fact that the contract did threaten the status quo to such an extent was what led many people to doubt Cecil's sincerity in propounding it. Cecil was certain to lose a good deal of the power and patronage he possessed in the Court of Wards if the agreement were ratified and many simply doubted that he really meant to divest himself of so much power. Then too, King James must have realized that the loss of such officials meant a diminution of his patronage as well as a reduction in the number of persons from whom the government could borrow money and obtain credit. The fact remained that what many today might view as corruption was really a necessary ingredient in making the governmental system of that time function.⁷

Caesar's memorandum also contained a discussion of methods of fiscal retrenchment. These involved reductions in Household and Wardrobe expenditures of £64,000 a year and cuts in the King's personal extraordinary spending of £50,000, if these recommendations were implemented. These amounts along with another £84,000

⁶Menna Prestwich, Lionel Cranfield, 42-43. Joel Hurstfield, "Political Corruption in Modern England: The Historian's Problem," History, 52 (February, 1967), 16-34. Foster, I, xvii-xviii; II, 293.

⁷H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries, 144. Thomas M. Coakley, "Robert Cecil in Power: Elizabethan Politics in Two Reigns," in Early Stuart Studies: Essays in Honor of David Harris Willson, ed. Howard S. Reinmuth (Minneapolis: University of Minnesota Press, 1970), 90-1. Foster, I, xvii-xix. Joel Hurstfield, "Political Corruption in Modern England," 27, 33.

obtained from improving royal lands would net King James the £198,000 needed to meet his ordinary debts. The objection to this proposal in the memorandum, which may well have reflected Cecil's thinking, stated that curtailing expenditures might prove more distasteful to his Majesty than parting with the various prerogatives as prescribed in the Great Contract. And, when Caesar came to make his final statement in the memorandum on fiscal economy, he excluded from his calculations the £50,000 in extraordinary spending. It would take another seven years of financial turmoil before King James would back the plans of Lionel Cranfield for sound fiscal retrenchment and administrative reform. Although Sir Julius stood behind certain of his proposals to cut expenditures, he ended up proposing that the £600,000 should be paid for by sales of Crown lands, a process which diminished potential future royal income.⁸

It was probably most unfortunate for Cecil that he did not present to the House of Commons a program for fiscal retrenchment along with the contract. The Commons criticized royal spending, particularly gifts and pensions, many of which were lavished on Scots by the King, much to the chagrin of the English. Also his Majesty's failure to curtail expenditures gave many members of Parliament justification for opposing the contract. What good would it do to vote the King money since he would only give it to his favorites? Thus, had Cecil made a retrenchment proposal, he

⁸Parl. Debates 1610, 163-79.

might have garnered needed support for the contract. The question was, why did he not do so?⁹

Cecil probably concluded that, after years of unsuccessful prodding, King James would not follow a consistent policy of fiscal retrenchment. The Council had pleaded with his Majesty to curtail his gifts and the King had promised both Cecil and the Council that he would restrain his bounty.¹⁰ Unfortunately, his Majesty could not resist the pressures around him and was unable to put himself on any consistent course leading toward fiscal solvency. Books of bounty and various lists indicating in what areas the King would restrain his gift-giving were drawn up, but they had no real effect on his spending.¹¹ By 1610 Cecil believed the only way to pay the bills was by obtaining revenue through the surrender of prerogatives. This was easier than asking his Majesty to refrain from handing out excessive numbers of pensions and rewards.

As for Cecil himself, he was a politician and he shared in the profits of office and was, therefore, open to attack by ri-

⁹Menna Prestwich, Lionel Cranfield, 31, 33, 43-44.

¹⁰B.M. Harley MSS. 2207, ff. 4-9. Cal. Salisbury MSS., XVII, 463-64; XIX, 284-85, King James to The Privy Council, October 19, 1607. B.M. Lansdowne MSS. 151, ff. 73-4. These folios contain a list of resources that the King should not alienate and a list of suits grantable and not grantable. F.C. Dietz, English Public Finance, 101. Thomas Coakley, "Robert Cecil in Power," 67. D.H. Willson, King James VI and I (London: Jonathan Cape, 1956), 262-63.

¹¹B.M. Additional MSS. 22591, ff. 416-21, 426-37. G.P.V. Akrigg, Jacobean Pageant (New York: Atheneum, 1967), 191-92.

vals at Court as well as by members of Parliament who questioned the sincerity of this official who had made such large amounts of money and built such lavish estates in his capacity as Lord Treasurer. His apologist, Sir Walter Cope, explained that Cecil opposed the expenditures, corruption and waste of the Court at all times "as far as the duty of his place, and his humble allegiance would give him leave."¹² Cecil once told Sir Roger Wilbraham that the Treasury was a perilous place because, if the Lord Treasurer consented to monopolies and other projects including increases in taxation, he would gain for himself popular ill will and if he resisted such projects he would become odious to the royal suitors and perhaps even to the King himself.¹³ Consequently, he did cater to the King's weakness for rewarding his servants. As a politician he did what he could to assist the state while at the same time maintaining his power and position. He had to be careful not to offend those forces at Court who could undermine his position. This did not mean that he lacked ideals and the contract was a mixture of practical financial sense and the desire for social change, at least as far as wardships were concerned. And even though the contract failed, Cecil did intro-

¹² Lawrence Stone, "The Fruits of Office: The Case of Robert Cecil, First Earl of Salisbury," in Essays in the Economic and Social History of Tudor and Stuart England, ed. F.J. Fisher (Cambridge: At the University Press, 1961), 89-116. Menna Prestwich, Lionel Cranfield, 26-33. Sir Walter Cope, "An Apology for the Late Lord Treasurer," in Collectanea Curiosa, ed. J. Gutch (Oxford: At the Clarendon Press, 1781), 130-31.

¹³ Wilbraham, 95.

duce reforms into the Court of Wards before he died in 1612.¹⁴

The contract was a good idea and agreement on it between the King and Parliament might have promoted cooperation between them, a thing noticeably lacking during the early Stuart period. Many of Caesar's criticisms probably caused Cecil to consider whether he should not have obtained more money from the Commons or perhaps made some proposal regarding fiscal retrenchment. The memorandum probably reinforced King James' belief that the Commons had best provide him with a considerably larger amount of supply than they had the previous session if they wished to have royal approval for the tentative contract agreement of July, 1610. In the face of such a royal demand, Cecil could do nothing but try and persuade the Commons to come around to his Majesty's way of thinking as quickly as possible.¹⁵

The Failure of the Contract and the Aftermath

Though Parliament resumed business on October 6, 1610, it was not until October 23 that a joint committee of both Houses met and Cecil reviewed the contract negotiations of the previous ses-

¹⁴F.C. Dietz, English Public Finance, 142-3.

¹⁵For historian's comments on Caesar's influence on King James see: Menna Prestwich, Lionel Cranfield, 44; W.C. Metcalfe, "Some Aspects of the Parliament of 1610," The Historian, 25 (November, 1962), 82; Wallace Notestein, The House of Commons, 1604-1610 (New Haven: Yale University Press, 1971), 408; Samuel Rawson Gardiner, History of England from the Accession of James I to the Outbreak of the Civil War 1603-1642 (London, 1883-84), II, 106-07; G.P.V. Akrigg, Jacobean Pageant, 93.

sion and instructed the Commons in what the King expected them to achieve during this fall meeting. Cecil explained that as a result of prior conferences the Commons and Lords had tentatively agreed to a Memorial produced by the Lower House; but this mutual acceptance was not legally binding. This was an auspicious beginning to the bargain, continued Cecil, but it was not a "binding bargain" because both Houses reserved the right to add, diminish and explain the terms of the contract. These reservations, he noted, originated with the Lower House. The Lords, however, had perused the Memorial since the opening of the session and had found it imperfect; nor was King James himself so enamored with the Memorial that he would grant all the Commons desired. What seemed to disturb King James were the additional concessions demanded by the Commons, such as the exemption of the four border shires from the jurisdiction of the Council in the Marches of Wales and the request to permit testimony on behalf of persons in a criminal action. Cecil told the Commons' committees to decide soon on any more additions and on the interpretation of any portion of the contract because "these things must be ended." If the Commons continued to cram the contract with requests for compensation, Cecil warned, they would eventually kill it.¹⁶

Cecil also reminded the Commons of the King's determination not to approve the contract if the Commons meant to leave him a poor king. What Cecil apparently meant was that if the House of

¹⁶Foster, II, 297-305.

Commons did not agree to a bargain that would guarantee the King £200,000 support annually and also vote him needed supply to recompense him for his extraordinary debts and other financial losses, his Majesty would not surrender the tenures. According to Cecil the royal debts had increased by £200,000 since the previous February, bringing the total deficit to £500,000. Debts multiplied faster than anticipated because of the extraordinary expenses, some of which were so remarkable "as they alone had been worth the calling of a parliament." Since April the King had spent £17,270 in Cleves and the household of the Prince of Wales was costing £51,315 to maintain. Furthermore, as the result of complaints and petitions, King James had eliminated various impositions diminishing royal revenue by £60,000. Instead of gaining revenue, his Majesty was losing it.¹⁷ Thus, the King's need for immediate financial supply was taking precedence over his desire for the contract, particularly if the contract meant long drawn-out debates and demands that impinged on his honor. The more time spent in debate, the more the royal disease of fiscal want was aggravated. As Cecil aptly phrased it, the longer the Commons dragged on their discussions, "the more will the King's affections kindle against the contract."¹⁸

In addition, the King's financial state was not so desperate and miserable that his Majesty could not subsist without

¹⁷Ibid. F.C. Dietz, English Public Finance, 147.

¹⁸Foster, II, 300.

parliamentary assistance, warned Cecil. But, if Parliament did not relieve his wants, it would leave him in an extremely difficult financial position that would necessitate using every legal means at his disposal to obtain money. Cecil insisted that he did not mean to threaten the Lower House; the King would not send forth an Empson and Dudley to fleece the populace as in Henry VII's time. Instead, the King would have to cut expenditures, but he also would have to do more than that.¹⁹ By this Cecil probably meant that King James would have to continue on an expanded scale the searches for concealed wards, the investigations into land titles, the increased use of purveyors, in effect all those forms of indirect taxation with their accompanying tax farmers and other officials which irritated most Englishmen and which Cecil's contract was designed in part to eliminate.

If the members of the House of Commons thought that, because his Majesty was in a financially embarrassing situation, they could extract every concession possible, they were deceiving themselves. Cecil exhorted them: "You are wise and able to consider what it is to leave a king in want; take heed we grasp not too much lest we lose the hold we have."²⁰ Cecil instructed the committees of the Lower House to think over what he had told them. For if the Commons kept to themselves and refused to participate in any real conferences with the Lords, he feared that the contract negotiations would surely deteriorate. Long parliaments

¹⁹ Ibid., 301, 304.

²⁰ Ibid., 301.

were not good for either King or people. If this session did not end the business, Cecil warned them, they would never have another in which to discuss this contract. If the Commons insisted on considering what kind of security they would have from King James to guarantee that his Majesty would uphold his end of the bargain and if they insisted on sending commissions right away to determine assessments and explain the contract to the people, before they had perfected the bargain, they might lose valuable time. Cecil thought it made no sense to send down commissions before they made the bargain and he did not think any man expected them to send down and return commissions that session. They should first concentrate on the bargain and until that was considered, Cecil despaired of the conclusion.²¹

Following the report of Cecil's speech in the House of Commons on October 27, Sir Maurice Berkeley conjectured that the House had moved slowly in its work on the contract this session not so much because of poor attendance as because of their concern about the grievances. He wanted them to consider first the royal answer to the grievances and, if they found them satisfactory, then they could cheerfully proceed with the contract. If the King's answers fell short of their expectations in areas where nothing but a law was needed to remedy the situation, then, after the bargain was completed, they could pass the necessary legislation. But if the members could not feel certain that any

²¹Ibid., 301-04.

remedy to their grievances was forthcoming, then they would have no incentive to continue with the bargain. Nicholas Fuller agreed with Berkeley. Sir George More, however, tried to persuade his associates to deal immediately with the Memorial since he believed there was no greater grievance in the eyes of the people than the royal fiscal want.²² According to Lord Ellesmere, there were some in the Lower House who openly affirmed that it was never meant that the contract should proceed and take effect and that there was no hope of security for the contract because the grievances were not answered satisfactorily; therefore law and justice were denied to them. Though this was assuredly a major source of discontent, the Venetian Ambassador observed that the Commons would have no less difficulty among themselves in discussing the contract than they had in negotiating with King James. Apparently, many in the Lower House wished to be exempted from the levy and claimed damages for loss of wardships.²³

King James addressed Parliament at Whitehall on October 31. That morning, the Commons had read the royal answer to the grievances but deferred any discussion of them to All Soul's day. King James insisted that too much time was being wasted and he could not understand the reason why. Perhaps, he speculated, it was because they lacked enough members to conduct business properly or because they were dissatisfied with his reply to the grie-

²²Ibid., 305.

²³Ibid., I, 282. C.S.P.V., 1610-13, 65.

vances. In either case it was their fault. His Majesty believed he had gone far beyond other princes in offering compensation in his attempt to obtain funds. But he conjectured that it was the nature of men to condemn what they wanted when it was laid at their feet. If that were not the problem, then the House of Commons doubted that he intended to perform his end of the bargain. Though he had just cause to loath the contract, he had debated it often with his Council and with individual advisers and he would have given £10,000 if it had been completed the previous session. He doubted whether it was lawful for subjects to distrust their sovereign. As for the security, he could offer them no more than the law could make, insisting there were enough lawyers in the Commons to construct the proper binding legal instrument.²⁴

His Majesty desired Parliament to consider how far his expenses exceeded his income. Interest on the debt, money assigned to the Prince of Wales, and losses due to the cancellation of certain impositions had drained his resources greatly. On top of that Parliament's delays in advancing him needed funds had helped to put him deeper into debt. King James pleaded that if they had any feeling, that if God had not taken away all and sent a plague upon him and his people, that they assist his fortunes which had been overtaken by his necessities which had in turn been depressed by their delays in providing him with money. He could not cut his coat according to his cloth until he knew what to expect from

²⁴Foster, II, 308-311.

them. God required Parliament to obey him; therefore, they should begin immediately to assist him. He had replied to their grievances and for the House of Commons to ask him about them again, was to tread on his feet. He had answered their grievances, even though his replies may not have pleased everyone, and now he wanted an answer. Did they have grievances as great as the want of the King? He concluded by requesting the Lower House to review the Memorial and to send him a resolute and speedy answer whether they would or would not proceed with the contract. If they responded in the negative, then he could resolve on some other course to be taken for the supply of his wants.²⁵

The House of Commons sat Friday and Saturday, November 2 and 3, debating the answer to the royal speech as a committee of the whole House. During the first day of debate, the members could not decide how to proceed. Some believed they should try to clear up the bad impression the King apparently had of their activities, whereas others thought they should investigate the Memorial so they could reply directly to the royal request. There were also those who could not answer the King about the contract until they reviewed the royal response to their grievances. Peter Wentworth doubted they could have security unless the law could bind the King. Members also felt the King had been misled by false reports about the Commons' activities. And there were critical remarks about the royal speech. Mr. Brooke, for example, did not agree

²⁵Ibid. Parl. Debates 1610, 126.

that the Commons had to relieve all royal wants regardless of their origin.²⁶

Sir Maurice Berkeley framed an answer to King James which he put forward on Saturday but the House disliked it because it lacked substance. Its purpose was to excuse the Commons' slowness of action by attributing it to lack of sufficient members to conduct business. Nicholas Fuller, a royal critic throughout this Parliament, wished to see laws passed against three specific grievances before they proceeded to discuss security for the contract. There had to be a law against impositions levied without Parliament's consent, "for else the King may levy hereby as much upon the people as now." Next they had to restrain legally ecclesiastical commissions because they could not rely on King James to do that. Thirdly, they had to guarantee those living in the Marches of Wales the right to trial by the common law. Sir Dudley Diggs, M.P. for Tewkesbury in Gloucestershire, disagreed with those who wished to deal with grievances first, since he thought it best to proceed with the contract. Mr. Hyde²⁷ agreed the bargain was good even though the price demanded was too high. If they did not proceed with it, they hurt their own honor. If they could raise the money, then they should go on with it. However,

²⁶ Foster, II, 312, 392-95. This could either be Giles Brook M.P. for Liverpool or Christopher Brooke, M.P. for York.

²⁷ This could either be Lawrence Hyde, M.P. for Marlborough in Wiltshire or Nicholas Hyde, M.P. for Christchurch borough in Southamptonshire (Hants.).

they should make sure the contract contained all the provisions they had bargained for. For example, they had decided the King could not raise impositions without Parliament's consent, and that ought to be included in the contract. They must have in the contract a declaration of the law of England in this point of impositions. This was presumably so the King could not renege on the terms without violating the law. Sir Francis Bacon thought that if there were any desire to break off the bargain, that should be discussed first. Edward Alford, M.P. for Colchester in Essex, wanted the impositions and proclamations discussed first and then they could answer his Majesty yes or no and thus conclude the business.²⁸

Sir Julius Caesar believed they must provide King James with both supply and support. If they voted the King supply and did not relieve his debts, then he was undone; and, if they paid his debts but did not grant him adequate supply, then the debts would only increase again. They must remember that their posterity would have to pay for this contract, therefore, they should not proceed with it unless they knew the King would do what was fit and proper. Consequently, they should let the King know what the Commons would give him in supply and support but with the reservation that they were in no way bound to deliver until they saw what the King would do.²⁹

²⁸ Foster, II, 396-97. Parl. Debates 1610, 127.

²⁹ Foster, II, 397-98.

Sir Roger Owen then delivered a speech each line of which was filled with distrust of royal intentions. He believed the redemption of tenures and purveyance were goodly things; but he did not wish Parliament to give too much for them. Helen was a goodly creature but not worth the destruction of Troy. He would rather give a smaller sum and make up the difference later, than vote a colossal one. They certainly could not levy it all upon the land. They must look out for their posterity and have security that the King would not force injustices upon them and then have them purchase justice with a new contract. Therefore they must make sure that his Majesty did not have the power to levy any new burdens or tolls, which, presumably, he would remove by another contract. They should not grant so much that the King would have no further need to call Parliament. What Sir Roger was apparently driving at was that they should vote the King a small amount of support upon certain conditions, such as not imposing new laws by proclamation and other duties that would later have to be purchased by a new contract. Then, they would grant his Majesty additional support, as part of the terms of the contract each time he called a Parliament. Owen wanted a full answer to the grievances and provisions in the contract prohibiting his Majesty from alienating any part of the £200,000 and preventing him from doubling or trebling the contract's value by debasing the coinage. He objected to the royal accusation that the delays of Parliament had caused the King's debts to increase. This Parliament, Owen insisted, had given more than any King ever had had in peacetime. He then exhorted his

colleagues not to hurry with the contract.³⁰ Such sentiments as these did not sit well with King James.

When the debate was concluded, the Commons decided to examine the Memorial and to give the King an answer. By Tuesday morning, November 6, they had progressed to a point where the Memorial was ready for passage when the Speaker arose and announced that he had had a message from King James which had been delivered to him the previous day when he was attending his Majesty. It became obvious from Phelps' report that the Commons were not moving quickly enough to satisfy the King. His Majesty feared that by dealing with the individual parts of the contract in weighty deliberations, the Lower House might lose sight of the whole. Therefore King James decided to describe clearly and distinctly for them the essentials of the contract so that the members could either assent or dissent and thus terminate the bargain one way or the other.³¹

First of all King James declared that it was never his intention, much less his agreement, to conclude the contract unless he received both supply and support. He reminded the Lower House that his initial demands during the fourth session had been for both the repair of his wants and the establishing of his estate. He had wished the issue of supply handled first and only permitted the Commons to treat of tenures after they had given him a general

³⁰Ibid., 398. Parl. Debates 1610, 127.

³¹Foster, II, 313-14.

promise of satisfaction in the area of supply. Because he felt certain he would eventually receive supply from them, he allowed the Lower House to proceed first with that part of the contract that was new. Now, simply because he permitted them to deal with support first was no reason for them to think he was relinquishing the matter of supply. The amount of supply he expected to receive if he proceeded with the bargain was £500,000, though he considered it a sum inferior to his necessities. He was taking a lower amount for supply just as in the matter of support he had settled for "a far less yearly sum than could be answerable to the value of his retributions." The subsidy and fifteenth voted during the previous session were not to be considered as part of the £500,000 because of the great increases in his expenditures since that time.³² Secondly, King James resolved that he would not accept any form of levy which was not firm and stable and also free from grieving the poorer subjects or which would diminish any part of his present profit. His Majesty apparently meant that he did not wish any portion of his present revenues used for things such as the payment of the officers who collected the support. This probably meant that the Commons would have to provide additional sums to pay for the collecting of the contract money.³³ Thirdly, the Commons had petitioned his Majesty to arrange for the recompense

³²Ibid., 314-15.

³³Ibid., 315-16. S.R. Gardiner, History of England, II, 107. F.C. Dietz, English Public Finance, 139-40, note 20.

of all the officers who would endure fiscal losses as a result of the bargain. King James believed, however, that since this petition was made after the conclusion of the price of the contract and was not warranted by the Commons' reservation of adding, diminishing and interpreting the contract because it deprived his Majesty of profit, and since the revenue they offered for support fell far short of what he expected and since the Commons should not really expect the King to accept the money other than de claro, without abatement, the recompense should come from the House of Commons. King James tried to console the Lower House with the thought that such recompense involved only a few individuals and was not perpetual.³⁴

Speaker Phelips explained that the King wanted to tell them openly what they should do in this matter because upon this knowledge "the frame of his estate and ours depends and suffers so great a prejudice by the delay." The King did not mean, however, to make the demand so obligatory that the Commons could not recede from it.³⁵ That King James originally conceived of the contract in the terms he used in this speech was probably true. He insisted upon them at this time because of his worsening financial state and also probably because of the influence of critics of the contract such as Sir Julius Caesar. It should be noted here that there appeared in 1610 an anonymous attack on Cecil which accused him of persuading the King to demand the £500,000

³⁴Foster, II, 316.

³⁵Ibid., 315-16.

so the Commons would refuse to proceed with the bargain and the Court of Wards would therefore continue in existence. In the margin of this document, near this particular accusation, Cecil had written "This is part of my fault."³⁶ It was unlikely that Cecil wished to destroy all hopes of perfecting the contract. But he probably went along with the royal demand for the £500,000 because James wanted the money and after all it was, in the end, the King's bargain. When the insistence on £500,000 supply along with the other royal requests turned out to be the deciding factors in the termination of discussions about the contract, Cecil probably regretted that he had gone along with the royal demands. Incidentally, in an effort to soften the effect of the King's demand that the Commons recompense the officers, Cecil had Sir Julius Caesar inform the Lower House that Cecil, who stood to lose most by the contract, did not mean to seek any financial compensation by this bargain.³⁷

The Commons reacted to the royal message on November 7. After a long silence, Speaker Phelps repeated the effect of his message which consisted of three parts, first a supply of £500,000 or else no bargain, second a stable levy and third recompense of the officers by the House of Commons. At this point Sir Jerome Horsey, M.P. for Bossiney in Cornwall, insisted the Speaker had

³⁶C.P. 140/121, _____ to Lord Haddington, undated. Improperly calendared in Cal. Salisbury MSS., XVIII, 164; XXI, 260-62.

³⁷Foster, II, 316-17.

omitted a fourth thing which was the worst of all; it was that the King did not say that no part of this revenue would be levied out of impositions. Of course the King did not express himself on this point, but Horsey concluded that impositions could be used to raise the money because King James had insisted that there must be no diminishing of the revenue which he presently received. Horsey moved they seek the Lords' advice in framing a reply to this message, a motion that was defeated. After another long period of silence, Mr. Brooke (whether Giles or Christopher is not specified) spoke stating his belief that they should vote three subsidies and six fifteenths for he hoped the bargain would not be broken off because of disagreement over supply. The King was in need and if he could not take with his right hand he would take with his left. As for the form of levy, Brooke considered it impossible and inconvenient to levy it all on land and for that reason he thought the bargain must necessarily break.³⁸

Sir Thomas Beaumont, M.P. for Leicestershire, thought matters had reached a sorry impasse because either the King would not be supplied or the people would be driven to great want. Excess in a prince was very costly but want and beggary were too base for free-born men, and so he did not see how they could accept the contract on the latest royal terms. If they broke off negotiations, what could happen to them "when even as things now stand our liberties are infringed in such sort as we see they be?"

³⁸Ibid., 317.

As Beaumont viewed it, there were laws on the statute books forbidding the levying of impositions without parliamentary consent; yet they were levied and maintained to be just. There were thirty-six laws against purveyors' abuses, but these seemed to have no effect. Religious statutes passed in Elizabethan times against Catholics were now used against other religious groups. The wall between the King and his subjects was the law and if the royal ministers circumvented the laws how could the people feel secure? Laws were the spirit of the kingdom and if there were contempt for the laws then the commonwealth was in danger and they were in a bad way.³⁹

When Beaumont visited home, he had acquainted his people with the contract and they were glad to have the sunshine of royal favor reach them. But they wanted to know if the impositions, judged as unlawful by Parliament, would still be levied by King James. They told him that if the money were levied in a reasonable manner and not entirely on the land, and if all the grievances were drawn together in the contract, they would give £200,000 a year in support and also some present supply. But upon the terms set down by the King, it was impossible for them to continue negotiations and "though it be a fair fruit, 'tis out of our reach."⁴⁰

Richard James, M.P. for Newport in the Isle of Wight, believed that those men who insisted there must be supply and sup-

39 Ibid., 317-18.

40 Ibid., 318.

port were going about the business in a backward manner. So long as arbitrary government by impositions and proclamations continued, what heart could they have to go on with the business? As far as impositions were concerned, he thought that Cecil was too much misled by one judicial decision where he should have been guided by the judgment of the House of Commons.⁴¹ Mr. Hyde, referred to as the younger, then arose insisting that the question before them was only whether upon those terms as proposed by his Majesty they should accept the contract or not. Whereupon the Commons called on the Speaker to put the question "who after much varying of the question and somewhat perplexing it, did in the end put it." And the entire House, with the possible exception of five voices, answered, "No!" As Sir Roger Wilbraham phrased it, "the Commons never treated further of that contract, the most of them doubting, those great royalties were ever intended to be abolished."⁴²

In their message to King James terminating the bargain, the Commons made it clear that they did not desire to abandon the contract permanently but were only doing so because they could not accept the King's latest terms. They had decided not to detail their reasons for refusing the royal offer. Some felt it was unfair of King James to demand supply before concluding the bargain, while others did not like the Lords urging supply because the form of supply would be the subsidy and subsidies only originated with

⁴¹Ibid., 319.

⁴²Ibid. Wilbraham, 105.

the House of Commons.⁴³ The Commons' explanation had no effect on his Majesty, who accepted their resolution on November 14, thus officially ending contract negotiations. He wanted Parliament to devote all its energies to supplying his wants and he specifically instructed the Lords to persuade the Lower House in conference to relieve his necessities.⁴⁴ The King had come to view the contract as something of an obstruction in the path of his struggle to obtain needed supply. Cecil best expressed his royal master's sentiments in a speech to members of the Upper House that same day. The contract, he exclaimed, was but an incident and not the object of this Parliament, which was to relieve his Majesty's necessities. Since the Commons had mistaken the errand for which they were summoned by spending so much time with the contract, the Lords were responsible for calling their attention back to the main purpose, the relief of the royal estate.⁴⁵ Now, Cecil probably did not consider the contract, upon which he had lavished so much time and energy, simply an incident. Quite the contrary, for when he met on November 14 with the Commons' committees in conference he told them that they would regret that the bargain had not succeeded.⁴⁶ Rather he was mouthing the thoughts of King

⁴³ Foster, II, 322-23.

⁴⁴ Ibid., 327.

⁴⁵ Ibid., I, 170-71.

⁴⁶ H.M.C. Hastings MSS., IV, 223-25. Cecil told the Commons he believed they terminated contract negotiations because of mistrust in the King and fear of the increase in taxes as a consequence of the bargain.

James, whose faithful servant he was. The emptiness of the Exchequer was James' overriding concern and his Majesty reasoned that the Commons, after explicitly promising to consider the King's wants in a statement delivered March 2, 1610,⁴⁷ had proceeded to ignore the real purposes of this Parliament by involving themselves in these fruitless hagglings over the contract. He, the King, was consistent throughout both sessions, always maintaining that supply of his immediate wants was the principal job of Parliament.

The retribution, or compensation, which the Lords presented to the Commons' conferees at their meeting on the afternoon of November 14 consisted of items offered originally as part of the contract or at least discussed during the contract negotiations. The King, for instance, would not claim right to any lands which had been out of royal possession for sixty years. The subject would not forfeit a lease for non-payment of rent. Creditors of outlawed or attainted persons would receive financial compensation before the Crown did. The King would abolish respite of homage, reform the penal laws and eliminate obsolete laws. The statute allowing his Majesty to make laws arbitrarily for Wales would be repealed. And King James would lay no further impositions without the consent of Parliament, provided those already in existence were confirmed by Parliament.⁴⁸ This offer was not well received by the Commons, which led some contemporaries to conclude that

⁴⁷ C.J., I, 401-03.

⁴⁸ Foster, II, 330-31.

perhaps Cecil had persuaded the King to expect a subsidy in return for little substantial compensation.⁴⁹ Certainly the Commons, in their discussion of the Lords' offer on November 16, did not judge the retribution equivalent to the supply desired by the King. Nathaniel Bacon insisted the principal forms of compensation, such as those dealing with the royal use of proclamations and matters ecclesiastical, had been excluded, and therefore he saw no reason to confer further with the Lords. He also felt that King James, after receiving the subsidy the previous session, had not properly redressed the grievances as he had promised. Bacon further contended that this was the only Parliament ever to grant several subsidies and he implied that this was a dangerous precedent since the grants were for ordinary and not extraordinary expenditures.⁵⁰ Sir Lewis Lewkenor, M.P. for Bridgnorth in Shropshire, argued that the people were unable to give because they had already granted more in this peacetime Parliament than had ever been yielded to a monarch in a wartime gathering of the estates. Impositions, he continued, had bankrupted the merchants and needed to be reformed, and he further suggested that King James ought to borrow money from his servants whom he had enriched by his grants and, if that did not make him solvent, he should live of his own, resuming

⁴⁹John More to Sir Ralph Winwood, December 1, 1610, Winwood, III, 235.

⁵⁰Parl. Debates 1610, 134-36. Foster, II, 336.

pensions and grants and cutting superfluous expenditures.⁵¹ Finally, members were upset because the contract negotiations were completely terminated. This was particularly true since, according to Lewkenor, the Commons were blamed for the failure of the bargain. Nathaniel Bacon argued that since supply and the contract were supposed to proceed together the Commons should not bother with supply unless the contract negotiations were reopened. As Samuel Sandys, an M.P. for Worcestershire, aptly put it, the King had withdrawn the fair Helen (the wards) from them and now the Lords offered only "her dirty aprone," these very unacceptable forms of compensation.⁵²

King James and his Council apparently realized that their offer had gotten nowhere with the Lower House. So, on the morning of November 16, his Majesty had thirty members of the Commons summoned by warrant as they left the House to meet with him at two o'clock that afternoon.⁵³ After the members arrived they were questioned by King James and his councillors as to whether they thought the King was in need and should be supplied. When Nathaniel Bacon repeated his speech of that morning refusing all supply until contract talks were resumed, King James insisted he would not take exception to their speeches because he was conferring

⁵¹Foster, II, 332-35.

⁵²Ibid., 332-36, Parl. Debates 1610, 136.

⁵³Foster, II, 337-38.

with them as private men, not as members of Parliament. His Majesty, perhaps at Cecil's persuasion, was trying to give the impression of a reasonable individual with moderate demands in an effort to win over the recalcitrant House of Commons. Sir Henry Neville, an M.P. for Berkshire, thought subjects were bound to maintain their King when royal expenses grew because of the needs of the commonwealth but otherwise not. Neville emphasized that they had given four subsidies and seven fifteenths and yet they had no relief from their grievances. His Majesty then asked what the grievances were. Neville was not sure of all of them but he did mention the problem of jurisdiction over the four shires along the Welsh border, at which point Sir Herbert Crofts intervened and proceeded to speak at length on the problems of those shires. Sir Edwin Sandys spoke in defense of the Commons' position on impositions. However, Thomas James of Bristol and Cecil argued the point of impositions, with James insisting one act of Parliament could change the Book of Rates that officially established impositions, a statement which Cecil denied. The Commons' members also mentioned the use of prohibitions and proclamations by the King as grievances. Members departed generally satisfied with their treatment by his Majesty and the Venetian Ambassador concluded that King James had captivated the minds and wills of all in attendance. Unfortunately for his Majesty, however, the House of Commons took a dim view of the entire proceedings.⁵⁴

⁵⁴ Ibid., 338. C.S.P.V. 1610-1613, 86.

On the morning of November 17, before the Commons had a chance to begin business, Speaker Phelips assisted by Sir Thomas Lake, M.P. for Launceston in Cornwall and royal secretary, transmitted a royal message to the House recessing Parliament until Wednesday, November 21. At that time the King would present his answers to the various grievances including impositions. The State Papers contain a draft of this message with corrections in Cecil's hand, thus indicating that he knew and approved of this move. Since the message mentioned the royal discussions with the thirty members of the Lower House and emphasized that the King spoke with them as private individuals and not as members of Parliament,⁵⁵ there was apparently concern in official circles that the Commons were offended because his Majesty had required these members to appear before him. The recess was probably called, then, in the hope that a delay might help dampen criticism in the Commons while giving the King time to prepare his answers.

Though the contract was now a dead letter so far as King James was concerned, there was an attempt to obtain some support in exchange for the royal surrender of wardship of the body or, as it was also called, "the point of marriages." This was the right of the feudal lord, in this case the King, to sell the marriages of his wards.⁵⁶ On November 21, 1610, Sir Thomas Lake

⁵⁵Foster, II, 339-40. S.P. 14/58/21.

⁵⁶S.P. 14/58/26 reveals that James was suspected of rejecting the contract because he wished to use this right to marry English children to Scots, thus advancing the Scots and the Union.

wrote the Earls of Salisbury, Northampton, Suffolk and Worcester, whom, he said, "gave me mine instructions about the point of marriages," that he had given King James on November 20 the points of the contract, of which marriages was the last point. His Majesty wished to know whether this proposal originated with the Lords or the Commons. Lake replied that, as far as he could discern from their Lordships' speeches to him, the Lords had been moved to forward the proposal to the King by some of the Commons who eagerly desired it.⁵⁷ It might not be too farfetched to surmise that Cecil, who was deeply interested in reform of the Court of Wards, was the principal mover of this proposal once he realized the Commons desired it.

On November 21 as he had promised, King James presented his proposals concerning impositions, the Four Shires and other matters in writing to the Lower House. His Majesty would not impose in the future except through Parliament; but he would not surrender any existing impositions unless compensated by Parliament. He would review proclamations and eliminate those contrary to law, if any such existed. Finally, King James claimed he never intended to deny justice to the Four Shires of the Marches of Wales;

James denied this, stating that there was no part of the contract he would more willingly surrender, if enough money were speedily voted.

⁵⁷ S.P. 14/58/26, Sir Thomas Lake to the Earls of Salisbury, Northampton, Suffolk and Worcester, November 2, 1610.

but he would suspend his judgment until midsummer next "from which tyme forward he will leave them to the course of lawe and justice."⁵⁸ After Speaker Phelips had read the royal letter, debate commenced. Sir Robert Harley, M.P. for the borough of Radnor, claimed he could not yield a supply for those things alone because of all the fruitless labor spent on the contract. He wished they could add composition with the King for wardship of the bodies (marriages) of their posterities, leaving the tenures untouched. For this he proposed that they have a conference with the Lords.⁵⁹

The remainder of November 21 and continuing into the following day, the Commons voiced their general disapproval of the King's action in calling the thirty members before him to discuss parliamentary business without the consent of the Lower House. The thirty members were not permitted to report to the House either as parliament men or as private men because they had not received a commission from the House to discuss matters with the King in the first place. The House decided that some order should be drawn up to prevent such an infringement of its privileges from happening again. The order as drafted by a sub-committee appointed for that purpose stated that no member of the House, either as a private man or otherwise, was to deliver his opinion or the reasons for his opinion, by way of conference or in any other manner touching any matter under discussion in the House, either to the King or the Lords without the assent, direction or

⁵⁸Parl. Debates 1610, 137-38.

⁵⁹Ibid., 138.

special order of the House itself. The House, then, was upset not only with the King for calling the meeting but also with its own members for attending the same.⁶⁰

The Commons might have discussed the question of bargaining with the King for marriages of their heirs on November 22, even though it was not recorded.⁶¹ The members spent all day, November 23, discussing the problems of relieving the King's necessities and, generally, their speeches were quite critical of royal policies and practices in the area of fiscal affairs. Some members wished to grant a subsidy but others argued that it was inconvenient, considering how matters stood (rebus sic stantibus), to give anything because the country was too poor. Sir Francis Bacon felt that people's wants were not so great that they could not yield some supply to the Crown.⁶²

Nicholas Fuller then delivered a lengthy oration in which he described various bills concerning religion introduced during the five sessions of this Parliament which had not passed. These included bills against pluralism and non-residence, a law to reduce the power and abuses of ecclesiastical commissions, a bill to restore deprived ministers and an act for a godly and learned ministry. All those bills were favorable to the Puritan element and not loved by King James. To these Fuller further added the bills against impositions and purveyors' abuses that had been intro-

⁶⁰Ibid., 138-41.

⁶¹Ibid., 141, note a.

⁶²Foster, II, 344.

duced. He concluded, then, that if these laws had passed both the government and the people of England would have been as happy as any in the world. And, as a result, the Commons would have given liberally to relieve the King's wants, "which (rebus sic stanti-bus) they will never do." Without reformation of these abuses and the passage of those bills, they could not give because they were receiving nothing in return.⁶³ It was not the Commons' fault but rather the King's own that he was not supplied. Anthony Dyott of Lichfield was willing to yield supply, if they could have a law restraining the King from levying impositions, as well as some relief from purveyance, the discharge of wardships of the body and some limitation or ceiling placed on the royal debts. There was also a general feeling expressed by members that whatever they granted the King would pass to private individuals without any public use being made of it. Peter Wentworth saw much money coming into the royal coffers but little of it going for public uses. He said the King was spending the sinews of war in times of peace, and he compared King James and his Council to the ancient King Rehoboam and his evil advisers, an accusation which did not sit well with his Majesty.⁶⁴

It was, however, the King's Scottish favorites who were attacked as the principal plunderers of the English Exchequer.

⁶³Ibid., 405-10.

⁶⁴Parl. Debates 1610, 1⁴², 1⁴⁴. S.P. 14/58/54, Sir Thomas Lake to the Earl of Salisbury, December 2, 1610.

Thomas Beaumont insisted the Scots paid nothing in impositions whereas the English were heavily assessed. Furthermore, in Scotland no judge or any other subject could presume to expound the law contrary to the meaning of the lawmakers as the judges had done in England in Bate's case. John Hoskyns implied (without specifically mentioning them) in his speech that it was the Scots who pressed King James to keep Parliament in session for seven years to obtain more subsidies which they could in turn squander. He insisted there was a leak in the royal cistern and until it was stopped up all their consultations to bring money into the Exchequer would be of little use. The Venetian Ambassador felt the ill will which was swelling up was very serious; and, as shall be seen later on, there was a feeling it would get worse.⁶⁵ Sir Herbert Croft finished the debate for that day, suggesting that they tell his Majesty why they were dissatisfied, what they wanted from him and also to thank him for what he had granted them. The House finally decided to discuss the King's financial plight as a committee of the whole House the following morning, November 24, and all members were required to attend the meeting under pain of commitment to the Tower.⁶⁶

⁶⁵ Parl. Debates 1610, 142-45. Foster, II, 344-45. C.S.P. V. 1610-1613, 100. Sir John Hollis of Nottinghamshire considered the Scottish monopoly of royal favor and wealth a grievance significant enough to be mentioned in Parliament House. He thought if King James gave equal affection to both English and Scottish men it would help eliminate jealousy and distrust between them. (H.M. C. Portland MSS., IX, 113.)

⁶⁶ Parl. Debates 1610, 142-45. Foster, II, 344-45.

However, before the House of Commons could begin business on Saturday, November 24, Speaker Phelips by warrant of King James adjourned the Lower House until nine o'clock on the morning of Thursday, November 29. Most members believed the King had recessed them because he was displeased with their draft of the order of November 22 forbidding members to consult with his Majesty, as they had on November 16, without the consent of the House of Commons.⁶⁷ Actually the royal displeasure went deeper than that. The attitude of distrust, dissatisfaction and impatience pervading the House of Commons was equalled by similar feelings on the King's side. He had explained, in Lake's letter of November 21 to the four Lords, that he would not listen to Commons any further if they were using the proposal for the redemption of the marriages as a means of keeping Parliament together longer so they could either revive the contract or continue to harass him. His Majesty maintained that, if the Commons were sincere, they would offer him both supply and support for the marriages. If they intended to grant him only supply, though it amounted to three subsidies, he would not accept it. King James was convinced he had to deal warily with the Commons' members because they had greatly wounded his honor by exposing his wants and the infirmities of his estate to foreigners and by refusing to relieve him although he presented them compensation never before offered by an English prince. His Majesty claimed that his name, dignity and sovereign-

⁶⁷ Foster, II, 345. H.M.C. Rutland MSS., I, 425.

ty and all that was sacred to him, excepting his soul, had been so censured and questioned and he himself so disgraced that all he could conclude was that the Commons were attempting to lay the foundations of a popular state. He therefore wanted the Lords to discover the Commons' true purpose immediately. He even suggested the Lords tell the Lower House it was about to be dissolved, so the members would inform him of their intentions in greater detail. He would only surrender marriages for a good, high price.⁶⁸

Cecil and the other Lords wrote the King daily to keep him informed of proceedings in Parliament but, unfortunately, their messages have either not survived or have not been located. Sir Thomas Lake informed Cecil on November 22 that King James felt that by the tone of their Lordships' letters the Commons' discussion of the marriages would be a long drawn-out affair. If this were true, his Majesty's patience would quickly dissipate.⁶⁹ On November 23 King James himself wrote the Lords revealing that he did not oppose the proposal for redemption of the marriages if it appeared that the House of Commons was sincere in its intention, would pay him well both in supply and support and would not take too much time to conclude the deal. If the Lower House desired a

⁶⁸S.P. 14/58/26.

⁶⁹Ibid., 14/58/27, Sir Thomas Lake to the Earl of Salisbury, November 22, 1610. Internal evidence in S.P. 14/58/27 and 14/58/30 indicates that the Lords were sending letters to the King. In the former Sir Thomas Lake wrote "your Lordships' letters came hither today about noon" and in the latter King James wrote "We have received both your Lordships' dispatches written yesterday the one about noon, and the other about midnight."

conference with the Lords to request the Upper House to join in humble petition to the King for permission to treat of the marriages and custody of the bodies of the heirs, "not clogging it with any other part of the Contract," his Majesty was pleased that their Lordships accede to this desire and find out how much the Commons would offer. The Lords could then tell the King and receive further instructions from him.⁷⁰

However, as had been seen, matters were not going well in the Lower House and by November 23 Cecil had a warrant to pass on to the Speaker for the recess of the Parliament if he thought it necessary. Cecil tried to calm the impatience of the Court by playing down the criticisms emanating from the Commons. But King James sensed that all was not going well and he had Lake instruct the Lords. If Cecil observed that the Commons entered into new complaints and extravagant demands, which Cecil seemed to doubt according to his latest letter, or if the offer of the marriages was not applauded or unlikely to bring the King contentment in the conference of Commons' and Lords' committees, King James wished Cecil to force a vote on the subsidy, making sure that the royal servants and well-wishers were present to assure success. Cecil did not follow this advice. But he realized, as a result of the Commons' discussions of November 23, that he would have to recess Parliament for a few days to prevent even more hostile criticisms

⁷⁰Ibid., 14/58/30, King James to the Earls of Salisbury, Northampton, Worcester and Suffolk, November 23, 1610.

of royal finance the next day. By this time James was agreeable to recessing Parliament with the hope that the members would meet again, if the Lords thought there was a chance of getting supply at the next meeting. When Commons finished its debate on November 23, Cecil sent for Nicholas Fuller, John Hoskyns, Lewis Lewkenor and Peter Wentworth, all outspoken opponents of granting additional supply,⁷¹ probably in an attempt to persuade them to change their minds before James lost all patience with the Commons and dismissed them.

Between November 24 and 29, King James lost all desire to meet with the Commons again. Sir Thomas Lake wrote Cecil and the Lords on November 25 that his Majesty had received from Sir Roger Aston, an M.P. and Master of the Great Wardrobe, a more explicit account of what the Commons intended to discuss had they been permitted to meet on November 24. They were to give reasons for not yielding a subsidy, to examine the royal answers to the grievances and to determine in what manner they were unsatisfactory, and to consider what further immunities and "easements" they would demand for the people. This did not sit well with King James. According to Lake his Majesty was aware that Cecil and the Lords wanted to meet with him to discuss parliamentary affairs. Now, King James was spending almost all his time away from London at his hunting lodges and country houses under the influence of favorites such

⁷¹Ibid., 14/58/31, 32, Lake to Salisbury, November 23, 1610.
Foster, II, 342. H.M.C. Rutland MSS., I, 425.

as Robert Carr, who were not favorable toward Parliament. He would not meet with the Lords even to discuss the terms for pro-roguing Parliament. At this time King James answered Cecil at some length. He reminded Cecil that he had recently advised him to adjourn Parliament from November 24 to 29 because Cecil anticipated more recriminations and attacks on Saturday, November 24, than had occurred on the previous Friday. How could Cecil be so sure that when the Commons met on Thursday, November 29, they would not be in the same mood, his Majesty wanted to know. The King wished the Lords to remember that he had had patience with that assembly seven years and had received from them in return more disgrace and ignominious treatment than ever another prince had endured. He could not have asinine patience. He was not made of that metal "that is ever to be held in suspense and to receive nothing but stripes." Furthermore, he could not understand how the Lords could ask him to endure such treatment any longer. He would not accept subsidies which were accompanied by such criticisms if they were equivalent to the wealth of an entire kingdom. Only if the Lords could assure him the Commons would give him satisfaction without ill treatment would he meet with their Lordships to discuss business. Otherwise such a meeting would breed false hopes and expectations. The only thing left to consult about really was how best to end Parliament quietly, so he and his sub-

jects could part "with fairest show."⁷²

King James was also disturbed by speeches in the Commons which the Lords had reported to Sir Thomas Lake as "reproachful and intollerable." His Majesty wanted the Lords to gather further information about the speakers because he thought the statements of these members of the Commons verged on treason or were at the least so scandalous that he had just grounds to call the authors to account for them. The King found Wentworth's speech particularly offensive and he was anxious to punish him as Queen Elizabeth had punished his father. The Lords tried to persuade his Majesty to desist from this course of action. They told him that their only source of information was hearsay, which was really no evidence. They also informed him that if there were a proceeding against any of the speakers, they, the Lords, would have to be the judges and so they were not fit to be the accusers. Finally, the Lords insisted that the speeches were so delivered that the speakers could easily deny there was any evil intent meant. But King James answered their objections, insisting that if Queen Elizabeth could punish members so could he. On December 6 Sir Thomas Lake told the King that there was little to be gained by punishing the speakers and he told the Lords he thought the King would desist because he, Lake, had enlisted the support of others to convince

⁷²S.P. 14/58/35, Sir Thomas Lake to the Earl of Salisbury, November 25, 1610. Printed in Parl. Debates 1610, 145-46, note.

his Majesty of the futility of such action.⁷³

Apparently, what really bothered the King were the attacks on the Scots. Sir Thomas Lake wrote Cecil on December 3 that a move by some seditious spirits in the Commons to petition the King to send the Scots home if he wanted another subsidy because they had consumed so much treasure disturbed his Majesty. Lake was told by Sir William Strode and Sir Henry Neville that most of the Commons desired to treat about the point of marriages and that, in their opinion, only some intemperate brain would have made such a motion against the Scots. Lake later discovered that Sir Robert Carr, the rising royal favorite, was behind many of these attacks by members of the House of Commons on the Scots. Carr's aim was to terminate the Parliament by sowing dissension between the King and some of the Lords and ultimately to discredit Cecil.⁷⁴

By November 29 Cecil was advising another recess so the Commons could think matters over and also so the King's party in the Lower House could try to persuade their friends to bend more toward the King's will.⁷⁵ King James, however, had set his mind on a lengthy prorogation and, in due time, the dissolution of this

⁷³S.P. 14/58/54, Sir Thomas Lake to the Earl of Salisbury, December 2, 1610, and 14/58/62, Sir Thomas Lake to the Earl of Salisbury, December 6, 1610.

⁷⁴C.P. 128/168, Sir Thomas Lake to the Earl of Salisbury, December 3, 1610, and 128/171, Lake to Salisbury, December 4, 1610.

⁷⁵David H. Willson, "Summoning and Dissolving Parliament, 1603-1625: The Council's Advice to James I," American Historical Review, 45 (1940), 282.

Parliament. There were arguments against ultimate dissolution, particularly by Sir Julius Caesar, who thought the King should keep together men of such parliamentary experience.⁷⁶ His Majesty had already decided, however, on a recess until after Christmas and probably until Candlemas, February 2. He had informed the Lords on November 28 of the reasons they were to use for proroguing the Parliament and he was upset when Speaker Phelips recessed Parliament from November 29 until December 6 when on that late November day only twenty members of the House of Commons were present. Apparently word of the royal desire for the longer prorogation had not reached Westminster in time and the Speaker simply used the recess warrant that Cecil provided him. Lake explained to the King that it was necessary to prevent the Commons from meeting because they intended to give a first reading to the order forbidding members to express opinion about current business to the King or Lords without the prior consent of the House of Commons.⁷⁷

On December 6 the Parliament was prorogued until February 9, on which date King James dissolved this, his first and longest Parliament. Actually, King James had had enough of this Parliament by late November and might have dissolved it then had it not been for the moderating influence of Cecil and members of the

⁷⁶Foster, II, 346, 348, note 5.

⁷⁷S.P. 14/58/38, 40, 41, Sir Thomas Lake to the Earl of Salisbury, November 26, 27, 28, 1610. C.P. 128/168. Foster, II, 346.

Privy Council.⁷⁸ His Majesty wrote the Privy Council on December 7 that no house save the house of hell could have found and uttered such unjust complaints as this House of Commons. He further concluded that this House had "perilled and annoyed our health, wounded our reputation, emboldened all ill natured people, encroached upon many of our privileges and plagued our purse with their delays." Since Parliament was prorogued it was only necessary for the Lords to think about means for repairing his estate.⁷⁹ As for Cecil's efforts to secure him money, King James rebuked his Lord Treasurer, insisting that his greatest error was that he expected to draw honey out of gall, "being a little blinded with self love of your own counsel in holding together of the Parliament, where of all men were despaired, as I have oft told you, but yourself alone."⁸⁰ Cecil had done much to try and compose differences between the King and the Commons in those last days of November, 1610. And he asked James to suspend judgment of him until

⁷⁸ Foster, II, 348-50. About mid-November, after the contract negotiations had failed, dissolution was discussed at a Council meeting. No decision was reached; but Cecil counseled patience and advised against a dissolution. (D.H. Willson, "Summoning and Dissolving Parliament," 281; D.H. Willson, Privy Councilors in the House of Commons, 1604-1629, 127). Lake's letter to Cecil of November 25, 1610, revealed James' inclination toward a dissolution if the Lords could not assure him of supply and of an agreement on the marriages' offer which would suit him. (S.P. 14/58/32)

⁷⁹ King James to the Privy Council, December 7, 1610, Cal. Salisbury MSS., XXI, 266.

⁸⁰ King James I to the Earl of Salisbury, December 6, 1610, Ibid., 265-66.

he had attended the King. In the meanwhile he would attend to the care of the royal estate with no less diligence than he would care for his own.⁸¹

These five sessions certainly soured King James on Parliament and he would spend most of the next decade trying to raise money by any means rather than calling together the Estates again. His needs were such, however, that he was forced to call Parliaments in 1614, 1621, and 1624. In both the sessions of 1614 and 1621, he made rather general offers concerning wardships; but no Great Contract would emerge again during his reign.⁸²

⁸¹The Earl of Salisbury to King James, December 9, 1610,
Ibid., 267-68.

⁸²H.E. Bell, An Introduction to the History and Records of the Courts of Wards and Liveries, 145; Sir Edward Coke, The Fourth Part of the Institutes of the Lawes of England (London: For A. Crooke, W. Leake, A. Roper, F. Tyton, T. Dring . . . Booksellers in Fleet Street and Holborne, 1669), 202-03. See Appendix IV.

CONCLUSION

The contract had originated from various sources. The idea of replacing the old feudal revenues with an updated permanent source of income was discussed both in the Privy Council and the Houses of Parliament from 1604 onwards and credit for the idea could be shared as much by Sir Edwin Sandys as by Sir Robert Cecil, the Earl of Salisbury. Consequently when Cecil introduced his basic plan for the contract in 1610, he had a good foundation on which to build. In addition subjects were dissatisfied with these sources of indirect taxation that relieved them of their money, threatened the security of their property and left them prey to hordes of fiscal undertakers and patentees such as Sir Stephen Proctor. However, along with the desire to be rid of such financial anachronisms went a distrust of the King's word in financial affairs and the inability on the part of the Commons to believe James could properly manage his fiscal resources regardless of his Majesty's promises. The Commons were also aware of their power over the purse and they felt that unless the King remedied grievances to their satisfaction they need not cooperate with him in fiscal matters. There was also a natural reluctance among the subjects to increase taxes because it meant revealing sources of wealth and placing a permanent burden of taxation upon

themselves and future generations.

However, all things considered, it was King James' attitude that finally tipped the balance against the contract. He always placed his immediate financial needs ahead of long term plans such as the contract because they took much time to mature and meant much dealing and haggling with the House of Commons which he found very distasteful. Furthermore, he could not grant the fiscal and other concessions which would make a meaningful imprint on the minds of the members of the Lower House. Some of his advisers encouraged him in these strong feelings against the contract and against the Commons. If King James had been more ingratiating, had made concessions in both the fiscal and grievance arenas, and had tightened his own purse strings, he might have convinced the members of the House of Commons.

Certainly, Cecil could have done more both by his own example and by encouraging more fiscal restraint on the part of the King, his master. But he had already done much by promoting compromise between the King and Commons and by trying to get an adequate sum of money for the King while not placing an intolerable fiscal burden on the subjects. He cannot be blamed for the joint intransigence of King and Commons.

Ultimately, the responsibility for the failure both of the negotiations about the contract and of the attempt to obtain the subsidy must fall on the King's shoulders. For it was he who directed the negotiations which led to the breakdown of the contract bargain and the collapse of the subsidy talks and the discussions

about the marriages. The Commons' fear and mistrust of the King had reached a point where they felt the contract would either turn out to be insufficient or would prove enough so King James would never again have to call Parliament. These feelings led to a stalemate and a real crisis of confidence on the part of the Commons in their ruler, King James I. These conditions would help to bring on revolution some thirty years later and were perhaps more important than the immediate financial problems in causing the English Revolution. For, when the subject lost confidence in the King, government at the center could no longer function properly and change in the existing order became a necessity.

APPENDICES

APPENDIX I

State Paper 14/52/88

The petition pretended to be made unto the King for composition for his tenures is grounded upon these points.

Moving causes in the subjects behalf.

Present calamities these.

1. That it is a servitude and slavery so great as no other nation is subject unto.
2. That the children are taken away from their parents and kinsfolk to their great grief and discomfort.
3. That the children are bought and sold like horses.
4. That they are defrauded of their education.
5. That they are married to base persons and strangers to their disparagement.
6. That they are so pulled and racked in the composition of their marriages as they are never able to recover it.
7. That their lands and houses are spoiled and wasted.

Fear of future dangers

1. If a Scot should be Master of the Wards and the wards should be given and transported into Scotland.

Reasons to move the King

1. That it is honorable for the King to release his tenures because it will be more honor for him to be King of a people moderately free than of slaves and bondmen.
2. That his people will love him much more for so great a favor.

3. That it is just in respect that the cause of the tenures by escuage now ceasing by the happy union of both kingdoms the effects should be also taken away.

4. That it shall be profitable for the King; for they will give him for it a sufficient recompense of a far greater value than now he hath.

To the first that the like tenures or far harder exactions are in other nations, is easily proved.

1. Joseph caused the King of Egypt to buy the land of his subjects and to give it back reserving a tenure of the fifth part of the profits. In Italy the client or vassal holds his land by homage in fee or fede? to be faithful and loyal to his lord. In Hungary they have the like tenures of fees and escheats. In France the like of wards by the name of Guard noble. In Scotland the King hath the like. In France, Spain, and Italy the exactions are so great as they are intollerable and therefore this is a slander and far better it is for us to hold our lands by this service than to be subject to so many taxes and tallages as other nations are oppressed with.

2. The second is not true for the discretion of the Court hath always observed this rule that the heir is never taken from the mother while he is young and fit to be in the mother's custody, but when it is of years to be put to school and to receive good education, it is then delivered to the committee, under such bonds and cautions given into the Court for his good bringing up, that there is no man of judgment but will allow of it.

3. That they are bought and sold like horses is meer slander. True it is that the King by the Master of the Wards selleth the custody and marriage of the heir, either to the mother or nearest of friends, if to them, then is this complaint the less necessary; if to a stranger there is such regard to the person of the committee, as in every respect he shall be a fit man for it; and such care had of the ward, not only by bonds and covenants taken for his safety, but by the justice of the Court upon any complaint as it is far better for the ward to be thus bought with these cautions and to be subject to the good government of the Court, than to be left at large at the pleasure and discretion of his nearest friends who are often led away more by present respect of their own private gain, than by regard of blood or kindred. And if the opposers mean that by the Committees they are sold like horses at their pleasure, it is an /two words undeciferable/ of men that know not the discreet proceeding of the Court. For assurance is taken both by covenant and bond that no guardian shall sell his ward but by licence of the Court, whereby the Court takes such care of the fitness of the man that shall have him, as I dare be bold to affirm, that a far less number miscarry by them

that buy wards, than by the negligence or misgovernment of mothers unjust father in laws and unkind kinsmen of whose cruelty to wards there are more examples yea even of guardians in socage, than of strangers that buy a ward, either at the King's hands, or the Committees, as daily experience of suits, both in the Courts of Wards and Chancery do witness. For touching guardians in socage, both the Statutes? of Marlebridge proveth the cruelty that in those days was used to the poor orphans and many suits in Chancery since.

4. That the heirs are defrauded of good education is never so usual as where they are left with the nearest friends or the mothers who either by cokkering, neglect their bringing up, or by a second marriage care more for second children and reject all regard of the wards education committed unto them. But these that buy wards buy them to the end, either to make them fit to marry their own sons or daughters or to sell them over for a greater gain, and nothing can fit them better in the one, or more advance their profit in the other, than the good education of the ward and the good usage of him and his possessions.

5. 6. And as touching their marriage to base persons and exactions of Committees, it is very plain that both of these are provided for by bond and covenants in Court and there was never any complaint of any of these wrongs offered, but it hath been redressed.

7. That their lands and houses are wasted more than others that are not wards is a meer falsehood and slander. For whosoever knoweth the honorable care of the Court of preserving the houses and woods, yea of the underwoods, and coppices, which the King may lawfully sell, and which all guardians in socage do for the most part sell with very lean accompts to the heir, will greatly esteem and commend the regard of the Court in that respect, for there is nothing more certain, than that the Master of the Wards upon the first complaint of any such waste, offered or attempted, doth presently grant forth an injunction to inhibit it and taketh a severe course in punishing the offense and repairing the fault.

The fear of the Scottish Master of the Wards, is an objection by me unanswerable.

And thus much for the objections.

1. Now to their persuading reasons. The first is honor, word unclear that it is a greater honor to be King of a free people than of slaves and bondsmen. Is it possible we should think that the subjects of England the nobles, gentility and yeomanry of England, who by foreign nations have been ever accompted the freest and richest people of all others, should be now by themselves termed slaves and their Prince, king of slaves; it is a dishonor both to the nation and the King. I say to the Kings who

have been ever held as the most absolute monarchs in the world and even in respect of this service of his tenant and bond of duty and dependency wherein both the nobility and meaner sort are tied unto him in a strict yet a just law of obedience. And yet no Princes in the world have been less noted of tyranny and oppression of their subjects, than the Kings of England, nor any people more free from slavery; and even in this point which they seem to accomplish an oppression that their children should be bought and sold, doth not the profit redound as much or more to men of their own rank, who buy them, than to the King; they will say themselves that the greatest benefit goeth to others, that is to the Committees; are not they commonly knights and gentlemen of as good quality as the ward; as for noblemen, they are free from this imaginary oppression, paying commonly the King's fine only (the wardships being granted to their own uses) which fines they never lightly pay, but get themselves enstalled by warrant from the King, as the interest makes them withhold by pretence of some service or procure them to be pardoned, and for the rest it is but a translation of a matter of profit from the ward, to the Committee, that is, from one gentleman to another of the same rank. So as here is no sly oppression by the King to be gentility or nobility, especially if the justice of the Court have his ordinary course; no such slavery as is pretended and therefore the King shall be no less honored by retaining this prerogative to himself, than other his noble progenitors have been who for their honor and for the surety of their estate, both created and conserved these tenures.

2. That the people will much more love him, than they do. The affections of the people are so variable, as this is a weak foundation to build so great an innovation as is now sought. Never a Prince was more beloved of her subjects than the late Queen of famous memory in whose time there was no thought of this innovation and if a Prince hath no other art to win the love of his subjects than departing with the chiefest prerogative of his crown and the subject no better heart than to expect that the Prince should buy their love at so dear a rate; the honor of the one and the love of the other will soon wither and wax cold and therefore this argument is very weak.

3. They say the point of justice is this that the cause of this service being taken away by this happy union of both the kingdoms of England and Scotland, it is just that the service shall also be taken away. Wherein we might consider first whether it be true or no, that the wars with Scotland were the cause of these tenures. Admitting it were true, whither it be fit rebus sic stantibus that this alteration should follow. And first to the creation of the tenures in capite and by knights service; it is most untrue that the wars against the Scots was either the only or the chiefest grounds of those tenures. For if that were true, then were all grants made by the King at this day to hold of him in capite void, there being no cause of wars against the Scots,

who are now subjects and not enemies. And it is most certain that as these tenures [word unclear] prescription long before the conquest, and every prescription had his beginning upon a reasonable cause, for it is likely that even in the times when there were many kings in England one warring upon another they gave lands to their subjects to hold by these tenures; and as in the end all the kingdoms were resumed into one either by conquest or by marriage (by which means the kingdom of Scotland and this are united) so the tenures remaining were all become depending on one chief head or monarch. It is therefore most just, that as the lands were granted by his Majesty's progenitors to be holden by this service so as long as the tenant holdeth his lands the King should enjoy the service and that the tenant should be [two words unclear] weary of the service than of the lands. Further if this law came in only with the conqueror, it might be thought to carry a badge of a conquest, but if it were long before, if it were created by the just agreement between the King and his tenant, nay if the conqueror gave the lands to hold by this service not only to the conquered but to his own servants, friends, and kinsmen, joined with him in the conquest who took it with this condition for a reward of their service, how can there be any injustice oppression or dishonor in a tenure created upon so just and honorable agreement and consideration. And I would be glad to know whether if the King at this day would give any land to these gent/lemen to be holden in capite they would refuse it or no; if not, were it reason that an age or two hence, their heirs enjoying the land should complain of the tenures. That these tenures in capite have been of ancient time, it is plain for Bertiger gave unto Engast and Horsa Saxons diverse lands in Kent and Essex to defend the King and his lands against the enemy, which is a tenure by grand serjeanty. The ancient tenures of the Cinque Ports, which have been long before the conquest, are of the nature of a tenure in capite though by reason that they are a corporation, the King cannot have the wardship, but the tenure in the book of Doomsday is called servicium regis, and appeareth to be as high in nature as a knight's service. King Edgar had it as appeareth by the Chronicle. Besides divers personal services as? castle guard, by personal attendance on the King's person, offices holden by this service, which by no means can come within consideration of Scottish service. But admit it be so that escuage in respect of the wars of Scotland is one of the principal grounds of these tenures, may they not be answered with their own argument which they foolishly make in the question of the union that there is a possibility that the King's issue may fail; so as by their own reason they may be answered that the service against Scotland are rather suspended than extinguished, and to suspend their tenures will neither answer their expectation, nor be safe for the King and his successors. Furthermore it is no reason as long as the like tenures continue in Scotland that the King should have a tenure less honorable in England than he hath in Scotland. And therefore this is neither a note of a conquest, nor unjust creation of an

oppressing tenure, when both antiquity hath allowed it and the tenants by agreement hath annexed and enjoyed their land by it.

4. For the matter of profit by the composition it is first to be considered whether it be reasonable or honorable, that the King should in point of profit make any valuation at all of this so principal a prerogative of his Crown which is not only a matter of bare honor and profit but it is the most assured chain that tieth and linketh unto him the nobility, the gentility and commons of the realm that hold any lands of him by these services; who howsoever for the present may thankfully acknowledge so great a benefit as this dispensation would seem to bring unto them, yet when this benefit were forgotten (as in matter of gratitude the memory of man is commonly very temporary) might yet soon forget their benefactor though they enjoy the benefit and the King should feel the defect of this strict band of obedience and lawful service of the person and land of his subject and perhaps find the thankfulness of tenants very cold. Yea it might be a means to breed in the subject a conceipt of such freedom of their estate, as they would think themselves no further bound to any personal service paying their composition than the free estates of some Germans or Cantons of the Switzers which how dangerous it would be both to the Princes estate is very considerable. And if it were but a point of honor, were it not dishonorable that the Prince should merchandise the chief honor and dignity of his crown. But admit there should be composition and that we are to consider of the valuation of the freedom of the subjects shall have by his release of tenures let us see what it is that must be valued.

1. Fines for custody and marriage of the heir.
2. The fines and rents for wards lands.
3. The fines for widows dowers.
4. The liverys and primer seisins.
5. The King's aides to make his sons knights.
6. The King's aid for marriage of his daughter.
7. The King's respect of homage.
8. The King's fines upon licences and pardons of alienations.

The bare fines and rents of wards and marriages with the fines of liveries [word unclear] and rents of lands being the revenue of the Court of Wards now comes to 30,000 li. yearly and the petitioners themselves will say that in fees of the court and

payments those that are committees and have the first grants they give as much more as the least; if they think committees or they that have the first grants have too much they may be well assured and so may the King also, that if those men that travel to find offices for the King and discover tenures which the parents and friends commonly conceal were not rewarded, the King's profit would come to nothing, whereof there is daily experience. If any default be by bribery or extortion in the clerks, let it be complained of and present redress shall be given. But if it cannot be, that the charges during the continuance of the tenures can be avoided, then must the composition be for the revenue and charges of the Court of Wards only, after the rate of 60,000 l. per annum. The King's honor and strength dispensed with if he should so much descend from his own honor and majesty to compound for it must receive some valuation which in reason cannot be less than 20,000 l. per annum. The King's aids, the licences of alienations and fines and respect of homage cannot be less valued especially if the present charge of the subject to the sheriffs, officers and clerks be considered than 40,000 per annum more; all which together make 120,000 per annum. Now if you will offer to join to this the composition for commissions to purveyors though in nature they be far different and no way compatible the one with the other, because the Petitioners themselves say, that the one is a just and lawful prerogative, the other an oppression, contrarily to the laws and statutes of the realm; yet let it be seen what composition they will give for that, and if the offer be reasonable, it may be heard.

Finally if the Petitioners can be contented to make such an offer for the tenures as may be proportionable to this account above mentioned and will find the means that this may be forever continued to the Crown, the Master of the Wards for his part, though he be his Majesty's sworn officer, to maintain his revenue of the Crown and the privileges thereof; yet if it be generally conceived to be for the good of the subject and the King his master, be pleased to accept of it, as to full satisfaction to his honor, for the band of duty of his subjects and for his profit he hath by the wards; he is far from impugning it, as he will be first that shall give way unto it; but with this caution, that it be speedily determined one way or the other; for if it should hang long in suspence and parley, it would be very prejudicial to his Majesty and an exceeding decrease of his revenue. For in this last year, since his Majesty came to the Crown from the 18th of March before her late Majesty's death until the 18th of March last there hath not half so many grants of wards passed the Master of the Wards hands as did in the year before, notwithstanding this great mortality; every man in hope that something would be done in this matter (which hath been held in expectation ever since his Majesty's coming to the Crown) having endeavored to conceal their tenures or at least forborn to make suit for their

wardships. The defect whereof is also found in his Majesty's coffers the receipt being last year 10,000 l*l*. less than it was the year before; and yet of such money as hath been received, the most was rated by the Master in the former year. So as if his Majesty grow not to a speedy resolution one way or the other, his revenue of the Court will sink of itself. And therefore seeing the objections are principally grounded upon ignorance of the proceeding of the Court, unjust slander of the Court and State and that their persuading reasons are weak in themselves in their foundations, being only the mistaking of the law, as though it were a meer badge of the conquest and had reference only or principally to the wars with Scotland wherein they are answered with their own arguments, there is yet no apparent reason why the King should dispense with his tenures except the composition be very good and sufficient.

(Attached to this State Paper were notes in the Earl of Salisbury's handwriting which he apparently jotted down during the course of the conference on May 26. The notes consist of single words and phrases some of which are not too clear. They do contain such references as "grace not justice," a reference to Sir Edwin Sandys' admission that if the King granted their request to treat of wardships it was a gracious act. It also contains a reference to the "perpetual yearly revenue with an overplus" which Commons offered.)

APPENDIX II

Memorial concerning the Great Contract, 1610¹

Memorial concerning the Great Contract with His Majesty, touching Tenures, with the Dependants, Purveyance, etc. delivered by the Committees of the Commons House unto the Lords.

Demands in Matter of Tenures &c. The Desire in general is, to have all Knights Service turned into Free and Common Socage.

In particular, some Tenures more properly concern the Person, some the Possession.

Grand Serjeanty; wherein, though the Tenure be taken away, yet the Service of Honour to be saved. And the Tenure per Baroniam, as it may concern Bishops or Barons, or Men in Parliament, to be considered.

Petty Serjeanty; Escuage certain and Uncertain, to be taken away.

Castle Guard; that Castle Guard which rests in Rent, to be saved.

All Knights Services generally, both of King and Common Person, to be taken away. The Rents and Annual Services to be saved.

Homage Ancestrel and Ordinary, with the Respite of them. Both these to be taken away; only the Coronation Homage to be saved, not in respect of Tenure, but of Honour.

Fealty, The Form of doing Fealty not yet resolved of.

Wardship of Body, Marriage of the Heir, of the Widow. These to be taken away.

Respite of Fealty to be taken away.

Wardship and Custody of Lands likewise to be taken away.

Primier Seizin to sease. Livery, Ouster le Maine, to be taken away, so far as they concern Tenures, or Seizure by Reason of Tenures, other than for Escheats.

License of Alienation, upon Fines, Feoffments, Leases for Life, and other Conveyances.

¹L.J., II, 660-62.

Pardon of Alienation, Pleading, Diem clausit extreum, Mandamus, Quae plura devenerunt, Offices post mortem, Inquisitions ex Officio, except for Escheats.

Also all concealed Wards de futuro, all Intrusions, all Alienations past, all Bonds and Covenants for Performance of what tend to Knights Service. All these to be determined.

All Wards now in being, or found by Office, or which shall be found by Office before the Conclusion of this Contract, shall be found, and whose Ancestors died within three Years before. Those to be saved.

Relief upon Knights Service to cease.

Patentees that pay a Sum in gross, or pay Tenthys, or Fee Farmers. These not to double their Rents upon a Relief to be paid.

Escheats, Heriots, Suit of Court, Rents, Workdays, and such Services. These all to remain.

Aid to the King to remain, but limited in certain to Twenty-five Thousand Pounds, cum acciderit.

Aids to Common Persons to cease.

If any Body Politick or Corporate, or other Person or Persons, or any from, by, or under whom they claim, have had Possession, and been reputed Owners, by the Space of Sixty Years; and neither the King nor His Progenitors, or any other for Him or Them, have had Possession, by taking of Profits, by the Space of One whole Year, without Interruption, within Sixty Years; the King's Title before that Time shall be extinguished, and such Possessor and reputed Owner of the Inheritance shall hold the Inheritance forever, against the King's Majesty, His Heirs and Successors, and against His Patentees, and all claiming from, by, or under him, or them, or any His Progenitors.

And if the King's Majesty, or His Progenitors, have been in Possession only of a Rent reserved upon Arrentation of Assarts, or Waste Grounds, in Forests or other Lands, or upon some Grant in Fee Farm, and any Body Politick or Corporate, or other Person, have enjoyed the Lands, Tenements, or Hereditaments, for which such Rent is paid, by the Space of Sixty Years and more, as his own proper Soil and Inheritance, The King's Majesty His Heirs and Successors, shall enjoy the said Rent only, and the reputed Owners shall hold the Inheritance, according to the several reputed Estates. And all other, claiming or pretending Title, under any that shall gain the Inheritance against the King by this Law, either for Years, Life, Intail, or for other Estate, either at the Commons Law, or according to the Custom on any Manor, shall hold and enjoy the same according to their former supposed Estate.

And it is thought reasonable, that some Course be thought upon, concerning such as pay the King any Rents for Lands, as Chief Lord, or otherwise, by the Space of Sixty Years or More, the Freehold and Inheritance of the said Lands in themselves, or

such from whom they claim, that, by Colour of such Rent received, the King should not be intituled to the Inheritance.

And that some Course may be taken for Limitation of Entries and Actions for Rights and Titles of Land, belonging to the Duchy of Cornwall, Principality of Wales, and Counties of Chester and Flint; and namely, that some Provision be made for it in the Patent now shortly to be passed to the Prince of Wales, that such as have been reputed Owners of the Inheritance, and had Possession above Sixty Years, be not impeached.

Patentees to be concluded in Like Sort as if the Estate had still remained in the King.

That Letters Patents of His Majesty, His Heirs and Successors, and other His Progenitors, not heretofore made void by Judgement, or such Entry as hath been made known by One Years Continuance of Possession, shall be construed and taken most beneficially for the Patentees, Their Heirs and Assignees, in Case any Estate of Inheritance be passed, and for the Patentee, His Executors, Administrators, or Assignees, to whom any Lease hath been or shall be made, according to the Purport of the said Letters Patents or Lease, and no other Exposition to be made of any Patent, Grant, or Lease, of the King or his Progenitors, but such as the Law makes in Grants and Leases made by Common Persons; any collateral Matter, or former Rule or Maxim, to the contrary notwithstanding.

And that all Letters Patents, Grants, or Leases, from henceforth, shall be expounded, construed, taken, and adjudged, to pass all Rights, Titles, Estates, and Interests whatsoever, the King, at the Time of the said Letter Patent made, might have passed, as King or Duke; and that such Grants as have been made, under the Duchy Seal of Lancaster, of Land reputed Duchy Lands, by the Space of Sixty Years, shall be good, notwithstanding the King may have any other Title thereto, in Right of His Crown, or otherwise.

3. That the King, nor any Patentee of the King, His Heirs or Successors, shall take any Forfeiture of his Estate for Nonpayment of Rent, but only shall have a Penalty of double the Rent; but that the Lessee shall enjoy his Estate against the Patentee, as he did under the King; and that Leases made upon Suggestion of Surrenders may not be Overthrown for Defect or Imperfections of or in the Surrender, or for Want of Surrender.

4. The Subject, upon every Information of Intrusion shall be admitted to plead the General Issue, Not Guilty, and not be forced to any special Plea; neither shall any Injunction, in respect of such Plea, be granted, to turn him out of Possession, having had Possession by the Space of One Year before.

5. The Point concerning Penal Laws and Informers to be

ordered as shall be most for the Ease and Benefit of the Subject, preserving the Force of the Law; and a Course to be established for due Execution thereof and inflicting the Penalty.

6. All Purveyance and Takings for His Majesty, the Queen, the Prince, and all other the King's Children, and for all Offices, Officers, Courts Councils, and Societies whatsoever, to be utterly taken away, as well Purveyance and Takings for Household, Stable, Navy, Servants, Labourers and all other Provisions, as also for Carts, Horses, and Carriages, both by Land and Water; and generally all Purveyances and Takings, for whomsoever or whatsoever, of what Name or Nature soever, to be for ever extinguished; the Composition for the same to be all dissolved and released. The Clerk of the Market and all other to be disabled for setting any Prices. The Power and prerogative of Pre-emption to be determined, not intending hereby the Pre-emption of Tin.

What regard shall be had of the Merchant Stranger in this point, to be left to further Consideration.

7. That His Majesty would be pleased to Pardon, release and discharge all old Debts due to Him or any His Progenitors, before the Thirtieth Year of the Reign of Our Late Sovereign Lady Queen Elizabeth; and that hereafter every Subject, sued or molested for any Debt due to His Majesty or His Progenitors, or that shall grow due to His Heirs, may plead, that the same Debt or Sum of Money, sued for or demanded, became due to the King or His Progenitors by the Space of Ten Years Past; and that the same in the mean Time hath not been sued for in any of the King's Courts; and that the same, appearing to be true, or so proved, shall be a good Plea in Bar.

8. All Prefines and Postfines, due upon Alienation, by Fine or Recovery to be taken away.

I. That where any Man shall be outlawed, at the Suit of a Common Person, before Judgement or after, the Plaintiff first, and all others after him in Order, as they shall desire it, may be paid their just Debts out of the Forfeiture grown to the King, before the King, or any other, take any Advantage of such Forfeiture. In like Manner, in all Attainders of Felony and Treason, all Creditors to be satisfied for their just Debts out of the Estates of the Persons attainted.

That the Clause in the Statute, 34th and 35th of Henry the Eighth, by which the King hath Power to alter the Laws for Wales, and make new be repealed.

In the Interim, till our next Access:

No Man to be questioned or troubled for any Land, upon Defective Titles; either upon Pretence that the Patent is void, or for Assart Lands and such like, which have had long Possession and no Patent.

No Man to be questioned for Land gained by the Sea, be it

ancient or new.

No concealed Ward to be sought after, nor any to be questioned, after the Death of whose Ancestors an Office hath not been found within Ten Years.

No Man to be questioned for old Debts.

Nor Alienations without License.

Nor to be inforced to plead his Licence and Title, or Tenure in the Exchequer.

I. That whereas the House of Commons have already, among their Grievances, preferred a Petition to His Majesty, of Right and Justice, That the Four English Counties may have a Trial by Law, concerning their Inheritance to the Common Laws of this Realm, and so to be exempted from the Jurisdiction of the President and Council of Wales (a Matter wherein the whole Realm is deeply interested.); notwithstanding upon Occasion of this great Contract, the House of Commons doth humbly petition His Majesty, as of Grace, that, without further Suit, Trial, or Trouble, those Counties might be restored to that their ancient Right, the same being no way prejudicial to His Majesty's Honour in Point of Sovereignty (as we conceive), as, being alike to His Majesty in which of His Courts His Subjects have their Trials, and in Profit much less; but rather being a Matter of great Benefit to His Majesty, in the Duties due for Suits in his Courts at Westm. and to His Majesty's Loving Subjects there, it will be a Matter of great Comfort, and of enabling them the better to perform their Part of this Contract, by easing them of much causeless Vexation and Charges, which in trifling Suits they now bear and endure.

2. The King to be bound upon Demurrers, to express the Cause of Demurrer for Form, as the Subject is by the Statute of 27th Elizabeth.

3. Petition to be made to His Majesty, to grant out Commissions to declare the just and due Fees of all the Courts and Offices in this Realm, so far forth as they are to be paid by the Subject, and they to be reduced into a Book, and printed.

4. His Majesty also to be petitioned, to appoint some to make a diligent Survey of all the Penal Statutes of this Realm, to the End that such as are obsolete or unprofitable might be repealed; and that, for the better Ease and Certainty of the Subject, all such as are profitable, concerning One Matter, may be reduced into One Statute, to be passed by Parliament.

5. The Lords to join with the House of Commons, in Petition to His Majesty, for Recompence to be made by His Majesty to all such Officers of Courts as are damnified by this Contract in Point of Tenures.

6. His Majesty to be petitioned, that he will be pleased

to grant no Protections contrary to the Law.

That the Extent of every Article that is desired for the good of the Commons, in this great Contract with His Majesty, should be expounded and explained, in all Clauses doubtful, by the House of the Commons, according to their true Meaning.

Reservation to be made of further Addition, at the next Session, of any Propositions within the Bounds agreed on; videlicet, not to impair His Majesty's Honour in Point of Sovereignty, nor to diminish His Estate in Matters of Profit, without Recompence for the same.

Answer to the Last Three Propositions.

1. What Assurance His Majesty shall have of the Two Hundred Thousand Pounds Yearly Revenue?

Answer: Not having resolved yet whereupon to raise this Revenue, nor in what Manner to levy it; thus much we are resolved of, that it shall be stable and certain to His Majesty, and convenient for His Majesty's Officers to receive and gather it.

2. What Matter of Content, in the Interim, shall be brought down into the Country?

Answer: 1. To the meaner Sort, the assuring them that nothing shall be levied upon their ordinary Victual: videlicet, Bread, Beer, and Corn nor upon their Handy Labours.

2. To the better Sort, the View of those Things, which, in lieu of that Sum, we shall receive from His Majesty; whereof Copies to be taken down by such as please.

3. In general, to all, His Majesty's Gracious Answer to our Grievances.

3. What Course now for the settling of this Contract and Proceeding in it?

Answer: 1. We proceed in it now by Addition of some more Articles; which, together with the former, in one entire Copy, we will present to the Lords.

2. For the settling of it at our Return, to find it as we leave it, we will enter into our Book, First, what we have demanded, videlicet, these Articles; Secondly, what we have resolved to give therefore to His Majesty, videlicet, Two Hundred Thousand Pounds by the Year; Thirdly, the Security to be by Act of Parliament in as strong Sort as can be devised; Fourthly, the Manner of levying it to be in such Sort as may be secure to His Majesty, and in the most easeful and contentful Sort to the Subject, that by both Houses of Parliament can be devised.

APPENDIX III

The Lords' Memorial to the Contract¹

Whereas the Knights, Citizens, and Burgesses of the Lower House of Parliament, have this Day, by their Committees, delivered unto the Lords Committees of this House a Memorial by them conceived, and put in writing, containing certain Articles concerning the great Contract with His Majesty, which, during this Session of Parliament, hath long and often been in Speech and Debate between their Lordships and them, as well on His Majesty's Behalf as for the Interest of their Lordships, and of the said Knight, Citizens, and Burgesses; by which Contract, they are tied to assure unto His Majesty, His Heirs and Successors, the Sum of Two Hundred Thousand Pounds Sterl. in Yearly Revenue, in Satisfaction of the great Yearly Profits which His Majesty hath or may make, as well in respect of the Wardships of Bodies and Lands of His Subjects (and all other Incidents to Tenures), as of the Benefits rising by Post Fines, Defective Titles, Assarts, and many other Immunities and Privileges, together with the extinguishing of Purveyance (all tending to the Profit and Ease of His Majesty's Subjects); in the Conclusion whereof, there is this Clause inserted; videlicet, That the Extent of every Article that is desired for the Good of the Commons, in this great Contract with His Majesty, should be expounded and explained, in all Clauses doubtful, by the House of Commons, according to their true Meaning.

And whereas, at the presenting the same Memorial, it was also delivered in the Name of the Lower House, by Sir Edwin Sandys, that, notwithstanding the said Clause inserted, it was not intended to make any Question of the Price, or of any main Part of the Contract (because they were agreed in the Substance) but only to reserve some Liberty for the Exposition of the Extent of some Branches, which contained those Requests which they had made (under that Liberty which His Majesty gave them to propound such other Things as should not derogate from His Honour and Profit);

¹L.J., II, 662.

in all which they desired also, by the Mouth of Sir Edwin Sandys, to retain Liberty, in adendo, diminuendo, & interpretando.

And whereas it was also delivered by the Gentleman aforesaid, That the Lower House were now resolved, at the End of the Session, to deliver clear Answers, that is to say concerning the King's Assurance; though for the Manner of Levy, they had not yet taken the same into Consideration in the Absence of their Fellows; yet of this one Thing, they did desire their Lordships to remain assured, that it was their full Intention and Resolution that His Majesty's Revenue, depending upon this Contract, should have these two Qualities; one, that it should be a Revenue firm and stable; another, that it should not be difficult in levy. In both which they assured themselves they did fully answer the Meaning of that Speech, which made the Mention of Terra Firma.

And forasmuch as the Knights and Burgesses of the Lower House have also acknowledged (and that most truly), that they did always understand themselves bound to limit themselves so carefully in all Things which they have fought for, or shall do (not being particularly expressed at the Time that they did accept of the Price), as not to demand or expect any Condition whereby His Majesty should lose either Honour or Profit as aforesaid:

The Lords also, who are likewise in their own particular Estates and Possessions (besides their Care of the Public Good) no less interested in this great Contract than they, and, by their eminent Places and Degrees, are more strictly bound to take Care of those Things which do particularly concern the Honour and Revenue of the Crown than others are, have now, upon good Advice and Deliberation, thought it fit and Necessary, not only to acknowledge their personal Consent to the substantial Parts of this Contract, but have (with the Privity of His Majesty, as an Argument of His Consent) given Order likewise for an Entry to be made of the same Memorial, in Manner as is aforesaid, that is to say, with the same Reservation, which was verbally desired by them in these Words, "addendo, diminuendo, & interpretando," and with that Reservation which is contained their latter Clause of their Memorial, videlicet, That the Extent of Every Article that is desired for the Good of the Commons, in this great Contract with His Majesty, should be expounded and explained, in all Cases doubtful, by the Lords of the Higher House, for the Good of His Majesty and themselves.

APPENDIX IV

From The Fourth Part of the Institutes of the Lawes of England
by Sir Edward Coke

"At the Parliament holden 18 Jacobi Regis it was moved on the King's behalf, and commanded by the King to the Parliament for a competent yearly rent to be assured to his Majesty, his heirs and successors, that the King would assent that all wardships, primer seisisins, reliefs for tenures in capite, or by knights service should be discharged etc. Wherein amongst certain old Parliament men these thirteen things did fall into consideration for the effecting thereof.

1. That it must be done by act of Parliament, and otherwise it cannot be done.
2. That all Lands, Tenements, Rents, or Hereditaments, holden of the King, to be holden by fealty only, as of some honour, and such rent, as is now due.
3. That all Lands holden of Subjects, Bodies Politick or Corporate, by knights service to be holden by fealty, and such rent, as is now due: for if Lands should be holden of them by knights service, the same might come to the King.
4. All Subjects, Bodies Politick and Corporate to be disabled to take any Lands, Tenements, Rent, or Hereditaments of the King, his heirs, or successors by any other tenure, than by fealty only, and yearly rent, or without rent of some honour.
5. No Subject, Bodies Politick or Corporate, to create by any license, or any other way or means, any other tenure than by fealty and rent, or without rent upon any estate in fee simple, fee tail, or otherwise.
6. In respect of the said discharge and freedom of the Subjects and their posterities, and that they shall be also discharged thereby of fines and licenses of alienations, respect of homage and reliefs;* competent rent to be assured to the King, his heirs, and successors, of greater yearly value than he or

any of his predecessors had for them all, which rent is to be inseparably annexed to the Crown, payable at the receipt only. (*first search must be made what the King hath been answered for these, etc.).

7. A convenient rent to be assured to the Lords for every knight's fee, and so ratably.

8. Commissions for the finding out of the tenures of the King, and the Subject to be returned, etc.

9. Ideots and Madmen to be in the custody of some of their Kindred, etc. and not of the King, his heirs or successors.

10. The Court of Wards to be dissolved with pensions to the present officers.

11. Provision to be made for regulating of Gardien in Socage, and that the Ancester may appoint the Guardians, etc. and that no Gardian shall make a grant to the King.

12. Provision to be made that Bishops shall continue Lords of Parliament, notwithstanding their Baronies be holden in Socage.

13. That the Act shall be favourably interpreted for discharge of all wardships, etc.

Which motion, though it proceeded not to effect, yet we thought good to remember it, together with these considerations;* hoping that so good a motion tending to the honour and profit of the King and his Crown forever, and the freedom and the quiet of his Subjects and their posterities, will some time or other (by the grace of God) by authority of Parliament one way or other take effect and be established. (*Spes est vigilantis somnium, Hope is the dream of a waking man.)"

BIBLIOGRAPHY

BIBLIOGRAPHY

I. Primary Sources

A. Public Documents

- Calendar of State Papers and Manuscripts relating to English Affairs existing in the Archives and Collections of Venice and in other Libraries of Northern Italy. Vols. X, XI, XII, 1603-1613. London: His Majesty's Stationery Office, 1900-1905.
- Great Britain. Historical Manuscripts Commission. Report on the Manuscripts of the Marquess of Downshire preserved at East-hampstead Park, Berks. Vol. II: Papers of William Trumbull the Elder, 1605-1610. London, 1936.
- Great Britain. Historical Manuscripts Commission. Report on the Manuscripts of the Late Reginald Rawdon Hastings, Esq., of the Manor House, Ashby de la Zouch. Vol. IV. London, 1947.
- Great Britain. Historical Manuscripts Commission. The Manuscripts of the House of Lords. Vol. XI: Addenda, 1514-1714. London: Her Majesty's Stationery Office, 1962.
- Great Britain. Historical Manuscripts Commission. Report on the Manuscripts of His Grace the Duke of Portland, K.G., preserved at Welbeck Abbey. Vol. IX. London, 1923.
- Great Britain. Historical Manuscripts Commission. Twelfth Report, Appendix, Part IV. The Manuscripts of His Grace the Duke of Rutland, G.C.B., preserved at Belvoir Castle. Vol. I. London, 1888.
- Great Britain. Historical Manuscripts Commission. Calendar of Salisbury Papers at Hatfield House, Hatfield, Herts. Vols. XV-XXI, 1603-1612. London, 1930-1970.
- Great Britain. House of Commons. Return of the Name of Every Member to serve in each Parliament. 2 vols. London, 1878.

Great Britain. Journals of the House of Commons. Vol. I, 1803.

Great Britain. Journals of the House of Lords. Vol. II, 1846.

B. Diaries, Memoirs, Source Collections.

Birch, Thomas. Court and Times of James I. Edited by Robert F. Williams. 2 vols. London: Henry Colbum, 1849.

A Book of Proclamations published since the beginning of his Majesties . . . reigne over England, etc. until the present moneth of Febr. 5, Anno Dom. 1611. London: Imprinted by Robert Barker, 1611.

Coke, Sir Edward. The Fourth Part of the Institutes of the Lawes of England. London: For A. Crooke, W. Leake, A. Roper, F. Tyton, T. Dring . . . Booksellers in Fleet Street and Holborne, 1669.

Hawarde, John. Les Reportes del Cases in Camera Stellata, 1593-1609. Edited by W.P. Baildon. Privately Printed, 1894.

Illustrations of British History. Edited by Edmund Lodge. Vol. III. London: John Chidley, 1838.

The Journal of Sir Roger Wilbraham. Edited by Harold S. Scott. Camden Miscellany, Third Series, X. London, 1902.

The Letters and Life of Francis Bacon. Edited by James Spedding. London: Longmans, Green, Reader and Dyer, 1861-74. 7 vols.

Moryson, Fines. An Itinerary containing his Ten Years Travel. Glasgow: James MacLehose and Sons, 1908. 3 vols.

Parliamentary Debates in 1610. Edited by Samuel Rawson Gardiner. London: Printed for the Camden Society, 1862.

The Parliamentary Diary of Robert Bowyer. Edited by David Harris Willson. Minneapolis: University of Minnesota Press, 1931.

Proceedings in Parliament 1610. Edited by Elizabeth Read Foster. New Haven: Yale University Press, 1966. 2 vols.

The Trevelyan Papers. Edited by E.C. Trevelyan. Camden Society, CLI. London, 1872.

Winwood, Sir Ralph. Memorials of Affairs of State in the Reigns of Q. Elizabeth and K. James I. Vol. III. London: T. Ward, 1725.

C. Unpublished Material.

British Museum, Additional Manuscripts 11402, 22591, 36767, 36970.

British Museum, Cotton Manuscript, Titus F IV. (Library of Congress Microfilm)

British Museum, Harley Manuscript 1877.

British Museum, Lansdowne Manuscripts 151, 165, 167, 168.

Cecil Papers in the collection of the Marquess of Salisbury at Hatfield House, Hatfield, Herts. (Folger Library Microfilm).

Folger Library, vb 97 and vb 142.

Great Britain. Public Record Office. State Papers, Domestic, James I, 14/1/68, 14/6/99, 14/8/60, 14/8/69, 14/18/77, 14/18/115, 14/19/27, 51, 14/21/11, 13, 14/24/13, 61, 62, 63, 64, 65, 14/52/88, 14/55/61, 14/57/62, 14/58/21, 26, 30, 31, 32, 35, 38, 40, 41, 54.

II. Secondary SourcesA. Books.

Akrigg, G.P.V. Jacobean Pageant. New York: Atheneum Press, 1967.

Ashton, Robert. The Crown and the Money Market, 1603-1640. Oxford: At the Clarendon Press, 1960.

Bell, H.E. An Introduction to the History and Records of the Courts of Wards and Liveries. Cambridge: At the University Press, 1953.

Dietz, Frederick C. English Public Finance, 1558-1641. New York: Barnes and Noble, 1964.

Gardiner, Samuel Rawson. History of England from the Accession of James I to the Outbreak of the Civil War. Vols. 1 and 2. London: Longmans, Green & Co., 1883-1886.

Harrison, G.B. A Jacobean Journal, Being a Record of those Things Most Talked of During the Years, 1603-1606. London: George Routledge and Sons, Ltd., 1946.

Hurstfield, Joel. The Queen's Wards. London: Longmans, Green & Co., Ltd., 1958.

- Neale, Sir John. Elizabeth I and Her Parliaments. 2 vols. London: Jonathan Cape, 1965.
- Notestein, Wallace. The House of Commons 1604-1610. New Haven and London: Yale University Press, 1971.
- Prestwich, Menna. Lionel Cranfield. Oxford: At the University Press, 1967.
- Reinmuth, Howard S. (ed.). Early Stuart Studies: Essays in Honor of David Harris Willson. Minneapolis: University of Minnesota Press, 1970.
- Simpson, A.W.B. An Introduction to the History of the Land Law. Oxford: At the University Press, 1961.
- Stone, Lawrence. The Crisis of the Aristocracy 1558-1641. Oxford: At the University Press, 1965.
- Tanner, J.R. Constitutional Documents of the Reign of James I, 1603-1625. Cambridge: At the University Press, 1960.
- Thirsk, Joan (ed.). The Agrarian History of England and Wales: IV, 1500-1640. Cambridge: At the University Press, 1967.
- Thomson, Elizabeth McClure (ed.). The Chamberlain Letters: A Selection of the Letters of John Chamberlain concerning Life in England from 1597 to 1626. New York: G. Putnam's Sons, 1965.
- Willson, David H. King James VI and I. London: Jonathan Cape, 1956.
- B. Articles.**
- Cope, Sir Walter. "An Apology for the Late Lord Treasurer," Collectanea Curiosa. Edited by J. Gutch. Oxford: At the Clarendon Press, 1781, I, 119-33.
- Hulme, Harold. "Corrections and Additions to the Official Return of Members of Parliament 1603/4," Bulletin of the Institute of Historical Research, V (1927-28), 96-105.
- Hurstfield, Joel. "Political Corruption in Modern England: The Historian's Problem," History, LII (February, 1967), 16-34.
- _____. "The Profits of Fiscal Feudalism, 1541-1602," Economic History Review, Second Series, VIII (1956), 53-61.

- Metcalf, W.C. "Some Aspects of the Parliament of 1610," The Historian, XXV (November, 1962), 75-88.
- Rabb, Theodore K. "Sir Edwin Sandys and the Parliament of 1604," American Historical Review, LXIX, No. 3 (April, 1964), 646-670.
- Stone, Lawrence. "The Fruits of Office: The Case of Robert Cecil, First Earl of Salisbury," Essays in the Economic and Social History of Tudor and Stuart England. Edited by F.J. Fisher. Cambridge: At the University Press, 1961. 89-116.
- Willson, D.H. "The Earl of Salisbury and the Court Party in Parliament, 1604-1610," American Historical Review, XXXVI (1930-31), 274-94.
- _____. "Summoning and Dissolving Parliament, 1603-1625: The Council's Advice to James I," American Historical Review, XLV (1940), 279-300.
- Woodworth, Allegra. "Purveyance for the Royal Household in the Reign of Queen Elizabeth," American Philosophical Society Transactions, New Series, XXXV (1945), Pt. 1.

APPROVAL SHEET

The dissertation submitted by Raymond J. Teichman has been read and approved by members of the Department of History.

The final copies have been examined by the director of the dissertation and the signature which appears below verifies the fact that any necessary changes have been incorporated and that the dissertation is now given final approval with reference to content and form.

The dissertation is therefore accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

May 21, 1973
Date

William P. Trinkle
Signature of Advisor