

SECTION III.

ANCIENT PARLIAMENT OF SCOTLAND.

IN the course of these observations, a subject of high interest and importance now presents itself, the satisfactory elucidation of which would require many pages of careful and laborious investigation ; I mean the history and constitution of the Ancient Parliament of Scotland.

Long before the existence of the word parliament, or the mention of the three Estates of the kingdom, in our authentic histories or records, the sovereign of Scotland, like every other contemporary feudal monarch, was accustomed to consult, on occasions of solemnity and importance, with his high national council ; consisting of the bishops and abbots, the great officers of the crown, and the most powerful nobles and barons of the realm ; but nothing resembling a regular parliament is to be found during the reigns of Alexander the First, or of his brother David. The bold and imperious character of Alexander seems, indeed, to have stretched the royal prerogative to the utmost extent ; and, from the few and imperfect records of his short reign which yet remain to us, he appears to have been his own chief-councillor ; but it is more remarkable, that we look in vain for a parliament, or for any solemn assembly of the Estates of the realm, under the long reign of David the First,

although he has been pronounced by Buchanan, an impartial witness when kings are the subject, the most perfect model of a wise and virtuous prince. Yet David was undoubtedly a legislator; and on one memorable occasion, the death of the heir-apparent, his only son, Prince Henry, he adopted the most solemn measures for the regulation of the succession.

It will, perhaps, be recollected by the reader, that, under the reign of Robert Bruce, when the death of the young Steward rendered necessary some new enactments regarding the succession to the throne, a parliament assembled, in which the entail of the crown was solemnly settled upon Robert the Second, and his descendants. Now, David the First, in 1152, had exactly the same task to perform as Bruce in 1318. But the mode in which it was executed was entirely different. He called no parliament. We do not even discover that he took the advice of his royal council, or of his nobility. But he assembled an army, of which he gave the command to one of the most powerful of his nobles, and, delivering to him his infant grandson, commanded him to march through his dominions, and to proclaim him heir to the crown;¹ a circumstance from which there arises a strong presumption that, at this period, a parliament was unknown in Scotland.

Neither do we find this great council under the reign of his successor, Malcolm the Fourth. Hailes, indeed, in his Annals, informs us that Malcolm, with the advice of his parliament, gave his sisters, Ada and

¹ Simeon Dunelm. p. 280.

Margaret, in marriage to the Counts of Holland and Brittany ; but the words of Fordun, if accurately understood, bear no such meaning. And the conjecture which the same author has added, in a note, is the true meaning : “ *Malcolmus subsidio suorum et consilio ;*” implies nothing more than that Malcolm, with the “ assistance and advice of his nobles,” married his sisters : and the assistance here spoken of was probably an aid or grant of money, given to the king to make up the marriage portions of the young princesses ; but there is not the slightest proof that a parliament was assembled, during the reign of Malcolm, upon this, or upon any other occasion.¹

In 1174, William the Lion, the successor of Malcolm the Fourth, having been taken prisoner by the English, after a short confinement at Richmond, was sent, by Henry the Second, to a more secure and distant dungeon at Falaise, in Normandy. The event called for an immediate interference of those upon whom the principal management of the government devolved ; and it is too well known that, in the name of the nation, a disgraceful transaction took place, by which the king, with consent of the Scottish barons and clergy, purchased his liberty at the price of the independence of the country. The principal fortresses of the kingdom, and the most noble barons of the realm, were placed in the hands of the English king, as hostages for the performance of this treaty ; yet this whole transaction, which gave liberty to a king, and extorted from the nobles an acknowledg-

¹ Fordun a Goodal, b. viii. c. 4. Hailes' Annals, vol. i. p. 107.

ment of feudal superiority in the English crown, was carried through without a parliament.

Upon the accession of Richard the First, that crusading monarch, anxious to collect money for his expeditions to the Holy Land, proposed to restore, to the same prince who had resigned it, the independence of the nation, upon payment of ten thousand merks, somewhat more than a hundred thousand pounds of our present money. This sum, we learn, from authentic evidence in the Cartulary of Scone,¹ was collected by means of an aid granted by the clergy and the nobles; and it is remarkable, that there is not the slightest mention of a parliament in the course of the whole transaction. Not long before his death, the same monarch concluded a peace with King John of England; by one of the articles of which he engaged to pay to this prince the large sum of fifteen thousand merks. This could not be done without assistance; and, when the term of settlement arrived, "a great council," says Fordun, "was held at Stirling, in which having requested an aid from his nobility, they promised to contribute ten thousand merks, besides the burgesses of the kingdom, who agreed to give him six thousand."² That this was a national council, and not merely a consultation of the king with his great officers, is, I think, evident, from an expression of Benedictus Abbas, when describing the consideration given by William to a proposal of Henry the Second, for a marriage between the Scottish prince

¹ Cartulary of Scone, f. 10. Hailes' Annals, vol. i. p. 132.

² Fordun a Goodal, lib. viii. c. 73.

and Ermingarde de Beaumont, as contrasted with the words used by Fordun. “Rex, habito cum familiaribus consilio, tandem acquievit,” are the words used by the first-mentioned historian;¹ and they are essentially different from the expression of Fordun.² Yet, upon what grounds shall we presume to call this great council a parliament, when no evidence remains to us that the spiritual Estate were assembled at all, or that a single burghess or merchant sat in the assembly, although the royal burghs, as towns belonging to the king, were obliged to contribute their share in the public burden?

We shall, I think, be completely confirmed in this opinion, by an examination of some of the great public transactions of the succeeding reign of Alexander the Second. Upon the marriage of this monarch with an English princess, Joan, the sister of Henry the Third, it naturally happened that many intricate discussions and grave and material stipulations took place; yet these, as well as the settlement of the jointure of the princess, were discussed, and finally concluded, without the intervention of a parliament. And the same observation may be made on the second marriage of this prince with Mary de Couci.³ On another occasion, when Alexander, in 1224, levied an aid of ten thousand pounds, for providing portions to his sisters, it was certainly granted, or rather imposed upon the nation, by the simple order of the

¹ Benedictus Abbas, p. 448.

² Fordun a Goodal, vol. i. p. 529.

³ Math. Paris, p. 411. Ed. Wats.

king, without the slightest appearance of a meeting of the three Estates, or even of the council of the king;¹ and although we are informed by Fordun, that the same monarch, immediately after his coronation, held his parliament at Edinburgh, in which he confirmed to the chancellor, constable, and chamberlain, the same high offices which they had enjoyed under his father,² the expression is so vague, and the notice so brief, that no certain inference can be deduced from it. On the contrary, although he was one of the wisest and most popular of our early kings, although statutes of his enactment have come down to us, and his reign is fertile in domestic troubles and in foreign war, a careful examination of our authentic historical records has failed to discover a single instance, if we except the above, in which a parliament was assembled; and the government appears to have been entirely directed and controlled by the will of the king, and the advice and assistance of the great officers of the crown. Upon the accession of Alexander the Third there was evidently no change in this respect. The important public measure of the marriage of their youthful king with a daughter of Henry the Third, the appointment of counsellors, who were intrusted with the management of the kingdom during the minority of the sovereign, and the frequent changes in the regency which occurred in the stormy commencement of this reign, were wholly carried through without a parliament.³ But we shall not

¹ Fordun a Goodal, vol. ii. p. 53.

² Ibid. vol. ii. p. 34.

³ Fordun a Goodal, vol. ii. pp. 84, 85, 90, 91. In the year 1259, we find in Math. Paris, p. 844, Ed. Wats. that W. de Horton, a

wonder at this, when one of the most important transactions of his reign, the settlement of the disputes with Norway, and the acquisition of the Western Isles, involving an intricate and laborious treaty with that kingdom, a grant of money, and a yearly payment of a hundred merks, was concluded entirely by the king. The words, “*habito super hoc maturo avisamento,*” which are used by Fordun, cannot, by the utmost ingenuity, be construed into any thing more than a consultation between the king and his council.¹ The mode of considering the expediency of any public measure during this reign, appears to have been by the king holding a council, or colloquy, with the officers of the crown, and, probably, the most powerful of the nobility. In the year 1264, when the treaty with Norway was in agitation, Alexander held two colloquies of this kind at Edinburgh; and the accounts of the chamberlain inform us, that, on this occasion, the carcasses of twenty-seven cows, six calves, and fourscore of sheep, were sent to the capital for the consumption of the king’s household.²

On the death of the prince of Scotland, and of his

commissioner from Henry the Third to the King of Scotland, on his arrival in that country, found the king and queen, and the nobility of the realm, assembled in parliament; but of this parliament we have no evidence in Fordun, or Winton, or any authentic record. It was in all probability a mere assembly of the court.

¹ Fordun a Goodal, vol. ii. p. 102.

² In viginti septem Carcosiis vaccarum et vi. vacc. et iiiij^{xx}. multonibus empt. ad Servicium Dni Regis ad duo Colloquia que tenebantur apud Edinburgh, anno MCCLXIV. Chamberlain’s Accounts, vol. i. p. 52. Computum vice com. de Edinburgh, Temp. Alex. III.

sister the Queen of Norway, events which left this monarch with an infant grandchild as the only heir to the crown, it became necessary for the peace and welfare of the kingdom, that there should be a solemn settlement of the succession ; and it is fortunate that, in two authentic historians, we have a clear although exceedingly brief account of this transaction. Winton informs us, that Alexander the Third “ caused make a great gathering of the States at Scone ;” and, by an original and contemporary record in Rymer, it is shown that in this “ gathering,” which took place on the 5th February, 1283-4, the Scottish nobles bound themselves by a solemn oath to acknowledge Margaret, princess of Norway, as their lawful queen, failing any children of the monarch then on the throne, or of the prince of Scotland deceased.¹ The expressions used by Fordun in describing the same assembly, denominate it a council of the prelates and nobles of the realm.² Neither of these historians makes use of the word parliament in recording this event, nor is there the slightest evidence of the appearance of the representatives of the burghs upon this solemn occasion ; and, as Alexander the Third died soon after, we must conclude that, during his whole reign, there is no evidence that a parliament, in the sense in which that word was used in England under Edward the First, ever sat in Scotland. Upon the death of this mo-

¹ Winton, vol. i. p. 397, and Rymer, vol. ii. p. 1091, and 582. Winton is in an error in making this gathering of the states in 1285, as it appears in the *Fœdera* to have been held 5th February, 1283-4.

² Fordun a Goodal. vol. ii. p. 127.

narch, and the subsequent calamities in which the kingdom was involved by the ambition and injustice of Edward the First, we begin to discern something like the appearance of the great national council ; and it is a remarkable fact, that, from the greatest and bitterest enemy who ever coped with this country, we should have derived our first ideas regarding a regular parliament, composed of the prelates, barons, and representatives of the royal burghs. But this, as may be naturally conjectured, was not a sudden, but a gradual change, of which the history is both interesting and important. Immediately after the death of Alexander the Third, we are informed by Winton that there was a meeting of the Estates of Scotland, who held a parliament, in which they appointed six regents to govern the kingdom. It is remarkable that this is the first time that the word parliament is used by this historian ; but unfortunately no authentic record of its proceedings has been preserved ; and Fordun is even silent as to its existence.¹ With regard, however, to a meeting of the Estates of Scotland, which, not long after this, took place at Brigham, we are fortunately not so much in the dark, as the record of it is preserved, and proves beyond a doubt the exact constitution of the great national council or parliament in 1289. It consisted of the five guardians or regents, ten bishops, twelve earls, twenty-three abbots, eleven priors, and forty-eight barons, who address themselves to Edward under the title of the Community of Scotland ; and it is certain

¹ Winton, vol. ii, p. 10. Fordun a Hearne, p. 951.

that, in this parliament held at Brigham, there is not the slightest appearance of the representatives of the burghs ; an evident proof that, although called upon frequently to contribute their portion in the aids or grants of money which the exigencies of the kingdom required, they as yet had no place in the national council, and were not considered, in a legislative light, as part of the community of the realm.

In the solemn treaty regarding the marriage of the Prince of Wales and the Maiden of Norway, which was concluded at Brigham, one of the articles expressly stipulates, “ that no parliament was ever to be held without the boundaries of Scotland ;” but the deed itself throws no light upon the composition of this national council. The death of the princess of Scotland, and the bold and unprincipled conduct of the English monarch, have been already detailed ; and as the various conferences preparatory to the decision of the great question of the succession took place in an English parliament, although attended by the whole body of the Scottish nobility, it would be improper to draw any material inferences from this part of our history illustrative of the constitution of the ancient Scottish parliament. Fordun,¹ indeed, has informed us, that the parliament of Scotland afterwards declared to Baliol, that he had been compelled to swear homage to Edward, “ *inconsultis tribus statibus regni.*” It is material, however, to observe, that when Edward, in the interval between the delivery of the Scottish fortresses, and the production

¹ Fordun a Goodal, vol. ii. p. 152.

of the claims of the competitors, took his progress through Scotland for the purpose of exacting a general homage, he called upon the burgesses of the realm to come forward and take the oaths of allegiance; and that the first record in which we find the names of this important class in the community is an English deed, and the first monarch who considered their consent as a matter of public consequence was an English sovereign.¹

Upon the accession of Baliol to the throne, we have seen the premeditated harshness and intolerance with which he was soon treated by his new master; and it is remarkable, that in the parliament which was held by this unfortunate monarch immediately after these indignities had been offered him, there is the first authentic intimation that the *majores populi*, or chiefs of the people, formed a constituent part of this assembly.² This, therefore, is the first great national council in the history of our country, which is truly entitled to be called a parliament; the first meeting of the Estates, in which the clergy, the nobility, and the representatives or heads of the people, sat in deliberation upon the affairs of the country. It may, perhaps, be in the recollection of the reader, that its proceedings were of a very bold and determined description. They banished all Englishmen from Scotland, seized and confiscated the estates of

¹ Fœdera, vol. ii. p. 573. Prynne, pp. 502, 512.

² Fordun a Goodal, vol. ii. p. 153. Hemingford, vol. i. p. 75, gives a different description as to the constitution of this parliament, but I prefer Fordun's authority.

the Anglo-Scottish nobles, compelled Baliol to renounce his homage and fealty, and resolved upon an immediate war with England.¹ In addition to this, the same parliament negotiated a marriage between a daughter of France and the eldest son of their sovereign; and the public instrument which contains the treaty entered into between France and Scotland, upon this occasion, affords another proof that the towns and burghs had arisen at this period into a consideration to which till now they had undoubtedly been strangers. It contains a clause, which provides that it shall be corroborated by the seals and the signatures, not only of the prelates and nobles, but of the "*communitates villarum regni Scotiæ*," meaning, evidently, the royal burghs of the kingdom.² The expression in another part of the treaty is, "*Universitates et communitates notabiles regni*," which is equally clear and definite. I venture, therefore, to affirm, that as far as an examination of the most authentic records which have yet been discovered, entitles us to judge on the subject, the first appearance of the royal burghs as an integral part of the Scottish parliament, is to be found under the third parliament of Baliol; and that we probably owe their admission into the great national council to our bitter enemy, Edward the First. Could we discover the original record of this important parliament, the question would at once be set at rest; but the ex-

¹ Vol. i. pp. 106, 107, 108.

² Rymer's *Fœdera*, vol. ii. p. 696.

pression of Fordun, and the positive proof of the appearance of the burghs in the treaty with the King of France, appear to be conclusive upon the point.

In the long train of national calamities which followed this alliance with Philip, we do not once meet with any event which throws light upon the constitution of our ancient parliament, till the period when Edward, after the death of Wallace and the surrender of the castle of Stirling, in the premature belief that his Scottish wars were ended, proceeded to organize a final settlement of his conquest. Upon this occasion, the persons whom he consulted were, the Bishop of Glasgow, Robert Bruce, afterwards king, and John de Moubrai. By their advice, he issued an ordinance, directing that the "Community of Scotland," meaning the states of the realm, should assemble at Perth on the 28th of May, 1305, in order to elect ten commissioners, who were to repair to the English parliament, which was to be held at London. This number of ten persons, who were vested with full powers from the Scottish parliament, was to include two bishops, two abbots, two earls, two barons, and two members to represent the "Commune," or community of burghs; a very clear and satisfactory proof, that their right to be represented in the great national council was now distinctly recognised, and that they stood in this respect upon the same ground as the two other Estates of the kingdom.¹ It is especially unfortunate that no au-

¹ Palgrave's Parliamentary Writs, Introductory Chronological Abstract, p. 66.

thentic record has come down to us, of the proceedings of the Scottish parliament in which these ten commissioners were elected ; but it may be presumed that the representatives of the burghs sat in the national council at Perth, and elected the two commissioners, who were to appear for them in the English parliament at London. From this period till the year immediately subsequent to the battle of Bannockburn, no parliament sat in Scotland. Perhaps it is more correct to say, no record of any has been preserved, because an important council of the clergy, which was held at Dundee, and in which a solemn instrument was drawn up respecting the succession to the crown, gives us some ground for supposing that about the same time a meeting of the three Estates had taken place. In the year 1315, Bruce, whose only child was a daughter, yet unmarried, judging it prudent to settle the succession, assembled a parliament at Ayr, on the 26th April, 1315 ; and we know, from the authentic evidence of the instrument drawn up at this time, that the heads of the communities, or burghs, sat in this parliament, and affixed their seals to the deed, along with the prelates, earls, and barons, who were convoked upon this solemn occasion.¹ No other meaning can be affixed to the passage which affirms that the prelates, earls, barons,

¹ Fordun a Goodal, vol. ii. p. 258. Robertson's Index to the Charters, Appendix, pp. 7, 8. The original deed is now lost, although it appears to have been in the hands of Sir James Balfour, who made the copy which now exists amongst the Harleian Manuscripts, No. 4694.

and heads of the communities or royal burghs, “*Majores communitatis*,” had appended their seals to the instrument.

The same observations may be made regarding the parliament which met at Scone in the year 1318, after the death of King Edward Bruce in Ireland; in which it was deemed necessary, by King Robert, to introduce some new regulations regarding the same subject,—the succession to the crown.¹ Of this assembly of the Estates, as of the former, no original record remains; but the presence of the “communities” or burghs is proved by the copy of the original deed, which is preserved amongst the Harleian Manuscripts.

In like manner, strong evidence is afforded by the famous letter of remonstrance, which was addressed to the Pope in the year 1320, that the burghs were now considered as an integral part of the parliament. This epistle was drawn up in a parliament held at Aberbrothock; and, after enumerating in its exordium the names of the prelates, earls, and most noted of the barons present, it adds, “*the libere tenentes ac tota communitas regni Scotiæ.*”²

Hitherto, as far as the history of the ancient parliament of Scotland has been examined, we have been compelled to be contented with such passages as afford, not indeed conclusive evidence, but certainly strong presumptions, that from the period of the reign of Baliol, the representatives of the burghs appear to

¹ Fordun a Goodal, vol. ii. p. 290. Robertson’s Index, Appendix, p. 9.

² Fordun a Goodal, vol. ii. p. 275.

have been admitted into the great national council. But we have now reached the parliament which was held by Bruce at Cambuskenneth in 1326; and although, with the many other precious instruments which might have thrown a flood of light upon the obscure paths through which we have been travelling, the original record of this assembly of the Estates has perished, an indenture has been preserved, which proves, beyond a doubt, that, besides the earls, barons, and freeholders, or *libere tenentes*, the representatives of the burghs sat in this parliament, and formed the third Estate of the national council.¹ The expressions of the historian, Fordun, upon this occasion, are different from what he generally uses: "In this year," says he, "at Cambuskenneth, the clergy of Scotland, with the earls, barons, and whole body of the nobles, along with the people there assembled, took the oaths of allegiance and homage to David, the son and heir of their king." It may be conjectured that, on such an occasion, Bruce, whose health was fast declining, might be naturally desirous that the oaths to his son and successor should be tendered in the midst of the most numerous and solemn concourse of his people. It may be presumed, therefore, on very strong grounds, that the chief men of every burgh in the kingdom would be admitted into the parliament at Cambuskenneth.

This is the last parliament of Bruce, regarding which we have any certain account. There can be

¹ This indenture is printed in Kaimes' Law Tracts, Appendix, No. 4. Fordun a Goodal, vol. ii. p. 287.

little doubt, however, that a parliament was assembled at Edinburgh, in which the peace of Northampton, which for ever secured the independence of the kingdom, was debated on, and finally adjusted; as we know that a treaty was concluded at Edinburgh, on the 17th of March, 1327, which was afterwards ratified by Edward the Third at Northampton, on the 4th of May, 1328. It is satisfactory to find that the expressions of this treaty clearly demonstrate that the burghs had been consulted in its formation. It is said to be concluded with consent of the prelates, earls, barons, and other heads of the communities of the kingdom of Scotland.¹

In that disgraceful parliament held by Edward Baliol at Edinburgh, in 1333, in which this prince gave up the independence of the nation, and, by a solemn instrument, actually dismembered the kingdom, and annexed a great portion of its territory to England, the burghs did not appear.² It is evident, indeed, from the account of it preserved in the original record in the *Fœdera*, that the assembly was not properly a parliament, but a meeting of Baliol's adherents, held under the direction and control of Geoffrey Scrope, chief justice of England.

From this period, for more than twenty years, the history of the country presents us with a frightful picture of foreign and domestic war; of the minority and captivity of the sovereign; and the intrigues and treasons of the nobles: with the enemy constantly at

¹ Robertson's Index, p. 103. ² Rymer's *Fœdera*, vol. iv. p. 590.

their gates, and fighting daily for their existence as a people, no parliament appears to have been assembled; and the different regents who successively held the reins of government were summarily chosen by the voices of the few nobles who continued to struggle for their liberty.¹ There is not preserved to us a single document from which we can conclude that the prelates, the barons, and the community of burghs, ever sat together in parliament during the whole of this disastrous period; but, to this era of obscurity and darkness, there succeeds a gleam of light, which suddenly breaks in upon us in the negotiations for the ransom of the captive king, and sets the question, as to the constitution of the Scottish parliament in 1357 very nearly at rest. In a parliament held this year at Edinburgh, we know, from the original instrument preserved in the *Fœdera*,² that the representatives or delegates of the seventeen royal burghs formed the third Estate in this great council; and that, when the prelates and the barons chose their respective commissioners to carry through the final arrangement regarding the restoration of their king, and the payment of his ransom, the royal burghs no-

¹ In Fordun, b. xiii. c. 22, 25, 27, there are notices of the election of the Earl of Mar as regent, in a parliament held at Perth, 1332, and of the same high office being conferred, successively, on Sir Andrew Moray of Bothwell, in the same calamitous year, and on Archibald Douglas, in 1333; but the times were full of war and trouble, and all record of these elections has perished.

² *Fœdera*, vol. vi. pp. 43, 44, 45. It is evident, I think, that the royal burghs also sat in the parliament held at Perth on the 17th January, 1356-7.

minated, for the same end, eleven delegates, to whom the most ample powers were intrusted.¹

It would have been impossible indeed for the nation to have paid the enormous ransom which was then exacted by England, without the assistance of the class of the community which, next to the clergy, possessed the greatest command of ready money. It is important to observe that, in the record of the proceedings of this national council, which may be said to be the first Scottish parliament in which there is unquestionable evidence of the presence of the boroughs as the third Estate, the expressions employed in the instrument in Rymer are exactly the same as those which I have considered as demonstrative of the presence of the royal burghs in the parliaments of Baliol and Bruce. “*De consensu et voluntate omnium comitum, procerum, et Baronum et Communitatis regni Scotiæ.*”² The records of the parliaments which were held by David after his return to his dominions in 1363 at Scone, are so mutilated and imperfect, that we are only able to say that the three

¹ *Supra*, p. 113.

² The consideration into which the burghs or the merchants of Scotland had arisen during these tedious negotiations for David's liberty, which called for an immediate supply of money, is evident from a deed in Rymer, vol. v. p. 723, in which the clergy, nobles, and merchants of Scotland, gave their oaths for the fulfilment of certain conditions. It is dated 1351. And again, in the abortive treaty for the king's ransom, which was concluded in 1354, and which will be found in Rymer, vol. v. p. 793, certain merchants and burgesses of Aberdeen, Perth, Dundee, and Edinburgh, became bound for the whole body of the merchants of Scotland.

Estates were present;¹ but in the original record of the parliament held at Perth in 1364, it is not only certain that the representatives of the royal burghs formed the third Estate, but the names of the worthy merchants who filled this important situation have been preserved.² Again, in a parliament held at Scone on the 20th July, 1366, we find it stated in the initiatory clause, that it consisted of those who were summoned to the parliament of the king according to ancient use and wont, namely, the bishops, abbots, priors, earls, barons, and free tenants, who hold of the king *in capite*, and certain burgesses who were summoned from each burgh to attend at this time; whilst, in a subsequent meeting of the great national council in the autumn of the year 1367, we find the earliest appearance of those committees of parliament which became afterwards so common, and, in all probability, gave rise to the later institution of the Lords of the Articles. It is stated that, in consequence of its being held at this season, “*causa autumnii*,” certain persons had been elected to hold the parliament, while permission was given to the rest of the members to return to their own business.³ On this occasion thirteen burgesses were chosen by their brethren; the burghs of Edinburgh, Aberdeen, Perth, Dundee, Montrose, and Haddington, each being represented by two burgesses, and the burgh of Linlithgow by a single delegate. The ex-

¹ Robertson's Parliamentary Records, pp. 96, 100.

² *Ibid.* p. 101.

³ *Ibid.* pp. 105, 108.

pense and inconvenience occasioned by a summons to attend as members of the great national council, are apparent in the record of a parliament which assembled at Scone, on the 12th of June, 1368, and of a second meeting of the three Estates, which took place at Perth on the 6th of March of the same year. In the first the practice of obtaining a leave of absence, and sending commissioners in their place, appears to be fully recognised; and in the second we find the same measure again adopted, which is above alluded to, of making a selection of a committee of certain members, to whom the judicial business of the parliament, and the task of deliberating upon the affairs of the country, were intrusted, leave being given to the rest of the members to take their departure, and attend to their own concerns. It has been already remarked,¹ that, in the last parliament of David the Second, which was held at Perth on the 18th of February, 1369, this new practice of choosing committees of parliament was carried to a dangerous excess. To one of these committees, composed of six members selected from the clergy, fourteen of the barons, and six of the burgesses, was committed the decision of all judicial pleas and complaints, which belonged to the parliament; and to the other, which included in its numbers the clergy and the barons, alone, was intrusted the consideration of certain special and secret affairs touching the sovereign and the kingdom, which it was thought expedient should be

¹ History, vol. ii. p. 187.

discussed by them alone previous to their coming to the knowledge of the great council of the nation.¹

I have endeavoured to trace the history of the ancient constitution of our Scottish parliament from the earliest appearance of a national council to the era of the full admission of the burghs as a third Estate. Guided in our investigation by the sure light of authentic records and muniments, or of almost contemporary historians, we have seen the earliest appearance of the commons or burghs under Baliol, their increased consequence in the conclusion of the reign of Bruce, and their certain and established right of representation during the reign of David the Second ; and, in concluding this division of our subject, it may be remarked, that the employment of the great national council, in a judicial as well as a legislative capacity, cannot be traced to an earlier period than the reign of this monarch. The elucidation of its subsequent history, under the princes of the house of Stewart, will appear in its own place.

¹ Robertson's Parliamentary Records, p. 117.