

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 burgess 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.

