

Memoir of Sir Thomas Malet.

BY OCTAVIUS WARRE MALET.

IN the able account of the parish of Poyntington by Mr. Heale (Vol. XVI. of our Proceedings, p. 67), he mentions the old Manor House as "having been, in the 17th century, the residence of Sir Thomas Malet then one of the Judges of the King's Bench (or Common Pleas), who for his loyalty, and adherence, to the cause of his royal master, suffered very severely in both purse and person."

Many families in Somerset and the West of England being connected with the Malets, it has been thought that a slight notice of Sir Thomas might be acceptable.

Sir Thomas Malet, or, as the name was then spelt, Mallet, a lineal descendant of the William Malet, honorably mentioned in Freeman's noble *History of the Norman Conquest*, was the son of Malachias Malet, and his wife, a Trevannion of Cornwall. He himself married a daughter of Sir Francis Mill, of Southampton.

Of the early life of Sir Thomas we have no record. He was first appointed a Justice of the Court of Common Pleas on the 1st July, 17 Charles I, 1642, and knighted at Whitehall on the 6th of the same month. It is also recorded that he was again appointed a judge on the 31st May, 12 Charles II, 1672.

It appears from Clarendon's *History of the Rebellion*, that in 1642, while Sir Thomas was holding the assizes in Kent, "a petition to the two Houses of Parliament was prepared by the justices of the peace and the principal gentlemen of the county, to the effect, that the militia might not be otherwise exercised in that county than the known laws permitted; and that the Book of Common Prayer, established by law, might be observed."

Before the presentation of the petition, copies having been circulated among friends, "The House of Peers took notice of it as tending to cause commotion in Kent; and the Earl of Bristol having in the debate noticed that he had seen a copy, and had some conference about it with Judge Malet, who was the judge of assize in Kent, and newly returned out of his circuit, both the Earl and the Judge were presently committed to the Tower."¹

This time Sir Thomas does not appear to have been long kept in confinement (I again get my information from Clarendon), as I find he was judge of the great assize at Maidstone during the summer circuit. While sitting there, "a committee of the Parliament came to the Bench, and required him, in the name of the Parliament, to cause some papers they brought with them to be read. Sir Thomas told them 'that he sat there by virtue of his Majesty's Commission, and that he was authorised to do anything comprised in those commissions, but he had no authority to do anything else; and, therefore, there being no mention in either of his commissions of those papers, or the publishing anything of that nature, he could not, nor would do it.' The committee, finding less respect and submission than they had expected, both to their persons and their business, from the learned judge, returned to the

(1). A portrait of the Earl of Bristol is at Sherborne Castle.

House with great exclamations against Mr. Justice Malet, as the fomentor and protector of a malignant faction. against the Parliament. A troop of horse, with an officer, were sent with a warrant to Kingston in Surrey, where Sir Thomas was then holding assize, and, to the unspeakable dishonour of the public justice of the kingdom, and the scandal of all ministers or lovers of justice, in that violent manner took the judge from the bench, and carried him prisoner to Westminster, from whence, by the two Houses, he was committed to the Tower of London, where he remained for the space of above two years, without being charged with any particular crime, till he was redeemed by his Majesty, by the exchange of another whose liberty they desired." The only notice we have of the intermediate time between the two imprisonments, is a letter to Sir Thomas from Charles I (whether autograph or not I do not know). In this it is said, "His Majesty had had a faire and just report of his Fidelity and Courage. Wee doe foresee that answerable to some other parts of their accons they (the Houses of Parliamint) may endeavour to send for you and drawe you before them again, and soe put some disgrace upon us, and our service, for soe Wee doe, and shall esteeme it; but Wee having occasion to use you in the country where you dwell, for the peace of the place, charge you, upon yr allegiance you owe to us, that you repair to yr own House with all convenient speed, where Wee have use of yr special service, and to that place Wee shall addresse our despatches to you, and you must not faile to be there ready to receive them, and execute them with yr best endeavors. And least any violence shall be attempted to hinder you in yr returne, Wee have by letter sent at this time also commanded our High Sherif of Surrey to attend upon you, and carry you safe out of that

county, and wee have also written the like letters to others, the Sherifs of the Counties by which yo are to passe, that they assist you if there shall be occasion. Given at our Court of York ye last of July, 1642."

I have given this letter almost entire, as it shews the high esteem in which Sir Thomas was held, and also that that most attaching quality, a Personal solicitude for the welfare and safety of a subject, was felt by royalty, before the reign of our Queen Victoria, when instances of this kind feeling are (though highly appreciated) too frequent to excite particular notice.

During the time of the Commonwealth, prudence, as well as reduced fortune, must have induced Sir Thomas and his family to lead a life of seclusion, though two of his sons lost their lives fighting for the King.

That Sir Thomas conducted his duty to the satisfaction of the Crown, assisting in the trial of the regicides, after the restoration, is apparent, from the fact that the patent of a Baronetage of the United Kingdom was granted him, under the Sign Manual of Charles II. Appended to the patent is a long letter to the Chancellor of the Exchequer, which acquits Sir Thomas and his heirs and assigns from the usual payment of £1,095, on account of Sir Thomas having voluntarily paid the maintenance of thirty foot soldiers in the army of Ireland. I give a short extract :—"And whereas Wee are resolved to confer on him the said dignity of Baronett, and yett upon just and honble cause us moving, Wee are well pleased that the said Sir Thomas Malet, his Heirs, Exrs., Admr., and Asyns, and every of them, shall for ever and at all tymes hereafter, bee free acquitted and discharged of and from the aforesaid sume of one thousand nyntie and five pounds, &c." The remainder of the letter merely reiterates

this, and ends, "that it is signified to be your Majesties pleasure under yr Majesties Royal Sign Manual;" and signed, "T. Palmer, 19 Novbris 1663."

The imprisonments named above were not the only sufferings endured by Sir Thomas. His second son, Baldwin Malet, as eloquently told by Mr. Heale, was killed in action, in this village of Poyntington. Mr. Heale relates that, "He is said to have leaped on horseback with all his armour on, right into the midst of the fight, and after killing more than a score, to have been brought back dead to his father's house, and for fear of the plague, to have been buried the very next day. A fact confirmed by the old parish register." I have seen, also (though I am unable to give my authority), that another son was killed at the battle of Roundaway Down.

Family tradition says that Sir Thomas's house was plundered, and that her wedding ring was taken from Lady Malet. Her portrait is at Wilbury in Wiltshire, the present seat of the head of the family. In this she is depicted, rather ostentatiously shewing a black ring on her wedding finger, said to be a horn one, that she used when her proper one was taken from her. Another version is, that she wore a black horn ring in place of her wedding ring during the detention of Sir Thomas in the Tower. There being no written record, which is the correct account it is hard to say. One circumstance that makes me think it is true that the family house of St. Audries was plundered, is the want of any family relics antecedent to the time we are speaking of, and which, considering the position held by the family, would most probably have been preserved. I have been shewn an old triptych picture by Von Beust, in the possession of a collector, of Sir Baldwin Malet and his wife and children. This Sir Baldwin was

Solicitor-General temp. Henry VIII, and of the St. Audries branch. On the 17th December, in the year 1665, Sir Thomas, aged 83, died, and was buried at Poyntington. A small panel painting of his coat of arms, "Malet" quartered with those of "Hatch," and impaling those of "Mill," is still extant; with the motto, "Dieu vovlant je suis content," which, it has been supposed, was adopted by Sir Thomas (in preference to the older one, which we at present use, of "Ma Force De en Havlt") to shew that he was contented with his lot, such as it was. The family owe their most grateful thanks to Mr. Heale, the rector, for having preserved the memorials.

Sir Thomas never took up the title of baronet, we do not know for what reason. It may have been that he thought it was not a sufficient requital for his sufferings and services, or on account of his advanced age and impoverished circumstances, or that he was a claimant to a barony (still in abeyance).

I may here mention that the Communion plate of this parish of Poyntington has engraved upon it the Malet arms, and was probably given, either by the worthy judge, or by his widow.

The eldest son of Sir Thomas Malet, Sir John, Recorder of Bridgwater, and married to a Wyndham, of Orchard Wyndham, succeeded to the St. Audries estate, either by purchase from his kinsman (as said by Collinson), or, as I think, more probably owing to a failure of the elder branch of the family. This place went, I believe, to the youngest surviving son, Michael, but I have no record of anything done by him; and thus came to an end the connection of the Malets with Poyntington.
