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THE BACKGROUND OF MAGNA CARTA

Herman Joseph Muller S.J.

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A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in Loyola University.
VITA AUCTORIS

Herman Joseph Muller, S.J., was born in Cleveland, Ohio, April 7, 1909. He received his elementary education at St. Francis' and at St. Ann's Parochial Schools. He attended St. Ignatius High School, Cleveland, and was graduated from there in June 1927. In the fall of the same year he matriculated at John Carroll University. He came to Milford, Ohio - the Novitiate of the Society of Jesus for the Chicago Province - in August 1928, and continued his undergraduate work there. He received the degree of Bachelor of Literature from Xavier University in June 1932. That same year he entered the College of Philosophy and Science of St. Louis University, where he began his graduate studies in History and Philosophy. With the opening of the new college of Philosophy and Science at West Baden, Indiana, in September 1934, he came there, spending the school year of 1934 - 1935 in the further study of History and Philosophy.
CHAPTER I.

Introduction

School boy impressions of Magna Carta picture an ugly, ill-tempered, tyrant sort of king, compelled by a group of righteously indignant subjects to sign a charter of liberties. If, in view of these recollections, one were asked to assign a reason for such conduct on the part of the king's subjects, one should doubtless name King John. And, indeed, in so doing, one would be but stating the common opinion of men. But to offer John's character as the sole cause of Magna Carta is not sufficient, for the explanation is altogether too simple. That John's character contributed not a little to the series of events that culminated in Magna Carta may be granted. But isn't it likely that the roots of the quarrel between king and barons lay much deeper? Certainly the times in which John lived deserve some consideration. It may well be that the peculiar feudalism, which existed in England, and the notions that it engendered in the minds of men, had something to do with the quarrel between John and the barons. Moreover, it may be that the political theories of the time, particularly those pertaining to the king, will throw some light on the subject.
CHAPTER II.

History of John's Reign

Henry II, as we know, did not formally recognize Richard as his successor until a few days before his death. Nevertheless, Richard had little or no difficulty in obtaining recognition from the lords and barons. On September 3, 1189, after taking the usual oaths, he was anointed and crowned king of England. Then, tarrying a few months in the land, he departed to return but once again, for a few months' stay in 1194. During these long intervals the kingdom was administered by four successive justiciars, who, if we except their responsibility to Richard in money matters, might just as well have been four successive kings. It will be well to consider the administration of these four ministers in order to ascertain whether the events of their terms of office influenced the status not only of the barons, but of the common people - especially the bourgeoisie - as well.

In short, the question is whether historians such as v.g. W. E. Lunt speak truly when they say that: "The basis for a change began to be laid in Richard's reign. Though the government remained the same outwardly, public opposition was significantly voiced on several occasions.... The weight of taxation, which was sufficient to cause much grumbling
in the last years of Henry's reign, grew steadily heavier. During Richard's reign the burden of taxation and the feeling of dissatisfaction with his ministers gradually created between the barons and other classes in the community a bond of sympathy which had not existed in the preceding reign. Richard's very absence tended to work a decrease in the power of the crown.  

The rule of the first minister, the Chancellor Longchamp, was universally unpopular. He set churchmen against himself by his costly mode of living. The fact that he enriched his family with lands and offices did not help any to secure the support of the barons. John detested him for favoring Arthur's succession rather than his own. Even the common people jeered at his none too comely appearance, and highly resented his hatred of things English. Longchamp, however, was faithful to his master, and, as long as Eleanor was at hand to keep John in order, he succeeded fairly well in keeping peace and order in the kingdom. The trouble began after Eleanor departed for Italy. Early in 1191 Longchamp attempted to get control of a castle held by the sheriff Gerard Camville, whom he suspected of treason. John, a friend of Camville, took up arms in his favor. About the only thing that averted civil war at this juncture was the fact that the lords cared as little for John as they did for Longchamp. The

chancellor's downfall was assured in September 1191 when he arrested and maltreated Archbishop Geoffrey, who claimed to have been released from his oath of keeping away from England. Geoffrey appealed to John. For once the barons and bishops agreed with the latter, and met in council at London. Then, when Longchamp failed to account for his actions at a conference called for Winchester, the bishops excommunicated him. The Chancellor fled to London with John at his heels. There a great council composed of barons, bishops and citizens - to whom John had granted a charter for founding a commune - accused Longchamp. The latter protesting surrendered his castles and then fled to the continent.

Walter of Coutances, Archbishop of Rouen, who succeeded him, managed somehow to keep the land together during the rebellion of John in 1193. In this he was ably helped by Eleanor, who had by this time returned from her mission. Walter, too, was as successful as might be expected in collecting the huge amount needed for Richard's ransom in the same year. However, in spite of the good will of the nation, only a portion of the 150,000 marks was collected.¹

¹ Note. According to Stubbs, the following measures were taken: "An aid was taken on the principle of scutage, twenty shillings on the knight's fee; it was supplemented by a tallage, hidage, and carucage, which brought under contribution the rest of the land of the country; the wool of the Gilbertines and Cistercians was also demanded, and the treasures of the churches, their plate and jewels; but the heaviest impost was the exaction of one-fourth of revenue or goods from every person in the realm...." (Constit. Hs. I., P. 540)
Hubert Walter, Archbishop of Canterbury, succeeded Walter of Coutances at Christmas 1193. From what we read about him, Hubert seems to have possessed a character made up of somewhat contradictory qualities. Zealous in reclaiming the possessions of his see, he acquired a reputation of being avaricious in the extreme. Praised for his generosity, he is blamed for his extravagance and ostentation. He was charged with robbing the Exchequer; even the charge of murder was laid at his door. Illiterate in the extreme, Hubert Walter can scarcely be called a great statesman, though of his success as a minister there can be no doubt. His was the thankless duty of raising money for the Norman war; and the fact that he ably accomplished the task, at the same time conciliating the classes which suffered most heavily from taxation, proved his right to the confidence which was placed in him by the king. With his appointment John's fall was assured. Excommunicated by the lords spiritual and outlawed by the barons, he was obliged to seek refuge in France.

When he returned home in 1194, instead of showing gratitude for the aid given him in his captivity, Richard proceeded to bleed his subjects still more. The king's continental lands were in danger, and they seem to have meant more to him than his Island Kingdom. England would serve as a war chest. Davis well shows us how the money was gotten, when he says that: "The most natural expedient for one, whose sense of justice
had never been sensitive, was to sell again the lands and offices which had been already sold to provide the funds of the Crusade. The renunciation of old bargains presented no difficulties in cases where charges of overt or secret treason could be plausibly sustained. So, on one pretext or another, sheriffdoms and castles came into the market for a second time in the space of five years; and the King, in his reckless haste to close with the highest bidder, was only prevented from selling Hugh Puiset’s earldom of Northumbria to the King of the Scots because William the Lion refused to buy the land without the castles which controlled it. At a Great Council held at Nottingham, the King asked for a carucage or hidage at the rate of two shillings on each carucate of land, a third part of the service of the knights, and the wool of the Cistercians for that year. To these taxes the barons grudgingly submitted, realizing that the King could scarcely withdraw from the conflict with honour at such a time as this. Lingard mentions several other methods which were employed in obtaining money. Thus, the holding of tournaments was re-

1. Davis, H.W.C., Eng. under the Normans and Angevins, P. 321.

2. Rog. Hovd. A.D. 1194: "Constituit sibi dari de unaquaque carcurata terrae totius Angliæ duos solidos.... Deinde præceptit quod unusquisque faceret sibi tertiam partem servitii militaris.... Deinde exigebat ab monachis ordinis Cistrensis totam lanam suam de hoc anno; sed quia hoc facere erat eis grave et importabile, fecerunt cum eo finem pecuniarium."

vived on the plea that they were necessary for the instruction of a rising generation in the use of arms. Of course a proportionate tax was placed on each such clash at arms. Richard, again, broke the great seal, thus making former grants null until the usual fees should be paid a second time. Itinerant justices were instructed to consider the king as heir to the Jews who were killed in the first year of his reign. Moreover fines were to be imposed on their murderers. Grants made by John were to be annulled, while on the other hand, sums due him were to revert to the crown. The justices were also to exact payment of arrears on money pledged for the king's ransom. Is it any wonder then that: "His et talibus vexationibus sive juste sive injuste tota Anglia a mari usque ad mare redacta est ad inopiam."?

It would be contrary to human nature for men to bear exactions so frequent and so vexatious without some show of resentment. A demonstration, which occurred in London in 1196, will give us some insight into the minds of the common people. In that year a London lawyer, William Fitz-Osbert, who claimed that the wealthy and powerful citizens were throwing all the burden of the war on the shoulders of the poor, managed by his eloquence to secure a following of some fifty-two

1. Note. Round, Feudal England, p. 541 ff. proves quite conclusively that this took place in 1198 and not in 1194 as historians, led by Hovedon, have once believed.

2. Hovedon IV, P. 63.
thousand citizens. The wealthy inhabitants literally trembled in their boots. Archbishop Hubert, who took the affair into his own hands, soon managed to get the masses under control. Fitz-Osbert evaded arrest by cleaving the head of the officer sent to secure him, and took sanctuary at St. Mary le Bow. Then, a few days later, when the church was set on fire by design or accident, while attempting to escape Fitz-Osbert was stabbed by the son of the officer he had murdered. Half dead, he was tried with indecent haste and hanged in chains, together with nine of his companions, at Tyburn. The event proved Hubert's undoing. On receiving the complaints of the monks of Canterbury, to whom the Bow church belonged, Innocent III demanded of the King that the archbishop be released from his secular duties. It may be that Richard welcomed this excuse for dismissing Hubert, coming as it did after the successful resistance of the Great Council of 1197,¹ and the complete failure of the carucage of 1198.² Be this as it may, he was succeeded by the less scrupulous Geoffrey Fitz Peter in July 1198.

A word about the condition of the towns at this time will not be out of place. It can truly be said that, if John had

1. Note. Led by Bishop Hugh of Lincoln, the lay members of the Council refused to equip a force of 300 knights to serve the King for one year in Normandy.

2. Note. Permission to tax the non-military landholders was granted readily enough, but the tax payers evaded the liability, obtained exemption by bribery, or else refused to pay.
had the towns behind him in 1215, Magna Carta would never have happened during his reign. It was the union of barons and independent towns that defeated John. The question then is: Whence came this independence? Certainly it did not exist in 1066. To be sure, we cannot, nor do we intend to enter here into the intricate question of the growth and development of the English town. Suffice it to say a few words on two important factors in that growth during the twelfth century, the Crusades namely and the ever increasing commerce of the time. With Barker we are inclined to consider the growth of the town a concomitant rather than a direct result of the Crusades. Nevertheless the relation between the two is not merely one of pure reason. To say the least, the Crusades were anything but an inexpensive proposition; and money was most scarce during the twelfth century. Power, as we well know, was based on land infeudal times. To obtain the necessary sums for fitting out their armies, many lords exchanged their rights over towns for yellow gold. It was in this way that very many cities and towns were able to purchase their political liberty.

The increase of trade in England, due partly to the Crusading movement and hastened by the union of Eastern France and England under Henry II, was a second great factor in the rise of the Medieval town. Henry saw the trend towards muni-

cipal liberty, and being the statesman that he was, did not check it entirely. He was the type of ruler who could grant paper charters of liberties already enjoyed and appear magnanimous in the transaction. As Norgate says, "Most of his town-charters ... date from the earlier years of his reign, and scarcely any of them contains anything more than a confirmation of the liberties enjoyed in his grandfather's time, with the addition in some cases of a few new privileges, carefully defined and strictly limited." While it is true that Richard would have sold London if he have gotten enough for her, still it can readily be seen that it was not money alone that prompted him to be so lavish in his granting of town-charters. We are told that in his first seven years alone he granted charters to Winchester, Northampton, Norwich, Ipswich, Doncaster, Carlisle, Lincoln, Scarborough and York. John outdid even Richard in the same matter. The first fifteen years of his reign are replete with every manner of town-charter from the simple grant of firma burgi and of freedom to the little town of Helleston to the crowning grant of the privilege of choosing their mayor annually made to the Londoners in 1215.

The results of such measures are quite obvious. In view

2. Ibid., P. 470.
of the ever increasing flow of commerce and trade, the political independence of the towns was bound to lead to wealth. Wealth in turn has ever been the source of power. In the past, if a king were sure of his barons, he was sure of his kingdom. The lesser freemen of the land were scarcely a source of danger to the crown, loosely bound together as they were. In the future the king would have a new power to deal with, one not so easily set aside - a closely bound bourgeoisie represented by a legal entity - the town. We have seen how the common burden of taxation united barons and bourgeoisie during Richard's reign. English pride, however, stirred by Richard's brilliant achievements, prevented any real rebellion at the time. What would have happened if Richard were not "Richard of the Lion's Heart" is hard to say. We shall see what happened to his successor, to whom the epithet could scarcely be applied.

In spite of the fact that Arthur was the son of Geoffrey, there was never much doubt in England and in Normandy as to who would succeed Richard on the throne. Objectionable as he might be, John was decidedly English, while Arthur seems to have had little love for the Island Kingdom. This fact alone was sufficient to determine the Anglo-Norman lords. In Brittany, Anjou and Maine, however, things went differently. Twelve days after the death of Richard, the Duchess Constance at the head of a Bretan army proclaimed her son lord of the above mentioned provinces. Philip Augustus, to be sure, lent ready
support to a movement so likely to end in his favor. John, who was on the continent at the time of his brother's death, instead of hurrying back to England, decided to make sure of his French possessions. This gave the discontented barons just the chance they were looking for. Those who had castles fortified them; open rapine was not uncommon. Conditions became acute, until at last the justiciar was joined by Archbishop Hubert and William the Marshall. The lesser freemen were soon persuaded to take an oath of homage and fealty to John, but many of the barons held back. The great earls had acquiesced in Richard's exhorbitant demands, and were not ready to accept John until assured that they would be given their rights. That they feared and mistrusted the new king, there could be no doubt. The reluctant lords were then summoned by the Primate, the Marshall, and the Justiciar to meet at Northampton. According to Roger of Wendover these three officials promised the barons "that earl John would restore their rights to them all; on which condition then the earls and barons swore fealty to the said earl, in opposition to all others." And then to placate William of Scotland: "They sent word by Eustace of Vesci, that earl John, on his return, would satisfy him for all his rights in England, if in the meantime he would keep faith and peace with the earl; and thus all strife and contention in England was set at rest!"

1. Roger of Wendover, A.D. 1199, Giles ed.
2. Ibid.
The point to be remembered is that John's welcome to the throne was a decidedly chilly one. John was on probation from the first, and everybody, except perhaps the king himself, was aware of the fact.

The coronation, which took place on Ascension Day, May 27, 1199, is one of the most memorable in English history, in as much as it was the last occasion on which the old English doctrine of elective succession to the throne was formally stressed. According to Matthew of Paris, Archbishop Hubert arose in the midst of the crowded assembly and addressed those present in the following words: "Hear, all of you, and be it known that no one has an antecedent right to succeed another in the kingdom, unless he shall have been unanimously elected, under the guidance of the Holy Spirit, on account of the superior merits of his character, after the example of Saul the first anointed king.... Thus those who excelled in vigour are elevated to kingly dignity. But, if any relations of a deceased king excel others in merit, all should the more readily and zealously consent to his election. We have said this to maintain the cause of earl John, who is here present, brother or our illustrious king Richard, lately deceased without heirs of his body, and as the said earl John is prudent, active, and indubitably noble, we have, under God's Holy Spirit, unanimously elected him for his merits and his royal blood."

It is significant to note that Archbishop Hubert, when later asked why he had spoken thus, replied that "he knew John would one day or other bring the kingdom into great confusion, wherefore he determined that he should owe his elevation to election and not to hereditary right." The archbishop seems not to have been content even with this one significant interpolation. He added yet another, when, tendering to the king-elect the usual oaths, he added a solemn adjuration to John, warning him not to accept the kingship unless he actually proposed to perform his oath. John is said to have promised that "by God's assistance, he would in all good faith keep the oath which he had made." Significantly enough, John was the first king probably in the history of Latin Christendom to omit communicating on his coronation day.

Before entering on a discussion of John's reign it oul be well to inquire into the personal character of the man with whom we are dealing. John was twenty-two years of age when Richard died. Much of his life up to that time had been spent in the midst of family dissentions and intrigues, and, con-

2. Roger of Wendover, A.D. 1199, Giles ed.
3. Ibid.
4. Note. "For the first and last time probably in the history of Latin Christendom, the king did not communicate upon his coronation-day."
sequently, if environment has any influence on young manhood, we need not be surprised at what John - a real Plantagenet - turned out to be. Coming to England in 1184, Henry left John in Normandy "to his own devices, and to the influence of his next brother, Geoffrey of Brittany."¹ Gerald Cambrensis describes the latter as follows: "He was a compound of two different natures, Ulisses and Achilles in one. In his inmost soul there was more of bitterness than of sweetness; but outwardly he was always ready with an abundance of words smoother than oil; with his bland and persuasive eloquence he could unbind the closest ties of confederation; with his tongue he had power to mar the peace of two kingdoms. He was a hypocrite, never to be trusted, and with a marvellous talent for feigning or counterfeiting all things."² Mentioning the two brothers, Gerald speaks of them as being "corn in the blade" and "corn in the ear", when compared one with the other at this time. Mentioning John, he confessed that "caught in the toils and snared by temptations of unstable and disolute youth, he was as wax to receive impressions of evil, but hardened against them who would have warned him of its danger; compliant to the fancy of the moment; making no resistance to the impulses of nature; more given to luxurious ease than to warlike exercises, to enjoyment than to endurance, to vanity

1. Norgate, Kate, John Lackland, P. 10.
than to virtue."\(^1\) We need scarce wonder that he should end up as a contemporary puts it, so foul that "hell itself is defiled by the fouler presence of John."

In looking over his life, there is many a type of moral evil we can find in the man. That he was mean, vindictive and abominably cruel is manifest from his conduct towards Arthur, or towards the Braoses, or again in the case of his exactions and usurpations in 1214. The demands of this later period of John's reign, together with the extortionate methods of satisfying them, cry aloud his greed. Norgate gives a list of his doings, the very recital of which would take a full two pages. To make matters worse, the money was spent in an extravagant and not infrequently ignoble manner. John was possessed of a typical Plantagenet temper. Matthew of Paris, for example, tells us that on one occasion at Windsor, in 1215, breaking out wildly he "gnashed his teeth, rolled his eyes, caught up sticks and straws and gnawed them like a madman, or tore them into shreds with his fingers."\(^2\) John has been charged with lacking real firmness of mind, though this was probably due to the fact that because of his abominable character he simply could not trust or be sure of anybody, who happened to be engaged with him in any particular enterprise. There seems to have been something of the "liar thinking

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everyone else a liar" in his makeup. One of the most puzzling traits of his none too beautiful character was his constant levity and his tendency to jest at the most unfitting times. An example of this was to be had at Rouen, when, during the ceremony of investiture, in a moment of levity, he let the lance, which was placed in his hands, fall to the ground. As Hunt well says: "He was self-indulgent and scandalously immoral, and no small part of the hatred with which his nobles came to regard him was due to the injuries which his unbridled lust inflicted on them and their families."1. His refusal to communicate at the coronation ceremony in England - and indeed to communicate at all - is significant enough.

Perhaps the one trait, which we find hardest to understand in the man, was his unfaithfulness, not only to his friends, but to the members of his very family - his father, his brothers, his nephew and even his wife. We can understand, in a way, why he should have no very great love for his brothers when we consider that from his youth he had been pitted against them by his father. We wonder whether selfishness is not the only explanation to be given in accounting for his unfaithfulness to Richard, in view of the latter's generosity and forgiveness towards his younger brother. Worse still was his abominable treason towards his father, whose favorite he had always been, to such an extent

1. Hunt, Rev. Wm., D.N.B., V. 29, P. 404, Col.1., "John Lackl..."
that Henry had ever striven to further John's interests at the expense of his other sons. We cannot but feel sorry for Henry, as he lay dying that night at Chinon, when he heard that Lord John headed the list of traitors. John's seeming duplicity in the matter makes the affair all the worse. That he would, again, be faithless to his wife is to be expected of such a man; and when in 1199, after eleven years of married life, John made his bid for a divorce, we need scarce wonder that Isabel of Gloucester did not appeal to the Holy See. In all likelihood the separation was as welcome to her as it was to John. Whether John ever had a true friend, in the fullest sense of the word, is hard to say. His very selfishness made that practically impossible. A man who could treat the loyal William the Marshall as he did in 1205 can scarcely be deemed worthy of a friend. His exclamation on receiving the tidings of the death of Archbishop Hubert in July of the same year is typical: "Now for the first time I am King of England!"

Whether John's actions during the summer of 1203 were those of an insane person is a mooted point of history. Powicke thinks it evident that the king was mentally diseased, since only in such a condition would he refuse to be disturbed by the news of continued disaster.1 Roger of Wendover gives us an insight into the mind of the people at the time when he tells

us that: "The king of the English was staying inactive at Rouen with his queen, so that it was said that he was infatu-
ated by sorcery or witchcraft; for, in the midst of all his losses and disgrace, he showed a cheerful countenance to all, as though he had lost nothing." The fact that, in the Middle Ages, insanity and possession were frequently confused may be an argument for John's mental dearrangement. His in-
activity in 1203, however, can be explained from the fact that he was probably awaiting papal, and perhaps even imperial interference. Petit-Dutaillis, who considers John to have been an out and out mad man, is worth quoting here. "It is our opinion", he tells us, "that John Lackland was afflicted with a mental disease called periodic psychosis, a disease well known to our modern psychiatrists. It is surprising that modern historians have made the mistake to think for example that John was maliciously cold and deliberate in his evil doings, that he did not allow himself to be dominated by his passions, and that he was entirely to be blamed for his deeds. Quite the contrary, John was of an unstable and irresponsible disposition. Moreover, from his father he received literally a load of hereditary burdens; among his Angevin ancestres were to be found insane persons and mad-men, and the life of Foulque IV, the Cross, presents details in many respects

1. Roger of Wendover, A.D. 1203.
much like his own."¹.

While it is true that John was an utter failure, both as a military leader and as a ruler of his people, still we must not conclude that he was without any ability whatsoever along those lines. If in the end he proved to be an inefficient military commander, one is inclined to think that this was due ultimately to his character rather than to any lack of ability. Certainly his plans to relieve Les Andelys in August 1203 smacked of anything but inefficiency. As Norgate puts it: "The king's plan was a masterpiece of ingenuity; and the fact that the elaborate preparations needed for its execution were made so rapidly and so secretly as to escape detection by an enemy so close at hand goes far to show how mistaken are the charges of sloth and incapacity which, even in his own day, men brought against "John Softsword"."². His dashing rescue of his mother, who had been besieged at Mirebeau in July 1202,

¹. "Nous croyons pour notre part que Jean sans Terre était atteint d'une maladie mentale bien connue maintenant et décrite par les psychiatres modernes, la psychose périodique. Il est surprenant que les historiens modernes aient pu s'y méprendre et opiner, par exemple que Jean était un méchant d'une méchanceté froide et délibérée, qu'il ne laissait point dominer par la passion et n'en était que plus inexcusable. Jean, au contraire, était un instable et un irresponsable. Aussi bien portait-il un fardeau de lourdes héritités du côté de son père Henri II; il y avait, parmi les ancêtres angevins, des fous et des furieux, et la vie de Foulque IV le Hargneux présente de singulières analogies avec la sienne." (Petit-Dutaillis, La Monarchie Féodale, P. 240.)

². Norgate, John Lackland, P. 96.
and the fierce fighting that followed, show that John could really act when he wanted to do so.

To be sure, John cannot be ranked with his father as a statesman, but we do not hesitate to place him far above Richard in that capacity. His obtaining the favorable treaty of Le Goulet, and the quiet that followed for the next couple of years seem to justify any such claims made in John's behalf. Quite true, Philip's matrimonial difficulties at this time were a great help, but even so, the extraordinary energy and success with which he governed and consolidated his vast French possessions are worthy of no little praise. As an executive, absolutely speaking, John was not bad; actually, however, in globo, his was the height of inefficiency. The only plausible explanation, again, is to be found in the abominable character of the man. Because of it he simply could not trust anybody; and not trusting others he had to abandon plans which might ultimately have led to success.

Two factors - a foolish marriage and a still more foolish crime - led to the undoing of all that had been accomplished before and after Le Goulet. Afterwards, when the threat of rebellion and war had passed, John found himself divested of his continental heritage. We have already mentioned how John divorced Isabel of Gloucester in 1199 - a happening which thoroughly aroused the indignation of many of the
English barons. John's new choice, another Isabelle, the daughter of the Count of Angoulême, was to set half of Aquitaine against him. Isabelle, it seems, was already betrothed to Hugh of Lusignan. This fact, however, did not deter John. The marriage took place in August 1200.

Winning to their side a great part of Poitou, and even sections of Normandy, the Lusignans were soon in arms seeking revenge. John immediately proceeded to seize the Norman castles of the rebels, whereupon Philip took a hand in the matter, extorting from John a promise that "no Poitevin should be punished except by the verdict of judges, who were themselves open to suspicion."1 When John tried to evade this obligation by proposing to substitute trial by battle for judgment of peers, the Lusignan party appealed to Philip. In April 1202 Philip summoned John to Paris to answer certain charges, which had been made against him in the matter. Of course, John refused to appear. Meanwhile Arthur, taking advantage of this state of turmoil, led an army composed chiefly of the ring leaders of the whole rebellion, against his grandmother at Mirebeau. John, coming to the rescue, managed to capture the lot of them. His conduct, however, following these successes was absolutely foolhardy. The captured knights were treated with great brutality; twenty-two of them were believed to have been starved to death, while, strange enough,

the chief of them all, Hugh of Lusignan, was allowed to go scot free. What happened to Arthur is uncertain, but it was believed even then that he was murdered - killed by his uncle in one of his mad spells, and then thrown into the Seine.

Whether the French court actually condemned John for the murder of Arthur is not for us to decide here. The fact is that with Arthur's disappearance John's cause was ruined; Angevins and Bretons alike flocked to the standard of the French King. Philip struck at Normandy especially, taking city after city away from the King of the English. We are told that by the end of 1203 the country about Rouen, Mortain and Cotenten alone in all Normandy was under John's control. In August 1203 John made his brilliant effort to save Chateau Gaillard, but with his failure he seems to have settled down to a serious spell of lassitude. "Let him do so", he is supposed to have said, when told that Philip had entered his territories as an enemy, "whatever he now seizes on I will one day recover."¹ The English barons gave up in disgust and demanded permission to return to England. The Norman lords could scarcely be expected to follow a leader, who would neither strike a blow for himself nor for them. Some of them, Roger of Wendover informs us, "seceded altogether from the King of the English, and others only feigned adherence to him."² John left Rouen in

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¹ Roger of Wendover, A.D. 1203, Giles ed. P. 207.
² Ibid. P. 208.
November 1203 arriving in England on the sixth of December. Wendover further tells us how, when Philip heard of John's departure, he went from town to town with a great show of strength, pleading with and threatening the inhabitants to accept him as their lord. Finally, after a great deal of dispute, they determined to give him hostages for their keeping a truce of one year; and, if they should not receive aid from John during that time, they determined to acknowledge Philip as their sole ruler. Philip, thoroughly satisfied, departed for his own territories.¹

In the following spring John attempted to raise an army. Vast sums of money were collected by means of a scutage of two and a half marks on the knights fee and a universally exacted seventh of all moveable goods. In May the fleet and the army were ordered to meet the king at Portsmouth. The host which gathered there at the appointed time was one of which England might well have been proud. But then, when everything was in readiness for departure, the expedition was countermanded. Most of the soldiers and sailors were made to pay a fine in lieu of their services, and then dismissed disgusted, disappointed, and grumbling bitterly to their homes. A handful of knights were dispatched under the earl of Salisbury to reinforce the garrison of La Rochelle. John himself, for some reason or other, put to sea with a small escort, but was back

¹. Roger of Wendover, A.D. 1203, Giles ed. P. 208.
in England after three days. In the following spring he again assembled his fleet at Portsmouth, this time leading it in person to La Rochelle. At first he was quite successful. However, once Philip came on the scene in person, John knew that he could do little or nothing. Immediately he proposed a truce. The fact that Philip readily accepted the terms offered shows us that the expedition was to some degree successful. Still, when all was said and done, Aquitaine alone, except part of Poitou, was left in John's possession. The remainder of his continental holdings had been lost.

With the separation of Normandy from England, the Anglo-Norman barons had no choice but between Philip and John. Those who had estates on both sides of the Channel divided them by agreement. Normandy on the one hand became a loyal province of France. The separation, however, was to have the greatest effect on England. Socially there was little change. True, immigration from France ceased to a notable extent, but intercourse between the two countries continued apace. French still continued to be the language of the courts and of society. The University of Paris continued to be frequented by Englishmen, at least until Oxford and Cambridge became famous. The close bond that existed between religious orders in England and on the Continent helped not a little to retain intact the intercourse that existed between the two countries. Trade, too, suffered little, for, as Davis tells us: "Gascony remained
in English hands, and the subjects of France were allowed to enter England with their wares, even during the continuance of hostilities, upon paying a duty of a tenth on their goods, a permission of which we know they availed themselves extensively.\(^1\) It was the political life of the country that was most affected by the change. Hitherto the king could well play off England against Normandy or Normandy against England. The king, lord of vast acres in France, and of men who were ever on the lookout for spoils, could easily tyrannise over his Island Kingdom. Now, however, shorn of his vast French possessions, the king "stood before the English people face to face."\(^2\) Moreover, the descendants of the men who had come over with the Conqueror, loosing all interest in their fatherland, had time to become thoroughly English. And, then, together with this increase of interest, came a gradual dissatisfaction with the existing state of affairs. John's very presence made his evil rule all the worse. Ever increasing cries for "our rights" were to be heard throughout the land. Truly indeed must the day of reckoning soon to come between this new England and its stranger king.

The death of Archbishop Hubert in July 1205 not only lost for John a wise and experienced counsellor, but it was soon to be the occasion of his coming into open conflict with Innocent

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1. Davis, H.W.C., Eng. under the Normans and Angevins, P. 345.
the third, one of the greatest popes ever to head Christendom. For Hubert's successor, John had decided on John de Gray, a person acceptable enough to the bishops. Canonically speaking, however, the bishops had nothing to say in the matter. The right of election actually belonged to the chapter of the Primate's cathedral, that is to the monks of Canterbury. On the present occasion the older members of the community were quite ready to submit to the bishops, as they had done for a century or so. Not so the younger, more hot-headed members. Meeting at midnight, they secretly elected the sub-prior Reginald, and sent him off to Rome for the pallium. But Reginald could not keep the good news to himself, and in short order John knew what had taken place. Knowing John, the monks immediately repudiated Reginald, and joined with the bishops in electing John de Gray.

When two archbishops-elect reached Rome, both with due credentials, Innocent III was in somewhat of a quandary. That Reginald's claims appeared irregular was quite evident; that John had acted boldly was also quite clear. The Pope made the obvious decision, declaring both elections null. The monks of Christchurch, who were present, were quite ready for a third election, provided that de Gray be the sole candidate. They dared not come back to England with any other as archbishop. Innocent, with threats of excommunication, persuaded them to elect Stephen Langton, an eminent doctor, a distinguished
cardinal, and a loyal Englishman. Although Langton was thoroughly fitted for the position, John refused to accept him as Primate. When he first heard of the election he was furious, and, naturally enough, charged the monks of Canterbury with treachery. "On this account", Wendover tells us, "the said king...sent Fulk de Cantelu and Henry de Cornhill, two most cruel and inhuman knights, with armed attendants, to expel the monks of Canterbury....or else to consign them to capital punishment. These knights....set out for Canterbury, and, entering the monastery with drawn swords, in the king's name fiercely ordered the prior and monks to depart immediately from the kingdom of England as traitors to the king's majesty." 1

About the same time John sent letters to the Pope complaining bitterly about the election. He blamed the monks, charging them with perjury; he claimed that he knew little or nothing about Stephen, except that he had lived for a long time in the realm of his worst enemy; he threatened to stop the flow of English revenues to Rome, and stated that he would "stop the tracks by sea against all who were going to Rome." 2 Innocent replied by sending a letter of admonition to John, in which he set down in detail the merits and good qualities of the Archbishop-elect of Canterbury. 3

2. Ibid. P. 241.
following year, 1208, seeing that the King would not relent, Innocent commissioned William bishop of London, Eustace bishop of Ely, and Maurer bishop of Winchester to consult with John about the church of Canterbury. If at its conclusion they still found him contumacious and rebellious as heretofore, they were to lay the whole kingdom under an interdict. John, it seems, became nearly mad with rage, and swore by God's teeth that if they dared fulfill their commission he would send to the Pope all the prelates of England, confiscating their property; any Roman clerks that he came upon he would send to Rome with their eyes plucked and their noses slit, that they might be distinguished from other people. He further ordered the bishops to get themselves from his sight, lest harm come to their bodies. The bishops laid a general interdict on the land on Monday in Passion week, March 23, 1208.

An interdict may be defined as a "censure excluding the faithful from participation in certain holy things pertaining to Christian worship." It forbade the administration of the sacraments, except, to be sure, the private administration of those which were of necessity. Thus, in the present instance, baptisms were held in the church, but with the strictest privacy; marriages were held on the church porch; the Mass was celebrated but once a week, and then in the churchyard rather than in the church itself. During the inter-
dict, the dead were buried in unconsecrated ground, the
privilege of ecclesiastical burial being suspended. Innocent
made the present interdict as severe as possible, so that
even those religious orders, which were generally exempt from
observing such a degree, were compelled to fulfill its re-
quirements, at least for the first year. Later exceptions
seem to have been made in favor of the monastic churches.

For his part John retaliated with equal rigour. At first
he ordered the exile of all priests whatsoever, and those sub-
ject to them, but changed his mind a few days later. Our
principle authority, Roger of Wendover, tells us that he
"gave all the bishoprics, abbbacies, and priories, into the
charge of laymen, and ordered all ecclesiastical revenues to
be confiscated." 1 Then, when the prelates refused to leave
their monasteries, unless compelled to do so by violence,
the agents of the king, who were forbidden to harm them, con-
verted their property to the use of the king, allowing the
inmates but a scanty means of sustenance. The same author,
again, tells us that: "Religious men and other persons or-
dained of any kind, when found travelling on the road, were
dragged from their horses, robbed, and basely ill-treated by
the satellites of the king, and no one would do them justice."

Strangely enough the laity in general remained quite passive

2. Ibid. P. 247.
while all these outrages were heaped on the clergy. There seems to have been a feeling among them that Innocent went a bit too far. Again, while they sorely felt the need of public religious services, they were somewhat mollified by the corresponding cessation of aids and scutages, which were replaced by the great sums derived from confiscated church property.

If the interdict proved unsuccessful, the Pope could use still another weapon - excommunication. That Innocent would not hesitate to use this weapon, if need be, John seems to have had some fears. It is said that the king had as many enemies as he had barons about this time. If, then, he were excommunicated, and his subjects released from their oath of allegiance, there was no telling what result was likely to follow. To insure himself, therefore, John sent an armed force to all the men of rank, whom he suspected, demanding of them hostages in the person of their sons, or other blood relations. In this way he protected himself against any attempt at deposition. To stave off excommunication, John sent Hugh, abbot of Beaulieu, to tell the Pope that: "though he considered himself aggrieved in the matter of Stephen's elevation, he was willing to acknowledge him and make reparation for his violence 'on account of his devotion and reverence towards the Roman Church and towards our person'."¹ When Innocent found that

¹ Mann, Lives of the Popes, Vol XII, P. 129.
that he was being mocked, he sent a letter to the king threatening him with formal excommunication, a threat which he was forced to make good several months later, in June 1209, upon John's persistent contumacy. Even then the king managed to get the date of its promulgation postponed to October of the same year.

Naturally enough, the sentence caused a panic among John's supporters. The good will of the barons, however, was assured because of the hostages they had sent the king. There remained but to dispel the scruples of the lesser nobles. John did this effectively enough in his own characteristic way. It seems that a certain Geoffrey, archdeacon of Norwich, a treasurer in the Exchequer at Westminster, let fall the opinion that, perhaps, ecclesiastics might not lawfully remain in the service of an excommunicated king. Roger of Wendover tells us that, when the king heard this: "He was not a little annoyed, and sent William Talbot a knight, with some soldiers, to seize the archdeacon, and they, after he was taken, bound him in chains and threw him into prison; after he had been there a few days, by command of the said king a cap of lead was put on him, and at length, being overcome by want of food as well as by the weight of the leaden cap, he departed to the Lord."

If John did not allow himself to be restrained by any-

thing during the next few years, still it must be admitted that he acted the while with the "wisdom of the children of the world". Fearing invasion from Ireland and Wales, if perchance his subjects should be loosed from their oath of allegiance, John decided to quell at once any possible uprisings in those countries. His actions here are only another proof that John was a statesman of no mean ability. The campaign against Wales and Ireland did much to restore the military prestige of England, which had fallen so low during the Norman wars. "More fortunately situated", says Davis, "in that all his resources were now available for the settlement of the British Isles, John appears to have looked beyond the exigencies of the moment and to have formed plans for a lasting extension of the royal authority."

That John ruled with a hand of iron at this time is evident from the words of one trustworthy contemporary: "All men bore witness that never since the time of Arthur was there a king who was so greatly feared in England, in Wales, in Scotland, or in Ireland."

In England, however, John was rapidly undermining his own position. If the murder of the de Braoses was the occasion for revolt, the ever increasing fiscal impositions were no less the chief cause of disaffection. Though the great sums of money obtained by plundering the churches went far to meet

John's exorbitant demands, still even these were not enough. In 1210 the king took most severe measures against the Jews. Throwing them into prison, he had them tortured severely, so that they might "do the king's will with their money".\(^1\) Wendover tells us that: "Some of them then after being tortured gave up all they had and promised more, that they might thus escape."\(^2\) In August or September of the same year, assembling together all the prelates of England, the king compelled them to pay a tremendous sum into his coffers. Wendover puts the amount of money at 100,000 pounds sterling; and though this perhaps is exaggerated, still the amount seems to have been sufficiently great to cause the dispersion of a number of convents.\(^3\) The clergy and the Jews were not to suffer alone. The laity, too, were made to pay for John's extravagance. In 1209 - 10, we are told, scutage was levied at two marks on the fee; in 1210 - 11, it was levied twice, once on the knights who had not served in Wales, at the rate of two marks of silver for each scutcheon, and again for a Scottish expedition at the rate of twenty shillings.\(^4\) To make matters worse, the king adopted the plan of farming his sheriffdoms to foreigners. The ruffians, whom he placed in charge, used every means possible to further their own profits and those of

2. Ibid.
the crown. The gross maladministration that followed was bound sooner or later to lead to open revolt.

The anti-climax of our story comes with the close of the year 1212. In the preceding year Innocent had declared that "Unless the king would submit he would issue a bull absolving his subjects from their allegiance, would depose him from his throne, and commit the execution of the mandate to Philip of France."1 John, at this time, was busy forming his coalition with the Emperor Otto and a number of discontented French barons. Even the Emir of Morocco was invited to join - with the promise that if help were given in the war to follow, John would do homage to him and would accept the faith of Islam.2 John figured that, once the coalition were formed, he could get the most favorable of terms from the Pope. Meanwhile he began to assemble an immense army for service in France. In May, however, he was compelled to march against Wales, where rebellion had again broken out. It was at Nottingham that John learned of the general conspiracy afoot among the English barons. To ward this off he immediately dismissed his own feudal army, sending for Flemish mercenaries to take its place. To assure himself of at least the neutrality of the suspected barons, he demanded of them their castles, at the same time taking their sons as hostages. To win the support of

the people, the king took measures to mitigate the severity of the forest laws; unlawful tolls were abolished, and the oppressed classes were given a hearing.¹

Innocent's next move was to actualize his threat to depose the English king. Moreover, in his persuasion of this decree, Wendover tells us that the Pope "wrote to the most potent Philip, king of the French, ordering him... to undertake this business, of taking over the kingdom, and declaring that, after he had expelled the English king from the throne of that kingdom, he and his successors should hold possession of the kingdom of England for ever."² That Philip needed little encouragement to organize an expedition against England will be understood readily enough. Ships were built and made ready, and men were gotten together from all over the kingdom.

During this time John was not inactive. The English coast towns were ordered to provide such ships as would be serviceable, and to have them at Portsmouth by midlent "well equipped with stores, tried seamen, and good soldiers."³ In addition, an immense army was to be assembled at Dover by the end of Lent. The forces that were soon assembled numbered some 60,000 strong.⁴ And, adds Wendover, "Had they been of one

3. Ibid. A.D. 1213, P. 262.  
4. Ibid. P. 263.
heart and one disposition towards the king of England, and in
defence of their country, there was not a prince under heaven
against whom they could not have defended the kingdom of Eng­
land."1 That John entertained serious doubts as to their
being of "one heart and disposition" is evident from his next
move. Fear of desertion alone could have driven him to throw
himself upon the mercy of Innocent at such a time as this.

The terms of submission, long since provided by the Pope
were formally agreed upon on the 13th of May at Dover, in the
presence of earls, barons, and a huge gathering of people.
John agreed to admit Stephen Langton, and the rest of the
clergy connected with the affair, into his friendship and safe
keeping; full restitution was to be made of the confiscated
property and satisfaction was to be made to clergy and laity
alike for their losses; a promise was also given to "release,
dismiss and restore to their rights" all the clergy and laity,
who were being detained in custody because of the affair.2

As is apparent, these conditions were lenient enough.
Indeed they were no less moderate than those acceptable to Inno­
cent from the time that the trouble with John first began. The
pope, who had his heart set on a new Crusade, had no in­
tention of antagonizing one whom he wished to win over to his

1. Roger of Wendover, A.D. 1213, Giles ed. P. 263.
cause. It will be well, then, to state that Innocent is not to be held responsible for the memorable transaction of May 15. On that day John signed a second charter, whereby "of his own free will" (nostra bona spontaneaque voluntate), and by the "common advice of the barons" (communi baronum nostrorum), he made over his kingdom of England and Ireland to Pope Innocent and his successors to be held as a fief, for a rent of 1,000 marks — exclusive of Peter's Pence — per annum. Apart from the wording of the charter itself, we have the statement of Walter of Coventry that John acted of his own accord in this matter, under no compulsion from the Holy See: "Addit autem hoc ex suo quod utrumque regnum suum, Angliam videlicet et Hiberniam, Deo et sanctis App. Petro et Paulo et S.R.E. subjiceret ex mera voluntate et ad complimentum satisfactionis." Moreover, as Mann so well points out, it is clear from Innocent's reply to John that he had nothing to do with this action of the king, "for he asks who but the Holy Ghost could have led John so well to consult his own interests and those of the Church." 

John's action was a canny bit of statesmanship. True, to some the action seemed ignominious enough, but that it was the only thing to do there can be no doubt. As Walter of Coventry remarks, "Prudenter sane sibi et suis providens,

2. Walt, of C. II, 210. as in Mann Vol XII, P. 137.
licet id multis ignominiosum videretur et enorme servitutis jugum."¹ For when, Walter continues, "he had made his kingdom the patrimony of Blessed Peter, there was no prince in the whole Roman world who, to the injury of the Apostolic See, would have dared to harass or invade it, seeing that Pope Innocent was more generally feared than any of his predecessors for many years."²

Prescinding from the inevitable disputes, and subsequent agreements that followed John's submission, we shall now deal with his renewed struggle abroad. On receiving orders from Pandulf to keep away from England, Philip, in rage and disappointment, decided to punish Count Ferrand of Flanders, who had previously refused to follow his standard. The count appealed to John for help. Led by the Earl of Salisbury, the English were very successful in the campaign that followed. At Swine they came across the French fleet, which, much to their surprise, was practically unguarded. The English burned 100 ships, and led 300 more, laden with booty and supplies, back to England. Philip's campaign in Flanders was ruined at a single stroke.

Encouraged by these successes, John determined to use the army, which he had gathered for home service, in an attack on France. While Ferrand was keeping Philip busy, he

would strike at Poitou. The barons, however, refused to follow an excommunicated prince. When this difficulty was removed, they refused on still other grounds. The northern barons, especially were emphatic in their denial of service, stating that their tenure in no wise compelled them to foreign service. John made a motion of setting sail with a simple escort, but soon returned. If the attempted campaign irritated a war-sick baronage, John's next move thoroughly aroused their indignation. Upon landing, the king marched northward purposing to punish the barons of the North for their denial of service. It was only the pleadings and threats of Langton that stopped the king from fulfilling his purpose.

The Pope's legate, Nicholas, cardinal bishop of Tusculum, arrived in September. By the third of October, 1213, the transactions between Pope and King were completed. As legate Nicholas seems not to have been a very happy choice. Roger of Wendover tells us on one occasion that "it was suspected that the legate took the king's side more than was right." Walter of Coventry makes a similar statement. The barons, finding that they could expect no help from Nicholas, turned to Stephen Langton for support. Langton too had grown indignant at the high handed methods employed by the legate, but could do nothing about it. In January 1214 he appealed to the

2. Walter of C. II, 216.
Pope, but it seems that Innocent, misguided by reports sent him from England, was beginning to consider the Archbishop as a sort of firebrand.

The barons had a great deal of confidence in the Primate. Their one hope was to appeal to the people through the archbishop, and they seemed to have sensed the fact. In August 1213 a great assembly of bishops, barons and representatives of the townships on the royal demesne met at St. Albans. Its primary purpose was to determine the amount due to the bishops by way of restitution, but the discussion did not stop here. Most important of all was the action taken by the justiciar. That official, Stubbs tells us, "laid before the whole body the king's recent promise of good government, he issued an edict forbidding the illegal exactions, and referred to the laws of Henry I as the standard of good customs which were to be restored."1 What these "laws" were probably only a few of those present had any idea. But the Archbishop was determined that they should know. Accordingly a second council was called at St. Paul's, London, a few weeks later, and there the precious document was placed before the nobles present.2 "Then this paper had been read", says Roger of Wendover, "and its purport understood by the barons, who heard it, they were much pleased with it, and all of them, in the archbishop's

presence, swore that when they saw a fit opportunity, they would stand up for their rights, if necessary would die for them; the archbishop, too, faithfully promised them his assistance as far as lay in his power; and this agreement having been settled between them, the conference was broken up."1.

It is difficult to believe that John was absolutely blind to the approaching crisis. More likely he saw clearly the way that matters stood, and was determined to better his fortune by a successful military campaign abroad. As a matter of fact, the war was to determine the struggle between the king and the barons. They were giving him his last chance to make good. If he failed he would be powerless; if he made good there would not be a king in Christendom more powerful than he. John was confident of success. The coalition, which Richard had striven to effect, was completed. Besides John, Philip had to contend with the Emperor Otto IV, and the strong counts of Boulogne, Flanders and Holland. According to the plan agreed upon, these latter were to attack France from the northeast, while, at the same time, John would March on Paris from the south. When, in the spring of 1214, John summoned his barons to arms for the expedition, just about all of them refused; a heavy scutage needed for financing the war equally aroused their ire. The result was that, when the

king sailed for Aquitaine in February, he had with him an army made up chiefly of mercenaries.

John was quite successful at first. We are told that twenty-six castles surrendered during the first month of his activities. Moreover, the Lusignans were won to his cause on the condition that Joanna, the King's daughter, be given in marriage to the heir of Hugh de la Marche the younger. Other noble families came to his side on receiving gifts and pensions. \(^1\) But then the trouble began. The Emperor Otto, it seems was waiting for John to make the first move. On the other hand, John's allies were unwilling to move forward until word should come of a decisive victory over Philip in the East. Thus the months word on. All hope of paralyzing France by rapid marching from two different directions was utterly abandoned. Finally, when word did reach John it was calamitous, to say the least. At Bouvines, near Tournai, Philip commanding the chivalry of France and their retainers, in all about 50,000 men, met and decisively defeated the host of the enemy, in number about 100,000. The rebellious lords of Boulogne, Flanders, Holland and Brabant were crushed. Otto practically lost his crown because of the defeat. For his part, John was glad to accept a truce. He could not possibly hope to lead his army against the forces which Philip and Louis could now command. In the autumn of 1214 the king returned home

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cursing his ill fate. "Since I became reconciled to God", he is supposed to have said, "and unhappily subjected myself and my kingdoms to the Church of Rome, nothing has prospered with me."1

With Bouvines John's famous coalition came to an abrupt ending. The king had not a single ally of any consequence left on the continent. It was this fact that removed any doubts, which the barons had hitherto entertained concerning John. Should he now attempt active resistance to their demands, they need have no fears. Consequently, when, upon his return, he demanded a scutage to cover the expenses of the war from those who had refused to serve, he met with resistance. Shortly afterwards, the earls and barons assembled at St. Edmund's, ostensibly for religious purposes, actually however for another reason. There the charter of Henry I was again produced, and, according to Roger of Wendover: "They all swore on the great altar that, if the king refused to grant these liberties and laws, they themselves would withdraw from their allegiance to him, and make war on him, till he should, by a charter under his own seal, confirm to them everything they required."2

Early in January 1215 the barons, in full armour, appeared before the king in London at the New Temple, where they presented their demands. John asked for a truce to last until

the following Easter; but "the time of grace was waisted in contradictory and futile schemes." 1. Permissions of free election were granted to the Church; commissioners were dispatched throughout the land to state the king's case in the shire courts; all freemen were obliged to take an oath of fealty and homage; mercenaries were then ordered from the Continent, but the demand was soon cancelled. But all to no avail. 2. Even the letters of Innocent, denouncing the authors of these "factions and conspiracies", could not expel from the minds of men the great appeal, which the magic words of "Henry's charter" had made upon them.

What followed is known full well. When the time of the truce drew to a close, the barons had no difficulty in assembling a large army of knights, horse soldiers, attendants and foot soldiers. The knights alone were some 2,000 in number. 3. Meeting at Stamford, they marched towards London, where the king was then stationed. From Brackley in Northamptonshire they sent their schedule of grievances to the king. John was indignant when the purport of the various articles was made known to him. He is supposed to have said derisively: "Why, amongst these unjust demands, did not the barons ask for my kingdom also?" 4. Wendover tells us that: "At length he angrily

2. Ibid.
4. Ibid., P. 306.
declared with an oath, that he would never grant them such liberties as would render him their slave. 1. The barons were determined to waste no more time. They appointed Robert Fitz Walter commander-in-chief of their forces, with the high-sounding title of "Marshal of the army of God and the holy church." 2. An attempted siege of Northampton castle proved unsuccessful, and the army moved on to Bedford. There they were greeted by messengers from London, who told them to come at once if they wished to obtain the city. On Sunday May 17th the barons entered London, where they seem to have received a hearty welcome. The taking of London was followed by a great defection from the king's party. With a paltry remnant of but seven knights, John felt himself powerless to resist the attack of the barons. Accordingly he sent word to the barons "to appoint a fitting day and place to meet and carry all these matters into effect." 3. The site selected was a field lying between Staines and Windsor, called Runnymede. Here on June 15th, 1215, John signed and set his seal to England's Magna Carta.

2. Ibid. P. 307.
3. Ibid. P. 309.
CHAPTER III

Feudalism in England.

Feudalism, as it existed at the time of the Norman Conquest, has been well described as a "complete organization of society through the medium of land tenure, in which from the king down to the lowest landowner all are bound together by obligation of service and defence: the lord to protect his vassal, the vassal to do service to his lord; the defence and service being based on and regulated by the nature and extent of the land held by the one of the other." 1 The system as a whole was a graduated one, in which every lord ruled the class next below him. In countries where feudalism was at its height we find that the great lords were most powerful, and strong enough at times to be able to defy their supreme lord, the king. How then did all this come about?

While it is beyond the scope of this study to discuss here in detail the origin of so complex an institution as feudalism, still it may be well to mention the three prime elements in the system and the relation between lord and vassal, which they entailed. They were the Comitatus, Commendatio and Beneficium. The first, the Comitatus, is perhaps the

most important, since from it came the devotion of the band of followers to their leader in war. From it came the tie, almost stronger than that wrought by nature, which united the companion (comes) to his chief in faith and loyalty. Carlyle considers the commendatio to have been the means by which the feudal relation was probably most widely extended. ¹ This was a process by which a hitherto independent person became dependent on his more powerful neighbor in return for such protection as the latter could afford him. "The gradual transformation of a relation, which was originally almost wholly personal, into a great system of land tenure on the basis of military or of 'base' service, which in its turn became a system of political relations, this is connected with the beneficium." ² It was out of these three elements, then, that the feudal system was gradually formed. How this system, in turn, was introduced into the machinery of government may be seen from the following brief sketch.

In the eighth and ninth centuries, the Carolingian kings and emperors were wont to place in charge of their duchies and counties men, usually kinsmen or courtiers, whom they knew they could trust. These acted as official magistrates discharging the duties of imperial judges or generals, and received compensation for their labours in the form of feudal

² Ibid.
benefices. Gradually, however, these offices with their benefices became hereditary, and with this change came numerous chances for increase of power. By marriage or inheritance a provincial governor could add to his lands estate after estate. Gradually the only bond that held the duke or count to his king was that of homage and fealty - a bond depending on conscience for its fulfillment; and in cases where the lord was ready to forget that he had a conscience, or where the king was particularly weak, as the later Carolingians were to a notable extent, we can readily see what result was likely to follow. "The provincial rulers aimed at practical rather than political sovereignty; the people were too weak to have any aspirations at all." The whole system of government was one "in which abject slavery formed the lowest, and irresponsible tyranny the highest grade; in which private war, private coinage, private prisons, took the place of the imperial institutions of government." 1. The central government was indeed hardly more than a name. Feudalism as it existed on the continent spelled disruption.

Though William the Conqueror did introduce feudalism, in the stricter meaning of the word, into England, he was too shrewd a king to permit it to develop along the lines of its European counterpart. William had had ample experience of its disruptive tendencies on the Continent, and that it would not

fit in with his ideas of government there could be no doubt. The result, due partly to the genius of the man, and partly to the peculiar nature of the Conquest, was an institution decidedly English. To all outward appearances the English baron differed little from the European lord. Each had his broad estates, but in England these were usually widely scattered. The English lord, too, held his courts, but the administration of justice did not fall entirely into his hands, since the old national local courts of the shire and the hundred continued to maintain a vigorous existence. True, vassals continued to take an oath of fealty to their immediate lord, but in England they had to take an oath of allegiance to the king, which took precedence over that sworn to their immediate lord. Moreover, William and his immediate successors retained the old national fighting force, thus never becoming solely dependent upon the tenants-in-chief for an army. The result of such measures is obvious. The central government was an entity very much alive while William was king of England.

Later, in the next century, Stephen was forced to make numerous concessions to his barons, thereby completely demolishing the sturdy machine, which the Conqueror had built. The result was anarchy pure and simple. Castles were built and fortified; wars were fought; taxes were levied; money was coined; in short the whole machinery of government, legis-
ative and judicial, was exercised by private individuals.\footnote{1. Cf. Stubbs, Constitutional Hs., Vol. I, P. 354.}

Stephen's successor, Henry Plantagenet, managed to do away with this state of affairs within the first few years of his reign. The very condition of anarchy, together with his own dominating personality, and the power the young king could command, made that task comparatively easy. But the precedent was there. Concerning Richard, suffice it to say here that he was quite content merely to rest on the work his father had founded so well. During his prolonged absences the government of England was left in the hands of his ministers.\footnote{2. Note. It is well to remember that he was absent some nine and a half out of the ten years of his reign.}

Since many of these had served under Henry II, the government continued to function, for the most part, without notable alteration. But even if the government did remain much the same to all outward appearances, the increased murmuring and grumbling of the several classes gave sufficient warning that a radical change was in the offing. The weight of heavy taxation helped not a little to create between the barons and the other classes in the community a bond of sympathy such as had not existed even in Henry's reign.\footnote{3. Cf. Lunt, History of England, P. 136.}

It was Richard's brilliant personality alone that postponed actual rebellion. English pride was willing to pay the price for such a king. Moreover, Richard was fortunate in as much as all misgovernment would be laid at the door of his ministers. Actually, by his protracted
absences, and by using England as a war chest, he was but preparing the scenery for Runnymede's tragic stage. Had he remained at home to impart to his island subjects at least a spark of that fiery ardour, that won for him the awesome respect of even a Saladin, we have no doubt that affairs in England would have developed differently under his successor.

At the outset we asked the question whether John's failure was due to his character alone, or whether the cause lay deep in the changed position of the barons in the state, and in the development of a new philosophy of government among them. To answer this question it will be necessary to show the precise position of the barons in the state at the time of the conquest, examine the writings of contemporaries, and the philosophies of government current at the time.

Even as Duke of Normandy, William had suppressed, to some degree, the centrifugal tendencies of his mesne vassals. Thus a law was enacted that castles could be built only by permission of the lord; private warfare was strictly forbidden. Furthermore, in case of invasion, the duke had the right to call out the national levy.¹ The Norman law of wardship gives us a further striking illustration of the feudal supremacy of the Duke. To what extent William foresaw and planned the several innovations, which were to influence English feudalism

¹ Powicke, The Loss of Normandy, P. 55.
so greatly to the advantage of the central government, is difficult to say. Lack of documents make the point a matter of mere conjecture. If William did prearrange the whole system, one has to admire the genius of the man all the more; if he did not, the results were the same, a balance of power between king and barons, with the scale tipping slightly in favor of the former.

Of the changes already mentioned four are especially to be noted. Let us consider them for a moment, paying particular attention to their effect on the barons. In the first place William required all mesne massals to take an oath of allegiance to him superior to that sworn to their immediate lords. On the Continent a vassal did not hesitate to follow the standard of his duke against his king. In fact he might even feel bound to do so. The great lords alone were bound by oath to the king. Feudal anarchy was often the result. In England, however, under the new system a vassal could no longer conscientiously follow his lord to the detriment of the king. It was a wise bit of legislation on the part of the Conqueror.

William's policy throughout seems to have been the retention of as many of the Anglo-Saxon institutions as was possible, supplementing them with the best of Norman customs. Thus in his charter we find him bidding that "all men have and
hold the law of King Edward in all things, and in addition those decrees I have decided upon for the benefit of the English Peoples."¹ William saw in the fyrd, the national fighting force of the Saxons, an excellent weapon for counterbalancing his feudal army. Retaining this institution, he was never made to depend solely on his barons for an army. In 1075 he used the fyrd to advantage against a group of rebellious Norman vassals. Through the reigns of William Rufus and Henry I, the fyrd gave repeated evidence of its strength and faithfulness.

As in Normandy, the lords were granted charters conferring upon them the right of administering justice, but their power, far from being absolute, was limited to a large extent by the courts of the hundred and the shire. These too were remnants of pre-Conquest England.² Besides being admirable instruments for keeping a kingly eye on the people, for positing the responsibility of tax collecting, and for judging cases which could not well be handed over to the jurisdiction of baronial courts, Petit-Dutaillis gives us a further reason for their importance, since: "These local gatherings, which were burdensome to a people who would gladly have given them up, gave to the constitution, to the political growth of

¹ "Hoc quoque praecipio et volo, ut omnes habeant et teneant legem Edwardi regis in terris et in omnibus rebus, ad ductis iis quae constitui ad utilitatem populi Anglorum." (Stubbs Charters, P. 99, Art.7.)
² Ibid. "Requiratur hundredus et comitatus, sicut etc...
England, its own peculiar accent."

The peculiar nature of the Conquest had much to do with the distribution of confiscated lands that followed. England, we remember, was not completely conquered at Hastings. Rather the reduction was a piecemeal affair, and, as the various counties fell to the Conqueror one by one, every Norman of any consequence, who had a share in each new enterprise, set up a clamour for a portion of its spoils. Thus, in the end, many barons found themselves invested with vast fiefs, but these consisted of manors scattered from one end of England to the other. The result was that it was practically impossible for any vassal to organize a compact fief, such as would be a serious menace to the crown. Indeed, a vassal could not even organize an army from among his many estates without being immediately detected by the sheriffs or by his ever watchful neighbors. It is to be noted that William's first Earls were merely successors of the earls of Edward the Confessor. Thus Hugh of Avranches, Ralph Guader, and Roger Montgomery took the places of Edwin and Morcar and the brothers of Harold, while Herefordshire, again, was handed over to William Fitz-Osbern. After 1075 William began to see the danger of this

1. "Ces reunions locales, qui d'ailleurs étaient onéreuses à la population et qu'elle aurait volontiers laissé tomber en désuétude, ont donné à la constitution, au développement politique de l'Angleterre, son accent particulier." (Petit-Dutaillis, La Monarchie Féodale, p. 69.)
plan, and from that time he began to govern the provinces through sheriffs immediately dependent on himself. He very seldom conferred the title of earl even on his most trusted followers. Exceptions were made in the case of the marcher barons. Whether this is to be accounted for on the grounds that the division was made before 1075, or whether William saw the weakness of a legatine form of government on the frontier, it is difficult to say. At all events the earls of Chester, Hereford, and Shropshire, to mention a few examples, were given extensive powers on the Welsh frontier. Kent, Cornwall and Durham were other outstanding examples of the palatine jurisdictions founded by the Conqueror.¹

Domesday tells us little about the terms of tenure under which the baronies were held.² Still it is most likely that the terms were the same as those existing in Normandy, which ran as follows:

- **a)** "doing homage to the king and swearing fealty,
- **b)** providing definite quotas of fully-equipped knights, if summoned, to serve in the king's army for 40 days in the year at their own cost,
- **c)** attending the king's court when summoned to give advice and assist the king in deciding causes, and
- **d)** aiding the king with money on the happening of certain events."³

¹. Stubbs, Constitutional History, P. 294.
². "On this point the conditions of tenure under which the baronies were held the Domesday survey is unfortunately silent, no questions as to tenure being put to the hundred juries...." - W.J. Corbett (Camb. Med. History, Vol. V., Ch. XV, P. 511)
³. Ibid.
forfeiture of estates was the penalty if these obligations were not sufficiently performed.

With regard to government, it would seem that William was quite content to allow each baron full discretion to deal with his barony as he liked. The barons were at liberty to farm out their lands as they saw fit. For the most part, once they had settled down in their new homes, the new masters of England set earnestly to the work of rehabilitation and reconstruction. Within comparatively few years the lands were re-inhabited - not so much by Normans, as one might suppose, but by a sturdy race of English yeomen. The assartation of woodlands, the draining of fens and the building of mills and churches, together with a corresponding growth of new urban centers, marked a decided progress in the land. It is sometimes supposed that each baron had his own private castle. This is not true, at least during the first few decades after the Conquest. True, William did order the erection of several strongholds, but these were usually built on crown lands, and as already mentioned, were generally under his direct care.

A word might be said about the position of the barons in the central government. The lords of the Conquest came to England with the idea of obtaining a share of the spoils, but if they

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1. Note. It is well to bear in mind again the several checks, which he had placed upon them by means of his sheriffs, his shire and hundred courts, etc..
entertained any notions of being petty kings in the land, they were doomed to disappointment once the Witan recognized William lawful heir to the throne. By this act he was proclaimed king of England. And what king meant to William, no one who knew the man could have any doubt. Certainly the state would take on anything but an oligarchical form. One of the duties of the tenants-in-chief of the king was to attend his court when summoned and to give advice and assist the king in deciding causes. That William actually held courts comprised of his entire baronage there is ample evidence. The Anglo-Saxon Chronicle for the year 1087 tells us that: "Thrice he wore his crown every year...; and there were with him all the rich men over all England, archbishops and suffragan bishops, abbots and earls, thegns and knights."¹ Again in the ordinances of William I, separating the Spiritual and Temporal courts, we find that William acts "with the common council and counsel of the archbishops and bishops and abbots and of all the princes of the realm."² Later, because of the size of the kingdom and the cumbersomeness of so large and unwieldy a body, William established the practice of summoning only a portion of his tenants to any particular court. The result, as Corbett expresses it, was that "the court of the barons, the 'Curia Regis', as it was called, easily became a very elastic body,

¹ Select Charters, P. 81 (Ang. Sax. Chron. A.D. 1087)
² Ibid. P. 85.
very like the old Witanagemot in composition, in which the king could take the advice of whom he would, but still need never hamper himself by summoning too many of those who were likely to oppose his wishes.\(^1\) It is to be noted that, in the documents cited above, much is made of the spiritual lords in connection with the great council. In Normandy their participation in deliberation was so very insignificant as to render the change worthy of attention.\(^2\).

In conclusion, whether William actually intended all or any of the reforms mentioned, with a view to curbing English feudalism, cannot be said. The fact is that his limitations were sufficient to check its worst evils, for the time at least. On the one hand the barons had sufficient power to keep the king from becoming an tyrant; and on the other the king was strong enough to prevent his vassals from resorting to any high-handed methods. Thus feudalism, as it existed in England, established a sort of balance of power between the


2. Note. Unfortunately, we have not time here to take up the question of the condition of the Church under William I. Suffice it to say that a parallel feudalization of the Church took place at this time. Bishops, practically always, became royal or ducal vassals, while abbots too held lands from either king or other lay lords. Consequently the same services, except personal military service, were exacted from them as from the lay barons. Probably the most disastrous result that followed was the practice of "lay investiture". This practice was at first tolerated by Rome. Later under William Rufus, Henry I, Henry II and John it was to be the source of much trouble. (For complete information on this point cf. Mann, *Lives of the Popes*, vols VII-XII passim.)
king and his feudal barons. The story of England's history for many generations after the conquest will tell us of a mighty struggle to maintain this same balance intact. Since the period with which we are concerned marks one of the high points of that struggle, it is quite necessary that we follow its developments through the intervening reigns.

Of William Rufus and Henry I we need merely say that the former did not live long enough to injure seriously the work his father had begun, while the second, Henry "Beauclerk", who possessed something of the Conqueror's genius, did much to further the latter's plans. The difficulty really began with Stephen. In 1135 Stephen had neither a very strong claim to the throne, nor had he much of a party behind him. Only a few of the barons were present at his election, the absentees readily acquiescing in their choice. Still, this support had to be maintained, and the best way to maintain it seemed to be by purchase. Stephen readily raised lord after lord to the comital rank. To the clergy too were granted divers concessions. Lest Matilda outbid him, the king had great need to be generous in dealing out grants of land and power.

Because of this policy Stephen found himself surrounded by war and anarchy, as soon as his power of purchasing support had

dwindled to a minimum by reason of the exorbitant demands of
the barons. Even those barons who had not leagued themselves
with Matilda were forced, out of sheer self-defence, to
fortify their castles and make ready for war.¹ The govern-
ment was as ultra-feudal as it had ever been on the Continent.
Certain barons not only took over the administrative and ju-
dicial powers of government, but hired mercenaries, coined
money, levied taxes, and engaged in private wars and robb-
eries as well. As far as they were concerned King Stephen was
but a name. While the following description from the Peter-
borough Chronicle for the year 1137 is probably to be limited
to the fen country, still we produce it here, since it will
serve to give us an inkling of what must have been the state
of mind of the people at the time: "When the traitors per-
ceived that he was a mild man, and soft and good, and did no
justice, then did they all marvel....they were all forsworn
and forsook their troth; for every rich man made his castles
and held them against him, and they filled the land full of
castles.... When the castles were built, they filled them
with devils and evil men. Then took they those men that they
thought had any goods, by night and by day, peasant-men and
women, and put them in prison for the sake of their gold and
silver and tormented them with unspeakable torments.... And

¹. Note. More than 1,100 castles were built in Stephen's time.
that lasted the nineteen winters while Stephen was king, and ever it was worse and worse...."¹.

When Henry II, Plantagenet, ascended the throne in 1154, conditions were somewhat better than those mentioned above, but the root of the evil still existed. Accordingly, the king ordered that all imported mercenaries be sent back to their respective lands; that all the castles built during Stephen's reign be, with few exceptions, torn down; and that the laws of the land be rigorously enforced.². The few barons, who, like Roger of Gloucester, Hugh Nortimer, William of Aumâle and Hugh Bigot, attempted to defeat such measures were compelled to acquiesce by force of arms. After this Henry began immediately his work of restoring the laws and customs of the realm as they had existed in his grandfather's time. "His policy was to govern England as an English king, to utilize and train all the elements of life by new organization, and, by asserting his royal rights and those of his people, to keep the feudal system in its proper subordination to the national interests."³. Henry was particularly successful in his policy, since, apart from his own great strength of character, and the fact that he could count on his French domains for support, he found England tired of war. Even the barons had had their fill. Again, Henry was particularly fortunate in having about him

¹. Stubbs, Charters, P. 138.
². Will. Newb. A.D. 1154 (Stubbs Charters P. 151.)
³. Stubbs Charters, P. 146, Introduction to Henry II.
from the first influential, wise, and capable men to see to the administration of governmental affairs.

It was mentioned above that, at least to all outward appearances, the government under Richard was much the same as it had been during his father's reign. Actually during the decade 1189 - 1199 a great change was taking place. Richard's absence from England, the heavy taxes, the growing independence of the towns were all bound to alter to some extent the relation between king and barons. The influence of the Crusades too was beginning to be more pronounced. Thw whole result was to favor rather than hinder baronial power. However, since the reign immediately preceding that of King John has already been sufficiently treated, it were better perhaps now to look into the several theories of government of the day. The question is precisely this: What did the people - especially the ruling classes - think about the position of the king? What powers had he to their way of thinking? Was he to be supreme, or responsible to them?
CHAPTER IV.

The King in the Political Theories of the Time.

There were three answers to these queries, coming from the three factions among the upper classes, namely the Ecclesiastical Lords, the Lay barons, and the Jurists of the court. Before taking up the first two classes in detail, let us say a word about this third class, the permanent counsellors, who were constantly at the king's side. Naturally these officials would tend to exalt the kingly office, and so we are not surprised to find Glanville writing: "Quod principi placuit legis habet vigorem." Fitz-Neil, treasurer to Henry II, in his Dialogue of the Exchequer, expresses a somewhat similar opinion: "That which they [kings] do ought neither to be discussed nor condemned by their inferiors. For their heart, indeed the very beats of their heart, is in the hands of God, and the cause of those to whom the keeping of subjects has been intrusted by God himself, depends on the judgment of God and not of man." On the Continent this opinion had found some defenders especially in imperial circles. Thus in replying to

the bull of deposition of 1076, Henry IV denounces "Gregory VII's arrogance and audacity in venturing to raise his hand against him who had been anointed to the kingdom, while the tradition of the holy Fathers taught that he could be judged by God alone...."

This theory, though not unimportant, was not common in the Middle Ages, and consequently there is no need to delay on it here, except to mention another writer of the late twelfth century, who also tended to lay stress on the sanctity of kingship. Peter of Blois, whom Davis rather tersely calls "one of the more literary and more graceless" of Henry's flatterers, writes: "I ought to remember that it is a holy deed to serve his majesty the king, since he is holy, the anointed one of Christ, and it is not in vain that he has received the sacrament of royal unction, whose efficacy, if ignored or placed in doubt, will clearly be verified by the disappearance of the inguinal disease and by the healing of scrofula."3.

Churchmen and laity alike held firmly to the notion of an elective kingship; and along with it the fact that royal power

3. "Je dois reconnaître qu'il est saint d'assister le seigneur roi, car il est saint et Christ du Seigneur, et ce n'est pas en vain qu'il a reçu le sacrement de l'ionction royale, dont l'efficacité, si elle est ignorée ou mise en doute, sera pleinement vérifiée par la disparition de la peste inguinale et par la guérison des écronelles." (Petit-Dutaillis, Op. cit., P. 125.)
as indeed al ppower, comes from God alone. Stephen, it will be recalled, humbly acknowledged that he owed his crown to the election of the clergy and of the people, to the consecration of the Archbishop of Canterbury and likewise to the confirmation of the Holy See.¹ Was this right of election to be given up by the Church and barons with the accession of Henry Plantagenet?² This monarch attempted to bring that about by having his son Henry crowned as his successor. He did indeed score a point against the Church in this matter; but his was to be a costly victory and short lived. As Petit-Dutaillis puts it: "Events showed that Henry II had deceived himself, and that by making him a partner to the throne, he gave a dangerous weapon to a rebel son. By reason of his anointing, Henry the Young considered himself his father's equal, and sought the support of the Church and of the Pope against him who had crowned him in spite of the Holy See."³

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1. "Ego Stephanus Dei gratia assensu cleri et populi in regem Anglorum electus, et a Willelmo Cantuariensi archiepiscopo et sanctae Romanae ecclesiae legato consecratus, et ab Innocentio sanctae Romanae sedis pontifice confirmatus, respectu et amore Dei sanctam ecclesiam liberam esse concedo et debitem reverentiam illi confirmo." (Charter of Liberty, Stubbs Charters, P. 120.)

2. It will be recalled that Henry II came to the throne by reason of his pact with Stephen.

say Henry did not attempt to have Richard crowned before his death. Richard was elected without any hesitation by the Ecclesiastical lords and barons. Was the particularly impressive consecration that followed a victory celebration — "une revanche de l'Église"? Thus too after some hesitation was John unanimously elected, and then crowned at London.

To get a clear idea of the doctrine common to the Churchmen at the time let us consider the writings of John of Salisbury. In his *Policraticus* the learned prelate gives us in substance the mind of the Church at the time regarding the power and duties of kings. To John the king was not so indispensable a personage as might be imagined. In fact he would not be needed at all if the people followed the eternal law. However, since man will sin, a king is necessary to see that the divine law is kept, and it is this function in turn that imparts to him his sacred character. The king is the image of God on earth; he is the representative of the commonwealth; the minister of common interests; an officer whose acts are those of the corporate community in whose place he stands. This ministry is conferred on him by God — since indeed all authority is derived from God, and consequently any one who resists the authority of the king resists the divine authority. Because of his dignity as a representative of God on earth, any

attempt against the king is criminal, and approaches sacrilege. ¹ The kingly power is not born of flesh and blood. From this it follows that ancestry is not to prevail over merit. John merely states here the common opinion that absolute heredity was something not to be tolerated. The king again should remember that he will be punished by God for his ill-use of the power given him, while on the other hand if he does his duty well, his reward will be that of him who "Potuit transagredi, et non est transgressus; facere mala, et non fecit". ² Among the qualities of character the king should possess, the following might be mentioned. The king should be humble, chaste and not avaritious; he should be learned in letters, a protector of the Church, a father and a husband to his subjects; he should protect the weak, and especially orphans and widows; he should seek the welfare of others and not merely his own; moreover he should be ready to act on the counsel of the wise men of his land. ³ It is at once interesting and important to note the relation between Church and King in this political theory. Certainly John makes no attempt to flatter royalty. "Between the two", as Petit-Dutaillis well puts it, "there exists no common measure, and the first rules supreme over the second. If the prince does indeed hold the glove of temporal

¹ "Caeterum quod adversus caput aut universitatem membrorum dolo malo malitia praesumit, crimen est gravissimum, et proximum sacrilægio...." (Policraticus, VI, 25.)
² Ibid. IV, 10.
³ Ibid. IV, 2, 3, 4, 5, 6, 7, 8; V. 6, 15; VI. 13;
power, it is because he has received it from the hand of the Church, who gave it to him because she could not well wear a glove of blood." Or again, as John himself puts it: "The monarch is a servant of the Priesthood, whose duty it is to perform those offices which would appear unworthy of priestly hands."2.

The question arises: What if the king should not fulfill the obligations of his sacred office? What if he were to abuse his God-given power? It is here that we find the famous distinction between king and tyrant. Tyranny, according to John, is a part of God's providential ordering of the universe and as such, it must be met with due submission. If God should send down a tyrant upon a sinful people, the best thing for them to do is to take refuge humbly in the protection of God's mercy. "Ad patrocinium clementiae Dei humiliati confugiant, et puras manus levantes ad Dominum, devotis precibus flagellum, quo affliguntur, avertant."3. "For the end of tyrants", says John, "is confusion such as leads to their destruction if they persist in evil; but to pardon if they turn from their wickedness."4. Consequently a tyrant should

1. "Entre les deux il n'y a pas de commune mesure, et le premier domine le second. Si le prince possède le glaive temporel, c'est parce qu'il le reçoit de la main de l'Église, et elle le lui donne parce qu'elle ne peut tenir un glaive de sang." (Petit-Dutaillis, Op. cit., P. 131.)
2. Policraticus, IV, 3.
3. Ibid. VIII, 20.
4. Ibid. VIII, 21.
be borne with patiently until he wither reforms his way of living or else meets his doom in battle, or in some such way according to the just judgment of God. If, however, the ruler command me to do something that is contrary to the law of God, I am bound to decline obedience. "Alioquin si divinis reluctitur mandatis, et me theomachiae suae velit esse participem, libera voce respondeo; Deum cuivis homini praef erendum."¹ Now, while it is true that kings and princes are to be borne with in patience, still, if they prove to be utterly stiff-necked so much so that religion, the greatest good of the state, be endangered, then it were better that the very diadem on their head be cast to the ground.² Basing his proofs on examples drawn from classical and scriptural history, John holds tyrannicide to be entirely permissible. In chapter XIX of the eighth book, treating of the death of Julius Caesar and other gentile tyrants, he begins by extolling the greatness of the first Caesar: "Homo perpaucorum, et cui nullum expresse similem adhuc edidit natura mortalium." Nevertheless, Caesar took command of the commonwealth by force of arms. Consequently he was deemed a tyrant and slain in the Capital, a great part of the senate consenting to the deed. Tiberius, Caligula, Nero, Vitellius and Domitian are dealt with in turn.

1. Polycratieus, VI, 25.
2. Ibid. VII, 20: "Satius erit ut diadema detrahentur principis capiti, quam principalis et egregiae partis reipublicae dispositio, quam in religione versatur, illius subtrahatur arbitrio."
Then passing on to Jewish history, John seeks to strengthen his argument with examples from the old testament, describing the end of numerous tyrants from Eglon to Holofernes. But John's respect for authority leads him to qualify his rather extreme ideas. Thus, for example, it is to be considered at least doubtful whether a man might seek the death of one to whom he is bound by oath, or by ties of fealty. The use of poison is to be shunned, since it is found only in pagan history, and has no precedent in the scriptures. In general the deed should be done without loss to religion or honor.

It is worth noting here that Archbishop Hubert, in his coronation speech of 1199, remarked that it is the organized community of the people - i.e. the universitas as opposed to clerus et populus - that must assent to the choice of a king. He seems to hint here that the universitas can act independently of and even against the king. This comes to a head in Bracton. Writing some time after 1216, he says: "If he the king abuses his power, there is room for supplication that he should amend his ways, and if he will not do this, he must be left to the judgment of God." However, "The universitas regni and baronagium, acting through the king's court, may restrain his tyranny." 3

2. Select Charters.
3. Bracton IV, 10. (As in "The medieval Conception of Kingship" by J. Dickenson, Speculum 1926, P. 308.)
What conclusion should be drawn from all that has been said? In the first place, with regard to John of Salisbury, it can be said that the form of his principle regarding the right of resistance to unjust authority is quite literary in origin. Apart from the form, which might not have met with general approbation, the essence of his theory was the common doctrine of the Middle Ages. Secondly with Dickenson it can be said: "Here is the beginning of a conception which men were more and more to grasp during the thirteenth century, but which they were not to transform into effective political practice until the seventeenth and eighteenth centuries." 1 Nevertheless, was not Magna Carta the first great test of the "popular sovereignty" idea as developed by John of Salisbury?

Whatever may be said about feudalism, this much is clear namely that it represents the very antithesis to the conception of an absolute government. Feudalism was essentially a system of contractual relations - the contract binding the lord as well as the vassal. Consequently, the barons were a bit prone to pass over any "divine right" tendencies. Between themselves and their liege lord there was a difference of degree rather than of essence. To their way of thinking, there was about the king more of the suzerain than of the sovereign. Personal loyalty to the king of England, qua king of England, was

beyond their comprehension. The bond of fealty, a bond strictly feudal in nature, meant much more to them. An excellent example of what we have just stated is to be had in the case of William Marshall, who has ever been deemed a model of feudal loyalty. William's principle of conduct was the observance of homage. It was for this reason that he sided with Henry the Young against his father Henry II, then with Henry II against Richard, with Richard against John, and again with John against the barons. This too was the reason why, after obtaining leave from John to swear fealty to Philip Augustus for his Norman holdings, he refused to engage in battle with John against the King of France. It is quite obvious that neither William, nor any of the barons for that matter, followed the king because they considered him to be a "divine right" monarch. Rather the reason was that the king had received their homage. That this was a weak bond, there can be no doubt, since the strong hatred and anger and fears of these men of iron, often uncurbed yet often well founded, would be quite apt to drown out any scruples to underhand dealings with a king such as John proved himself to be.

It is important to note at this point that the barons, even in the decade before Magna Carta, were not aspiring to the extreme liberty enjoyed in the time of Stephen. Anarchy they saw was not liberty. To the barons, feudalism under any
form implied mutual rights and obligations. The aim of the barons, then, was to make it clear that the king was not above the law any more than they were. To the barons the law, the expression of the principle of justice, was supreme in the state; the king himself was subordinate to it. Carlyle shows what that word "law" meant to the Medievalists: "To them the law was not primarily something made or created at all, but something which existed as a part of the national or local life. The law was primarily custom, legislative acts were not expressions of will, but records or promulgations of that which was recognized as already binding upon men."2.

1. Note. It is quite true that, with their growing wealth and numbers, there came to the barons the growing conviction that they did not share in the government as they should. Nevertheless, be it noted that these convictions were brought on and confirmed by John's incompetent administration. The barons were not aiming at a constitutional monarchy, but at a restoration of feudalism, with the type of monarchy it entailed.

CHAPTER V.

Conclusion

At the outset we raised the question whether John's character was merely an excuse for demanding Magna Carta or a cause of the same. Our discussion began with the narrative of John's reign. This was followed by a brief sketch of feudalism - particularly English feudalism. William, as we observed, was too strong a king to allow ultra-feudalism with its centrifugal tendencies to creep into England. His ideal was a state in which a balance of power would be maintained between king and vassals, with the scale tipping slightly in favor of the former. William Rufus and Henry I added to, or at least retained their inheritance intact. The change came with Stephen, during whose reign the barons ruled supreme. The king was but a figurehead. The central government was but a name. All this was changed when Henry II, Plantagenet, came to the throne. Partly because of his strength and his innate genius, partly because of the fact that the barons were tired of war, the young king first restored the balance of power above mentioned, and then added to his kingly crown ounce after ounce till soon it far outweighed the sword of his barons. Richard, to all outward appearances, carried on the work his father had begun.
But a change was developing. The heavy taxes of his reign, the none too satisfactory government of his ministers, the increasing independence of the towns as well as of the barons, the various influences of the Crusades were all having their effects on the minds of men. John of Salisbury furnished us with the political philosophy of the day. What the lay lords had in mind we likewise saw. They were not aiming at complete independence; they merely wanted to restore the government to a basis of greater equality. Theirs was the old feudal idea of privilege with its corresponding duty. For them the king could not possibly be above the law.

During Henry's reign men were content, for the most part, to theorize. Henry was too strong a king for them to cope with. If they grumbled continuously during Richard's reign, at least his brilliant deeds served to appease their wrath. Nor did men care to clash with the Lion Hearted. The point to be remembered is that they had much to be indignant about. The big change came with the accession of John. Practically, at least, John did not approach his father in ability as a statesman; again, his brother Richard was by far the better soldier. Nor was his personal character such as might win the love and esteem of his subjects. "The king should be humble, chaste, and not avaricious; he should be learned in letters, a protector of the Church, a father and a husband to his sub-
jects, etc.""1. John possessed none of these good qualities, which churchmen looked for in their king. Moreover, the barons feared and hated him for reasons mentioned above. That John did not fit in with the philosophies of government of churchmen and barons alike is quite evident. Still, at the beginning of John's reign they could do nothing. The king was altogether too powerful for them. Even the loss of Normandy did not leave him completely divested of his continental allies. It was only after Bouvines that the barons felt confident enough to act. With Bouvines the theories, which had been developing in the minds of these men for nearly a century, were put into effect. If, then, we consider Magna Carta in the light of these theories, we can readily see why it was not an attempt, as is often thought, to democratize the government, but rather an attempt to restore the old system of equality, the system of give and take, which had been introduced into England by William the Conqueror. John was not hated merely because he was a bad king. Rather, the lords spiritual opposed him, because, along with his kingdom, he tried to dominate the Church in England; and because he failed to make the proper return for their loyalty and service. The barons were dissatisfied because John was ever ready to take what they gave him and to give nothing in return. Here then was a king who could not command their respect. It was his

weakness that afforded them their opportunity of regaining the "rights" lost to them in the time of Henry II. Finally, because of the continuous fiscal burdens imposed upon them, the towns too were induced to side with the barons. In conclusion then it would seem that the answer to the question raised in the introduction should be that the reasons for Magna Carta are to be found not merely in John's abominable character, an explanation altogether too simple, but likewise in the peculiar type of feudalism that existed in England, and the political philosophies of the day. The study of these factors reveals their influence on the quarrel between King John and the barons, the quarrel which, in 1215, culminated in England's Magna Carta.
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