CHAPTER IV

THE ARISTOCRATIC REACTION IN ENGLAND. THE GREAT CHARTER AND THE BARONS' WAR

I

THE CHURCH AND BARONS AGAINST JOHN LACKLAND

The political conflicts of the reign of John Lackland (1199–1216) and Henry III (1216–1272) form one of the most important, most complicated, and most controversial chapters in the history of England. We cannot hope to deal with all their vicissitudes here. We are only interested in placing the advantages won by the opposition in their proper perspective. Their character has been misrepresented by English historians of the Victorian age but their modern successors have cleared the way for an objective synthesis.

In the first place we must summarize the facts and analyse such major documents as Magna Carta; in our final pages we shall deal with the interpretations which recent work has suggested.

Henry II and Richard Cœur de Lion bequeathed to John Lackland an undisputed power. In fifteen years John was able to let the Angevin Empire fall to pieces and find himself expelled from his capital by his own barons who had rallied to the support of a foreigner: he died an outlaw in his own kingdom. He carried the burden of the undue ambitions of his dynasty and we have seen that he had neither the ability nor the strength to uphold it. No one could rely on him. Sometimes excited, at others depressed, he could not even depend on himself.

During the early years of his reign there was nothing to suggest that it would end in civil war.¹ The royal officials maintained and perfected the administrative and fiscal

¹ DOXXVII, i, 620 ff.

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The discontent caused by their demands and the failures in France was not very keen. The loss of Normandy and the territories along the Loire did not seriously affect the prestige of the monarchy. The general opinion was that it was a purely personal matter which concerned the king alone and it was for him to get anxious. The government was in the hands of an experienced statesman, the Archbishop Hubert Walter, who had forced his services on the new king who was afraid of him. Everything changed at his death (18th July, 1205). The old queen, Eleanor of Aquitaine, whose judgment was so keen, had died on 31st March, 1204. The impulsive wilfulness and the sickly instability of John had no longer any counterpoise and the tragedy of the reign began immediately over the pastoral succession to Hubert Walter.

The Archbishop of Canterbury was subject to canonical election by the monks of Christ Church. They were worldly monks who wanted an archbishop who would not ask too much. John Lackland, for his part, sought to fill the see of Canterbury this time with a servant of established docility. Innocent III, however, was unwilling to accept either of the two candidates and the monks of Canterbury had to elect a man of his choice, an English cardinal who was teaching theology at Rome, Stephen Langton. John refused to ratify his election or to admit him to his kingdom.

Conflicts between princes and the Church about elections were frequent in the West and the Pope generally succeeded in securing a triumph for his ideas by his diplomacy. John Lackland, however, was now surrounded by Poitevins and Tourangeaux who had swarmed into England after the loss of the Loire territories and won his favour. Such a man was Peter des Roches recently made Bishop of Winchester, typical of the Court bishops ready to do everything to preserve their master’s favour. The exasperation of John, heightened by

1 CDLXXV, chap. ii, iii; CCCXXXIV, p. 244 ff. N. S. B. Gras, CCCXVIII, 221-2, has published a summary account of a fifteenth on all merchandise imported and exported, one of the chief financial innovations of the period. In two years it produced £5,000 sterling. On the extortions of the itinerant judges in the thirteenth and fourteenth centuries, see CXXXV, 64, and passim.
2 On this conflict and the interdict: DXLV, chap. i-iv; CDLXXIX, 118 ff. For the previous conflicts between Innocent III and the English monarchy, see CCCXXXV, chap. iii, iv.
3 DLIX, ii, 392, 428, n. 3; LVIII, iii, 188-9, note by P. Meyer.
the play of foreign favourites on his vanity, and the proud and haughty character of Stephen Langton prevented any compromise. Finally England was put under interdict by the Holy See (24th March, 1208) and in the following year the king was excommunicated.

The interdict lasted six years. The royal authority was still so strong in England that John was able to command the obedience of his clerical officials who had been terrorized by the punishment inflicted on one of their colleagues and to impose his will on the English Church completely. ¹

The bishops alone, with the exception of two courtier prelates, left the kingdom to escape submission. All the property of the Church was confiscated and the clergy lived on allocations. A schism could have been achieved in time if John had not lost his head. He assumed the habits of a despot, allowed his officials to abuse their power more than ever, and personally offended some of his barons. Philip Augustus Watched events carefully. He gladly responded to the overtures made to him. One of the richest lords of the London area, Robert Fitz Walter, fled to France in 1212 ² and finally, in 1213, Philip Augustus accepted the Pope's offer when he deposed John Lackland and invited the King of France to take possession of the vacant realm. John ran a great risk of being deposed but he was advised that Innocent III despite his obligations to Philip Augustus was ready to pardon him on condition of a complete humiliation. He accordingly humiliated himself and, on 16th May, 1213, he agreed to pay the Holy See an annual tribute of a thousand marks sterling as the dues of a vassal for the kingdoms of England and Ireland. Here is the beginning of the Deed of Submission addressed to all the faithful in Christ:

We will that you all should know by this charter bearing our seal that as we have committed many sins against God and our mother Holy Church and consequently we are wanting in divine mercy and can only offer God and the Church the satisfaction that is their due by the humiliation of us and our kingdom . . . of our good and free will and by the common counsel of our barons, we offer and yield freely to God and his Holy Apostles Peter and Paul, to the Holy Roman Church, our mother, and to the lord Pope Innocent and his Catholic successors, all the kingdom of

¹ It is well known that "English Church" like "Gallican Church" meant, at the period, "the Church of the Realm".
² CXIX, ii, 534-5, 540; vi, 394; viii, 386 ff.; DLXXXVII, 707–711.
England and the kingdom of Ireland with all their rights and appurtenances for the remission of all our sins and those of our people, alike of the living and the dead; and, henceforward, receiving and holding these kingdoms as vassal of God and the Holy Church, in the presence of the mediator Pandulph, subdeacon and companion of the Lord Pope, we have done and sworn loyalty to the Lord Pope Innocent and his Catholic successors and to the Church and we will do liege homage to the Lord Pope in his presence if we can come into his presence; and we will bind our successors and lawful heirs in perpetuity in like manner to render an oath of loyalty without modification and to acknowledge their homage to the sovereign pontiff of that time and to the Roman Church.¹

Thus John did an act of penitence for all his faults and for those of his race. But, like Henry II after the murder of Becket previously, he had got himself out of a bad position. The majority of his subjects showed themselves very glad to see the end of a long crisis which unsettled the faithful and had turned the English Church upside down. The feudal bond contained no element of humiliation and consequently few people realized the importance of this submission to the Holy See.² Had John Lackland seen in it a means of gaining a patronage which the growing opposition of the baronage would render very useful? Was his action prompted by momentary discouragement or by craft? We do not know but, in any case, he all but succeeded in re-establishing his tyrannical authority.

It was the Archbishop Stephen Langton, who, by his tenacity and apt judgment, stabilized and organized the wavering opposition. Established in the See of Canterbury, he intended to play the traditional role of the English primate and set the king on the right road again.³ Without any great hope of gaining his ends, for he distrusted John Lackland, having been made responsible for absolving him from the excommunication, he demanded an oath to give everyone his rights. John swore everything that was asked of him but thought of nothing but his revenge. He was unable to draw his barons into the expedition he wanted to make to punish Philip Augustus. They claimed that they did not owe him host service outside of the realm. His anger turned against them.

¹ CXXXI, i, 1st part, 111.
² CXXIX, ii, 550; VII, 275-8; XIII, 210-11.
³ DLIV, 78, 106 ff.; CDLXXXIX, 188 ff.
and he tried to reduce them by force. It was in these circumstances that, on 25th August, 1213, Stephen Langton brought together a considerable number of barons and prelates at the church of St. Paul's in London and asked them to swear to fight to obtain the liberties formulated in a charter the text of which was read and explained to them. It is probable that this text is the one which scholars have called "An Unknown Charter of English liberties" which, for reasons about which we can only make hypotheses, is preserved in the French Trésor des Chartes. It is a shapeless draft, hastily drawn up and undoubtedly representing concessions wrung from John some time previously which he refused to uphold.

The text opens with a reproduction of the Charter of Henry I. Stephen Langton had good reason for basing himself on this famous charter in which Henry declared "First, for the freedom of God's Holy Church." Next come some dozen articles on the maintenance of rights and customs in matters of justice, relief and wardship of fiefs, the jointure and dowry of widows, marriage of heiress's, debts of minors, military service in France, scutage: the Forest Laws are to be modified. It is a very interesting draft, for the provisions are taken from it and developed later in the Baron's Petition of 1215 and the Great Charter. We can note that it is scarcely concerned with anything but concessions to the nobility, and even in the Great Charter they remained the essential feature.¹

For two years the conflict was postponed. The Pope had sent a new legate for "the reconciliation of the king and the kingdom."² The clergy was fully occupied in obtaining the indemnities which were due to them and in reorganizing religious life. The barons awaited the result of the coalition formed between John Lackland, the Emperor Otto, and the Count of Flanders to partition France.

The defeats of the allied armies at Roche-au-Moine and Bouvines (2nd and 27th July, 1214), and the irritation produced by the order for the levy of a very heavy scutage on the fiefs of those barons who had refused to follow John

¹ LXXII, i, nn. 34, 1153. Bibliography on the "Unknown Charter" in my study: DXXXVII, i, 960 ff. In addition: DXXXI, 449-488, and, particularly, DXXV, 113-120.
² CIX, 274-289.
to France ¹ finally decided the discontented elements to take action against a king who was both discredited and incorrigible. The northern barons, the Noroys, had given the signal for resistance by refusing to go on the French campaign but the most ardent were the young barons of the Eastern Counties, particularly Essex, almost all of whom had personal grievances against the king.² On 21st November, 1214, John had granted freedom of canonical election ³ but Stephen Langton knew very well that if he dissociated the cause of the Church from the nobility he could not rely on the king's word. Finally, the Londoners were ready to open their gates to the barons. Innocent III interfered in vain. In vain, the king to gain the advantages granted to Crusaders promised to go to the Holy Land. After presenting the demands which John rejected "in a fury", the barons withdrew their homage. John found his loyal subjects leaving him and his officials ceasing to function. As in 1218 he had no alternative but to yield.⁴

The two parties met on 15th June, 1215, on the plain of Runnymede near Windsor. On the same day he attached his seal to the document entitled Capitula que barones petunt, that is to say the Barons' Petition which already contained most of the essential articles of the Great Charter. Then negotiations began. On the one side were the two archbishops of Canterbury and Dublin who played the role of mediators—master Pandulph, the Pope's envoy, the Count of Salisbury, the king's natural brother, William the Marshal, the Counts of Varenne and Arundel, and lay and clerical councillors; on the other, "all the English nobility."⁵ It was undoubtedly on the 19th June, in spite of its official date of the 15th, that the Great Charter was concluded and sealed after negotiations which are clearly reflected in the differences between the Charter and the Petition.

¹ CDLXXXIV, 119-18.  
² DLXXXVII, 710; DLXIV, app. v.  
³ XXXIX, 283-4.  
⁴ For all these events the principal source is CIX, ii, 582-8. See CDLXXXIX, 206 ff.; COULXXII, 81 ff.  
⁵ CIX, 598-9.  
⁶ On these dates: COULXXI, 37-41. On the publication: DXXXVI, 449 ff.
II

THE GREAT CHARTER

Magna Carta is a “concession” by the king, made “by inspiration of God for the salvation of his soul and the souls of all his ancestors and heirs, for the honour of God and the exaltation of Holy Church, and for the betterment of his kingdom,” on the advice of the archbishops of Canterbury and Dublin, Master Pandulph and a certain number of councillors who are named. It is “primarily” a concession made “to God” in favour of the Anglican Church. It is “also” a “concession of liberties to all free men of the realm and their heirs in perpetuity.”

By the first article the king granted “the English Church should be free, enjoy its full rights and its liberties inviolate” and, in particular, “that liberty which is considered the greatest and the most necessary for the English Church, freedom of elections.” Article 42 concerning freedom to leave the kingdom involved for the clergy the extremely important right to go to Rome without the king’s permission.

The counts, barons, and other tenants in chief (direct vassals) whose demands were given first place after those of the Church secured that their ancient rights should be respected in questions of military service, feudal succession, wardship, marriage, debts, etc. The king could only demand the military service that was normally due. On the death of a noble, he was only to receive the “ancient relief” of a hundred pounds for a barony, a hundred shillings or more for a knight’s fee. He could not demand wardships if he had no right to them. He was to cease any action likely to damage the property of a minor who was his ward or any wrong to widows. He was not to force them to remarry: he could not suggest husbands for heiresses unless they were of their own rank. He could not take from the goods of a vassal living or dead, testate or intestate, any more than was essential to meet the debts of the Treasury. Minors and widows were to be protected against Jews and other usurers. Barons who

2 Articles 2-11, 16, 26, 27, 32, 46.
had established abbeys were to have the custody of them during vacancies. The lands of a felon were to be given up to the lord of the fief after a year and a day.

The rural middle class, by which I mean the knights who held their lands of a baron and those free tenants who did not hold a military fief, were not forgotten in the Great Charter for the barons were ultimately dependent on their support against John Lackland. It was thus that the nobles, holding baronies which had fallen into commission, or the free tenants, who were being made subject to military charges for which there was no justification or to the right of wardship, won their security. It is laid down that the king will not give his favourites authority to levy arbitrary aids on their free men. Finally, at the end of the Charter, it says that all the customs and liberties which the king has just granted to his subjects shall be observed by all the laymen and clergy of the realm in their relations with their own men.¹

The principal clause relating to the privileges of the bourgeoisie is extremely general and purely conservative.

That the city of London shall have all its ancient liberties by land as by water. Further we will and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.²

As for the articles confirming the uniformity of weights and measures throughout the kingdom and guaranteeing free progress, without arbitrary taxation, to foreign merchants they are obviously dictated not by the interests of English manufacturers and merchants but of the consumers.³

The other stipulations which are generally represented as the most important, although they do not appear at the head of the Charter, are not specially concerned with any particular class of the nation but are rules of administration and government.

Firstly, the king will nominate as judges, constables, sheriffs, or bailiffs only men who understand the law well and fully intend to observe it ⁴; it was only under that condition that he retained the right to appoint men who

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¹ Arts. 15, 16, 27, 37, 48, 60, etc.
² Art. 13.
³ Arts. 35 and 41.
⁴ Art. 45.
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were natives of his French fiefs. It is specified that certain officials who have served as sheriffs, châtelains, or foresters who are designated by name and "all their like" shall never again perform public duties: they are chiefly Tourangeaux.1

The officials must not tyrannize the population, make requisitions without paying for them, prevent the free navigation of the rivers, nor increase the number of preserved fisheries nor force knights to pay money for castle ward if they are willing to perform the service in person.2 The recently created "forests" will be abolished and the officials are to create no new ones.3 Subjects who live outside their boundaries are secured against the justiciars of the forests exceeding their powers.4 The bad customs of the forest are to be abolished.5 The "forest" was such an important subject that, two years later, it was to be the object of a special charter.6

One of the most characteristic sections of the Great Charter are the articles concerning royal justice. The king not only had to promise to restore the sums he had extorted as fines and the goods he had seized arbitrarily7 but securities were taken for the observance of custom and sometimes of a custom prior to the juridical reforms of Henry II.

The very old principle of judgment by peers was invoked to prevent arbitrary decisions and violence.

No free man shall be taken or imprisoned, disseised of his goods, or declared outlaw or exiled or harmed in any way and we will not advance against him or send anyone against him except by the loyal judgment of his peers according to the law of the land.8

We can see by the articles which follow9 that Judicium parium had a very wide meaning and that, for example, wrongs done to the Welsh or Scotch—for this Charter for the re-establishment of peace is concerned with them also—could be dealt with according to the judgment of the Welsh or Scotch. By the same extensive meaning for "law of the

1 Art. 50.  2 Arts. 28–31, 33, 47.  3 Art. 34.
4 Art. 44.  5 Art. 48.  On Art. 23, cf. CCLXXXI.
7 Arts. 52 and 55.
8 Art. 39; DCLX, 78–95; DCLIII, 96 ff.; DCLXI, 201 ff.
9 Arts. 56, 59.
land”, questions concerning Welsh tenements were settled according to their native land.

The return to custom was marked also in the precautions taken to prevent fantastic and ruinous fines and illegal confiscations. When the maintenance of certain juridical innovations is provided for it is because they provide securities which the English value, such as the procedure of assizes held in the county court by two royal judges with the assistance of four elected knights to protect subjects against the violence of their lords or their neighbours. The judicial duel, formerly introduced to England by the Normans, lost considerably in importance by the development of the new law and was obviously unpopular. But the procedure of writs, brefe, which was the origin of this new law based on reason was not always favoured by the Great Charter: the barons demanded that cognizance of proprietary actions between their tenants should be yielded to them.

For the administration of justice the authors of the Charter show their mistrust of the local officials, sheriffs, and others and their confidence in the lawyers of the Curia Regis: the circuits of the itinerant justices are evidently regarded with favour: the more important cases, “the pleas of the Crown,” can be judged in the counties only by them. They demand, however, that the central court shall not follow the king in his wanderings when it is concerned with civil actions, common pleas. There were plaintiffs who had been ruined in following the king and his court on their travels. This is the point of Article 17: “That the common pleas shall not follow the Court but be held in some fixed place.”

Among the financial and political clauses of the Charter there are none more famous than those which regulate the summons of magna concilium and “consent to taxation”. For the moment we will confine ourselves to quoting their texts:

Article 12.—That no seutage or aid shall be established in our realm save by the common council of our realm unless it is to pay our ransom, to knight our eldest son, or to marry our eldest daughter

1 Arts. 20–2. 2 Arts. 18–19. 3 Arts. 36 and 54 are directed against it. 4 Art. 34 on the writ Praecipe. Art. 40 forbids the sale of writs, and seems designed to prevent their multiplication. 5 Arts. 24–5, 38.
once and in these cases the aid shall be reasonable; that it shall be the same for the aids of the city of London.1

Article 14.—And to secure the common council of the realm on the establishment of an aid other than in the aforesaid three cases or on the subject of the establishment of sotage we will summon the archbishops, bishops, abbots, counts, and higher barons individually by our letters and, in addition, we will summon collectively, through our sheriffs and bailiffs, all those who hold of us in chief for a certain day and place with at least forty days' notice. And in all letters of summons we will state the reason and, once such a summons has been sent, on the appointed day we will deal with the business according to the advice of those who are present although all those summoned may not have arrived.

Finally the king promised remission and pardon for all the failures of his subjects "since the time of the discord".2 He found himself signing away all means of imposing his arbitrary will for he had to surrender hostages and the charters of enlistment which he had demanded and to send his mercenaries out of the kingdom at once.3 In return he accepted the perpetual control of the barons. By an unprecedented innovation the barons elected twenty-five of their number who were responsible for ensuring the observance of the peace and the liberties that had been granted. In case of any infraction by the king or one of his officers, if reparation was not made within forty days, the twenty-five "with the people of all the county will take measures against us and will apply pressure by every available means, seizing our castles, lands, possessions and other methods they can employ, saving our person and that of the queen and our children, until reparation has been done to their satisfaction ". All the population of the county were to swear obedience to the twenty-five under such circumstances. If the twenty-five were not unanimous they would take a majority decision.4

It is highly probable that neither side had any illusions about the extent to which this "peace" was likely to be observed. The barons remained in arms in the neighbourhood of London. The twenty-five showed themselves stern and implacable 5: Stephen Langton, the supporter of a conciliatory policy, lost all influence and was disgraced.6 John,

1 Thus London is considered as a feudal person. See CXLIII, 705-6; cf. CCLXXXI, 234-8.
2 Arts. 49, 51, 58, 59.
3 Art. 61.
4 See, in particular, XIII, 222 ff.; LIX, 151.
5 See, in particular, VI, 45; LXXI, 326-7; Bull of Suspension in CXXII, 1, 1st part, 139.
full of bitterness, wavered between discouragement and the preparation of a sly revenge. He had sworn to ask no one to do anything which might be a revocation of his concessions."

Almost immediately he sent messages to Rome and, by a Bull of 24th August, Innocent III squashed the Great Charter "as a disgraceful, shameful, illegal, and iniquitous agreement". It was offensive to the Holy See, for the Pope in his position of Overlord (ratione dominii) should have been made judge of their differences; it was derogatory to the rights and honour of the king; it covered the English people with shame and gravely imperilled "the whole of Christ's work". A few weeks later the Lateran Council was to open. We can explain the irrational violence of Innocent III by the fever of theocratic exaltation which was consuming him. He died in the following year (16th July, 1216) without having been able to prevent Louis of France from responding to the appeal of the English barons in revolt. His successor, the old Honorius III, was pacific and prudent. After John's death, with the assistance of another veteran, William the Marshal, he was able to save the Plantagenet dynasty. On 12th November, 1216, the Great Charter was confirmed in the majority of its provisions by the new king of England, the infant Henry III, "on the advice of Galon, cardinal, priest by the title of St. Martin, legate of the apostolic see," who, in the absence of the royal seal attached his alongside William Marshal's. By the pressure he exercised on the English clergy, the barons, and, finally, on Philip Augustus, who gave no support to his son, Honorius III succeeded in disorganizing the League which the tyrannical obstinacy of John Lackland and Innocent III had gone to build up and drive to extremes. The Peace of Lambeth (11th September, 1217) received the legate's seal. Henry III could say, at a later date, in a conversation that Bishop Robert Grossetete has preserved for us, "At a time when we were an orphan and a minor, when our subjects were not only alienated from us but were organized against us, it

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1 See Great Charter, Art. 61.
2 XVII, 41-4. Cf. CXLII, 26-45 (very unconvincing).
3 See above.
4 CCLXXIII, p. 53 ff.
was our mother, the Roman Church, which brought this realm once more under our authority which consecrated us as king, crowned us, and placed us on the throne.”

III

PROGRESS OF THE OPPOSITION UNDER HENRY III

The fight for the Great Charter was over. Whatever we think of this celebrated episode—and we shall see what reservations must be suggested to an interpretation that has been for a long time accepted—it weakened the autocratic monarchy founded by Henry II and his sons and provided a focus for the opposition. Conflicts were to continue, however, throughout the reign of Henry III. The period of his minority was, for a long time, very disturbed. The Civil War had created habits of disorder and brigandage. Spirits were embittered and no one showed any readiness to support the king’s advisers; a very long time was necessary before order was re-established. The financial surplus which had for a long time helped John to maintain his power had given place to a deficit. How would Henry III govern on reaching his majority? In spite of everything he could count on the loyalty of his subjects. A careful choice of his friends and ministers was all that was needed to assure him a tranquil reign during which he could satisfy in peace his tastes as an amateur of refinement more capable of judging a work of art than leading an army, but he did not know how to make himself loved either by the English Church, which never found him a dependable protector, or by the warriors whom he led only to pitiful defeats. Very devout and obsessed by the memory of the years of his youth, throughout his life he remained the pupil of the Holy See. Above all he earned reproaches because he trusted no one but his immediate circle of relations and favourites. Three great series of facts explain the revolution which ended his reign; the abuses committed by his foreign advisers, the attempts of the Holy

1 CXIV, n. 117.
2 See DCXLIV; CDXC, chap. ii–v. Good summaries in DCXLII, 14 ff.; CCCCXXVI, chap. xvi.
3 CCCCXX, 33–41.
4 DCXL, i, 286, 294.
See in collusion with him to enslave and exploit the English Church, and, finally, the continual failures of his foreign policy.

A number of successive waves filled the court of Henry III with foreigners with whetted teeth. At the beginning of his personal reign, the barons got rid, as quickly as possible, of John's ancient favourite, the Bishop Peter des Roches and his nephew Peter de Riviaux who was a profiteer and also an unconciliatory administrator very antagonistic to other profiteers.¹ In 1236, however, the young king married Saint Louis's sister-in-law, Eleanor of Provence, an extravagant and imperious wife who brought with her a whole host of Provençals and Savoyards who quickly gained an ascendancy justified in some cases by their intellectual ability.² The Lusignans were much worse. Four half-brothers of the king on his mother's side, they had come from Poitou after the discomfiture of their father, Hugh de Lusignan, and Isabella d'Angoulême.³ They, more than any others, seized public duties, lands, and feudal profits which were at the king's disposition and ecclesiastical benefices and made provision for relations and suitors. From 1240 onwards, the Household, the new administrative centre, which became, at such times of crisis, a veritable ministry, was dominated by foreigners. The Wardrobe of the Household was filled with alien clerks.⁴

The legates and nuncios of the Pope were no less detested. During the minority of Henry III the Holy See had developed the habit of governing England. At first it had acted with a moderation and a wisdom that had produced good results.⁵ From that, however, it had been only a step to exploiting the country when it needed money and benefices to grant, and when the struggle between the Popes and the Hohenstaufen broke out anew that step was taken.

His foreign favourites and the Holy See imposed on Henry III a foreign policy which was barren and ruinous. The Poitevins urged him to reclaim his lost French fiefs and to revive an obsolete policy of imperialism. He was

¹ DCLXL, i, 216 ff.; CXLIII, 111 ff.
² CDLXXXV, chap. i-viii; DCLXL, i, 261 ff.
³ Married John Lackland as her first husband. See p. 292 above.
⁵ See CXXXI, i passim, and the editor's preface, p. xx ff.
particularly concerned about the recovery of Poitou which Louis VIII had conquered (1224) by taking advantage of the anarchy then ruling in England. The expeditions of 1230 and 1242, as we have seen, were disastrous. Henry III did not even succeed in re-establishing order in Gascony. His greatest mistake, however, was to yield to the desire of the Holy See and accept the Crown of Sicily in 1254 for his son Edmund. On this occasion he was even foolish enough to guarantee the Pope’s debts which amounted to 185,000 marks. His brother, Richard of Cornwall, succeeded in compromising him by accepting the imperial crown (17th May, 1257).¹

The natural corollary of this bad policy was financial difficulties ² which were the more serious because the English clergy were being drained by the Pope. The demands of the monarchy and Holy See, sometimes separate, sometimes combined, quickly became intolerable. Economic changes added to the limitations imposed on the royal despotism by the Great Charter, which were, in part at least, observed, had lessened the profits of the demesne and the income from casual sources. This falling off must have been balanced by the creation of a system of annual taxation just as the enormous development of the duties of the Roman Curia must have led the Holy See to impose regular contributions on the ecclesiastical benefices of all Christendom but they clung to the old formula of the aid granted in the case of emergency and, being irregular, it always seemed oppressive.

For a long time the clergy yielded. It negotiated with the agents of Henry III about “gifts” and the pope sent nuncios to tap their money and to ask for benefices. ³ Innocent IV irritated the clergy by asking for enormous subsidies for purely political ends, for neither in England nor in France was his hatred for the Hohenstaufen shared. From 1244, the opposition of the English Church to the Holy See commenced to assume violent forms. In the following year a papal nuncio had to re-embark secretly in fear of his life.

As for the barons, even before Henry III attained his majority they had obtained in practice that taxation should

¹ CLXVII, 120 ff.; DLXII, 20-7. ² DULXXX, 710-11; CDLXXIV, 282, 345, 369-370; DCXL, i, 268-278; DULXXXIX, 179 ff. ³ VI, 182, 187, 214, etc., and Preface, p. xx; in particular, CDLII.
always be agreed to although they did not always demand the insertion of any clause about consent in the new editions of the Great Charter (1216, 1217, 1225). The idea of a Council of barons and prelates helping the king to govern appeared in a comparatively short time (1287). In particular, the nobility wanted to have some supervision over the appointment of the great officials whom the king claimed to choose and dismiss at will. From 1242, since agreement could not be achieved, the barons only granted the aids which were demanded by custom and refused to pay any voluntary subsidies. In their opinion, Henry III had either to be satisfied with his revenues or submit to their control: the idea of a permanent Council gradually took form.\(^1\)

It was under these conditions that the crisis opened.

IV

THE REVOLUTION. GOVERNMENT BY COUNCIL. PROVISIONS OF OXFORD AND WESTMINSTER

The revolution of 1258–1265 was comparable in its development to that of 1215–17 but it disturbed England even more deeply and over a longer period.

At the time when Parliament—a word which for some years had been coming into use in place of Magnum Concilium, Colloquium, or Generale Colloquium\(^2\)—met first at London (2nd April, 1258), and then at Oxford (11th June), the patience of the English was exhausted. They were dissatisfied with the king who gluttoned his favourites and subjected his policy to the fatal caprices of the Pope; they were enraged by the greed and threats of the Holy See and, finally, reduced to desperation by a year of bad weather and famine. The king presented to Parliament an unheard-of demand by the Holy See for the raising of a tax equal to a third of all goods moveable and immovable. The barons

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\(^1\) CXLIV, chap. v–vii; CLI, 26–30; CLXVII, chap. v; DCXVIII, chap. xii–xiii.

\(^2\) CXXXII, 319 ff.; DLXVI, 137–149. The first official use of the word Parliament was in the Close Roll of 1242, and in the Memoranda Rolls of the Exchequer of 1248.
formed a league and appeared in military array at Westminster. In spite of the violent resistance of the Lusignans, the king yielded and his uterine brothers had to leave England immediately.  

One of the leaders of the opposition was Simon de Montfort, a son of the famous conqueror of the Albigensian heretics. By right of his grandmother Count of Leicester and Court of Bigorre in France, he was a powerful lord and had married King Henry's sister. He had reached the fifties without tempering his passionate character. Like his father he was, from one angle, a complete adventurer, from another, a Christian fanatic. He was moved to action under the simultaneous influence of a singular greed for gain, a boundless ambition, bitter hatreds, and his whole outlook. He distrusted his brother-in-law who had formerly entrusted him with the thankless task of administering Gascony and re-establishing order there and had given him no support (1248–1254). He had had furious quarrels with the king and one of the Lusignans and the English had forgotten that he also was a foreigner seeing in him only a party leader. By his side stood the chiefs of the great feudal families such as the Bigods, Bohuns, Mortimers, and, above all, the Clares, Counts of Gloucester; Richard de Clare and his son, Gilbert, after him were to play the chief parts with the exception of Simon himself, although they did not always remain faithful to the policy of the Count of Leicester. If the barons had remained united, the king, deserted by the nobility and with very little support, would never have been able to get the better of them.

The revolution began in a wave of enthusiasm. We have affecting evidence for this in a letter from a court official which must be dated at the end of July, 1258, at the moment when the committees for reform and government were being set up. The barons and the king himself, he writes, have agreed that public offices should only be occupied by the English and that the emissaries of Rome and the foreign merchants and bankers shall be reduced to their proper position. Alienations of the demesne, the king's household, custody of the castles, all were to be revised. "The barons

1 GLOXVI, chap. v; DOXXII, 98 ff.; DOXXVII, ii, 86 ff.
2 GLOXVI, chap. i–iv; CDLXI, chap. viii; CDXXIV, 30–44.
have a great and difficult task which cannot be carried out easily or quickly. They are proceeding without caution, *ferociter*. May the results be good!"¹

From the beginning the barons had demanded the formation of a Committee of Twenty-Four, chosen half by them and half by the king, for "the reformation and amendment of the estate of the realm." The somewhat confused text which modern historians call the "Provisions of Oxford" consists of memoranda drafted either at the beginning or during the course of the work of this committee.² Their labours lasted two months (May–June, 1258). It was decided that the king should govern with a Privy Council of fifteen people and that was the principal point for the reformers. According to a method that was generally favoured by the men of the Middle Ages who distrusted direct suffrage and sought for some way of creating electors responsible for what they did, this Council of Fifteen would be chosen by four electors whom the Twenty-Four would appoint in their turn. Parliament was to sit three times a year but to lessen its cost it would normally consist of only twelve people nominated by the general assembly.³

The Archbishop of Canterbury, Boniface of Savoy, the Bishop of Worcester, twelve barons, and a single councillor who was loyally devoted to the royal prerogative composed the Committee of Fifteen which was the principal channel of the reforms and undoubtedly governed England for fifteen months (July, 1258–October, 1259). All important official acts mention the participation of the Fifteen. They directed foreign policy, dealt with the affairs of Gascony, stopped the invasions of the Welsh, carried on negotiations with Scotland and the Holy See, and finally decided on the peace with France. The real author, on the English side, of the Treaty of Paris of 1259 was Simon de Montfort. The whole administration was under their control. There was a moderate purge of the personnel but the bureaucratic system was hardly modified at all. The great offices were not entrusted to powerful lords who could abuse their position: they worked on the principle that the holders retained their

position for quite a short time, three years at most and rendered accounts. The Council of Fifteen reserved to itself the right to nominate certain officials, the control of important letters and the great seal, authorization for the payment of debts, supervision of the Exchequer and Treasury, and permission to fortify.\(^1\)

The local administration had been the subject of considerable complaint. The châtelains were replaced and a general inquest, comparable to the one Saint Louis had conducted in France a few years previously, was entrusted to the newly appointed justiciar, Hugh Bigod. Like Saint Louis's inquest, the main object was to redress wrongs suffered by subjects in the past or present at the hands of prevaricating or tyrannical officials. In England, however, they were based on the solid local mechanism of the county court; four elected knights prepared the work in each county and received complaints. In addition grievances could be presented direct to the justiciar. A study has recently been made of a local inquest and the extant rolls of the circuit which Hugh Bigod undertook in 1258–9. The facts revealed are quite comparable to those we have suggested for France; deceit and trickery by sheriffs and lower officers—money extorted for sheltering the guilty, delivery of prisoners, justice rushed through or deferred, excessive fines, undue requisitions and taxes, frauds at the expense of the royal demesne; sometimes serious matters and cases of cruelty.\(^2\)

Without awaiting the results of this inquiry, which was never completed, the office of sheriff was reformed. In a petition which the barons presented to the king at the beginning of the crisis, they had indicated that the sheriffs abused their power to levy fines and that the system of farming the counties led to oppression of the people.\(^3\) It was decided that the sheriffs should be appointed by the king "on the advice and suggestion of the magnates" that they should enter their obligations under oath, that they should be well paid and only hold their office one year. The rate of the farms was revised.\(^4\)

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1. Apart from the works already mentioned see, particularly, DXXIV, 119 f.; DXXI, 1, 295 ff.; CCLXXXI, 5 ff.; CCLXXI, 12 ff.
2. CCLXXXIII, 376, art. 16.
3. CCLXXXI, 29–1, 51; CCLXXXIV, 169 ff.
The English wanted even more. The proclamations of the Reformers and the visitations of Hugh Bigod set in motion a class whose desires and grievances found only rare occasion for expression—the small free tenants, called, in Normandy, the vassaliers, to whom were joined the middle bourgeoisie. They aimed at controlling the sheriffs through their own elected representatives. On the other hand, the great barons held complexes of lordships, “honours,” the “franchises” of which were very extensive. The judges on circuit had received many complaints against the seigniorial officials and did not know how to respect the “franchises” as they should without forgetting the promise to do justice on all oppressors.¹

The demands of the middle classes, particularly concerning the abuses they suffered in the great baronies, opened the second act of the drama. Simon de Montfort completely accepted the first idea and reproved the selfishness of certain important lords who were not willing to sacrifice their privileges. He obtained an Ordinance of the Council published on 28th March, 1259, by which the barons undertook to put their territories under the general authority of the inquest and the reforms carried out by the royal judges.² Under the increasingly active insistence of the rival middle class which adopted the title of the “community of the bachelors of England”³ new Provisions were published at Westminster in October which completed the series of legislative and constitutional acts which we might call the system of the Provisions of Oxford. The Provisions of Westminster increased the powers of the Council of Fifteen and the Commission of Twelve, added councillors to the judges on circuit to receive complaints, and laid it down that the king should always have around him two or three councillors who were “lesser men” and not of the greater barons. In each county four knights were to supervise the conduct of the sheriffs; further they would choose them and it was one of the four knights who

¹ COCLXXI, 20, 56, 60-1, 106-121, 147-9.
² COCLXXI, 68-6, 137-142; CLXVII, 169 ff.; DXLIV, 126-7.
³ See p. 570 below. The meaning of this term is obscure. It undoubtedly includes those free tenants who had a large enough revenue to rank as knights as well as young knights who have, as yet, no fief. The word is sometimes applied also to knights who form part of the king's household, or that of one of the great barons: see DCLII, 89 ff.; COCLXXI, 126-137; my note in DCLXVII, i, 95; DXLIV, 129; DXXXIX, 43, note.
would generally be chosen by his colleagues. Finally seigniorial
officials were justiciable before the itinerant judges; the
procedure used in the baronial courts was revised.¹

V

THE BARONS' WAR AND THE PROTECTORATE OF SIMON
DE MONTFORT

This great revolutionary effort which was so favourable
to the middle classes cut the baronial party in two. Some of
them remained faithful to Simon de Montfort: others drew
nearer to the king again. Henry III, with good reason, shook
off his torpor. He made a long stay in France (14th November,
1259–23rd April, 1260) on the occasion of the Peace Treaty.
It is hardly possible to doubt that he discussed his position
at length with his brother-in-law. Saint Louis, however, was
antagonistic to the ideas which inspired Simon de Montfort.
He believed in the sanctity of the monarchical prerogative.
When Henry returned to England armed with £12,500
Tournais which Saint Louis had given him he undertook to
gerid of the Council and officials which had been imposed
on him. His resolution still wavered frequently but it was
increasingly strengthened by the jealousies which divided
his opponents and the lassitude they had fallen into.² He
was not slow to find a secure foundation in his son Edward,
the future great king Edward I. The young prince was ready
to accept reforms and he did the monarchy good service by
not establishing himself among the old courtier circles but
founding a new party which attracted both those whom Simon
de Montfort had alienated and those who sought immediate
advantages, particularly the barons of the Welsh marches who
were anxious to secure the king's support against Llewellyn.³

The arbitration of Saint Louis (Mise of Amiens, 23rd
January, 1264), favourable to Henry III, confirmed the two
successive annulments of the Provisions which he had gained

¹ CLXXII, 389-394; CCCXLXI, 50, 86-100, 123 ff., 139 ff.; DLXIV,
119 ff.
² CLXXII, chap. vi, vii; DLXIV, 132-4; CLII, 82; DCXL, i, 299 ff.
³ DCLXIII, 77 ff.
from the Holy See.¹ But the Mise of Amiens was not accepted by the masses of the population whom the royal officials had oppressed for such a long time. The tradesmen, particularly of London, the sailors of the Cinque Ports, and the rural middle classes now made up the opposition. A civil war broke out marked by a vigorous effort by the people of London. These lesser folk could have done nothing if the Count of Leicester, indignant at the “perjured fickleness” of the barons, had not assumed the leadership of them, with the support of his five sons. He won a great victory, south of London, at Lewes (14th May, 1264). Henry III was taken prisoner together with his brother Richard of Cornwall.² Then Simon de Montfort’s dictatorship began and with it the series of revolutionary crises which have so frequently broken the course of the history of the English monarchy. After the capture of Henry III, we were to see Edward II, Richard II, Henry VI, Edward V deposed and put to death in their prisons, Richard III lose his life and throne at the same moment, Jane Grey beheaded after reigning a matter of weeks, Charles I beheaded, James II dethroned. We are justified in setting the events of 1264 in this perspective. It would be impossible to imagine those tragic years adequately without recalling the violence of the passions which have so frequently activated the English; even in the thirteenth century this people was marked by some of the most characteristic of its national features.

For fifteen months Simon de Montfort exercised a protectorate. After appointing to all the important posts administrators of his own choosing, he summoned a Parliament in which, by the side of the magnates and prelates, appeared “four loyal and trustworthy knights for each county elected by the assembly of that county”. This meeting was held at London about 24th June, 1264, and approved the Constitution, “the system of government of the lord king and the kingdom” required by Simon. Henry III until the end of his life was to remain under ward. The government passed to a council of nine people chosen by three electors—Simon de Montfort, the new Count of Gloucester Gilbert de Clare, and the Bishop of Chichester. In practice, Simon de Montfort, with the simple

¹ CXXXIII, 395–7; CLXVII, 206–7.
title of Seneschal of England,¹ was dictator. He could rely on the support of the middle classes alone and he was anxious that that, at least, should find some formal expression. He summoned, therefore, the Parlement of 20th January, 1265, the first to see lords, knights of the shires, and burgesses sitting together. It was a Parlement of Supporters; Simon had summoned only five counties and eighteen barons on whom he could rely. The clergy, on the other hand, which was very largely favourable, furnished twelve bishops, fifty-five abbots, and twenty-six priors. The sheriffs were “to cause to come” two knights for each county chosen among “the most loyal, upright, and trustworthy” and the “cities of York and Lincoln and the other boroughs of England” were to send two citizens or burgesses equally chosen.²

Neither this Parliament nor the one which followed it and was held under ordinary forms secured a general pacification. The royalists would not accept the protectorate of Simon de Montfort and the young Gilbert de Clare himself reproached his colleague for his arrogance and his greedy harshness. The barons of the Welsh marches remained in arms. The queen, in France, prepared troops for an invasion. The papal envoys threatened the clergy. The Guardians of the Peace (custodes pacis), who had been established in each county, could not guarantee order. Recent research in judicial records has shown that Simon only maintained his position by terror and never succeeded in securing regular financial resources. He sent agents into the counties who levied subscriptions and favoured the formation of bands of supporters. The manors of the relations and officials of Henry III were systematically pillaged, either by the lesser people of the neighbourhood or by the castle garrisons. The sailors of the turbulent Confederation of the Cinque Ports turned pirate and swarmed in the Channel.³

The escape of Prince Edward, who had been held as hostage, was the signal for the downfall. The young Gilbert de Clare joined Edward after gaining a promise that the monarchy would be inspired by the spirit of the Provisions of Oxford. Edward led a decisive campaign vigorously. Simon de

¹ OCCXLVI, 121, 134–5.
² Documents on Simon’s administration in OXXXIII, 397–407. See OLXVII, 214 ff.; OLI, 32–4; DCXL, i, 309–312; DIX, 56 ff.
Montfort was defeated and killed at Evesham (4th August, 1265). The full fury of their hatred was let loose and the dictator’s corpse was dismembered and thrown to the beasts.

The royalists in turn claimed the spoils of the conquered and threw themselves on the manors of Simon’s supporters, granting themselves many of them by royal gift. Documents which have recently come to light confirm a page written by Thomas Wykes, the most intelligent chronicler of the period, who shows us that “after their unexpected but triumphant victory at Evesham the king and his supporters so far from becoming more prudent became more stupid and, in their exultation, completely forgot all preparations for the future”, distributing at random the goods of the vanquished.

This policy prolonged the disorders. The “disinherited” continued the war and England fell into chaos. The Pope Clement IV, a friend of Saint Louis, was of the opinion that Henry and his family were on the verge of destruction and, with them, “the noble fief of the Roman Church”; his legate, the Cardinal Ottoboni, finally obtained signatures to a pact, the “Dictum de Kenilworth”. Gilbert de Clare, disgusted by the king’s attitude, demanded its execution and prepared to enforce his demands by arms. The “disinherited” were authorized to buy their lands back from the new possessors at a rate which would be justly fixed proportionate to their guilt. In 1267 the civil war ended at last leaving England exhausted. The monarchy, impoverished and lacking any means of action, plunged into lethargy until Edward re-aroused it. The only one apparently to gain from the struggle was Llewellyn who was more powerful and independent than ever in Wales.

VI

Character and Results of these Crises

What was the real significance of these movements of the thirteenth century and what was their outcome?

2 CXXXVII, 163–4.
3 CCCLXXI, 167–221, 249, 258–262; CDLXXII, 489 ff.; DCXL, i, 313–17; DCXLI, 119–136.
The clashes between the two kings and their opponents were violent because neither John nor Henry III were ready to make any concession. The results of the conflicts were scanty because the English were still far from the idea of a constitutional government.

As we have said, the loss of the French fiefs had not lessened the royal power in England. It limited the field of action of the king's agents but it concentrated their activities which had been much too widely distributed. They did not cease to be hard working and enterprising. The great part of the reigns of John and Henry III formed a period of financial and administrative novelties. Westminster had decidedly become the centre of the state. The Exchequer sat there permanently with its special personnel, its seal, and, at an early date, its chancellor, with control over the principal Royal Treasury. The Exchequer was the great administrative power supervising all the services, the management of the sheriffs, and ordering inquests. It was in constant communication with the departments of justice which also looked after the king's interests developing the new procedure of writs and perfecting the national—common—law. This judicial body, which in the time of Henry III included eminent men such as Bracton, had not yet assumed its definitive form. Bracton gives us the best description of it when he says\(^1\) that there are general and permanent chief judges in the king's presence, \textit{a latere regis}, that is to say travelling round with him, and the "other permanent judges" staying "in a fixed place" at Westminster. The former judged \textit{coram rege}, in the king's presence so called, and gave special attention to the big criminal trials, cases which affected the king or the great barons and cases called out of other courts; they formed a picked body of lawyers who decided difficult cases, interpreting and creating the law; the second group comprised the Court of Common Pleas. Finally alongside these official departments was one on which the Chancery was still dependent which, owing to its domestic and indefinite character, gave the king a means of avoiding, at need, the control even of his own officials. This we have already seen was the Household. To provide for links with the local administration the itinerant justices were retained who

\(^1\) \textit{XX}, vol. ii, 307 ff.
were sent from the Curia to preside in the shire courts and supervise the sheriffs as necessary. Thus the king possessed a fairly strong governmental machine which kept its course in spite of squalls. He could almost always have at his service men of his own choice; moreover, even if his officials had an independent character, they were constantly working for his greatness and for the destruction of rival powers.¹

Of the old Curia Regis there remained the Council and the Great Council of tenants in chief. The Consilium and the Magnum Concilium, as the words themselves suggest, were the two forms of the Curia which was contracted or expanded according to circumstances, the king’s will, or certain customs. There was no council in the modern sense of the term; the king consulted, as in the past, people who happened to be with him and whom he could trust. During the minority of Henry III, these consiliarii had played an important part and the barons had been able to prove that it was possible to govern a kingdom by a Council but it remained a changing and moving body of nobles and officials and not an organ with differentiated functions. There were no committees, no proper means of carrying out its decisions; the “system of Oxford”, alone, established a real Council for a few years in 1258.² Equally there was no Parliament in the modern sense of the term; the word appeared in official documents in 1242 as synonymous with Magnum Concilium just as it appeared in France about the same time as a designation of the judicial session of the Curia Regis. The frequent use of this new term changed nothing in fact. The English Parliament of the thirteenth century was essentially the Assembly of Magnates who, in virtue of their feudal obligations, owed their royal lord the benefits of their experience just as they owed him the help of their arms and their purse. They gave advice on political and, very often, on judicial affairs, for the king by no means conferred a monopoly on the professional judges. Surrounded by his barons, he remained the fount of justice. Bracton suggested that complicated cases should be remitted to them and that is why, for a long time, Parliament had an essentially judicial

¹ See particularly, DCLX, i, 12 ff., 29 ff., 97, 151 ff., 204–5, 240–1, 256 ff., 285 ff.; CDLXXIII, 111 ff.; CLXVII, 137–143; CCLXX, 19 ff.; CCLXXXIV, chap. vi–ix.

² CLII, 16–68; DCLX, i, 10–12.
character. The Parliament was still the old Curia in an extended form. The old institution of the Curia lived on on both sides of the Channel and, in principle, it was the same in both places.

Further, the king, in England as in France, could bring to his Court whomever he wished. Already in the twelfth century knights were being summoned, for example four for each county, to inform the Court on judicial matters. In the thirteenth century, the king occasionally saw the advantage of not being satisfied merely with the advice of his barons. Royalists and the king’s opponents each tried, in times of crisis, to base their position on the support of the middle classes and thus precedents were established without any one realizing their importance. One of the most ancient texts is the writ of 7th November, 1218: John was preparing for war with France and he summoned an Assembly in which the elements of the lesser nobility could balance the barons whom he distrusted. The king wrote to the sheriffs of all the counties:

We command you to cause to come to Oxford in arms, on the 15th of November, all the knights of your bailiwick who have already been summoned and similarly the barons personally without arms. And see that, on the same day, four trustworthy knights come there from your county to talk with us on the affairs of our realm. 1

Under Henry III many summonses to knights of the shires can be recorded, particularly in 1227 and in 1254. There are also, from the reign of John, examples of the limited summons of burgesses. We have seen that Simon de Montfort called knights and burgesses in to his support. Henry III, though freed from Simon de Montfort, still considered it useful in 1267 to send for “the most prudent men of the realm, great and small”. In 1268 he summoned to Parliament the representatives of twenty-seven cities. In 1254 he had specified that the two “loyal and prudent knights” coming from each county should be elected in the county court 2 but, in general, it was the sheriff who chose we cannot say these “deputies” but these attorneys of the middle classes. They have been represented as the origin of the House of Commons. It is a question of valuation, however. It would be possible to see in the burgess assemblies called together

1 CXXXIII, 382; ODXXVII, 85 ff. 2 CXXXIII, 366.
by Saint Louis to examine "currency questions" the germ of the assemblies of the Third Estate. But we must fully realize that the custom of demanding the attendance of "trustworthy people" of the middle classes at Court was already old, that the Parliament called together by Simon de Montfort had been an expedient, and that no one realized at the time that a new institution was being born. For a long time it had appeared quite natural to appeal in certain cases to people who could provide valuable information and who could usefully be told about "affairs of state". That was a very old tradition in the West. No one thought, however, of the regular representation of counties and boroughs or of parliamentary control.1

The only obstacle which hindered the king and his officials was, as in France, feudal custom and, in particular, the custom of consent to the aid.

Had the lawyers who surrounded the king at least some idea that the rights of the monarchy were limited and that there were rules to which they were subject? In a confused fashion this idea already existed and we find it expressed, towards the middle of the thirteenth century, in the works of the royal judge Bracton. The law makes the king, he wrote, and there is no king where despotism rules and not the law. As the minister and vicar of God, the king can do in his dominions nothing but what is right. The dictum "What pleases the prince has the force of law" cannot raise objections, for "what pleases the prince" does not mean what can be taken with impunity by the king's will but what is done to establish the right and has been duly decided after consideration, the king giving the support of his authority to the advice of his "magistrates". Moreover, Bracton says further: although the English laws are not written they are laws all the same for everything that has been properly decided and approved by the advice and consent of the magnates on the king's authority has the force of law.

Thus the king must respect the law and he can make new laws only on the advice of the magnates and men of experience whom he consults. Nobody, however, can be above the king.

1 DX, 1–83, 259–300; DX, 1–70, 223–4; DXXX, passim; CCCCLXVIII, intro.; CXLIV, passim; DCLXXVII, 735 ff.; DLXVI; DXIII, 580–5.
Summary and bibliography in DCLXXVII, iii, 725 ff., or DXX, 948 ff.
“He has no peer, no equal, no superior,” save God. No one can force him to correct an injustice, they can only beg him to do so and, if he refuses, God alone can punish him. No one can abolish, discuss, or interpret the Charters which he has given and, if there is any doubt, he alone can provide the interpretation. He alone has the power to pronounce the law, just as the punishment of certain crimes and the maintenance of the public peace are his prerogatives and can be transferred to others only by express delegation.¹

I do not know whether the historians of law and political doctrines have seen very clearly when they have interpreted these texts. It seems to me that they must be compared with those in which Bracton says that (in judicial matters) the king’s Court alone can settle doubtful cases in which there is no guide to be found in precedent. We must imagine the state of mind of a proud official and then perhaps the basis of his thought will be clear. The law and even the king are abstractions for him. The thing which, for him, is real and living is the Court, of which he is part, either filled with barons or reduced to a council of “prudent men” experts in their duties. The king, the magnates who owe him their help, and the officials who serve him form a bloc. It is a useful theory which allows the men of the Exchequer and the judges a later regis to govern while appealing sometimes to the theological argument of the king as God’s servant and without peer, sometimes to the argument of the consent of the magnates and opposing, as necessary, in certain particular cases the king to the magnates and the magnates to the king.

In the same way, at the present day, a Director of the Ministry will speak sometimes of the law, or of the Council of State, sometimes of the will of Parliament, according to the needs of the case. The contradictions do not worry Bracton and his like; they are useful to them for doing what they want. Moreover this Machiavellianism is possibly entirely unconscious.

Naturally the kings took from these theories whatever suited them according to their temperament or according to the suggestions of their favourites and flatterers. In

certain periods of crisis they were even encouraged in their preference for absolutism by the highest moral power in Christendom, the Holy See, which was badly informed on English institutions, and the temper of the English and subordinated its whole policy to the objects it was pursuing—a crusade or the struggle against the Hohenstaufen.

John Lackland adopted the policy of an avowed tyrant. When the barons' petition was presented to him in 1215, based on the customs which he had incessantly broken, he exclaimed "Why don't the barons demand my kingdom as well as these scandalous claims?" He yielded only at the point of the sword. By wishing to control him through a committee the barons aroused his impatience once again and he preferred to run the risks of a war. He was the first monarch to carry on his seal the title "King of England"; his ancestors had taken the title of King of the English. Even during his struggle with the Pope he was on the look out for theological arguments to justify his mad despotism. A certain Alexandre Le Maçon gained his favour by providing him with them:—

"This pseudo-theologian," says Roger of Wendover, "urged him to cruelties by his infamous preaching. He told him, in effect, that the general misery of England was not the fault of the king but arose from the dissoluteness of his subjects. He even assured him that, as king, he was the whip of God's fury, that the prince is established to rule his people with a rod of iron, to break all his subjects like the potter's clay, and to put manacles of iron on his nobility."  

Henry III had an equable temperament and in 1258 he accepted an oligarchic government for some time but finally his favourites got the better of his compliancy and ranged him against his barons. The tone of "The King's Grievances against his Council", a text dating from about 1261, which has recently been recovered is very curious. It contains the complaints of the king and of the dismissed officials. The king complains of being in tutelage. He cannot tolerate the members of his Council saying "We want this to be so..." without even giving their reasons when these people have done him homage and sworn fidelity. Formerly the king relied on the Exchequer administered by experienced and

1 CIX, ii, 586. 2 DCXXIX, i, 868. 3 CIX, ii, 227. Cf. DXXXVII, 245-260.
trustworthy people but now it has been filled with new and servile officials who are *disciples where they ought to be masters.*

What were the ambitions or achievements of the opposition against these monarchs and these royal officials who sought to be masters?

In the first place, can we believe in the existence of a great current of public opinion, an "English nation", as Stubbs says, "led by events to a conscious unity and a personality"? Historians of the Victorian age have thought that in the reign of John Lackland they could see a nation united in opposition to the king. Modern scholars, even those least disposed to paradox, have reached the conclusion that we must give up this idea. It is not that England at the beginning of the thirteenth century does not present a spectacle very different from the France of that period still lacking unity or uniformity. England was small and possessed a strong government, conditions which were favourable to unity. Local customs still survived but alongside them had grown up a common law which the royal lawyers were ceaselessly enriching. Norman conquerors and Saxon conquerors of earlier days had been fused into one people whom bilingualism seems to have worried little. Upper society spoke French but a faulty French which began to provoke the scorn of our ancestors; the middle and lower classes spoke English and it was in English that Henry III published his adhesion to the Provisions of Oxford in 1258; the two tongues had not yet interpenetrated to form modern English but educated people knew both and also learnt Latin. It is already possible to speak of an English nation. The extremely varying interests, however, and, above all the absence of any analytical conception of the State and public liberty, the idea that monarchical government is the personal affair of the monarch, the idea that the feudal duty of Council is the only limit on his responsibility, and finally the idea that, in practice, the only defence against his despotism was the

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1 LXIII, 564 ff. Cf. CI, 24.
2 DCXXVII, i, 761. The same ideas appear in CCXII, 55–60.
3 Bracton in CXXXIII, 412.
4 XIX, 270 ff.
5 CXXXIII, 387–8; CCLXII, ii, 117–19.
6 The English boast of knowing three languages: *Gens nostra tribus pollet idiomatibus erudita, scilicet latino, gallico et anglico* (LXXX, ii, 590–1).
maintenance of certain customs, by the preservation or winning of particular franchises for a certain social group, these formed an almost insurmountable obstacle to the development of a political spirit.¹ So far from leading the resistance of the English people, the barons set an example of division and political incapacity. They had the reputation of never being able to reach any agreement. The regent William the Marshall on his death-bed in 1219 was frightened of arousing jealousies by nominating his successor and finally left the little king Henry in the care of God and the legate for "there is no country where people are so divided in heart as in England".² John Lackland had succeeded in uniting the barons in opposition after long years of tyranny but their party was only based on the aggregate of their personal grievances. The chronicler who has given the best account of their rising shows us the motives of their irritation and there is little trace of political opposition:

There were, at that time, many nobles in England whose wives and daughters had been subjected to the King's violence, others who had been ruined by undue demands, some of whose relatives had been exiles and their possessions confiscated so that the king had as many enemies as barons.³

Other contemporaries speak of his preference for foreigners, his favours to the mercenaries who led him on to barbarities, his disinherition of minors, and his seizures of babies as hostages.⁴ All these allegations are in detail and it would be quite possible to quote the names of the barons whom John had dishonoured or ruined and who had fought against him.⁵

They embarked on it without any plan but the suppression of the abuse from which they were suffering most keenly. The text of the Great Charter proves very clearly that they had no thought of establishing a constitutional regime based on national unity but only of securing observance of the customs which they had secured. As the chronicler of Coggeshall says, they wanted to make an end of "the evil customs which the king's father and brother had established and the abuses which King John had added to them".⁶

¹ We must not overestimate the value of public opinion, of the commune consilium regni in the thirteenth century. See below.
³ DXXI, ii, 535.
⁴ XIII, 232; Poem inserted in XXII, 118.
⁵ DXXIV, app. v; Powicke, John, in C.M.H., vi, 243–4.
⁶ XCVII, 170.
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Their ideal was in the past. Their inability to invent a new public law is marked in the measures they took to ensure the execution of this "peace": the Committee of Twenty-Five, charged with organizing an armed revolt in cases of any omission, was a purely feudal idea. The Great Charter is absolutely saturated in the same spirit. Its essential character is the restoration of the ancient feudal law which had for a long time been undermined by the lawyers of the Curia and the royal officials and violently destroyed by John Lackland. It was certainly in this way that it was understood by contemporaries. Robert de Bethune, a French friend of John, had a minstrel of whom he commissioned a history of the Kings of England. He analysed the Great Charter in this way: the king was forced to promise not to "disparage" heiresses, to lessen rights of relief, to abandon the severe laws which protected his forest rights, and to surrender the rights of "haute justice" to the lords.  

The biographer of William the Marshal says similarly "that the barons came to the King for their liberties". Those articles of the Great Charter which are not concerned with these "liberties" almost all contain benefits or securities for the nobility. For example, the clause which prevents the royal officials confiscating, on pretext of a fine, the tools which are essential for a serf to work and live has been instanced as a proof that the rights of the whole people were defended against the king by the barons. The Great Charter, however, is concerned only with the seigniorial serfs and not with royal. It protects their property because it is their lord's property. The more exact drafts used in the confirmations of the Charter prove this conclusively. 

The articles concerning scutage and the aid and the interpretation formerly given to them deserve particular attention; nothing shows better how easily it is possible to make a serious mistake when texts are taken in isolation and no serious attempt is made to examine the meaning of the words. We have given above a literal translation. John had raised the rate of scutage, i.e. the tax in lieu of military service and, by the addition of supplementary "fines",

1 LIX, 145–6, 149–150.  
2 LVIII, lines 15038–9.  
4 See, particularly, DCXXXVII, I, 641–2; CXLVI, 16–17; CDVIII, 285–7; etc.
he had made it a means of unlimited extortion. On the other hand, on the pretext of the “aid” due to a lord from his men, he had demanded what were, in fact, taxes. Everyone remembered that in 1207 following the refusal of his demand for a thirteenth on the revenues of clergy and laymen he had seized the property of the Archbishop of York, sold that of the Abbey of Furness, and imposed a heavy fine on the Abbot of Selby. Under these conditions, what was the barons’ demand in their petition of 1215? That, apart from the three customary aids (ransom, knightings of son, marriage of daughter) which should, moreover, remain reasonable, the king should not establish any scutage or aid except by “the common council of the realm”, that is to say on the advice and with the consent of his subjects. It was a vague formula in which it is impossible to see anything other than the desire to secure respect for the old rules of feudal right of which we have spoken so often; the vassal must help his lord when in distress but that “aid” he gives after being consulted. That is all that the barons demanded.

As for article 14 of the Charter concerning the procedure to be followed for the general assembly which will give its consent, it does not exist in the barons’ petition. And who has inserted it here? The normal procedure for the convocation has been remembered and an addition has been made that even if all the people summoned do not come its discussions will, nevertheless, be binding. Who is prepared to say that that paragraph, added after the negotiations between the mandatories of the barons and the king’s agents, does not reflect the latter’s desires? He wanted to put an end to the individual strife of the prelates and barons who, not having appeared and not having personally consented to the aid, refused to pay it. Thus this article which has been put to the credit of the barons was directed against them. In the confirmation of 1216 it disappeared together with clause 12 concerning consent to the levy of a scutage or an aid. At the end of the Charter of 1216 it is said that it was one of those “chapters contained in the previous charter which appeared very important but doubtful” and that it had

1 On the meaning of commune consilium regni: DCLXXVIII, 5 ff.
pleased "the prelates and magnates to defer them" until
the king had taken more adequate counsel. In the con-
firmation of 1217 and in that of 1225 which constitutes the defi-
nitive text they merely say "Scutage will be taken in future
as it was customary to take it in the time of King Henry
our grandfather".5

In emergency, therefore, scutage might be levied without
previous consent; beyond that, as its importance grew
less and less, the concession of the return to ancient custom
retained, in fact, little interest. If the English of that period
had had the political spirit they are credited with they
would have organized a detailed machinery of consent to
extraordinary taxation which the king could raise proportion-
ally on incomes and landed property. Neither side had any
clear idea of how to solve the problem. Article 14 of the
Great Charter was no solution. It spoke of the summons
of all the tenants in chief which, in practice, was impossible.
No one could seriously consider the frequent assembly of
such a throng in which all the minor direct vassals of the king
would rub shoulders with the barons. The royal agents
certainly meant to persist in their somewhat unscrupulous
habits. They continued to summon whom they would and,
if the summons did not reach all those entitled to it, the
consent of the assembly would still be secured. There was
no idea of organizing a system of representation. That would
be achieved only slowly and piecemeal under the influence
of the much more intelligent practices of the church6 and
still without affecting the lords' privilege to be invited
individually. Finally, let us note that, even if article 14
had been upheld, a decision of the Magnum Concilium bound
only those vassals, lay and ecclesiastical, who held fiefs of
the king which were subject to host service. The churchmen
who were not involved in military service did not take part
in the Magnum Concilium and gave nothing but gifts. In
the same way, subjects living on the royal demesne did not
pay the taxes agreed to by the assembly but were subject
to tollages fixed according to the estimates of the royal
councillors. Our modern theories of taxation agree in no

1 CXXXIII, 330, art. 42. On the confirmations see DXXXVI, 4 ff.
3 Charter of 1217, art. 44 (CXXXIII, 345); 1225, art. 37 (XVII, 57).
5 On the idea of representation in the Church and its development in
respect with the ideas which the social structure of the thirteenth century imposed and we must not allow ourselves to be misled by certain formulas of charters which seem to imply the consent of “all the inhabitants of the realm”.1

In the reign of Henry III the Magnum Concilium assumed a new importance in financial history. The principles of consent to the aid did not change, however. Henry III, being weaker than his predecessors while nevertheless being greatly in need of money, was forced to respect the custom and never dispense with the consent of the Magnum Concilium to the levy of an extraordinary aid. The barons took advantage of the weakness and mistakes of the king to discuss and negotiate and secure the redress of their grievances and did not always grant what he had asked. This had rarely happened previously and it is impossible to deny that progress was being made. But the habit of partial consultations and, conversely, the idea that each baron agreed for his own lordship lived on.2 For instance, in 1220 the barons of Yorkshire had not been summoned to the general assembly and were unwilling to pay the carucage it had agreed to but the sheriff wrote to Hubert de Burgh “Some of them have told me that if, on his arrival in York, the king summons the magnates and puts forward his demands they will agree and see that the aid is paid”.3 The barons did not perceive that the only serious guarantee against arbitrary taxation is a general summons, a consent given by a collective gathering as large and as powerful as possible and that the demand for that must never be dropped. The king’s agents saw very well that it was in their interests to break up the consultations. In France the system of provincial assemblies was to be one of the factors in an absolute monarchy. It was not established in England but it was not far off.

During the great crisis of Henry III’s reign, the barons did not think of creating a parliamentary system but seized the administration and government as “councillors” invoking the feudal principle that the vassal owes council to his lord. We have seen that by “advising the king” they meant

3 CXXIX, 1, n. 180, p. 151; CDLXXXIV, 129 ff.
reigning with him. To Henry's complaints they replied that they had no wish to lessen his dignity or his power and that they would willingly obey him when "he gave good orders" but it was necessary for them to deal with matters outside his purview to ensure order. If they made any mistake and appointed unworthy officials let some one point it out to them by inquest and they would make their errors good.  

The theory of the king advised by his barons might, it is true, have led to England being governed by the mass of tenants in chief. It is the idea which is expressed in a curious political poem of the times.

From all that has been said it may appear evident that it becomes a king to see together with his nobles what things are convenient for the government of the kingdom and what are expedient for the preservation of peace; and that the king have natives for his companions, not foreigners nor favorites for his councillors or the great nobles of his kingdom who supplant others and abolish good customs.

This author was dreaming of an England governed by a vast House of Lords but the barons who made the revolution of 1258 considered that the assembly of a great number of magnates could produce nothing but disorder and anarchy and they had no desire to increase the prerogatives of Parliament. We have seen how they replaced it by a commission of twelve members working in co-operation with the Council of Fifteen. The oligarchy they installed in power was very limited.

Beyond that they had no idea how to defend it for any length of time against selfish passions or to preserve it from jealousy and controversy. They were frightened for its privileges and gradually it wore out and fell into dissolution. One great baron alone had upheld the idea that a king like Henry III was incapable of governing and must be kept in tutelage, one alone had been consistently revolutionary and died for his ideas. That was Simon de Montfort. Simon, however, did not truly represent the English aristocracy at this period; this is proved by the fact that Gilbert de Clare, the noblest of the English barons, had betrayed him and contributed to his destruction.  

1 LXIII. 564–571.
2 The Battle of Lewes in CXXXIX, lines 932–8, p. 120.
3 On the interested motives of Gilbert de Clare, see CCCLXX, 25 ff. Simon de Montfort himself was not altogether free from personal calculations.
great adventurer, the forlorn hope who dares everything. Above all, however, he must be seen in the image of his father, the Christian fanatic. The key to his life and character is to be found in his relations with the English Church of his times; it was simultaneously his guide and his disciple.

The English Church, which, at the end of the Middle Ages, was in such a sorry state, in the thirteenth century was still at the height of its power and social influence. After undergoing the exacting tests of persecution and interdict, it was revived and rejuvenated by the arrival of the mendicant monks, the friars. The first Dominicans landed in 1221, the first Franciscans in 1224. In a few years the English towns, crowded, sordid, infected with epidemics, and ill-served with clergy had one or two establishments of mendicants who guaranteed worship, preaching, education, and the care of the sick. The friars, whatever the name of their order, revivified this whole generation of Englishmen and brought them their work, their joy, and their disinterestedness, the charity of Saint Francis, a more noble conception of life, the taste of concerted action, and sacrifice. To them and also to such great prelates as Stephen Langton, Edmund Rich, and Robert Grossetete the church became, under Henry III, the centre of the national life, the inspiration of the resistance to all oppression.

We have seen what an important part the Primate Langton had played at the end of John's reign. He had turned the barons towards the demand for a Charter; without him England would have fallen into anarchy. He had had the idea of concerted action. The place reserved for the liberties of the Church in this "peace" between the king and his barons is a sufficient revelation of his influence and his political ability. He was a moderate and prudent man: he did not approve of the violent attitude of the Twenty-Five and had no wish to force a rupture with the Pope. Conciliation, however, was impossible. After his departure, twelve bishops out of fifteen braved pontifical excommunication and sided with Louis of France. That was the origin of heavy misfortunes for the English Church; once the

2 DLIV, chap. v.
3 DXVII, 121-3.
French had gone, it was severely punished by the legate, and the Holy See thus developed a despotic attitude; encouraged by the weakness and collusion of Henry III it considered England as a province to be exploited.

For many years the English Church more or less defended itself against the demands of the king and Popes. The king asked for money and wanted to appoint his foreign favourites and, in accordance with the tradition of the dynasty, those officials who had served him well to bishoprics; the Pope, on the pretext that England was his fief, claimed to provide his Italian clientele with good benefices without, however, obliging them to take up residence or carry out their sacerdotal obligations. In 1241 the legate demanded three hundred benefices for Italians at one time. This despotism affected secular interests as well for there were many benefices which had lay lords as patrons who had the right of nomination. In 1231 a young knight whose rights were attacked in this way established a league which gained the support of nobles, ecclesiastics, and even royal councillors. The property of the Italian beneficiaries was pillaged, their granges were burnt, or their corn even given to the poor. The demand was raised for the expulsion of all beneficed foreigners from England. The Pope demanded measures against it and the chief victim was no less a person than the justiciar Hubert de Burgh who was arrested and imprisoned.\textsuperscript{1} The English church found, however, even within itself leaders who would organize resistance. After the death of Stephen Langton (1228) it again found courageous primates. Edmund Rich was an ascetic far removed from worldly ambitions but on his accession in 1234 he succeeded for a moment by the threat of excommunication in freeing the Court of the Poitevin favourites. The Archbishop Boniface, although a “Savoyard”, prevented the judge Robert Passelew from obtaining a bishopric on the grounds of his ignorance of theology. Many bishops and abbots took a direct part in the revolution; besides the archbishop, the bishops of London, Worcester, and Salisbury appear in the commission of 1258. We have already seen that the revolutionary Parliament of 1265 included many more prelates than barons. After his victory, Henry III proceeded against eight bishops for their actions

\textsuperscript{1} \textit{CDLII}, 188 ff.
and abbots of important monasteries like Bury St. Edmunds had to pay heavy fines.¹

To gain some idea of the attitude of the higher clergy we must not rely on the diatribes of certain monastic chroniclers such as the annalist of Margan who regards the claims of the monarchy as "diabolical" ² or Matthew de Paris whose coarse attacks on the Roman Curia anticipate the antipapist declarations of the sixteenth century. This hatred of the king or Pope was not general. If we refer to the writings of Stephen Langton or Robert Grossetete, Bishop of Lincoln,³ or to the actual facts we shall understand that the English prelates submitted to papal decisions when they thought them just and well-considered and did not haggle over the price of their support when they believed him to be in danger. Similarly they felt they must help the king when the community was imperilled. But they claimed to judge each case, to remain free to grant or to refuse, and to have securities. The king should have good counsellors and take their advice and observe the Great Charter, while those who gave him their money would demand the enjoyment of the liberties it included. Similarly the Pope had no right to demand subsidies from the clergy to make war on Frederick II who had not been condemned for heresies by judgment of the Church. Finally, canonical elections and the prerogatives of patrons of the churches must be upheld. On this point Robert Grossetete set an example of unshakeable firmness and carried the polemic on the higher plane of the interests of religion. In 1250 he went to Lyons and read, before the Pope and cardinals, a deed which has remained famous. He describes in it the evils caused by the insatiable greed of the Curia; he showed how spiritual life was affected by the grant of benefices to men who did not or could not fulfil their duties.

He says boldly:——

The source of all the evil is the Roman Church because by its dispensations, provisions, and collations it appoints in full daylight men like those I have described who are not shepherds of men but their destroyers. It abandons to the jaws of death thousands of souls when, for each one of them, the son of God was willing to be condemned to the most shameful of deaths. . . . The pastoral duties do not consist in merely administering the sacraments, repeating

¹ CCCV; DCCVIII, chap. xii; CCCCLXXI, 293-7, 309-46.
² "Annales de Margan" in Annales Monastici, ed. Luard, i, 8.
³ See DXXIV, chap. iv-vi; DXXXIV, passim.
the canonical hours, and celebrating masses—although even these tasks are rarely carried out by mercenaries—but in teaching the living truth, in condemning and, if necessary, punishing vice and these are things which mercenaries do not often dare to deal with. They include also feeding the hungry, giving drink to the thirsty, clothing the naked, welcoming travellers, visiting the sick and the prisoners especially those who live in the parish and have rights in the endowment of the Church. These duties cannot be fulfilled by deputies or hirelings who receive of the church only the bare necessities of life. . . . If a zealous bishop takes the care of souls away from those who are not fit to hold it he has to suffer intolerable vexations particularly if those whom he has set aside have access to men who occupy state offices or dignities.¹

These grievances of Robert Grossetete are the more interesting because they supply a clue to the fundamental preoccupations of Simon de Montfort. In fact, the Bishop of Lincoln together with Adam de Marsh and other Franciscans of the same circle was, for long years, the intimate friend of Simon.² He died before the revolution but he had had time to shape Simon’s mind. The fearless bishop who, when braving excommunication by refusing a prebend to a nephew of Innocent IV, wrote to the Pope’s representative “As an obedient son, I disobey, I oppose the demand and I revolt”³ would not agree that the despotism of either king or Pope was lawful. He had written for the Count of Leicester a book on The Principles of Monarchy and Tyranny. Undoubtedly, Simon found in this book, which is lost to-day, the rules of his political thought. Grossetete had no precise ideas, however, on better methods of civil government; his ideal was beyond this world. The important thing for him was that the Church should be free so that it could attend to the salvation of souls. The Bishop of Lincoln and the Franciscans who surrounded Simon de Montfort offered him as the goal of his activity “the work of salvation which must be carried out in the kingdom of England”.⁴ Simon was not a great statesman; even the idea of the councils organized in 1258 does not appear to have belonged to him but he was an apostle. He sought to destroy the monarchical despotism that the Plantagenets had created and he accepted as his task a job which was bound up with

¹ DCXXIV, 255–8.
² For all that follows: CLXVII, 83–48; DCXXIV, 269–275 and passim.
⁴ Letter of Adam de Marsh, n. 148, in III, p. 274.
that of the ecclesiastical reformers, for the whole policy of Henry III during the last twenty years of his life was a policy of enslavement to the Holy See. Simon’s contemporaries regarded him as a martyr and a saint. “We believe,” said the annalist of Waverley, “that he achieved a glorious martyrdom for the peace of the world, the restoration of the kingdom, and our mother, the Church.” ¹

It is vain therefore to inquire into whether the Count of Leicester was “the founder of the House of Commons”. Never for a moment did he imagine what the English Parliament might become some centuries later. When he called together the meeting of 1265 he summoned those who had shown sympathy for his efforts, laymen or clergy. If the majority of the barons had not abandoned his cause he would not have sought any other support. The fact that, according to certain precedents, he summoned four knights from each shire and that he had the idea of inviting the burgesses as well, surely completes our picture of him and finally distinguishes him from the self-centred and fickle baronage which had so quickly become frightened of doing too much. Primarily, however, it is a matter of general interest rather than purely biographical for it shows that the social condition of England invited Simon to take this step, it reveals the extent of the revolutionary feeling. Simon de Montfort had only to discover and utilize a very far-reaching movement which was seeking a leader.

We know very little of the history of the minor English nobility and the history of the towns has not received very much attention. Nevertheless we can say that the thirteenth century was a period of important changes for the class of knights and “bachelors”. The feudal bonds between the knights and the great barons had been weakened at the same time as the administration of the monarchy was being perfected and the sphere of royal justice extended. This growth of the royal power did not, in any way, harm the public work of the lesser nobility; on the contrary,² the juries or commissions of knights—to prepare the business of justice, to assist the administration, to hold inquests, to carry information to the Curia Regis, to present the complaints of the county to the sheriff, to fix and collect extraordinary taxation

¹ VII, 365; DXC, 383–384. ² CD, 177 ff.
—had never been more numerous. This strengthening of the powers of the shire and hundred courts and of the local commissions is the most important feature which distinguishes English society in the Middle Ages. The burgesses of the towns played and were, for a long time, to play a less important part than the minor nobility of the countryside in public life. The city of London alone was comparable to the great towns of the Continent. It had a mayor and elected aldermen, it nominated its own sheriff and levied its taxes itself. It played a turbulent and not unimportant part in political movements. The other towns were semi-agricultural boroughs. However, the thirteenth century was a period of economic prosperity and political progress for them. Most of them belonged to the royal demesne; John had given or sold more than seventy municipal charters and in Henry III's reign a number of towns gained the confirmation or grant of the right to freedom from the financial control of the sheriff and to elect their reeve (bailiff) and mayor. Moreover, just as on the Continent, the development of the towns produced violent social conflicts.

In short, during the first half of the thirteenth century there had been a political advance of the middle classes but the more or less conscious aspirations for independence had not had any general consequences. Their interests were opposed to those of the upper nobility and they had made no great effort to help them defend feudal custom against the monarchy. Evidently they feared seigniorial tyranny as much as or more than royal. They had not made any considerable demands in 1215 and their place in Magna Carta is not one of great importance. The barons, however, needed their support and had been obliged to respect the liberties they demanded. With the permanent exception of London, they had done little during the crisis and their inertia had enabled John to avoid complete defeat. Finally, during the revolution of 1258-1267, they had shown their bitterness against the barons even more than against the king.

1 See the inquest mandates, the writs for the levy of subsidies, the summons of knights, etc., edited in CXXXIII, 306, 348, 351-366.
2 DULXIV, chap. v-x.
3 XII, intro., p. liv ff. See also p. 154 above.
4 On the claims of certain barons to sovereign jurisdiction, see CCLXX, 29 ff.
There is a very curious page in the *Annals of Burton* which describes for us the demonstration of 18th October, 1259, which forced the barons to publish the provisions of Westminster.

The community of bachelors of England pointed out to the Lord Edward, the king's son, and the other sworn members of the Council at Oxford that the lord king had completely carried out all that the barons had imposed on him and that the barons themselves had done none of the things they promised for the public good, except what was to their personal advantage and the king's loss.¹

But the alliance which Simon initiated with the middle class came to nothing. The "bachelors" and bigger burgesses were quickly outstripped by more popular elements and the revolution which had begun as an aristocratic reform finished not by the accession to political power of the middle classes organized round a Protector but by risings and brigandage among the peasantry and smaller artisans frequently led by starving priests and nomadic preachers.²

The different social classes, separated by deep divisions, had not known how to build a united front against the monarchy. The fight had been started without sufficient political preparation. The Great Charter was to restore many customs and guarantees which the Plantagenets had destroyed. In its 1225 edition it remained the evidence of a successful reaction against the royal despotism. It contained nothing but practical provisions saturated with the spirit of Feudalism and was accompanied by no declaration of rights. Its acceptance, nevertheless, by all the parties in England showed that, according to the distinctions dear to English theologians, there was no need for the king to be a tyrant. Above all it remained a storehouse of public rights, an arsenal in which the opposition could find arms, in which, at a later date, it would be possible to discover principles of which John Lackland's contemporaries had never thought. The false interpretations of some of these articles were not without their influence on the development of English liberties. The Great Charter has retained a sentimental

¹ See p. 346 above for the meaning of the word bachelor. Here the word community means simply the whole body.
² V. 471.
³ CCLXXI, part ii, chap. iii.
force which, even to-day, is not yet extinct.\(^1\) The Provisions of Oxford and Westminster renewed and completed part of the prescriptions of the Great Charter; these dispositions maintaining feudal franchises, and the guarantees against certain administrative abuses and improving procedure were incorporated in a statute which the king granted in 1267, the Statute of Marlborough.

No permanent system had been created, however, to control the monarchy and prevent abuses. Parliament remained little more than the old feudal assembly which the king summoned at will, inviting whomever he pleased. The attempt at an aristocratic council had been a complete failure. The great struggles of the fourteenth century were still to be waged between monarchy and nobility on this ill-chosen battle ground. Above all, the claims of the Holy See which affected the political and moral life of the country so closely had not been broken; religious conflicts were to grow even more bitter until the day when the king himself became Pope in England and thus consolidated his despotism.


\(^2\) \textit{XXXI}, i, 19-25; \textit{DCXXVII}, ii, 115; \textit{CCLXXII}, 142-3.
CONCLUSION

The history of the monarchy in France under the first nine Capetians has been presented in this volume on the same scale as the history of the English monarchy. The reader has undoubtedly found a justification for this in the facts recorded. Throughout this period the lives of the two countries were bound up closely together. From the Conquest of 1066 the kings of England were of Norman and Angevin origin, they spoke French and almost all of them passed some part of their reign in France. Henry II and his sons ruled an empire that stretched from Scotland to the Pyrenees. The great problem for the kings of France had been how to resist their advance. Finally, it is easy to see legislative and administrative forms being borrowed from the opposite sides of the Channel. We have, no doubt, thrown a little more light on the history of the two peoples by the order we have adopted.

If we compare the evolution of the two monarchies, the differences strike us. Neither the point of departure nor the ground covered were the same but the atmosphere in which they developed was the same and hence the striking resemblances.

A continual effort of the imagination is necessary to re-create this atmosphere. In the present age the movements of humanity are dominated by the triumph of the scientific spirit, the development of production and demand, the conflict between democracy and capitalism, and the pressure of nationalist ambitions. How is it possible easily to appreciate the extent to which France and England from the tenth to the thirteenth century were completely saturated with the spirit of religion and Feudalism? It was on this moral plane, so different from our own, that the monarchy was reborn, developed, and fought its struggles. It found there both support and opposition. The Church which exalted the Crown sought to make it serve its own ends. The feudal spirit carried within itself the germ of anarchistic violence. The kings,