

THE KING'S LAW AND CONSENT

the troubled times of King Richard, King John and King Henry III. to the reign of King Edward I. who, by similar methods and by working in a similar spirit, was to give it new strength and to bring forth from it even finer fruit.

This analysis of the harvest time of our jurisprudence shows undoubtedly a leader, in the shape of a king, overthrowing bad custom and substituting good law for it. It shows however something more. It shows good law resting on national support and able to grow only because of it. It shows a court of justice so strong that, although the personality of the King was obviously more dominating than any contemporary force, it could, when the King was weak or absent, preserve its position unimpaired. Indeed, the King never attempted to take the place of the Court and to pass judgments by himself. "Take heed to yourself," growled the violent King Rufus to a bench of judges not half as strong as those appointed by King Henry II.; "if you will not condemn him as I wish, by God's face I will condemn you." It indicates that the King's law only ran as good law when administered through constitutional channels, and we are introduced to a conception, now a truism to Americans and Englishmen: the position of a man powerless when acting in a private capacity, but all powerful when acting within the constitution and bent on giving to the nation what the nation wanted—a good law. "When he does justice he is vicar of the King Eternal, but he is the devil's minister when he declines to injustice." This is the contemporary conception of the English King as creator of the law. It was because the King's Court had proved that it was set upon the path of justice that one finds in 1258 a petition from the representatives of the nation for an extension of its power. Only because it was acting under such conditions do we find pressed and pressed again, from the nation's side, not from the monarch's, the novel doctrine of the omniscience of the King's Court. How different is this from despotism; how clearly is the municipal law