

THE ORIGIN OF MAGNA CHARTA.

material change took place in the three succeeding reigns, except a gradual assimilation of Norman and Saxon, which would naturally arise from being natives of the same localities, and from occasional inter-marriages, and from the habit of traditional reverence which grew up, in time, for the ancient liberties and institutions of the Saxon period. John, as successor to these kings, came to the throne in 1199. Mean, treacherous and cowardly to the last degree, his reign was one continued struggle between himself and his subjects; on his part to deceive, oppress and tyrannize over them, and on their part to interpose a barrier against his abuse of power, and disregard of law. In 1213 he was absolved from the excommunication under which he had laid, by Archbishop Langton, and then made solemn oath that he would restore the laws of Edward. In the August of the same year, there was a meeting of the prelates and nobility of the kingdom at St. Paul's, when the archbishop informed them that he had discovered a charter granted by Henry I., under which they could re-establish their ancient liberties. The barons heard this with delight, and bound themselves, before the archbishop, by oath, to contend for these liberties, even to death itself, whenever opportunity presented. At a meeting of the earls and barons held at St. Edmundsbury, twelve months afterwards, this charter was produced, and they renewed their oath, at the high altar, to make war upon the king, if he refused to grant the liberties therein contained. They accordingly demanded a confirmation of that charter. The king asked a respite in which to decide, and also desired to be informed what the liberties were which they required him to grant. Whereupon they sent him a schedule consisting partly of what were found in Henry's charter, and partly of the laws of Edward.

This traditional account of the incipient steps towards obtaining the great charter, we are informed by Blackstone, comes from Matthew Paris, but has been adopted as true by modern historians.—(2 *Black. Trut.* vii.)

One thing is true, there was a charter granted by Henry I. which embraced many of the articles which afterwards found a place in Magna Charta, and the reverence for the laws of Edward was an ever active principle in the minds of the English people, who associated these laws with a state of freedom, in marked contrast with the feudal bondage in which they were then held; although it is not so easy to perceive why the barons should favor opinions more or less directly hostile to their own power, unless it was a means of enlisting the public favor upon their side, in the struggle which they were carrying on with the crown.

Blackstone, indeed, doubts the fact that this charter of Henry I. had been thus forgotten, and considers it more probable that its having been granted was rather a hint to the barons to require a charter from John, than that it furnished the materials for the charter which

he did grant. But all historians agree in this, and it is the only point I wish to establish here, that the great charter of John was, for the most part, *compiled* from the ancient customs of the realm, or the laws of King Edward the Confessor, by which they mean the old common law, which was established under the Saxons, and before the feudal law had been introduced.—(2 *Bl. Tr.* xii.; *Co. Lit.* 81 a.) And I may add, what is known to every one familiar with the history of the common law, there has been in every stage of its progress an element of personal freedom, guaranteeing personal rights, and the security of person and property, which no other code could ever pretend to. The civil or Roman law was the emanation of imperial power, the canon, the dogmas of a self-constituted hierarchy; while the common law partook of the character of the sturdy, self-reliant men who sprung up in England after the overthrow of the Roman power, and were never wholly subdued till their influence culminated in the Puritanism of the Commonwealth, and the national emancipation from the tyranny of the Stuarts at the revolution of '88. The charter of John, then, was not a deliberate and voluntary grant from a king of liberties and privileges to a confiding or even a suffering people. Nor, on the other hand, was it an original statement or declaration of a body of wise statesmen, profound thinkers, or learned and sagacious lawyers or politicians. What he yielded was done from fear, with a bad grace, a treacherous spirit, and in a cowardly manner; while the thing that he granted was a singular medley of personal and selfish purposes of the military leaders who dictated it, and of rights and privileges which the people, with whom they had little sympathy, had long regarded as something worth making any sacrifice to regain.

When, how, and where this charter was obtained, may be briefly stated, for in this history seems to be clear.

On the 20th Nov., 1214, the barons met at St. Edmundsbury and formed a league, swearing upon the high altar to wage war upon the king, and withdraw themselves from his fealty, till he should *confirm* by charter, under seal, the several liberties which they demanded. They accordingly came to London and made this demand. John at last agreed to answer by Easter. He immediately went to work to enlist the church on his side, and both parties appealed to the Pope. John moreover took him upon the cross, and vowed to undertake an expedition against the infidels in the Holy Land. But he accomplished little by this hollow-hearted appeal to the superstition of his subjects, inasmuch as Archbishop Langton was at the head of the confederacy against him.

The Pope favored the king's appeal to him, and wrote a letter to the barons and bishops, disapproving of any attempt to extort favors by force from the king; but, fortunately, this letter did not reach England till after the time at which John was to make his answer to the