

## THE ORIGIN OF MAGNA CHARTA.

some things there were characteristic rules recognized by the Saxon law which were justly held in high favor; lands were freely alienable, and might be devised by the owners by last will. Justice was cheaply and conveniently administered, and a pervading, though perhaps not well-defined sense of personal right and freedom was diffused among the people, which answered to the more modern and refined notions of *civil liberty*. There was, moreover, an instinctive love of their own local laws and institutions, to which they clung under every reverse, and returned to, as soon as the adverse circumstances which had suspended the enjoyment of these had been overcome. The moment the Danes were expelled, the natives resumed their former laws, while they retained some of the Danish customs which had been found congenial to the national taste. This respect for their laws must, of course, have been chiefly traditional, since the capacity of reading and writing was too rare to be regarded as a national trait. One of the most popular acts on the part of the great and wise Alfred was the framing out of these a code which, from that day, has been regarded by the English with veneration, with the exception of the period while the Danes held the power, and after the arrival of the Normans, till they became amalgamated into the nationality of England. The work begun, but left unfinished by Alfred, was completed by Edward the Confessor, in the body of laws which he compiled, and to which the Saxons were in the habit of recurring on all occasions, after the introduction of the feudal law of Normandy, in contrast with the slavish and oppressive institutions which their conquerors had imposed upon them, till a respect for these ancient laws became a prevailing sentiment in the kingdom; and on more than one occasion the reigning monarch sought to win the favor of the people, by recognizing these as a part of the laws of England.

The feudal system came in, in full force and vigor, with the Conquest; it nowhere prevailed in a more absolute form than in Normandy, and was enforced with the greatest rigor by William and his followers, who took the name of *barons*, the Norman term which was applied to those who were his *men*. He seized upon the lands of Harold and his followers, under the pretence that they were subjects of confiscation for their treason towards him. He sought out all the *Land-Bocs* or records of titles on which he could lay his hands, and caused them to be destroyed, and, by forcing the leading Saxon land-holders into insurrection and rebellion, by his outrages and oppressions, he made it a pretence for seizing upon their lands, and in these ways converted most of the kingdom, with the exception of Kent, and some other smaller portions of it, into a state of feudal subordination and dependence upon himself, as the Lord Paramount of the realm. These lands he granted out, in return, to his chief barons,

giving to some more, and others fewer manors in number, according to his favor or caprice, requiring from them the services which a feudal vassal owed to his lord; and they, in turn, divided these lands to their own vassals, from whom they exacted a similar return in services.

The whole system of feuds was one of arbitrary and irresponsible despotism. The State, as a body politic, with its State laws, and its general system of protection for the many against the arbitrary power of the few, was all but ignored. Instead of this, the kingdom was divided into a multitude of little baronies, each with its own court, and its own system of justice, without any appeal, in ordinary cases, from the domination of some petty lord to any immediate superior, for protection or relief. While it left the mass of the people in a state of villanage, which was another name for slavery, the freeholders of the land were themselves subordinate to an immediate or remote superior, to whom they owed fealty and homage. Add to this, the hatred and jealousy with which the Saxons regarded their feudal masters, and the contempt and apprehension which the Normans entertained towards the Saxons, and we are not at a loss for the causes of those incessant outbreaks, insurrections, and domestic wars which fill up the chapters of English history for so long a period after the Norman Conquest. The Saxons were not strong enough to control the policy or laws of the kingdom, and yet they were strong enough to make themselves of sufficient consequence in any of these outbreaks, to be taken into account in measuring the power of any faction or party. There was a steady persistency on their part, in insisting that the laws of Edward should be restored; and so strong were they felt to be, that in the fourth year of William's reign, he solemnly swore to grant this request. But the enormous burdens of feudal tenures still continued; and the simple forms of Saxon judicature gave place to the *Aula Regis*, with the despotic powers of a Chief Justiciary, imported from Normandy, with Norman notions of law and justice. The lands of the kingdom were declared inalienable, except by the assent of the superior lord, and upon paying him therefor a heavy sum under the name of a *fine*, they could not be devised by last will, and upon the death of the owner his estate descended to his eldest son, by the law of primogeniture, which had come in with the Normans; and, all over the kingdom, the people were reminded of the presence of their masters, every night, by the tolling of the *curfew* bell, whose very name "*couver-feu*," was borrowed from the Normans, at which every fire and light were to be extinguished. William, and his son Rufus, were able to keep down the restless spirit to which those causes of irritation gave rise, by the force which they had at their command, and Henry I., by marrying a descendant from the Saxon line of kings, did much to allay the jealousy of the races. No