

point, this great conspiracy. Not only was no modification made in the former sentence of the Holy See regarding the Queen's Colleges; but they were condemned once more, and more solemnly, being declared to be *intrinsically perilous to faith and morality*, the Pope adding with his own hand the word "intrinsically."

It was a great triumph over the insidious and far-reaching schemes of British anti-Catholic diplomacy.

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### MAGNA CHARTA AS IT IS.

*King John.*—Thus have I yielded up into your hand  
The circle of my glory.

*Pandulpho* [giving John the crown].—Take again  
From this my hand as holding of the Pope  
Your sovereign greatness and authority.

—SHAKESPEARE, *King John*, Act V., Scene I.

IT is a common thing to hear the Magna Charta of King John described as the bulwark of English liberties, the palladium of national rights, the foundation of nearly everything good in the jurisprudence of the English-speaking world. These commendatory platitudes always refer to the charter of Runnymede obtained from King John of England in 1215; it is an old charge that this charter was annulled by Pope Innocent III., thus illustrating the assertion that the Church is the enemy of civil and religious liberty. It is the purpose of this paper to prove that this popular conception of the charter is entirely erroneous; that the Church, far from interfering with the liberties of Englishmen, maintained the people in the possession of their ancient rights, and confirmed the great charter such as it is now on the statute book in England.

The able explanation given by Cardinal Manning, showing that it was the manner in which the charter had been procured, and not the liberties contained in it, that was condemned, will not be here adverted to at any great length; the reader will find it more profitable to recur to the essay on "The Pope and Magna Charta" than to have the substance of it at second-hand. Here, attention will be drawn to other circumstances of legal and historical importance,

that, so far as the writer is aware, have not yet been fully put before the public.<sup>1</sup>

The reader who is not versed in legal history may be easily misled, if, in considering a charter or Act of Parliament, he concludes that the subject matter in it is to be regarded as new law at the date of its enactment. Nothing is so common, in early statutes, as to find them declaratory of the common law. In the same way the charters were in most cases the embodiment of rights long existing. This is especially true of the Magna Charta of King John, and true also of the charters before and after him. No writer has pretended that the great charter gave to Englishmen more than they already had, in an unwritten form; and no one can truthfully say that this charter of Runnymede was necessary, if the king had obeyed the laws as a king is obliged to do. The rights of Englishmen had been contested by tyrannical rulers, and for more than a hundred years before the time of King John there were laws, in charters and otherwise, that were a sufficient safeguard, if kings could be found to respect them. These charters had been brought about mainly by the efforts of the Church; and so there was a constant struggle between the king, on one side, and the Church and the people, on the other. This extended long after John was in the grave; the fact that one charter was annulled, and many others confirmed, by a paramount power recognized by both king and people, is not a matter of very great moment when all the surrounding circumstances are taken into account. History makes light of substantial advantages obtained for Englishmen by the Popes, but magnifies and seizes readily on what appears otherwise. In the Magna Charta of King John, a Pope annulled a written agreement between the king and his people, though all the benefits of that agreement were equally binding if it had never been reduced to writing. These benefits were confirmed by one Pope in John's reign, and confirmed thereafter by another Pope.

During the century and a half prior to the date of the charter,

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<sup>1</sup> Besides consulting Cardinal Manning's essay, the reader will do well to look into Bishop England's works, vol. ii., and a valuable note in Archbishop Spalding's *Miscellanea* (Appendix). Otherwise, Catholic writers have not discussed the question. Hergenröther attempts no explanation of the annulling of the charter, and Canon Flanagan passes it over altogether. Lingard gives the dry facts with a leaning apparently in favor of Englishmen generally. Of Protestant writers, Mosheim disposed of it in eight lines, but his translator devotes a great deal of space to make out the case against the Pope as unfavorable as possible. The text of Magna Charta as it stood originally, and as it was subsequently varied, is given in Creasy's *Constitutional History*. The correspondence between John and the Pope may be found in Aubrey's *England*, a bigoted book, but useful for the authorities it cites. The general history is taken from Matthew Paris and Wendover. See Rymer's *Fœdera*, and Stubbs's *Documents*, illustrated; also Hürter's *Innocent III*.

England, as a conquered nation, had experienced not a little the fate of the vanquished. The valor and immense wealth of the first William had made him a ruler in every respect. Baron and peasant, Jew and Christian, were alike at his mercy when his sovereign will required to be satisfied. He brought over from France Lanfranc to help him in the Church, but he defied, as far as he could, the Papal authority. His son, the second William, deemed himself not free until the death of that primate, and he subsequently exiled the great Anselm, so that the barons alone stood in his way. The Church saved England in the reigns of Henry I. and Stephen, but Thomas à Becket was not, on that account, nor on his own, to be spared by Henry II.<sup>1</sup> If Richard can be called King of England, there is another name before one reaches King John in the last years of the twelfth century, the king against whom the bitterest reproaches to be found in history are still repeated.

“As Anselm had withstood William the Red,” says Green in his “History of the English People”; “as Theobald had rescued England from the lawlessness of Stephen, so Langton prepared to withstand and rescue his country from the tyranny of John.” Langton was Archbishop of Canterbury, and was the first Englishman who had filled that see since the Conquest. It is to him that historians very generally ascribe the qualities of patriotism and courage not often equalled in the warrior bishops of his time; it is to him that credit is liberally bestowed for the part he played in obtaining Magna Charta, especially as he refused to obey the direction of Pope Innocent III. in condemning it. So that, while the head of the Church did one thing, the English Archbishop of Canterbury and Cardinal of the Holy Roman Church did another in opposition to it. It may here be said that the archbishop admitted he was wrong, and was punished for his contumacy; but, at the same time, it is not at all improbable that if the Pope knew the exact state of affairs in England at the time, he would not have interfered, but would have left the charter to its operation. The Pontiff reasonably thought that when John had agreed to the freedom of the Church in one charter, he might possibly be coming to a better state of things and sincere in a second charter, so he believed that the king was telling the truth. The primate, who knew John better, never forgot that John was incapable of telling the truth or keeping to it. However, this is anticipating. The reader must be detained for a moment or so to understand the relations of the English king, barons, and Church in the first decade of the thirteenth century.

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<sup>1</sup> See the able paper in the *Dublin Review*, 1878, on this period of English history.

The character of King John, without recurring to the terrible verdict of his contemporaries, may be taken from the summary of Archbishop Spalding: "Perhaps a worse monarch than John never sat upon the English throne. Innocent had excommunicated him for his excesses, particularly for his sacrilegious oppression of the Church. He was as mean in adversity as cruel in prosperity. Finding that matters were going against him, and that his crown was in danger, he now professed repentance, took the cross as crusader, and placed himself as a vassal, his kingdom as a fief, under the special protection of the Holy See, thus becoming, of his own choice, a vassal of the Pope."

His reign was a warfare with the barons, with the local Church and with the Pope. In his day, as will be remembered, a good part of France, of Scotland and of Ireland were under the sway of the English crown; but by wars and insurrections a great deal of his territory was wrested from him, and, on several occasions, he was in danger of losing his crown. His defeat at Bouvines gave the French a great ascendancy over him, and there is no knowing what might not have happened had he not put himself under the protection of the Roman Pontiff, and claimed, and obtained, the protection of the Holy See. When the barons and bishops withstood him at home, he appealed to the Pope; when the Pope excommunicated and deposed him, he endeavored to rally his own people to his side. When these could not be forced to submit, he employed foreign mercenaries, and actually made war on his own people by means of outside troops.

He ravaged the country, going up and down England like a pestilence, committing all manner of excesses—he despoiled the monks, opposed the bishops, and, as fortune favored him, he opposed the Pope; when fortune deserted him he laid down his kingdom and became the Pope's vassal. A good deal is said by Lingard and others about the suzerainty of John to the Roman see; but the truth is, that kings much nobler and more powerful than John were tributaries of Rome in the twelfth and thirteenth centuries. John, in this respect, was no worse than many others in Europe at the time, and, as will be seen presently, he was better, if anything, than his own much-lauded subjects—the iron barons of England.

Let us first consider for a moment the relations of the English Church with the king. Hubert, Archbishop of Canterbury, died in 1205, and thereupon the monks of St. Augustine hurriedly named their sub-prior to the vacant see, and sent him off in the night to Rome for approval and investiture. On his way he could not be restrained from making known his expected dignity; and all England was aware of the nomination before the worthy prior reached

Rome. The king was offended because he had had nothing to say in the election—a right which he stubbornly claimed, and he, with equal haste, named the Bishop of Norwich as the future archbishop, and sent him across the water to the Roman Pontiff. Then did the suffragan bishops of Canterbury bestir themselves to assert their claim; they lodged a solemn appeal at Rome against both nominations. After considerable delay the Pope decided that both nominations were invalid, though he admitted the ancient right, exercised for four hundred years, of the monks to make the appointment in question. He then called on the monks to make another nomination, and they appointed Stephen Langton, then rector of the University of Paris. So far as John was concerned, no more objectionable name could have been mentioned, and he declared he would not allow Langton within the realm as primate.

The ceremony of consecration was performed at Viterbo by Innocent himself, and Langton was obliged to remain out of England for some time, leaving the see and the monks of Canterbury to the tender mercies of the king. The latter was now at enmity with the local Church, with the head of the Church and with the barons, and had a war on his hands with the French kings.

The barons of Runnymede have come in for a good deal of that common and cheap laudation which is bestowed on all historic adventurers who have opposed the Church temporal or spiritual. Given any man, or set of men, in history, who has or have defied the Church as rebels, or as heretics, and you have liberty-loving heroes or conscience-loving martyrs. The English barons were as ready to betray England to the French king, as their English king was to betray it to the Pope. They did in fact make arrangements for Louis, son of the king of France, to take England; and they stood up against John only when Langton and the other bishops led them on.

It was Langton that produced the old charter of Henry I., and that rallied the barons at Runnymede. It was Langton and the other bishops whose names, with the cardinal-legate, are on the first page of the Magna Charta, and in the first place in that much-talked-of document. When the bishops stood up for the ancient rights of Church and people, the barons joined with them; and when the barons were left to themselves they did nothing, unless it was to offer the crown to the French king. John was a bad monarch, but he was king of England. The barons were disloyal to the king and country; they were rebels, and broke faith with their king, as well as he broke faith with them. They worked and fought, it is true, but it was chiefly for the barons, for the noble classes, they labored; they were forced to recognize the rights of freemen and secure it to the common people, but they little

dreamed, as a French historian says, that they were securing the liberties of common Englishmen, when they were in treaty with John.

The excesses of John had brought on him the severe displeasure of the Pope. Innocent III. counselled and threatened the king. Then he put England under an interdict which lasted for over six years; then he defied the king. The crown of England was in subjection to the Roman Pontiff, and the crisis of the nation had been reached. John was bound to pay one thousand marks per annum to the Pope, and he paid the first instalment of it. At the distance England was from Rome, and without further employing the assistance of the French, it was impossible to restore perfect peace, and there was no peace. A civil war was going on during this time. John and his subjects were fighting one day, and making compacts the next—compacts that in the nature of things could not be kept. In January, 1215, the bishops, by a solemn charter with the king, secured their ancient liberties of election, and the Pope confirmed it; but, in that document, the barons had been left out in the cold. In June, with the armies facing each other, another compact was entered into, in which the barons obtained all they wanted, and more than John would have agreed to, could he have helped himself. After it was signed the war went on as before. Now, this was the great charter, and without dealing with the part played in history by the Pope, let us for a moment see what followed after the 15th of June, 1215. The king never intended to abide by the charter, and the charter never contemplated that the war was to be at an end. Section 51 of the charter is as follows: "As soon as peace is restored we will send out of the kingdom all foreign soldiers, cross-bowmen and stipendiaries, who are come with horses and arms to the prejudice of our people." When the great charter was signed, and while the king's messengers were hurrying off to Rome to see if he might be relieved of it, these foreign soldiers, "incited by a cruel and enraged prince," as Aubrey says, "were let loose against the estates, tenants, manors, houses, parks of the barons, and spread devastation over the face of the kingdom." These ravages were carried on for nearly three months, and these the most dreary of the whole year. During that time the barons were chiefly in London, where the citizens remained true to the national cause. The only man competent to assume the leadership in the crisis was Langton, and he was at Rome prosecuting his appeal against the sentence of suspension. Many and anxious conferences were held, and, at length, it was resolved to offer the crown to Louis, the son of the

king of France, whose wife was connected in blood with the Plantagenets.

Not to weary the reader, Louis, though opposed by the Pope, accepted the offer, declared war, landed in England, captured Rochester, and received the homage of the iron barons at London. After some further warfare the position of affairs was changed by the death of John. Louis being subsequently defeated at Lincoln, the barons forsook his cause, and the cardinal-legate of the Pope crowned Henry III. as king of England at Gloucester on the 28th of October, 1215. When peace was restored a new charter was prepared and signed by all parties in a manner to which no objection could be made. Let us now return and see what became of the charter of Runnymede.

By the cunning of the king it was not to take effect for two months. On the day it was signed he hurried off messengers to Rome, detailing to his lord, the Pope, how his subjects had treated him; the demands they made; the indignities they had heaped on the Holy See, and on one who had taken up the cross to go to Palestine; and, in fact, he used every argument, true and false, that could be made do duty for him. The Pope, looking at the charter, saw nothing in it for the Church, or for the people of England, that was not already the law of their land, and, looking only at the improper way in which it had been procured, annulled the charter, and absolved king and people from adherence to it. It was as if some great landlord quashed an arrangement entered into by his quarrelling tenants without his consent and approval. All parties—king, barons and bishops—owed allegiance and obedience to the Pope. Here was a case that, being in the midst of war, they made peace, and then went on fighting as before. It must have appeared a ludicrous thing at Rome. "What!" the Pope is supposed to have said; "Have the barons of England presumed to dethrone a king who has taken the cross and placed himself under the protection of the Apostolic See? Do they transfer to others the patrimony of the Church of Rome? By St. Peter, we cannot leave such a crime unpunished." John had promised to aid the Church against the Saracens, and this was an affair that prevented the king from assisting the Church. The rules and code that applied to a promise of that kind, in the Middle Ages, would not be easily understood now, but it had a significance that overbore all domestic local troubles. Other causes are set out in the letter of cassation of the Pope, but there is, no doubt, a good deal of importance attached to this one. It was particularly annoying to the Pope, at the time, to find that the barons had levied war on the king; and that while all parties were asking the Pope's assistance, and an appeal had been laid before him by the barons, a treaty of

surrender should be forced on the king, his vassal, instead of dealing directly with him, the head of Christendom.

Of the numerous important matters in the charter, there is no doubt but the great bulk of it was the terms of a hard bargain about duties and taxes, privileges and personal rights, all of which were of concern to the barons then living, but of no earthly use or interest to Englishmen or their liberties.

The rights of the Church, as to freedom of elections, were confirmed by the Pope in a prior charter. There was little in the second charter for the rights of Englishmen that was not already the unwritten law of the land. The charter of 1215 is valuable as a written document, as a declaration of existing rights, as a statute declaratory of English law. It did not contain new law nor new liberties. It reduced the existing laws into writing. The first clause refers to the Church, and is as follows:

“ 1. That the English Church shall be free, and shall have her whole rights and her liberties unhurt; and I will this to be observed in such a manner, that it may appear from thence, that the freedom of elections, which was reputed most necessary to the English Church, which we granted, and by our charter confirmed, and obtained the confirmation of it from Pope Innocent III. before the rupture between us and our barons, was of our own free will. Which charter we shall observe, and we will it to be observed, with good faith, by our heirs forever.”

The remaining sixty-two clauses, when shorn of the local temporary matters that were in dispute between the barons and the king, are reduced by Creasy to five short paragraphs:

“The government of the country by an hereditary sovereign, ruling with limited powers, and bound to summon and consult a parliament of the whole realm, comprising hereditary peers and elected representatives of the commons.

“That without the sanction of parliament no tax of any kind can be imposed, and no law can be made, repealed or altered.

“That no man can be arbitrarily fined or imprisoned, that no man's properties or liberties be impaired, and that no man be in any way punished, except after a lawful trial.

“Trial by jury.

“That justice shall not be sold or delayed.”

The letter of Pope Innocent condemned the action of the barons in the mode of procuring the charter, but Cardinal Manning has well shown that no liberties of Englishmen were condemned in it or by it. The Pope was displeased at the action of the English primate, and punished him for his contumacy. Subsequent events establish, beyond question, the good will of the Pope towards the preservation of the liberties set out in the charter. As will be seen



presently, it is to the Pope that the English people owe their present charter.

King John and Pope Innocent died within a few months after the affair at Runnymede. Henry III. was a child of eleven years, and it became necessary to obtain another charter. The Magna Charta of 1215 died with King John. In 1216 the first charter of Henry III. was confirmed by Jualio, the Pope's legate, and this, with three or four exceptions, contained all that is to be found in the one of the previous year. In 1225, while Henry was still a vassal of the Roman Pontiff, the Magna Charta of England was drawn up and confirmed by Pope Honorius; this is the charter of English law that to-day stands at the head of the statutes of the realm. It has been confirmed dozens of times by succeeding kings of England, and never failed to secure the people in their rights until the time of Henry VIII., when the power of the Pope could no longer be counted on to preserve the liberties of Englishmen. The student of history may sum up this period of history in this way: Before and after the year 1215 the people of England were in the habit of securing or wresting from their kings certain charters of liberty, either for the people at large, or for the Church, or for certain towns, or otherwise, as charters were used in those days. In the year referred to, and for some time prior and subsequent thereto, the king, with the aid of foreign and local troops, was at war with the great bulk of his English subjects. Things had reached such a crisis, a couple of years before 1215, that the Pope, who was then the common lord of Christendom, interfered, deposed the king, took the people under his protection, and sought, by peaceful or hostile means, as seemed best at the time, to restore order in the country.

In January, 1215, the king signed a charter freeing the Church in England from his interference, and this charter had been confirmed by the Pope. In June, 1215, while the king, who was a vassal of the Pope, and his subjects were having their case heard at Rome, these subjects rose up against the king and forced him to sign a second charter of their liberties. The Pope, being made aware of a second charter from a point of view favorable to the king, annulled the same at once, and put back the king and the subjects to the former position. When peace was restored a new charter was obtained, signed, and confirmed by the Pope; that is the Magna Charta of to-day. The second charter by King John was never valid, was never acted upon by king or by people, was improperly procured, and, from a legal point of view, was properly set aside. A binding treaty can be made only when the parties are free to act; and it is idle to talk of a treaty in time of war unless it put an end to the war, and render further hostilities

unnecessary. One might as well say that the treaty of Versailles, 1783, could have been made in 1776 or 1780, leaving the events of the succeeding years to determine its validity. The charter of 1215 might have been good if John had lived long enough to have been defeated, if the barons could have defeated him in his lifetime; but if John had been victorious in the camp he would not have cared much for the charter in the parliament. If the charter is to be deemed of great value, there is all the more reason why its procurement and confirmation should be free from every possible objection. No private individual would care to have the title to his estates depending on an instrument obtained by illegal or unjustifiable methods, and surely Englishmen have much reason to be grateful to Innocent III. for annulling a charter of their liberties obtained by methods equally objectionable.

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## THE HIGHER AND LOWER EDUCATION OF THE AMERICAN PRIESTHOOD.

**I**T is the purpose of this article to review in a very prosaic and matter-of-fact manner that interesting subject of the education of our clergy, which has recently called forth so many brilliant outpourings from tongue and pen. The writer hopes he may be pardoned for taking a hand in the current discussion; first, because he has been a pretty hard student from early childhood, and secondly, because it was his fortune to devote several years of his ministry to the honorable and laborious task of aiding in the preparation of young men for the work of the Lord in one of the most prominent seats of ecclesiastical learning in this country. Now, both these claims to a hearing, which he thinks it advisable to put forward as an extenuation or justification of his writing, are of such a nature as to assure the reader that this paper will aim at being intensely practical rather than emotional or brilliant. In fact, to one who has himself consumed a few gallons of midnight oil, be he ever so avid of learning, the acquisition of knowledge is anything but poetical. It is too closely associated in his memory with lonely vigils, with disagreeable headaches, and with