PART I.

Historical Review of the Causes Culminating in the Granting of the Great Charters.

CHAPTER I.

TO systematically and thoroughly trace the history of England from the earliest dates down to the time of the formation of the Heptarchy, would not very greatly, if at all, help nor aid in the purpose for which this work is prepared. Of course, each act and occurrence in the history of England, or of any other country relating to it, had its proper effect in some slight degree upon subsequent events; but there are some matters pertaining to, and exercising an influence upon the subject, of much greater importance than others. A history is of course a history, and there can be no event without a cause; and that event to some extent influences or creates certain

conditions, which in themselves go to make an existent status. To separate those important events, so selected because they bear a more prominent part than the others; and because it is more to them separately, than to the others collectively that we owe the Magna Charta, will be my effort in this work. Apart from that, the ordinary history of England, as related by Hume and others of like ability, is well known and readily accessible to every one. But of the chronicles, and the many volumes necessary to peruse in order to glean and cull the facts I here deduce, are not so well known to the ordinary reader, nor in fact (and I am sorry to have to say it) so easily obtained.

Of the really ancient history of England, the fables are many, but the facts are few. About the only history that we have, which goes back to the very early periods, with the citation of those occurrences purporting to be facts, is the chronicle of the Venerable Bede. He of course lived and died long before the other chroniclers saw the light of

day, and they in reciting the early history of England, mostly recite Bede, or at least very greatly rely upon him. And yet even in Bede we cannot place too much dependence for the happenings of the very earliest times. The very existence of Hengist and Horsa is denied; some saying that the names themselves are different forms of the same word, meaning horse. Of this period it is really hard to tell what to accept and what to refuse. The ancient chroniclers, all of whom I have carefully examined, do not dwell to any extent, if at all, upon that phase of the history of the country which deals more particularly with the land. The history of a people is, of course, more or less a history of the land wherein they dwell; but not necessarily a record of the manner of possessing their individual holdings. It is more the happenings and events taking place in that land, than to any tenures of the land itself. But in this matter, (the granting of the Magna Charta by John) I place great prominence upon the part that

the land itself occupied, the use the people were allowed to make of it, and the things they were prohibited from doing with it. The great famines which beset England from William's time, were nearly all the result of laws and kingly enactments which operated as a preventive on the part of the people, from pursuing their agricultural occupations. Of course it is to be fully appreciated that it was not the tenures of land exclusively that led to the troubles and demands culminating with John's charter. Each and every historical fact, from William's time, played a very important part. The wars of the kings, the taxation of their subjects, their severity on the people and nobles, all had their due measure of value, in the course of time. Each hardship that the people were compelled to suffer, which they considered unnecessary, only added a link to their already long chain of grievances. Had the people been in peaceful possession of their lands under all circumstances, they might even have submitted to the great ex-

tortions of the kings without rebellion. The people of those times had but few ways of amusing themselves. Their time was mostly occupied in providing food and clothing for themselves and their families. Those were about their only needs, and they looked to the land to supply them. Wars they could endure, providing they were fed and clothed. But such wars as they later suffered from, which destroyed the land to the extent of ruining their crops, and devastating the whole country, they could not live through.

Famine is an awful teacher, and famines the English frequently knew, for the chronicles speak of them many times, especially during the reign of William I. Nor do they ascribe them to the condition of the weather, but rather to the wars, and laws of the kings which prevented the people from pursuing their former agricultural life. The taxation by some of the kings of the implements of husbandry in some instances was so great that the yeomen could not profitably till the land, and hides upon hides of it lay fallow,

in some instances for years, or until the iniquitous tax was abolished. To have and to lose vast tracts of land, to be deprived of all their property after submitting so often to these hardships, was indeed expecting of a people entirely too much, and they at last rebelled, their grumblings and mutterings of discontent being quickly brought to a climax by the conduct of the nefarious John.

So far as history seems to pertain to the land, or to those acts leading up to the tenure of the land, I will try therefore to set forth; but in so doing, I shall of necessity be compelled to be brief even in that particular, and to totally avoid what I consider extraneous matter. To do otherwise would only increase this work beyond the size contemplated by me, and would also in a measure be relating in slightly different language, those matters which have already been written of by eminent historians.

As I consider the causes, either mediate or immediate, which led to the demands culminating in the granting of the Magna

Charta, to have been the outgrowth of not over two or three hundred years preceding, if that much, I shall not attempt to go beyond the reign of Edward the Confessor. The conduct of the earlier kings down to about this time (1042), although not in every way exemplary, was not of such a nature as was opposed to the very condition and status of the life and welfare of the people. The people who dwelt in the island from the time of the departure of the Romans in the middle of the fifth century, down to this time, expected of most of their kings just those things, and that treatment which they received. They therefore had no reasonable grounds for complaining, so accepted the circumstances of their life, as nature made them. A state of war was the usual, and to their ideas, the natural condition among the nations and races; therefore they expected it, and did not consider it a hardship when it came. They bore its burdens and they shared in its glory. They fought for their king and were in turn protected by him.

They were not unduly oppressed on account of it, consequently they did not grumble. It did not deprive them of the rights they had in the land. They could still pursue their agricultural occupations. They could have their herds and flocks of cattle and sheep unmolestedly, and could have plenty to eat and enough to wear. Why then should they complain?

This state of affairs continued, more or less interruptedly for several centuries, and to such an extent that a history of England is a history of the wars of its kings. It was not until the time of St. Edward or Edward the Confessor that warring ceased, and the country took on a temporary air of peace which lasted for nearly twenty-four years. Whether or not it was due to Edward's peaceful nature, or to circumstances, matters not. The condition at that time so existed, and these people were fortunate in having a peacefully-inclined king to rule in peaceful times, for the Danes during his reign did not, for some reason, make any of their regu-

lar incursions to the English coast to harass and annoy its inhabitants. Edward was wise enough to take advantage of these circumstances and to so administer justice and law during his reign, that the people liked the new condition and were always afterward clamoring for it. It was the "laws of Edward" that the barons at Runnymede wished re-established. If we only knew positively what those laws really were, it would aid us very materially in tracing them, and so in a measure learning of the conditions and the circumstances which led to their enactment. But of them we are very greatly ignorant. We do not know definitely and beyond doubt what they were, hence argument upon them would only be speculative and of little value. There are one or two collections of them in Wilkins and in Ingulph, but historians and antiquarians do not place much if any reliance upon them.[1] It is very greatly to be doubted if there were any particular set of laws such as we understand them to have

[1] See Green's note on Ingulph.

been. There were of course some special privileges allowed by the king and some rights he allowed his subjects which under previous kings they had not been permitted to enjoy. The collection of these given by Ingulph, which are appended (part 2), and are by their narrator presumed to be complete, it will be seen do not mention at all any laws pertaining to the title to the land. They merely recite what undoubtedly were at that time the customs of the country. It is doubtful if these laws as they are called, were enacted by Edward. From reading them it would seem that they were more likely customs of the country already in existence, which he enforced obedience to. But such laws as he is accredited with, it would seem to me were rather his administration in a good, wholesome and common sense way of the custom or common law of the land as it had always existed. Edward did not suspend nor deprive the people of their inherent rights, or what they considered such, nor of any of their liberties; he rather encouraged, and

added to them whenever he could. Being a good king and much loved, he was, as a matter of course, kind and considerate to his subjects, doing for them whatever he could and aiding them in every way in his power. What they wanted, if it was right for them to have, he gave them, and he enacted many reforms in the customs of the country which they remembered to his favor. After indulgence, severity of course amounts to worse than a punishment. It was the severity of the subsequent kings, and particularly William's and John's, that amounted to more than punishment to the people. It was not laws that they wanted. The laws themselves were sufficient if properly enforced. It was more the good qualities of a king such as Edward that they were striving for, and not in reality the granting of any massed code. Not having that, and not being able to get it, they wanted the customs so fixed as laws, that they could and should be enforced as a good king once administered them. They desired to avoid a continual quarrel and

struggle with the king for withholding those advantages and things which kings called privileges, and which they having enjoyed once, desired to call their absolute right. In other words they wanted peace and the quiet enjoyment of their homes. The only way according to their ideas of settling beyond dispute what were the proper customs which they should have enjoyed, was to write them down, albeit for the first time, and have them recognized in that shape by the king as the customs of the country, and therefore the laws. In other words to so codify them that there could never be any doubt as to what they were. Such of these laws or usages as the barons considered important were drawn up and incorporated in the Magna Charta. Such if any as are not there were evidently of little moment to them, or else so firmly established that their mention was unnecessary. They got eventually all and everything they asked for.

It was in the year 1042 therefore that Edward, a son of Ethelred, assumed the

sovereignty of England.[1] He reigned for twenty-four years.[2] It is said of him that he was a man of very simple habits, easy in his manner, and little calculated to reign.[3] His temperament was of a religious order, which, through the many acts of kindness and generosity he displayed, as well as the general munificence of his whole reign, gained him the title of Saint and Confessor. During his reign, as I have already mentioned, there were no commotions of any account which were not at once suppressed. There was no foreign war. The Danes, as I have said, did not annoy the English, and there was little internal trouble. About the only trouble Edward had was with his traitorious father-in-law, the Earl Godwin, who before he had been able to accomplish any of his wicked designs, died—choked to death by a piece of bread while dining with the king,

[1] Florence of Worcester, 144; Henry of Huntingdon, 202; Malmsbury, 213.

[2] Huntingdon, 207–221; Florence of Worcester, 167; Malmsbury, 213.

[3] Malmsbury, 213.

according to the account of Henry of Huntingdon. But this form of his death, although mentioned in most of the chronicles, is more or less doubted, by those who have had occasion, from historical reasons, to study more closely into the subject. He is spoken of by some others as having been taken suddenly ill, while dining with the king, and as having died shortly afterward. About the only act of Edward's which would tend to obscure his glory was the treatment he accorded his mother. She had no doubt treated him quite badly before he became king, and had conspired against him, and in many ways tried to injure him, and when he came to the throne he remembered her treatment, and, as a punishment, he took away from her all her property and her lands.[1] He did not, however, deprive her of every form of subsistence. He saw that she was well and properly cared for, but he stripped her of every vestige of property and influence that she had. He was not criticised by his con-

[1] Malmsbury, 214; Florence of Worcester, 145.

temporaries for his conduct in this respect, and there may have been other reasons and circumstances of which we know nothing, which would put a different view on this point. As she is spoken of by one chronicler as a virtuous woman, kind and religious,[1] we are in such doubt that it is best not to judge.

Of one thing though we are sure, and that is that Edward's reign on the whole was for the good, and was long remembered on that account. He established many new customs, endowed churches, monasteries and abbeys. It was he who founded and built Westminster Abbey, and he lies buried there.[2] He was succeeded by Harold, whose reign lasted but a very few months (nine), and cannot therefore be said to have had any effect whatever, one way or the other, upon the questions affecting the Magna Charta. He was drawn very early into war, and was killed early in

[1] Malmsbury, 215.

[2] Huntingdon, 208; Anglo-Saxon Chron., 438; Wendover, 1–323.

the Battle of Hastings, being shot in the head with an arrow.[1]

It is to William Duke of Normandy, surnamed the Conqueror, and the events of his reign, that more is owing in the subsequent history of England than to any other one event, or reign of any other monarch. His entrance into England was a vital turning point in its whole subsequent history. He enriched the country and he wasted it. It thrived and it starved by turns. He completely upset all the Anglo-Saxon laws and customs; the customs and privileges of the people; the method of administering justice; and he substituted the French for the English language. The English grammar disappeared from the schools, and the French took its place.[2] The Normans despised the English to such an extent that they even had all the papers of the court engrossed in the Latin and French languages, in preference to the English.[3] His reign in its very

[1] Wendover, 1-333; Ordericus Vitalis, 1-485.
[2] Ingulph, 142.
[3] Ingulph, 142.

nature was revolutionary. The hordes of followers he brought over with him, of course, could not speak the new language, consequently the French was the court language, and gradually extended. Even the courts of justice, being held by William's Norman subjects, were conducted in a language which was foreign to the natives, and of which they were ignorant, and it was a hardship upon those who were compelled to seek its relief. In a measure, William tried to obviate this later on, by trying to learn the English language himself, so that he might hold court and administer justice in the language of the people. But he could not master it, so he gave it up in sore despair.[1] The custom of transferring property was also changed by him. In former times the custom had been "by the subscription of the faithful present with golden crosses and other sacred signs, and which chirographs they were in the habit of calling charters."[2] But the Normans introduced the seal, for they

[1] Green, 1-87. [2] Ingulph, 142.

"were in the habit of confirming deeds with wax impressions, made by the special seal of each person, with the subscription thereto of three or four witnesses then present."[1]

[1] Ingulph, 142.