CHAPTER X.

UPON the death of King John, the most inglorious reign of any monarch of England closed. There is no English king of whom we have any knowledge at all, about whom at least something good cannot be said. There were very many who had their ills and their vices, some pronounced to a very great degree, but even in the worst of these there are some things speaking in their favor, and about which history cannot keep silent. If they did not grant good laws to the people, they forbade unjust exactions. If they did neither of these, they conquered new territory, and increased the dominions and glory of the nation. There is some one thing about every monarch which speaks in his favor. But when we come to John, we are confronted by a different condition. What did John do that speaks for him in a favorable light? He did not conquer new territory; on the contrary,

he lost nearly all that he had which did not form a legitimate part of his kingdom. He did not allow the people to live quietly and peacefully, for he taxed them continually, and kept the country in a state of turmoil. Nor did he make good laws. His charter was not his voluntary act. But as to that, we might pass over, if he had done anything to set it firmly in operation. On the contrary, he at once tried to upset it, to repudiate it, and to cast it aside, as null and void. He was treacherous and perfidious to almost the largest degree possible to be found in a human being. Is it any wonder then that the barons, like a drowning man grasping at a straw, were willing to accept most any rule in preference to John's? This was the reason they asked Louis, the Dauphin, son of Philip, king of France, to come to their aid. They wanted to make him king, or rather, were willing to, if he promised to establish the charter wrested from John; and, of course, Louis was more than willing. In coming to England, he came against the orders of the

Pope, who was bound by his promise to help John. Consequently, when John died, he could not hold to his support the full retinue of the English barons. Louis had not established himself as king of England. He was merely fighting for the throne. While he was fighting John, he was fighting one he knew to be the real and rightful king, and when John died he thought the cause of the opposition to him had passed also, and he would then have little trouble in gaining the throne. After that it would be an easy matter to appease the Pope for his disobedience. But Louis knew not, nor could he understand, the love the English had to their own line of kings. They would stand a great deal from them and forgive much, and when John ceased to exist, the turmoil that worried England was cured. His son and heir, Henry, who was at that time but nine years old, was too young to either know or appreciate the bad acts and deeds of his father, and it would have been unfair to have foisted upon him the punishment due to John. In-

stead, therefore, of Louis gaining the undivided fealty of the barons, they left him in great numbers to join the cause of Henry, who at least had never done them any harm or injury.

William Mareschall, Earl of Pembroke, John's old and faithful friend, was now chief marshal of the kingdom, and as such had under his charge and control the armies of England. He it was who went among the barons and induced them in Henry's name to desert the cause of Louis and adhere to the cause of the rightful king of their country. He promised, on behalf of Henry, the establishment of the charter in its fullest extent. The barons, knowing the justness of Henry's claim, and not liking the French too well upon any occasion, flocked to his aid, with the result that Louis was compelled to seek a truce, and, later on, had to leave England. Henry then, on October 28, 1216, was crowned king by Cardinal Gualo, and on November 12, 1216, he renewed the Magna Charta, with some slight amendments. The

points of difference between this and John's charter is that in this charter of Henry III. he does not confirm unto the clergy the privilege of election granted by his father. Nor does he confirm unto the nobles the right of going out of the kingdom without royal consent. The main difference, however, lies in the omission in Henry's charter to acknowledge the power of the council to vote aids and scutages. He does not, in this charter, delegate that right to the barons. That was left open for future consideration. King John relinquished all rights to levy aids and scutages without the consent of the great council. Henry's first charter omits altogether any mention upon this point, and in his succeeding charters he merely says "scutages from henceforth shall be taken as it was accustomed to be taken in the time of our grandfather" (Henry II.). There was no opposition on the part of the barons to this omission in the first charter granted by Henry. It did not of itself cause them annoyance, principally because they were an

armed set of men and would not willingly part with their goods and possessions. The other part of the charter was to them of most importance; and while Henry in all his charters held unto himself the right to levy aids and scutages, as had been done in the time of his grandfather, he, nevertheless, notwithstanding the great straits to which he was frequently reduced, never once levied a general tax. His acts of oppression were delegated against individuals. Such oppression, while causing enmity and anger on the part of the one injured, did not effect the nobles as a whole, and their own grievances were enough for them to protect without taking up and espousing any one's else quarrels.

At the time of the granting by Henry of his second Magna Charta, he simultaneously, and of the same date, November 6, 1217, granted the first Forest Charter. It is not only his first forest charter, but the first granted by an English king. The idea that John granted a forest charter at the time of

sealing his Magna Charta is erroneous. John never granted any charter relating to the forests.

By this Forest Charter Henry ordered that new boundaries should be set to all the forests in England, created new laws governing them, and prohibited the infliction of the death penalty on those who violated its provisions; substituting in this charter, for the general laws previously in existence, punishment by fine and imprisonment.

From this time (1217) on, the charters took on but little change. They were then in nearly the shape that they are in to-day. Their provisions, however, were not only sorely neglected by Henry or his advisers (for Pembroke, the one of all who could have carried Henry to a good and useful majority, had died in 1219), but in reality were frequently violated. These violations were becoming now so frequent and so glaring that they were causing much opposition, and early in 1224 (Wendover 2, 443) while at London, he was asked by the Archbishop

of Canterbury and some other nobles, to again confirm unto them the rights and free customs, to obtain which the war had been instituted against his father. The Archbishop's demands were firm and positive. Upon these demands being made, William Briwere, one of the king's counsellors, replied to the Archbishop that as the liberties demanded were extorted by force they ought not of right to be observed. The Archbishop made reply to Briwere by saying, "William, if you loved the king you would not disturb the peace of the kingdom."

The intimation of the Archbishop that the peace of the kingdom would be disturbed changed the attitude of Henry and his counsellors, and the charter of February 11, 1224, together with the second Forest Charter, bearing the same date, were issued.

Henry was not induced to issue these charters altogether through the threat conveyed in the words of the Archbishop. He at that time needed some money and supplies to meet some aggressions of the French king,

and the barons voted him what he wanted upon the condition that he would firmly establish these charters. After he had granted them he did what he could to put them into effectual operation by sending commissioners into every county with a copy, and an order for their enforcement. But even yet they were some distance from their undoubted establishment. In 1227 Henry became of legal age, and he annulled at once the charters he had previously granted and confirmed. He gave for his reason for doing this that they had been granted whilst he was under the care of a guardian, and had no power over his body or his seal, and, therefore, as they had been granted not of his free will they should not exist. This at once stirred up the barons. They rushed to arms, called themselves together, and demanded of the king that he should restore those charters, otherwise they would, by force of arms, compel him to. They chose as their leader Richard Plantagenet, Earl of Cornwall, the king's brother. This Richard must have

been of great influence with the barons, for Henry gave to him large tracts of land he held to appease him, and by thus doing avoided the hostility of the barons. But he did not at this time restore the charters, and they stood annulled for over nine years. During this period Henry did not, however, usurp to himself any of the prerogatives which the kings usually exercised. He levied no scutages nor aids, nor did he levy any taxes. Matters went on without the charters in about the same manner that they would under them, and during this time there was no unusual discord among the barons on their account.

In January, 1236, Henry wanted money and supplies. He dared not levy a tax for it, so he called his nobles and prelates in council and asked a vote. They granted it to him upon condition that he would republish the charters and enforce them. He did this, of course, and issued his first confirmation charter dated January 28, 1236, in which he commanded that the charters

themselves, in all their provisions, should be obeyed, notwithstanding they had been issued during his minority. This was no doubt inserted on account of the reason he gave when he annulled them in 1227.

From now on till 1251 there was nothing further done on the charters; they were sadly neglected and violated by the king in many ways. There were no positive acts of violation, but rather a total neglect of any enforcement of their provisions.

From the time of the granting of the great charter, which created the great council, its powers were of course very rapidly increasing. What its members would have petitioned for in a cringing manner before, they now assumed to declare existent. Yet notwithstanding this, the charter itself or its amendments made a very beneficial instrument for resisting a king who was unscrupulous enough to deny to the people its liberties. Such a king was Henry III.

Henry was mean enough to always prevent the enforcement of the privileges of the

charters as they were meant to be enforced. The barons and prelates, time without number, addressed him upon this point and reminded him of the manner in which its provisions were being neglected and disobeyed. Personally, Henry seems to have allowed this status to exist for good reason. He was prohibited by the charter from levying any scutage other than had been levied in the time of his grandfather; and although this was not in itself enough to hold him in check, the swords of the barons were. Henry often asked the council for money, and they as often refused it to him. They did not like the hosts of foreigners with whom he was surrounding himself and enriching at their expense. Henry had no means of forcing them to make the grants he wanted, and he was as a consequence often forced to dire extremities to raise money. He had to sell his gold and silver plate, and at ruinous prices, to raise the money with which to pay his creditors. Never was an English monarch kept on such short allowance.

He suffered the relapse of John's extravagance.

It was when the charters were so frequently being neglected that Henry would call a council and ask for aid which, when it was granted him, would only be so done upon his promise to enforce the charters. Such were the causes of his fourth Magna Charta in 1251, and the Republication of May 13, 1253.

Even after this Republication of May 13, 1253, the charters were neglected. Henry promised to see them enforced, but so soon as his promise was made, further action ceased. He did not in the slightest way aid nor help in their establishment. He swore upon his holy oath, "So help me God, as I "keep all these things inviolate, as I am a "man, as I am a Christian, as I am a "Knight, and as I am a King crowned." Still he did not keep his word, and his neglect caused an uprising of his barons under the leadership of Simon Montfort, Earl of Leicester, who in battle captured both Henry

and his son Edward, carried them around with him while he subdued some of his enemies, and only released them upon Henry's issuing his second Confirmation Charter, dated March 14, 1264.

This was the last act of Henry relating to the Magna Charta, for on November 16, 1272, he died, having reigned over England for fifty-six years.