

UNIVERSITY OF OTTAWA, FACULTY OF ARTS

THE ROLE OF THE NORMAN KINGS IN THE FRAMING OF THE BRITISH CONSTITUTION

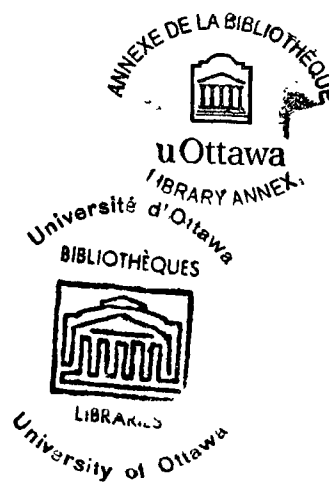
Thesis that completes a two-year course for the

M.A. degree

Joseph, F.I.C.
Presented by B. Joseph, F.I.C.

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I N T R O D U C T I O N

The following pages picture to the best of my ability the part played by William the Conqueror and his sons in England. Since the Catholic Church played a prominent role, I have stressed the relations of the Crown with that influential body. The struggles with the English earls and later the Norman barony have been underlined.

The results of the Conquest are detailed. I attempted to show how William respected the Anglo-Saxon constitution in its main principles. The Conquest, together with the influence of the system of government then prevailing on the Continent brought about some changes, others originated in the victor's fancy - the transfer of the land to the Normans, the introducing of Norman bishops, abbeys and sheriffs. Among the innovations are the New Forest, the Curfew, trial by battle, knighthood, the Domesday Survey and the Salisbury Oath.

The Red King's duplicity is underlined together with his quarrel with the Church. The charter of Henry is enclosed. It is said how the settlement of the quarrel over the investiture was brought about.

His system of taxation is dealt with; his reform of justice is underlined. Henry I perfected William I's ideal of a state and with him ends the peace of the Norman rule.

Stephen proved inefficient and inadequate to his task. Like William Rufus he quarrelled with everyone. His rule is a series of misfortunes. The nobles built an endless chain of castles and fought one another. They collected an unlawful tax called "tenserie" and oppressed the inhabitants. The church itself was not spared.

Chapter five describes the administrative system. The ultimate source of power was the king. In some cases the queen took part in the administration. Stephen's queen notably saved his throne. The king's ministers shared the duties of the government. Some titles were totally honorary. The justiciar and the sheriff were the king's most valuable aids. The functions of the Curia, the Exchequer and the Great Council are also stressed. The development of towns and guilds is mentioned. The conclusion translates the opinions of most historians.

B. Joseph of Alexandria.

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Chapter	1066-1087
I	The Conqueror - Conquest and Feudalism - William's position - opposition to his rule - source of power - character of William - William and the Anglo-Saxon Constitution - Taxation - ecclesiasti- cal courts - further opposition to his rule - innovations.
II	William Rufus (1087-1100)
III	Henry I (1100-1135)
IV	Stephen (1135-1154)
V	The administrative system of the Normans The king's officials Administrative bodies Titles Growth of Towns The villein class Military system

C O N C L U S I O N

Section I

Conquest and Feudalism.

William had been supported by the pope and by the feudal princes generally in his plan to conquer England. William and his knights were regarded as missionaries of feudalism, and Latin civilization, to a land which an obsolete social system kept in unprogressive barbarism. William landed his army at Pevensey in Sussex. Harold and his brother were slain and the English army annihilated. William entered London to be proclaimed king by the witan, December 25, 1066.

According to feudal custom, soldiers only served for a limited period, and several Normans were anxious to return to their own country. William feared that to permit this would lessen his power in England, and he accordingly made grants of estates to the Norman chieftains, who promised to remain with their followers.

William not only founded a new dynasty but was the first king of England in the sense which the word "king" was understood by feudal historians. Accustomed to the conditions on the Continent, William regarded a people which supported no exclusive military class as essentially servile and barbarous. In the settlement of his conquest he considered 1.- The reward of his soldiers who regarded themselves as partners in his enterprise. 2.- The establishment in England of the feudal land tenure and the customs and laws which were based on it. With all the practical statesmen of his time William regarded the Feudal System as the only safe and sufficient basis for a civilized society.

3.- The firm establishment of the royal power as a guarantee of the permanence of his work. He proclaimed himself the rightful owner of the soil as a result of the Conquest.

Consequently William decreed that whoever henceforth should hold land in England must hold it by grant from him. The titles of the great English landholders were cancelled and their lands redistributed among the foreign soldiers to be held by feudal tenure. If an Englishman retained his land or any part of it, he, like the foreigner accepted it as a grant from the king on the same condition of feudal tenure.

The land was a loan to its possessor from his lord to be enjoyed by him on condition of his performing certain stipulated services. A group of cultivators of the soil (Churls or villeins) constituting a village held their land of some soldier (knight or esquire) on conditions which made him practically their master and made them his serfs, differing from slaves only in the fact that they were not chattels but went with the land.

The soldier with a number of others of his condition, held lands from one of the king's barons on condition of being always ready for service, equipped with horse and armor and accompanied by armed followers of inferior grade. The barons, in turn held his land from the king on condition of having a small army of knights and men at arms ready on call; of course they were variations of this scheme. The whole country was thus brought under the discipline of a military camp. Failure in the service by which land was held meant the instant loss of the land and exposure to barbarous punishment which every baron or

other chief tenant of the crown was impowered to indict.

Much of the land of England at this time was incapable of cultivation by the methods then known. These wastes were generally wooded and well stocked with game. Dispossessed Englishmen who would not submit to the new order sought to maintain themselves in such places by hunting and plunder. The struggle between the outlaws and the barons is reflected in the familiar story of Robin Hood.

The lowest class of freemen changed native for foreign masters; their burdens were increased; they felt the full vigor of the stern discipline involved in the new social order. The higher class of freemen who tilled a few acres of their own and regarded themselves as landholders found no place in the feudal system; they were reduced to the lower class of villeins. Of the wealthy classes of Englishmen those who were awarded land enough for the purpose, could by adopting a foreign language and manners obtain recognition as members of the military class. From the higher nobility and governing class, the English after 1075 were absolutely excluded.

The bishoprics and abbeys generally were exempted from the confiscation on condition of acknowledging that they held them from him and owed him service for them. But the English Church itself suffered a foreign conquest. Foreign ecclesiastics replaced the native ones and in all the higher offices as rapidly as was consistent with the dignity of the religious profession. Within a few years after the battle which gave William the throne, Norman earls, sheriffs, barons and knights had superseded Saxon earls, sheriffs and thegns in official positions

and as landholders while the upper classes of the Saxons had been killed or driven into banishment, or had fallen into the less distinguished classes of the community.

The Norman conquest invigorated the whole national system; it stimulated the growth of freedom and the sense of unity. It supplied a formative power which helped to develop and concentrate the wasted energies of the native race.

Under the Normans feudalism was introduced in its maturity. Military service was the leading obligation imposed upon the vassal by the feudal system; fealty was incident to every species of tenure - even the lowest. The military tenant was obliged to do homage that he might obtain the investiture of his fee. Unarmed and bare headed on his knees, he took the oath: "Hear my Lord, I become your liegeman of life and limb and earthly worship; and faith and truth I will bear to you to live and die, so help me God." This ceremony was concluded with a kiss and the man was thenceforth bound to respect and obey his lord; the lord to protect his man and to guarantee to him the possession of his fee.

By degrees, many of the smaller baronies became divided and subdivided by marriages and descents; and the poverty of the possessors induced them to exclude themselves from the assemblies of their colleagues. In the reign of John the distinction was established between the lesser and the greater baron; and as the latter only continued to exercise the privileges, they alone, after some time, were known by the title of barons.

WILLIAM'S POSITION

The battle of Hastings, and the events which followed it, not only placed a Duke of Normandy on the English throne, but gave up the whole population of England to the tyranny of the Norman race. The subjugation of a nation by a nation has seldom been more complete. The country was portioned out among the captains of the invaders. Strong military institutions, closely connected with the institution of property, enabled the foreign conquerors to oppress the children of the soil. A cruel penal code, cruelly enforced, guarded the privileges and even the sports, of the alien tyrants. Yet the subject race, though beaten down and trodden underfoot, still made its sting felt. Some bold men, as I have already said, took themselves to the woods, and there, in defiance of curfew laws and forest laws, waged a predatory war against their oppressors. Assassination was an event of daily occurrence. Many Normans suddenly disappeared, leaving no trace. The corpses of many were found bearing the marks of violence. Death by torture was denounced against the murderers, and strict search was made for them, but generally in vain; for the whole nation was in conspiracy to screen them. It was at length thought necessary to lay a heavy fine on every Hundred in which a person of French extraction should be found slain; and this regulation was followed up by another regulation, providing that every person who was found slain should be supposed to be a Frenchman, unless he were proved to be a Saxon.

For a hundred and fifty years the French kings of England rose to an eminence which was the wonder and dread of the neighbouring nations; they conquered Ireland and received the homage of Scotland.

The Conqueror and his descendants to the fourth generation were not Englishmen: most of them were born in France; they spent the greater part of their lives in France; their ordinary speech was French. Almost every high office in their gift was filled by a Frenchman. Every acquisition which they made on the Continent estranged them more and more from the population of England. One of the ablest among them indeed attempted to win the hearts of his English subjects by espousing an English princess. But, by many of his barons, this marriage was regarded as a marriage between a white planter and a quadroon girl was regarded in Virginia. He lived to be given a Saxon nickname by his own countrymen in contemptuous allusion to his Saxon connection.

The Constitutional effects of the Conquest are not worked out in William's reign but in that of Henry I. It was fortunate for the English that in their hour of peril they fell under the rule of one who was a law to himself, who saw the coincidence of duty and policy and who preferred the forms of ancient royalty to the more ostentatious position of a feudal conqueror. The English were able to discern that there might be still worse things to bear. A strong master was better than weak ones, general oppression than actual anarchy. The king made and kept good peace. The Danegeld and the Forest-law were not too much to pay for the escape from private war and feudal disruption.

Opposition to William's rule

Throughout his reign the Conqueror had to struggle. He met with the resistance of the English that arose from the unextinguished

spirit of resistance to conquest provoked by the severity of Norman ministers and stimulated by hopes of dynastic partisans. In 1067 while William was in Normandy the Northumbrians slew Copsi, the intruded earl, Herefordshire and Welsh arose against William Fitz-Osbern and Kent against Odo of Bayeux. In 1068 the family of Godwin was in arms. Edwin and Morcar raised the standard of resistance in Mercia. In 1070-71 the embers of English independence burst into flame. Edwin lost his life and Morcar his liberty in the struggle. The disjointed struggles had for effect to throw the whole country under the feet of the Conqueror. The strong and united Norman force met and crushed all resistance.

Ordericus gives an account of the distribution of land that followed.(1) The two great earls of the Mercians having been gotten rid of, Edwin by death and Morcar by strict confinement, king William distributed their vast domains in the richest districts of England among his adherents, raising the lowest of his Norman followers to wealth and power. He granted the Isle of Wight and the county of Hereford to William Fitz-Osbern. He gave first to Roger de Montgomery the castle of Arundel and the city of Chichester, and afterwards the earldom of Shrewsbury. He conferred the earldom of Northampton on Waltheof. The earldom of Buckingham was given to Walter Giffard, and Surrey to William de Warrenne. King William granted the earldom of Holderness to Eudes of Champagne, nephew of Count Theobald; and the earldom of Norwick to Ralph de Quader, son-in-law of William Fitz-Osbern. To Hugh Grantmesnil he granted the town of Leicester, and distributed cities and counties among other lords, with great honors and domains. The

castle of Tutbury, which Hugh d'Avranches before held, he granted to Henry, son of Walkelin de Ferrers, conferring on other foreigners who had attached themselves to his fortunes such vast possessions that they had in England many vassals more rich and powerful than their own fathers were in Normandy. Thus strangers were enriched with English wealth, while her sons were iniquitously slain or driven into hopeless exile in foreign lands.

More and more land changed owners. The complicated and unintelligible irregularities of the Anglo-Saxon tenure were exchanged for the simple and uniform feudal theory. Thus fifteen hundred tenants-in-chief of Domesday take the place of the count landlord; all the land of the nation is his, all private land is held mediately of him. All holders are bound to their lords by homage and fealty. The process resulted in the creation of several intermediate links between the body of the nation and the king. It also contributed an elaborate system of customs, rights, duties and profits. It gave growth to knighthood which seems to have superseded the thegnage of the Anglo-Saxon law. The actual obligation of military service was much the same in both systems. The heriot of the English had much in common with the relief of the Norman knight. The heriot was the payment of a debt from the dead man to his lord; while the relief was paid by the heir before he could obtain his father's land.

Scutage was most probably the result of a series of compositions by which the great vassals relieved their lands from a general burden by carving out particular estates the holders of which performed the services due from the whole.

William while imposing the feudal laws on his English subjects kept the English laws for himself. Side by side with the feudal regulations which enforced the power of the superior over the inferior he retained and developed the old English regulations which enforced the direct authority of the king over everybody. Consequently, the titles of duke and count associated as those titles were, at this time, with the idea of territorial sovereignty were not conferred by William; his governors of provinces had to be content with the title of baron with two or three exceptions for purely military reasons, with the powers of the former English earls. The conspiracy of the earls in A.D. 1075 opened William's eyes to the danger of hereditary jurisdiction.

Source of William's power.

The greatest safeguard of the crown lay in the wealth and personal power of the king. Extensive as had been his grants to nobles and soldiers, William remained the greatest landowner in his realm. His rigid exaction of feudal dues added wealth to the great hoard at Winchester, which had been begun by the spoil of the conquered. But William found a more ready source of revenue in the settlement of the Jewish traders, who followed him from Normandy, and who were enabled by the royal protection to establish themselves in separate quarters or "Jewries" of the chief towns of England. The Jew had no right of citizenship in the land; the Jewry in which he lived was, like the king's forests, exempt from the common law. He was simply the king's chattel, and his life and goods were absolutely at the king's mercy.

The arrival of the Jew was the arrival of a capitalist; and heavy as was the usury he necessarily exacted in the general insecurity of the time, his loans gave an impulse to industry such as England had never felt before. The century which followed the Conquest witnessed an outburst of architectural energy which covered the land with castles and cathedrals; but castle and cathedral alike owed their existence to the loans of the Jew. To the kings the Jew was simply an engine of finance. The wealth which his industry accumulated was wrung from him whenever the crown had need, and torture and imprisonment were resorted to if milder entreaties failed. It was the gold of the Jew that filled the royal exchequer at the outbreak of war or of revolt. It was in the Hebrew coffers that the Norman kings found strength to hold their baronage at bay.

Character of William.

Stern as his rule was, it gave peace to the land. Even amidst the sufferings which necessarily sprang from the circumstances of the conquest itself, from the erection of castles, or the enclosure of forests, or the exactions which built up the great hoard at Winchester, Englishmen were unable to forget "the good peace he made in the land, so that a man might fare over his realm with a bosom full of gold".

Strange touches of a humanity far in advance of his age contrasted with the general temper of his government. One of the strongest traits in his character was his aversion to shed blood by process of law; he formally abolished the punishment of death, and only a single execution stains the annals of his reign. An edict yet more honourable to him put an end to the slave-trade which had till then been carried on at the port

of Bristol. The pitiless warrior, the stern and awful king was a tender and faithful husband, an affectionate father. The lonely silence of his bearing broke into gracious converse with pure and sacred souls like Lanfranc. If William was "stark to rebel and baron, men noted that he was mild to those that loved God," according to the chronicler. (2)

The same continuator of the chronicles says that he founded a monastery on the spot where God permitted him to conquer England, and he established monks in it, and he made it very rich. In his days the great monastery at Canterbury was built, and many others also throughout England

The Conqueror reigned over England, and being sharp-sighted to his own interest, he surveyed the kingdom so thoroughly that there was not a single hide of land throughout the kingdom of which he knew not the possessor and how much it was worth, and this he afterwards entered in his register.

The king was of great sternness, and he took from his subjects many marks of gold and many hundred pounds of silver, and this either with right, and with little need. He forbade killing the deer, so also the boars; he appointed concerning the hares, that they should go free.

The rich complained and the poor murmured, but he was so sturdy that he recked naught of them; they must will all that the king willed, if they would live, or would keep their lands or would hold their possessions, or would be maintained in their rights.

The condition of the slaves gradually improved, it is true. But on the other hand many who had been free sank into the state of villeinage which bound them to the soil.

All the land was directly held from the king on military condition or other. The number of tenants who derived their title from the crown, including ecclesiastical dignitaries, were about 1500. The undertenants were about 8,000 and consisted chiefly of the English who had been driven from their estates. Each of them furnished the king a fully armed and mounted soldier to serve for forty days during the year, for each piece of land yielding annually two thousand dollars.

The militia

In addition to feudal troops the fyrd of the English was maintained; it was a national militia consisting of peasants and others not provided with armor who fought on feet with bows and spears. That militia existed during the Saxon period. That general armament of the men of the counties and hundreds, subsisted through the reigns of William Rufus and Henry I to be reformed and reconstituted under Henry II. In each reign it gave proof of its strength and faithfulness. By binding the free tenants to serve under him in case of civil war William removed a serious defect of continental feudalism and did the country an incalculable service.

SECTION II WILLIAM AND THE ANGLO-SAXON CONSTITUTION.

William seems to have made a serious effort to preserve the old customs of the land. He took the usual oath of the English kings, gave a charter of liberties to London, and to many abbeys and other churches guaranteed their old rights, as indicated in the following document.(3) He swore before the altar of St. Peter, the Apostle, in

the presence of the clergy and people, to defend the holy churches of God and their governors, and also to rule over the whole people subject to him justly and with royal providence; to exact and to preserve right law, and strictly to forbid violence and unjust judgments.

The attitude of William towards the old English system was not that of a revolutionist, though what he saw required change, he changed with a high hand. He accepted the English crown with the rights and limitations prescribed by the ancient customary laws of England unchanged. However, by his own personality he imparted to the old institution a new life and a new significance.

He kept up the popular institutions; the hundred-moot and shire-moot courts went on as before; but they received a new importance. He confirmed the laws which had been in use in king Edward's days with the additions he himself made for the benefit of the English. (4) The compilation (5) that bears his name is very little more than a reissue of the code of Canute.

The ancient police system reappeared, but to be enforced with vigor and thoroughness unknown to the old English courts. The earldom of Godwin and Siward, which had menaced the crown in the days of Edward were broken up. Their privileges assumed by the crown and their lands distributed. (6)

The English division of the country into shires was retained and with it the shire courts and the judicial powers of the sheriff. William's sheriffs were of course, foreigners; but, as the purpose of their office was to uphold the royal authority, they administered in their courts the English common law which recognized no exemptions from the king's

justice. His sheriffs no longer feared a local magnate. The king had appointed him, the king was behind him and to the king alone he was responsible.

It must not be supposed that these measures were always and under all circumstances effective against the arrogance and strength of the feudal lords. The king could not pull a baron out of his castle without the aid of a military force which he could obtain only by calling on the other barons. But assertion of independence by powerful barons was, in England, never distinguished from rebellion.

The theories and forms of English holdings without any special act of the crown easily and rapidly assimilated to the theories and customs with which the Normans were familiar. England had been preparing for this transition since a hundred years. The ancient free democracy had long since given way to a landed aristocracy. Most of the towns had given way to a system of lordship. At the time of the Conquest the whole number of cities did not exceed seventy. Most were poor and small and altogether insignificant. Commerce was correspondingly feeble and limited.

WILLIAM at all times had the situation well in hand...

In power and in renown the Conqueror towered high above his predecessors on the throne. The fear of the Danes, which had so long hung like a thunder cloud over England, passed away before the host which William gathered to meet a great armament assembled by king Cnut. A mutiny dispersed the Danish fleet, and the murder of its king removed all peril from the North.

Scotland, already humbled by William's invasion, was bridled by the erection of a strong fortress at Newcastle-upon-Tyne; and after penetrating with his army to the heart of Wales, the king commenced

its systematic reduction by settling barons along its frontier.

No knight under Heaven, his enemies confessed, was William's peer. Boy as he was, horse and man went down before his lance at Vol-es-Dunes. His mace crashed its way through a ring of English warriors to the foot of the Standard. No man could bend his bow, He rose to his greatest heights in moments when other men despaired. His voice rang out like a trumpet to rally his soldiers as they fled before the English charge at Semlac.

He recked little of man's love or hate. His grim look, his pride, his silence, his wild outbursts of passion, spread terror around him.

The struggle which ended in the Fens of Ely changed William's position. He no longer held the land merely as elected king, he added to his elective right the right of Conquest. The system of government which originated was, in fact, the result of the double character of his power. It represented neither the purely feudal system of the Continent nor the system of the English older royalty. More truly perhaps it may be said to have represented both. As the successor of Eadward, William retained the judicial and administrative organization of the older English realm. As the Conqueror of England he introduced the military organization of feudalism so far as was necessary for the secure possession of his conquests. The ground, as I already said, was prepared for such an organization; English feudalism originated with the "companions" or "thegns" who were personally attached to the king's war-band, and received estates from the folk-land in reward for their personal services.

In later times this feudal distribution of estates had greatly increased as the bulk of the nobles followed the king's example and bound their tenants to themselves by a similar process of subinfeudation.

On the other hand, the pure free holders, the class which formed the basis of the original English society, had been gradually reduced in number, partly through imitation of the class above them, but still more through the incessant wars and invasions which drove them to seek protectors among the thegns at the cost of their independence. Feudalism, in fact, was superseding the older freedom in England even before the reign of William, as it had already superseded it in Germany or France. But the tendency was quickened and intensified by the Conquest; the desperate and universal resistance of his English subjects forced William to hold by the sword what the sword had won, and an army strong enough to crush at any moment a national revolt was necessary for the preservation of his throne.

Such an army could only be maintained by a vast confiscation of the soil. The failure of the English risings cleared the way for its establishment. The greater part of the higher nobility fell in battle or fled into foreign lands or redeemed a portion of them by the surrender of the rest. We see the completeness of the confiscation in the vast estates which William was enabled to grant to his more powerful followers. Even the poorest soldier of fortune found his part in the spoil. The meanest Norman rose to wealth and power in the new dominion of his lord. Great or small, each estate thus granted was granted on condition of its holder's service at the king's call; and when the larger holdings

were divided by their owners into smaller sub-tenancies, the undertenants were bound by the same conditions of service to their lord. The kiss of his lord invested the vassal with land or "fief" to descend to him and his heirs forever. A whole army was by this means encamped upon the soil, and William's summons could at any moment gather an overwhelming force around his standard.

Such a force however effective as it was against the conquered, was hardly less formidable to the Crown itself. William found himself fronted in his new realm by the feudal baronage whom he had so hardly subdued to his will in Normandy. Nobles impatient of law, as jealous of the royal power, and as eager for unbridled military and judicial independence within their own manors, here as there. The genius of the Conqueror was shown in his quick discernment of this danger, and in the skill with which he met it.

He availed himself of the old legal constitution of the country to hold justice firmly in his own hands. He subjected all to the jurisdiction of the king's court, which towards the close of the earlier English monarchy had assumed the right of hearing appeals and of calling up cases from any quarter to its bar. The authority of the crown was maintained by the abolition of the great earldoms which had overshadowed it, those of Wessex, Mercia and Northumberland; and by the royal nomination of the sheriffs for the government of the shires.

The Conqueror avoided the accumulation in any one hand of a great number of contiguous estates. The gift of Richmondshire to Alan of Brittany was an exception. That limitation protected the people and made the central power secured.

For an insubordinate baron whose strength lay in different counties would have to rouse the suspicions and perhaps defy the arms of many powerful sheriffs, before he could draw his forces to a head.

The organisation of jurisdiction required and underwent no great change in these respects. The Norman who undertook the office of sheriff in the counties as the shiresnow came to be called, had a power far more unrestricted than the sheriffs of old. He was the king's representative in all matters, judicial, military and financial in his shire. He had many opportunities of tyrannizing but he introduced no new machinery. From him or from the court he presided, appeal lay to the king alone.

During the frequent absence of the king from England the administration was entrusted to a justiciar. When the convenience of having a minister who could in the whole kingdom represent the king had been ascertained, the justiciar became a permanent functionary. The Conqueror during his reign held great courts of justice at Christmas, Easter and Whitsuntide. The office of justiciar acquired a major importance in the period subsequent to his reign.

Throughout William's policy runs the principle of amalgamating the two laws and nationalities by superimposing the better consolidated Norman superstructure on the better consolidated English substructure. The English system was strong in the cohesion of its lower organisms, the association of individuals in the township, in the hundred and in the shire; the Norman system was strong in its higher ranges, in the close relation to the crown and the tenants-in-chief whom the king had enriched. The strongest element of both were brought together.

WILLIAM AND TAXATION.

The Conqueror had pledged himself never to require more from his vassals than their stipulated services. He however extorted aids; by the ingenuity of his feudal lawyers it was found that the lord had right to levy a pecuniary aid on four occasions; when he paid the relief of his fee, when he made his eldest son a knight, when he gave his eldest daughter in marriage and when he was taken prisoner. The first case did not apply to the tenants of the crown because the sovereign was not subject to a relief. It was counterbalanced by frequent appeals which it was dangerous to resist.

William was harsh as far as taxation is concerned. The English were not used to taxes. The obligations of the freemen summed up in a *trinoda necessitas* - war service, castle service and road service. The only revenue of the crown then were derived from the royal estates, dues from markets and ports and the findings of the courts. The successors of Ethelred levied the Danegeld but the people had always regarded it as irregular and tyrannical. Edward the Confessor had abolished it. William levied that tax not by a haphazard method but by a methodical survey of the kingdom's wealth and resources.

The Saxon Chronicle of A.D. 1083 gives avarice as William's besetting vice. It says that he consolidated the royal power in the department of finance. He retained the revenues of his predecessors and added new imposts of his own. In 1084 he demanded from every hide of land not held by himself in demesne or by his barons a sum of six shillings three times the old rate.

The landlord was entitled to all the profits of the feudal position. The feudal imposts as well as the older taxation fell on the

English. The labour of the native dependents alone made possible the reliefs, aids, tallages, etc. Pearson sets the Conqueror's income to £ 20,000 from the royal lands, plus another 20,000 yielded by the Danegeld besides the profits of the courts.

Knights: Most of William's knights were Normans; only the wealthy could afford the expense of a horse and armor. The candidates for knighthood spent several days in a church engaged in solemn religious rites, fasting and prayer. Then he made an oath in the presence of his friends and kindred, promising to be loyal to the king, to defend religion and to be the champion of every lady in danger or distress. Then he was dubbed knight in the name of God, St Michael and St George.

Soldiers were sometimes made knight on the battle-field as a reward for valor. A knight was publicly degraded if he proved false to his oath.

Education; William did not do much to promote education; monks and priests cared for it. The nobility's business was fighting. Many nobles could not write; they had seals or stamps to use on papers of importance.

All in all William's invasion proved beneficent. It unified the country, improved the institutions and broadened the Englishmen's views by linking them more closely to the Continent. It brought the nation at once and permanently within the circle of European interests, and the Crusades which were recruited largely from the Normans and the English prevented a relapse into isolation. The energy of the ruling race communicated itself to the people whom it ruled; its strong political

instinct roused the dormant spirit and disciplined even while it oppressed it. The little substantial organisation of the Normans was soon worn out or merged in that of the nation with which it united. Only the vigour and vitality which it had called for, was permanent. The feudal government in Europe was then a graduated system of jurisdiction based on land tenure, in which every lord judged, taxed and commanded the class next below him; in which abject slavery formed the lowest, the irresponsible tyranny the highest; in which private war, private coinage, private prisons took the place of the imperial institutions of government.

The Conqueror and the Church.

The school of Bec had become a centre of education; and William with the keen insight into men which formed so marked a feature in his genius, selected its prior as his chief adviser. In a strife with the Papacy, the duke impatient that Lanfranc should quit Normandy urges him to hasten. "Give me a better horse and I shall go the quicker", replied the imperturbable Lombard, and the duke's wrath passed into laughter and good-will. From that hour Lanfranc became his minister and counsellor, first for the affairs in the duchy itself then for the daring schemes of ambition which were opened up to him by the position of England and finally in the reformation of the English Church.

William raised Lanfranc to the see of Canterbury. The deposition of Stigant was followed by the removal of most of the English prelates and abbots, and by the appointment of Norman ecclesiastics in their place. The new archbishop did much to restore discipline and William's own efforts were no doubt partly directed by a real desire

for the religious improvement of his realm. The new bishops soon began the erection of the large churches and monasteries which later grew into the splendid cathedrals which still give to England much of its dignity and beauty.

But honest as they were, the king's reforms tended directly to the increase of the royal power. The new bishops and abbots were cut off by their foreign origin from the flocks they ruled, while their popular influence was lessened by the removal of ecclesiastical cases from shire and hundred court, where the bishop had sat side by side with the civil magistrate, to the separate court of the bishop himself. The change told mainly in removing the bishop from his traditional contact with the popular assembly, and in effacing the memory of the original equality of the religious with the civil power.

The dependence of the Church on the royal power was strictly enforced. Homage was exacted from the bishop as from the baron. No royal tenant could be excommunicated without the king's leave. No synod could legislate without his approval; papal letters could not be received within the realm save by his permission. William firmly repudiated the claims which were now beginning to be put forward by the court of Rome, when Gregory VII called on him to do fealty.

Ecclesiastical courts.

William gave birth to ecclesiastical courts in which all cases relating to the church and the clergy were tried by the bishops according to laws of their own. The abuse of that privilege was great.

A royal edict that strengthened the church courts was soon drawn up. (7)

William by the grace of God King of the English, to R. Bainard and G. de Magneville and F. de Valoines and all my liegemen of Essex, Hertfordshire, and Middlesex, greeting. Know ye, and all my liege men resident in England, that I have by my common council and by the advice of the archbishops, bishops, abbots and chiefmen of my realm, determined that the episcopal laws be amended, since they have not been kept properly not according to the decrees of the sacred canons throughout the realm of England, even to my own times. Accordingly I command and charge you by royal authority that no bishop nor archdeacon do hereafter hold pleas concerning the episcopal laws in the hundred nor bring to the judgment of secular men a cause which concerns the rule of souls. But whoever shall be impleaded for any cause or crime, by the episcopal laws, let him come to the place which the bishop shall choose and name for the purpose, and there answer for his cause or crime, and not according to the hundred, but according to the canons and episcopal laws; and let him do right to God and his bishop. But if anyone being lifted up with pride, refuse to come to the bishop's court, let him be summoned a first, second and third time; if he does not then come to the judgment, let him be excommunicated; and if there is need of carrying this out, let the strength and justice of the king or of the sheriff be brought to bear.

This also I forbid and by my authority prohibit that any sheriff or reeve or minister of the king or any layman should interfere in the laws that pertain to the bishop, or any layman should bring another

to judgment within the justice of the bishop.

William did not intend to yield everything to the power of the bishops. To Gregory VII he clearly expresses his intentions to limit the papal authority as far as he could.(8)

To Gregory, the most noble shepherd of the holy church, William, by the grace of God crowned king of the English and duke of the Normans, greeting with amity. Herbert, your legate, Holy Father, coming to me on your behalf, bade me to do fealty to you and your successors, and to think better on the matter of the money which my predecessors were wont to send to the Roman church. The one point I agreed to, the other I did not agree to. I refused to do fealty, nor will; because neither have I promised it, nor do I find that my predecessors did it to your predecessors. The money for nearly three years whilst I was in France, has been carelessly collected; but now that I am come back to my kingdom, by God's mercy, what has been collected is now sent by the aforesaid legate, and what remains shall be dispatched, when the opportunity serves, by the messenger of Lanfranc our faithful archbishop.

There is not the least doubt that the Conqueror decided on his own policy. Eadmer, (9) William's contemporary mentions concerning the king's church policy three points in which he unjustly invaded the ecclesiastical rights. 1.- During his reign, the Christian world was afflicted and scandalised by the rupture between Gregory and the Emperor Henry IV, who, in opposition to his adversary, created an anti-pope, Guibert, bishop of Ravenna. The conflicting claims of these prelates and

the temporal pretensions of Gregory, afforded a pretext to William to introduce a new regulation. He would not then allow any one settled in all his dominions to acknowledge as apostolic the pontiff of the city of Rome without his approbation and he directed that all letters issued from the court of Rome should, on their arrival, be submitted to the royal inspection.

2.- Though he zealously concurred with archbishop Lanfranc, in his endeavours to reform the manners of both the clergy and the laity, yet so jealous was he of any encroachment on his authority, that without the royal license, he would not permit the decisions of national or provincial synods to be carried into effect.

3.- After the separation of the ecclesiastical courts from those of the hundred, he enacted such laws as were necessary to support the jurisdiction of the former; but at the same time forbade the clergy either to implead or to excommunicate any individual, holding in chief of the crown, accused of incest, adultery or any capital crime till the nature of the offence had been certified to himself.

Little by little William checked the insular and barbaric independence of the church. He placed men of his choice to fill the vacancies. Those were in full sympathy with the great contemporary reform in Europe. These men forbade simony and insisted upon celibacy for their clergy. The English monasteries were compelled to conform to the stricter rules of the Norman abbeys.

William daily heard the mass of his private chaplain, and was regular in his attendance at the public worship. While, however, wholly submissive to the Pope, he drew a sharp differentiating line between his spiritual and temporal authority; as when summoned by Gregory VII

to do homage for his crown he flatly refused to do so.

Many episcopal sees were removed from the villages to the cities; it marked a change in the ideas of clerical life but was not of important consequence. Lanfranc was himself a monk and he allowed the monastic traditions more than their due weight in his reforms. The secular clerks disappeared from those cathedrals which remained monastic until the Reformation.

So much depended on the personal relations between William and Lanfranc in church matters that after their deaths the whole ecclesiastical fabric narrowly escaped destruction. Lanfranc's influence excepted, the king had no constitutional advisor, no friend whose authority contained any element of independence. He was his own minister, his policy owes its stability to his will. His rule was despotic in spite of the old national and constitutional forms which he suffered to exist. It is the rule of a wise, strong, brilliant and enlightened despot.

Lanfranc was an able theologian and scholar. His policy was uniformly in agreement with the king's in his settlement of religious matters. He avoided national antipathies and sacrificed neither the State to the Church nor the Church to the State.

The Conqueror's bishops were generally good and able men though not of the English type and character. They were scholars and divines chosen under Lanfranc's influence. The abbots were less wisely selected.

The church courts show the influence of the ideas which under the genius of Hildebrand were forming the character of the continental churches. The practice soon proved full of disadvantages to both justice

and religion. It occasioned the growth of the canon law. The question of investitures and the marriage of the clergy together with the crying prevalence of simony soon forced on the minds of statesmen the necessity of some uniform system of law. The clergy were in a position external to the common law of the land, able to claim exemption from the temporal tribunal and by appeals to Rome to paralyse the regular jurisdiction of the diocesans. Disorder followed disorder; abuse prepared the way for the Constitution of Clarendon and its results.

Further opposition to William's rule

In 1070 there was still much grumbling but William's ways were masterful and his measures severe. The results of his policies proved beneficial. The English needed a drill master; William was a hard one, they finally recognized it. Life and property were protected, they had never been protected under the English kings. Rebellions were crushed mercilessly; the massacre of the pirate Danes who captured York under Sweyn illustrates it.

Robbery and murder as personal revenge were much reduced. The English finally accepted the lot they could not avert; they settled down to make the most of their new conditions. The lord's position was not interesting, his people of alien blood regarded him with sullen aversion and as interloper and usurper. If the Norman lord sought to improve their condition he was misunderstood in most cases and his good measures misinterpreted. The absentee landlord was by no means uncommon. In these cases the bailiff lived on the demesne and saw that the reeves required the tenants to fulfill their obligations.

The Conquest was hardly over when the struggle between the new baronage and the Crown opened. In 1075 began the conspiracy of the earls. Roger of Breteuil, son of the Conqueror's minister William Fitz-Osbern and the Breton Ralph Guader whom the king had rewarded for his services at Senlac with the earldom of Norfolk discontented with the ample provision that the king had made for them made statements of their grievances and attempted at their restoration. The rising was quickly suppressed, Roger thrown into prison and Ralph driven over sea.

But the intrigues of the baronage soon found another leader in William's half-brother, the bishop Odo. Under pretence of aspiring by arms to the papacy, the bishop of Bayeux collected money and men; but the treasure was at once seized by the royal officers, and the bishop arrested in the midst of the court. Even at the king's bidding no officer would venture to seize on a prelate of the Church; it was with his own hand that William was forced to effect his arrest. "I arrest not the Bishop, but the Earl of Kent," laughed the Conqueror, and Odo remained a prisoner till William's death. It was in fact this vigorous personality of William which proved the chief safeguard of his throne.

William in his punishments spared some of the real offenders because the malcontents substituted others to lead the opposition.

The grounds of discontent included three points: the title of the king, the condition of the English and the restrictions imposed upon the Norman vassals. For a century no king succeeded with undisputed title. The Norman baronage was constantly in arms. Taking

advantage of every quarrel to extend their own power and very seldom siding with the king. The elements of disturbance that worked obscurely under the sagacious Conqueror were continued openly under William Rufus.

The nobles had made possible the Conquest yet William had rewarded them most grudgingly; jealousy and the securing of a greater power urged the earls. The conspiracy of A.D.1075 marks the first epoch of the struggle. The last English earls perished and the first Norman earls suffered forfeiture. The rebellion of Robert in 1078 was quelled without much bloodshed or confiscation.

Later the baronage was prompt to seize the opportunity offered by William's death to rise in arms under pretext of supporting the claims of Robert, whose weakness of character gave full scope for the growth of feudal independence, and Bishop Odo placed himself at the head of the revolt. The new king was thrown almost wholly on the loyalty of his English subjects. But the national stamp William had given to his kingship told at once. Bishop Wulfstan of Worcester the one surviving bishop of English blood, defeated the insurgents in the West; while the king, summoning the freemen of country and town to his host under pain of being branded as "nithing" or worthless, advanced with a large force against Rochester, where the barons were concentrated. A plague broke out to force the garrison to capitulate. As the prisoners passed through the royal army, cries of "gallows and cord" burst from the English ranks.

At a later period of his reign a conspiracy was organized to

place Stephen of Albemarle, a near cousin of the royal house, upon the throne; but the capture of Robert Mowbray, the earl of Northumberland, who had placed himself at its head, and the imprisonment and exile of his fellow-conspirators, again crushed the hopes of the baronage, and brought about considerable forfeitures. Roger de Lacy alone was deprived of a hundred-sixteen manors. Thus, step by step the military conquest of the country was effected.

Section III

INNOVATIONS

William and Hunting.

Next to war, William's greatest passion was for hunting. He loved the tall deer as though he had been their father. To provide a home for them he ordered a large tract in Hampshire to be turned into a forest. And to preserve them, he made a law that any one who should kill a deer without leave should lose both his eyes.

Hunting formed his favourite amusement. William has been severely censured for his savage deer-friths and game-laws. The following instance will show that the censure is not undeserved. Though the king possessed sixty-eight forests, besides parks and chases, in different parts of England, he was not satisfied; for the occasional accommodation of his court he afforested an extensive tract of country lying between the Avon and the bay of Southampton. The inhabitants were expelled; the cottages and the churches were burnt. More than thirty square miles of arable land were withdrawn from cultivation and the whole district converted into a wilderness, to allow sufficient range for the deer

and ample space for the royal diversion. The memory of this act of despotism has been perpetuated in the name of the New Forest, which it retains at the present day, after a lapse of nine centuries.

The very name of this New Forest therefore, was hateful to his subjects, and two of his sons and one grandson lost their lives within its limits. Talking of the New Forest Ordericms (10) says: "That part of the country was extremely populous from early times and full of well-inhabited hamlets and farms. A numerous population cultivated Hampshire with unceasing industry, so that the southern part of the district plentifully supplied Winchester with the products of the land. When William I ascended the throne of Albion, being a great lover of forests, he laid waste more than sixty parishes, compelling the inhabitants to emigrate to other places, and substituted beasts of the chase for human beings, that he might satisfy his ardor for hunting. Two of his sons, Richard and William Rufus, as well as his grandson Richard, perished in the forest, and apparitions of various kings were seen there, to the great alarm of some persons; and in this way the lord manifested his displeasure that consecrated churches had been ruined to make a shelter for wild beasts."

The king's forests were under the control of special forest officers and the forest laws. The forests were not always regions covered with trees, nor were they necessarily without a population. They were simply districts where the ordinary laws were enforced, directed to the preservation of the game. The cruelty with which William drove the fenceless peasantry from their homes for this purpose in a time of entire peace, and the harshness of the forest laws which he introduced

left upon his own and later times an impression of his tyranny and hardness which the far more terrible ravaging during the years of the actual conquest does not seem to have produced.

William also introduced into England the "curfew" laws. This was a requirement that all fires should be put out or covered at nightfall. It was a regulation in existence at that time in several countries of Europe, intended to prevent accidental conflagrations. It had never before been introduced into England; it was felt by the English to be an exercise of tyranny.

WAGER BY BATTLE.

By an edict William issued a new method of trial, wager by battle, previously well known in Normandy but not used in England; it was added to trial by ordeal and by compurgation. Thorpe mentions it (11)

"William by the grace of God king of the English, to all to whom this writing shall come greeting and friendship. We order and require this to be kept by the whole nation of England. If an Englishman shall summon any Frenchman to battle for a theft or a homicide or any other matter for which battle ought to be waged or a plea made between the two men, he shall have full liberty to do this. And if the Englishman does not wish a battle, the Frenchman who is accused may defend himself by an oath against him, by his witnesses, according to the law of Normandy.

Likewise if a Frenchman shall summon an Englishman to battle concerning the same matters, the Englishman may with full liberty defend himself by battle, or by compurgation if that pleases him better.

And if he is sickly and does not seek a battle, or is not competent, let him seek for himself a legal defender. If the Frenchman shall have conquered, let him pay sixty shillings to the king. And if the Englishman does not wish to defend himself by battle, or by testimony, let him defend himself by the judgment of God."

Trial by battle was a duel in which each of the contestants appealed to heaven to give him victory. It being believed that the right would vanquish. Trial by battle though brought in by the Normans is a relic of old Teutonic jurisprudence. Noblemen fought on horseback in full armor, with sword, lance and battle-axe. Common people fought on foot with clubs. In both cases the combat was in the presence of judges and might last from sunrise until the stars appeared. Priest and women were represented by champions who fought for them.

The division of society after the Conquest remained nearly as before, except that the Saxon orders of nobility were deprived of their rank and their estates given to the Normans. In England a man, under William, was considered noble because he was a member of the National Council or in the case of the earls because they represented the king. His position did not exempt him from taxation nor did his rank descend to more than one of his children. Those are marked differences between William's nobles and those of the Continent.

DOMESDAY BOOK

At the close of the king's reign at the Great Council of the years 1085-and 1086 were ordered the Domesday survey and the Salisbury

Oath. The former was the first instance of such a national census since the time of the Roman Empire; the latter was an act of policy opposed to the whole feudal tendency of the period. They both alike show William's ambition and power.

The chronicler tells of it in length. (12) The Domesday Book was a royal survey to determine just what disposition of the land of England had been made as a result of the Conquest. The original record of this survey is still preserved in the public record office in London. William called the Great in his time and by a later age, the Conqueror met in 1085 at Gloucester with his witan; he held his court there five days. He had a great consultation and spoke very deeply with his witan concerning his land, how it was held and what were its tenantry. He then sent his officers all over England, into every shire to collect informations on oath. He caused his officers who passed from hundred to hundred in each shire questioning the delegates of each township to ascertain how many hundred hides of land it contained and what lands the king possessed therein. What castle there were in the several counties and how much revenue he ought to receive yearly from each. He also caused them to write how much land belonged to his archbishops, to his bishops, his abbots, his earls, and what property every inhabitant of all England possessed in land or in castle and how much money this was worth.

So very narrowly he caused the survey to be made that there was not a single hide nor a rood ^{land} of nor was there an ox, a cow or a pig passed by and that was not set down in the accounts. The English-

men cried out against the unheard of inquest. It is a shame, they said, to pry into each man's matters.

Then a record was made in a greatbook and on its basis William taxed everybody. The old haphazard method of rating which had been in vogue since Ethelred's days was abandoned and by a careful survey of the kingdom a business like attempt was made to get at the actual wealth and resources of each region.

It took about a year to take this Great Survey; the informations were sent to Winchester and there gone over, rearranged, and copied by the king's clerks. The result was two thick manuscript volumes which still exist just as they were written at that time. The ability to put these reports into such good shape indicates the organization of a quite efficient body of government clerks and other officials.

From this judgment there was no appeal, any more than from God's great Day of Doom and so men called it Domesday Book. From that Book we learn that the king's revenue was derived 1.- from the rents of the crown land. 2.- From the military tenants he received considerable sums known as reliefs, aids, wardship and marriages of heiresses. 3.- from escheats, forfeiture and fines paid by litigants to have their quarrel settled in the king's court. 4.- from tolls at bridges, fairs, markets and on imports and exports. 5.- finally from the revival of the Danegeld, a tax of six shillings on every hide of land under the plough.

The accounts were kept by the treasurer on tallies, or small sticks notched on opposite sides to represent different sums.

From Domesday is also learned that the king chose the chief Justice and Chancellor from among the clergy; first, because they were men of education, the barons were not, and it was a good policy not to give too

much power to any baron.

Here is an extract from Domesday to illustrate the character of the Great Record.(13) The land of Robert Malet in Suffolk. Hundred of Babenberg. Hubert holds from Robert Malet, Edwardston, which Godwin the son of AElfric held in the time of king Edward, under the king, with jurisdiction, as a manor. It is of four plowlands. The church has thirty acres of free land. At that time there were ten villains, afterwards there were nine, now there are six. At that time and afterwards there were seven bordars, now there are thirteen. At that time and afterwards there were six serfs, now there are four. Then and afterwards three plows were on the demesne, now two. Then and afterwards the men had six plows, now three, with six acres of meadow. There is wood for ten swine; there is a winter mill. At that time there were two horses in the stable, now there is one; at that time there were seventeen cattle, now eleven; at that time there were sixty swine, now thirty-seven...

SALISBURY OATH

The incompatibility of the feudal system with the existence of a strong central power had been exemplified in Normandy. The new king soon realised how much more difficult would England be to retain in Norman hands if he allowed himself to be fettered by the French system. His barons however aspired to the independence enjoyed by the counts of southern and eastern France. And why not after all William was now king; they had joined in the Conquest rather as sharers. Fortunately William was wise and wary as well as strong. He slowly substituted the

Frankish system of tenure for the Anglo-Saxon; but did not suffer that organisation of government to become formidable in his reign, though William Rufus and Henry I yielded to the great pressure.

William claimed the crown of England as the chosen heir of Edward the Confessor. The English did not admit the validity of the claim and the Normans saw its fallacy. But William maintained it consistently for there lay the justification of the conquest in the eyes of the Church and there his safeguard against a host of jealous and aggressive barons who with him achieved the Conquest.

A clause in the laws of the Conqueror forms the initial point of the feudalism of England; it directed that every free man shall affirm by covenant and oath that he will be faithful to king William within England and without; that he will join him in preserving his lands and honour with all fidelity and defend him against his enemies. The Anglo-Saxon kings had exacted a similar oath of every freeman.

In the Salisbury Oath of A.D. 1086 is seen the formal acceptance of the introduction of feudalism; it was an oath of allegiance combined with the act of homage. It was a measure of precaution against the disintegrating power of feudalism. A direct tie between the sovereign and all freeholders which no inferior relation existing between them and the mesne lords would justify them in breaking.

The fact that William deemed the passage of the act necessary shows that the feudal system had already become consolidated and that the Conqueror wanted more than mere modification of the law of tenure. The great feature of William's policy is his defeat of the disruptive tendency

of feudal institutions. He thereby obtained recognition as the king of the nation. The chronicler tells us (14) that William had ordered all but the smallest landowners to meet him on Salisbury Plain. Sixty thousand came and took a most solemn oath to support William as king, even against their own lords.

This made the English for the first time one nation. It was also a most important modification of the feudal system, for it made all landowners directly subject to the king. Then, too, William did away with the old earldoms, and his foresight in these regards prevented his nobles or barons from becoming the equals of their king, as was the case in France and Germany. Thus England in a great measure escaped the petty wars which for a century disturbed the rest of western Europe.

Although William had given a large part of the confiscated lands to his Norman barons and knights, yet he had given these only on condition of faithfulness, military service and money payments to himself. Because of these elements of power he was in a position to carry on a government vigorous, firm, assertive and even despotic, far beyond anything before known in England, and to exercise an enduring influence on the destinies of his people. This power is well shown by the Salisbury Oath.

However much William may have insisted that he was simply one of the legitimate line of English kings, his position was very different from theirs and vastly more powerful. He had in reality a threefold basis for his authority as king: he was in the first place the elected, anointed and crowned king of the English nation; secondly, he was the military conqueror of England; lastly, he was the feudal overlord of the country,

with a certain degree of proprietorship of all the landed estates of England. His ability, his energy, his directness of decision and action and his invincible determination are better seen in what he did than in anything that can be said of him.

C H A P T E R II

WILLIAM RUFUS

Lanfranc crowned William Rufus after he had promised justice, equity, mercy, peace, liberty and security to the church and would comply with his advisors counsels. William broke his pledges very often.

After the Conqueror's death the rebellious nobles drove the king's men out of the royal castles in a number of towns, introduced garrisons and supplies into these castles and their own fortified houses, and began ravaging the surrounding country. Several of the earls and many of the lesser barons, on the other hand, took the part of the king.

William's most valuable support, however, came from another quarter. He called a great gathering at London to which men of English birth of the well-to-do classes were specially invited. He promised to give them reduced taxes, freer hunting rights, and a better administration of the law, and called upon them to join him in putting down the rebellious barons. He also summoned the old fyrd of the south eastern counties. The English willingly joined the king in opposition to the Norman aristocracy, and in a short time an effective army was created. Rufus was thus able to defeat the disobedient nobles, and force them to acknowledge him. Two years later, in 1095, he had an equally hard and successful struggle with a group of the great barons who asserted a practical independence and would have dethroned him to obtain it if they could have accomplished it.

The historians describe William Rufus as a strong, fierce and arrogant man of abandoned habits, cruel, profane and avaricious.

His justiciar was, strange to say, a churchman, one of the Conqueror's Norman chaplains. By his ability, his legal sharpness and constant work he became practically head of the whole government under the king and to him were attributed many of the oppressions which made William II so unpopular. Above all it was he who made the government a device for extorting money from everybody. Ralph was rewarded by the king by being made bishop of Durham. This position was practically a great earldom as well as one of the richest offices of the church, and had already lain vacant for three and a half years.

William treated the churches as lay fees, as a result the vacancies of the churches were prolonged indefinitely. He did not treat his feudal vassals any better. A dying vassal had to pay a relief such as was demanded, it was usually as great as to equal the value of the property. He oppressed the people at large, for his exactions of reliefs, wardships, marriages and forfeitures were finally exacted from them by the vassals. He demanded the hateful Danegeld and insisted on military service.

Unlike his father, William Rufus was not a religious man. Indeed, although it was an age when almost every one expressed and probably even felt great reverence for all religious things William ridiculed such matters. When some one declared that an event was the will of God he laughed aloud; when it was proposed to pray to the saints for aid he forbade it; and when the ordeal once indicated certain men to be innocent whom he believed guilty he broke out in anger and shouted: "Who says that God is just?"

He told the Jews, who had begun to settle in England since the Conquest, that he was quite opened to conviction of the truth of their religion if they could refute the bishops in an open debate before him. When some Jews of Rouen went over to Christianity he agreed for a price offered by their friends to force them to go back to Judaism. With such views it is no wonder that the conflict on Church matters that could not be avoided even between pious kings and churchmen should have broken out with special bitterness under William Rufus.

In political matters Lanfranc showed good judgment; he selected wisely those whom he advised the king to appoint to office, and exercised his own influence over the king in the direction of moderation and good sense. In religious affairs he insisted on the supremacy of the position of the archbishop of Canterbury over all other church positions in England, even over the archbishopric of York, and thus made the church organization more centralized. He held frequent councils, sometimes of the prelates of all England and sometimes of his own archbishopric only. His superior gifts and training as an Italian and as a lawyer gave him wide influence not only over the king, the barons, and other churchmen, but over Welsh, Irish and Scotch chieftains and bishops who sent to obtain his advice or decision on difficult questions. It was he who exercised the influence necessary to have the dwelling places of the bishops removed from the villages where they had been established in early times to a large town in each diocese. So long as Lanfranc lived, William II was somewhat overawed by him and submitted to his influence. But his death

occurred two years after that of the Conqueror and left the new king with no restraint.

When bishoprics, abbacies, and other positions in the church became vacant by the death or promotion of their former holders it had been customary to fill them promptly with new appointees. In the meanwhile some one was appointed to receive the income of the office while it was vacant and to retain this for the new incumbent.

William Rufus now began the practice of keeping such positions vacant for months or even years and himself collecting and using the income. When Lanfranc died more than four years passed away before any one was appointed to the archbishopric of Canterbury, and other positions were treated in the same way. Even when appointments were made, the king had a habit of retaining some of the land which belonged to the churchmen and he frequently gave offices to those churchmen who offered him payment for the appointment.

Morals were very bad throughout the country, but the king refused to stand by the church authorities in punishing immorality, and he himself set an example of flagrant wickedness.

In these actions William met an outspoken opponent in the new archbishop of Canterbury. For in A.D.1093 Rufus was finally scared by a sudden fit of sickness into making an appointment to that position. In his illness he also reiterated his profession of good government; he had bishops make promises for him before the altar; he sealed a proclamation releasing prisoners, pardoning debts, and forgiving offences, promising good laws, but when he recovered he behaved worse than ever.

The popular voice forced Anselm, the abbot of Bec, upon him. Anselm was an Italian, like Lanfranc, and had been attracted by the fame of the latter to come to Bec in Normandy to study. Anselm happened at the time to be in England on the business of his house. The Abbot of Bec was dragged to the royal couch and the cross forced into his hands. The bishops wanted William II to make Anselm archbishop; but Anselm knowing that should the king recover, he would probably relapse into despotism, was reluctant to assume that exalted position, but he finally gave way and his predictions proved true.

During several years he was engaged in a continual contest with the king, who on getting well from his sickness refused to complete the investiture of Anselm, insisted on a contribution toward the expense of his wars which would have compelled the archbishop to overtax his tenants, and recklessly cursed Anselm when he rebuked him for his sinful life. He insulted the primate at every opportunity.

Fortunately William found himself face to face with an opponent whose meek and loving temper rose into firmness when it confronted the tyranny of the king.

There were at this period two competitors for the papacy: Clement and Urban. William, in order to enjoy the English ecclesiastical revenues the more securely, refused to acknowledge either. Anselm acknowledged Urban; and William in his rage, ordered Anselm to be tried for treason. The undaunted Anselm resisted.

After several years of such conflict, a burst of the Red King's fury drove the Archbishop from court. Anselm gave up the struggle.

and went into voluntary exile on the Continent, carrying nothing with him except his necessary clothing and the manuscript of a half finished Latin theological work, and hoping to be allowed by the pope to resign from his archbishopric and retire to his quiet scholarly life.

The Conquest had robbed the Church of all moral power as the representative of the higher interests against a brutal despotism by placing it in a position of mere dependence on the crown; and though the struggle between Rufus and the archbishop turned for the most part on points which have no direct bearing on the history of England the boldness of Anselm's attitude not only broke the tradition of ecclesiastical servitude, but infused through the nation at large a new spirit of independence. The real character of the contest appears in the Primate's answer when his remonstrances against the lawless exactions from the Church met by a demand for a present on his own promotion, and his first offer of five hundred pounds was contemptuously refused. "Treat me as a free man," Anselm replied, "and I will devote myself and all that I have to your service; but if you treat me as a slave you shall have neither me nor mine."

Anselm's example has not been lost, and the close of William's reign found a new spirit of freedom in England with which the greatest of the Conqueror's sons was glad to make terms.

The king gradually came to be very much hated by his subjects. His military abilities and energetic campaigns saved his crown and his dominions, but the heavy taxes and oppressions which they required made the people almost desperate. The government was carried on apparently

for the one object of getting money for the king's uses. His soldiers and servants were allowed by him to seize whatever they wanted from the people without any attempt at restraint. His offenses against religion and the church angered others; though, as all the contemporary historians were churchmen, no doubt they have given him a worse reputation in history than he might otherwise have had.

Eadmer, a monk of Canterbury, gives an interesting account of the accession and a glimpse at the character of William Rufus. (15)

" And so when king William was dead his son William succeeded him in the kingdom. But when he found the greatmen of the realm to be inclining towards his brother Robert, and that Lanfranc, without whose assent he was not able to attain the kingdom, was not altogether favorable to the carrying out of his desire, he feared lest the delay of his consecration would cause the loss of the honor he coveted. He therefore began both of himself and through others to promise to Lanfranc, with an oath and on his faith, that if he were king he would keep justice, mercy, and equity throughout the whole realm and in all things. But when after this he had been confirmed in his kingship, he disregarded all his promises and fell into exactly contrary ways."

When Lanfranc temperately remonstrated with him and charged him with the breaking of his agreement and his faith, he was stirred to fury. "Who is there," he said, "who can carry out all that he has promised?" From this time he could not look the archbishop in the eyes, although from some of those things to which his will summoned him he did refrain, from respect to the prelate, while he still lived.

Lanfranc indeed was a man so learned in both divine and human law, that the glances of the whole kingdom watched his face. When he departed from this life what a calamity it was to all the churches of England.

William the Red inherited much of his father's energy as well as his policy towards the conquered, but he inherited none of his moral grandeur though the sincere William of Malmesbury relates some anecdotes as proofs of noble magnanimity in the king. (16)

"As he was once engaged in hunting in a certain forest, a foreign messenger acquainted him that the city of Mans was besieged. Unprepared and with an overcast sky and a wind contrary he embarked directly. The besiegers hastily retreated when he surprised them. A certain Helias, the author of the commotion, he pardoned and immediately suffered him to escape."

His profligacy and extravagance soon exhausted the royal hoard, and the death of Lanfranc left him free to fill it at the expense of the Church. So steadily did William Rufus refused to appoint successors to the prelates whom death removed, that at the close of his reign one archbishopric, four bishoprics and eleven abbeys were without pastors.

William built at the expense of the neighbouring counties, a bridge over the Thames and the great wall at Westminster. The latter was finished the year before his death; and when he first visited it, after his return from Normandy, he replied to his flatterers, that there was nothing in its dimensions to excite their wonder, for it was only

the vestibule to the palace which he intended to raise. But in this respect he seemed to have followed, not to have created, the taste of the age. During his reign structures of unusual magnificence arose in every part of the kingdom; and the most opulent proprietors sought to distinguish themselves by the castles which they built and the monasteries which they founded.

William the Conqueror had afforested and desolated large territories for the chase. Rufus made the practice burdensome to baron and villein alike. In England it had been the right of any man to slay wild beasts on his own land. Rufus claimed this exclusive privilege for himself and those to whom he gave a special license. He forbade the harts and the boars to be killed. Like the Conqueror he set aside vast tracts of forest and indulged daily in his special sport. He established forest courts; infractions were severely punished. The penalty for killing a hart was blinding.

Unrestrained by religion, by principle or by policy, with no family to limit his greed he was a foul incarnation of selfishness in its most abhorrent form. Rufus gave to England and Christendom a pattern of absolutism.

His body with an arrow through the heart, was found in the New Forest, where he had been hunting. Who shot the arrow has always remained a mystery, though early traditions declared that he was accidentally killed by Walter Tirrel, an intimate friend and favorite courtier, who in his horror at what he had done took to flight, and died long afterwards on a pilgrimage to Jerusalem.

Rufus was hardly buried when the witan chose his brother as king. The clergy decided to accept him but even in the handful of barons who chose him there were divisions and questionings; the earl of Warwick headed the discontent.

The two great measures which followed his coronation, his grant of a charter and his marriage with Matilda, mark the new relation which was thus brought about between the people and their king. Henry's charter is important, not merely as a direct precedent for the Great Charter of John, but as the first limitation which has been imposed on the despotism established by the Conquest.

Edith, or Matilda, was the daughter of King Malcolm of Scotland and of Margaret, the sister of Eadgar Aetheling. She had been brought up in the nunnery of Romsey by its abbess, her aunt Christina, and the veil which she had taken there formed an obstacle to her union with the king which was only removed by the wisdom of Anselm.

Henry's first act was the recall of Anselm; he later made of the archbishop the first constitutional adviser of the crown. Henry was a native king; the return of Anselm and the royal marriage were earnest of what was to result from the government so claimed and so inaugurated.

The comprehensive charter of liberties he granted was published on the day of his coronation August 5, 1100. In the charter, the

abuses of the later reign are specified and forbidden for the future. The evil customs by which the Red king had enslaved and plundered are explicitly renounced in it. To the people he restores the laws of king Edward, with the Conqueror's amendments. The abuse of the rights of wardship and marriage, the despotic interference with testamentary disposition, all of which had been common in the last reign are renounced; and as a special boon to tenants by knight-service their demesne lands are freed from all demands except service in the field.

The whole nation is promised peace and good coinage. The debts due to Rufus and the murder-fines incurred before the day of coronation are forgiven. The forests however, he retained as in the Conqueror's time with the consent of the barons. Other articles provided that the benefit of the feudal concessions were not to be engrossed by the tenants-in-chief.

The principal articles of his coronation charter are the following: 1.- "Know that by the mercy of God, and by the common counsel of the barons of the whole kingdom of England, I have been crowned king of the same kingdom; and because the kingdom has been oppressed by unjust exactions, I from regard to God and from the love which I have toward you, in the first place make the holy Church of God free, so that I will neither sell nor place or rent, nor, when archbishop, or bishop, or abbot is dead, will I take anything from the domain of the church, or from its men, until a successor is installed into it. And all the evil customs by which the realm of England was unjustly oppressed will I take away, which evil customs I partly set down here."

2.-"If any of my barons, or earls, or others who hold from me shall have died, his heir shall not redeem his land as he did in the time of my brother, but shall relieve it by a just and legitimate relief. Similarly also the men of my barons shall relieve their lands from their lords by a just and legitimate relief."

3.-" And if any of the barons or other men of mine wishes to give his daughter in marriage, or his sister or niece or relation, he must speak with me about it, but I will neither take anything from him for this permission, nor forbid him to give her in marriage, unless he should wish to join her to my enemy. And if when a baron or other of mine is dead, a daughter remains as his heir, I will give her in marriage according to the judgment of my barons, along with her lands..."

4.-" If any of my barons or men shall have committed an offense, he shall not give security to the extent of forfeiture of his money, as he did in the time of my father, or of my brother, but according to the measure of the offense so shall he pay, as he would have paid from the time of my father backward, in the time of my other predecessors; so that if he shall have been convicted of treachery or of crime, he shall pay as is just."

5.-" All murders, moreover, before that day in which I was crowned king, I pardon; and those which shall be done henceforth shall be punished justly according to the law of king Edward."

6.-" The forests, by the common agreement of my barons, I have retained in my own hand, as my father held them."

7.-" The laws of King Edward I give to you again, with those

changes with which my father changed it by the counsel of his barons."

His relations with the Church.

In several countries of Europe about this period, the rising claims of the church led to conflicts with the rulers. In England this difficulty was met by Henry I in the same spirit of conciliation that has already been shown in his coronation Charter. The following is a letter to Anselm, archbishop of Canterbury, summoning him home from the exile into which he had been driven by William II, and apologizing for not postponing the coronation till his return. (17)

Henry, by the grace of God king of the English, to his most good spiritual father, Anselm, bishop of Canterbury, greeting and demonstration of all friendliness. Now, my dearest father, that my brother king William is dead, and I by God's will, having been elected by the clergy and people of England, and already consecrated king, - although, owing to your absence, against my will, - I with all the people of England, require you, as our father, that with all speed you come to take care of me, your son, and this same people, the care of whose souls had been committed to you. My own self, indeed, and the people of the whole realm of England I commend to your counsel and theirs who with you ought to take counsel for me. And I pray that it displease you not that I have received the royal blessing without you from whom, had it been possible, I would have received it more willingly than from any other. But there was such necessity, because enemies wanted to rise against me and the people which I have to govern, and so my barons and this same people did not wish it to be deferred longer. By reason of this, then, I received it

from your representatives. Indeed, I would have sent to you from my person some by whom I might have dispatched money to you, but owing to the death of my brother, the whole world is so disturbed round about the realm of England that they would not have been in any wise able to reach you safely. I advise you then and inform you not to come through Normandy, but by Witsand, and I will have my barons at Dover to meet you and money to convey you, and you will find by God's help means to pay off well anything you have borrowed. Hasten, therefore, father, to come lest our mother, the church of Canterbury, so long tempest-tossed and desolate, should any further for your sake experience the loss of souls.

Later a letter from the pope to Henry I was a warning to him not to invest bishops, abbots, or other clergymen with their offices by his own hands or those of lay officials; that power being reserved in the pope's opinion, to the clergy. But not making any mention of the king's demand that bishops and abbots should pay homage to him the pope tacitly yielded this point.

Here is an extract from Eadmer. (18)

"You have deserted the wickedness of the king your brother, which you see has been punished by a divine judgment. You have restored liberty to the churches, you have begun to venerate the leaders of the church, the bishops, and through these even Jesus Christ, himself. We trust, therefore, that you will show wisdom in these things to the end, therefore, that you will continue in the same uprightness; although there are some men of wicked intention, who are trying to prepare the royal heart for divine anger through the investitures of bishops and abbots.

Their plans ought to be avoided by you as though poisonous,

lest you offend Him through whom kings reign and the powerful decree just things. If you are favorable to Him, you will rule successfully and will have great power and riches. If you offend Him, although absent, neither the advice of the nobles, nor the aid of the soldiers, nor arms, nor riches will be able to save you when once He has turned from you. Moreover, in the honor of the Lord, in the liberty of the Church, we will hold you as a friend and helper. Do not think that any one will tear us from your friendship, if you refrain from investitures, and if you maintain the honor due the church, and its liberty founded by God.

Accordingly, by command of the Holy Spirit we forbid kings and princes even more all other laymen, from investitures of the churches. For it is not fitting that a mother should be led into slavery by the son, that she should accept a husband whom she has not desired. She has as her husband our King and Master, who in his mercy will guard you in power and uprightness and will lead you from an earthly kingdom to a heavenly. Amen."

Henry did not yield readily; artifices were employed to deceive, and the expedients suggested to mollify Anselm. At last, by the King's request, Anselm, aged and infirm as he was, undertook a journey to Italy, to lay the whole controversy before the pontiff; on his return, he received an order to remain in banishment till he should be willing to submit to the royal pleasure. The exiled retired to his friend the archbishop of Lyons, under whose hospitable roof he spent the three following years. In the interval, Henry was harassed by the entreaties of his barons and the murmurs of the people; his sister, Adela, countess of Blois, and his queen, Matilda, importuned him to be reconciled to the primate. And Pascal II, who had already excommunicated his advisers, admonished him that in a few weeks the same

sentence would be pronounced against himself. The king, not prepared to push the dispute to this extremity, discovered a willingness to relent. A compromise was reached. (19) Anselm met the king at the Abbey of Bec in the presence of a large concourse. The king agreed and ordained that henceforward no one should be invested with bishopric or abbacy in England by the giving of a pastoral staff or the ring by the king or any lay hand, for they were considered to denote spiritual jurisdiction. Anselm also agreeing that no one elected to a prelacy should be deprived of consecration to the office on the ground of homage which he should make to the king for fealty and homage were recognized as civil duties. After this decision, by the advice of Anselm and the nobles of the realm, bishops were appointed by the king, without any investiture by pastoral staff or ring, to nearly all the churches of England which had been so long widowed of their shepherds.

ENGLISH REVIVAL.

During Henry's reign the towns and particularly London took a long stride towards self-government. The king still nominated in London as elsewhere the portreeve, or magistrate of the town; nor were the citizens as yet united together in a commune or corporation. But an imperfect civic organization existed in the "wards" or quarters of the town, each governed by its own alderman and in the "gilds" or voluntary associations of merchants or traders which ensured order and mutual protection for their members. Loose as these bonds may seem, they were drawn firmly together by the older English traditions of freedom which the towns preserved. In London,

for instance, the burgesses gathered in town-mote when the bell swung out from S. Paul's to deliberate freely on their own affairs under the presidency of their alderman. Here too they mustered in arms if danger threatened the city, and delivered the city-banner to their captain to lead them against the enemy.

Few boroughs as yet attained to power such as this, but charter after charter during Henry's reign raised the townsmen of boroughs from mere traders, wholly at the mercy of their lord, into customary tenants, who had purchased their freedom by a fixed rent, regulated their own trade, and enjoyed exemption from all but their own justice.

The advance of towns which had grown up not on the royal domain but around abbey or castle was slower and more difficult. The story of S. Edmundsbury shows how gradual was the transition from pure serfage to an imperfect freedom. Much that had been plough-land in the time of the Confessor was covered with houses under the Norman rule. The building of the great abbey-church drew its craftsmen and masons to mingle with the ploughmen and reapers of the Abbot's domain. The troubles of the time helped here as elsewhere the progress of the town; serfs, fugitives from justice, the trader, and the Jew naturally sought shelter under the strong hand of S. Edmund. But the settlers were wholly at the abbot's mercy. Not a settler but was bound to pay his pence to the Abbot's treasury, to plough a rood of his land, to reap in his harvest-field, to fold his sheep in the Abbey folds, and to help bring the annual catch of eels from the Abbey waters.

Like all the greater revolutions of society, the advance from this mere serfage was a silent one; indeed its more galling instances of oppression seem to have slipped unconsciously away. Some, like the eel-

fishing,were commuted for an easy rent; others,simply disappeared. By usage, by omission,by downright forgetfulness, here by a little struggle,there by a present to a needy abbot,the town won freedom.

The moral revolution was backed by a religious revival which forms a marked feature in the reign of Henry I. Pious,learned,and energetic as the bishops of William's appointment had been,they were not Englishmen. Till the reign of Henry I no Englishman occupied an English see. In language,in manner,and in sympathy the higher clergy were completely severed from the lower priesthood and the people,and the severance went far to paralyze the constitutional influence of the Church. Anselm stood alone against Rufus, and when Anselm was gone no voice of ecclesiastical freedom broke the silence of the reign of Henry I.

But at the close of Henry's reign and throughout that of Stephen England was stirred by the first of those great religious movements which it was afterwards to experience in the preaching of the Friars, and Lollarism of Wyclif,the Reformation,the Puritan enthusiasm,and the missionary work of the Wesleys. Everywhere in town and country men banded themselves together for prayer; hermits flocked to the woods;noble and churl welcomed the austere Cistercians,a reformed outshoot of the Benedictine order,as they spread over the moors andforests of the North. A new spirit of devotion woke the slumber of the religious houses.

London took its full share in the revival;the city was proud of its religion,its convents and more than a hundred parochial churches. The new impulse changed its very aspect. In the midst of the city Bishop Richard busied himself with the vast cathedral church of S.Paul which Bishop Maurice had begun;barges came up the river with stones from Caen for the great arches that move the popular wonder, while street and lane were being

levelled to make space for its famous churchyard.

From the revival of English feeling Henry himself stood jealously aloof; but the enthusiasm which his marriage had excited enabled him to defy the claims of his brother and the disaffection of his nobles. Robert landed at Portsmouth to find himself face to face with an English army which Anselm's summons had gathered round the king; his retreat left Henry free to deal sternly with the rebel barons. Robert of Belesme, the son of Roger of Montgomery, was now their chief; but 60,000 English footmen followed the king through the rough passes which led to Shrewsbury and an early surrender alone saved Robert's life.

His downfall was regarded by the English with great delight. The cry was: Rejoice king Henry and thank the Lord God for you became a free king on the day you conquered and banished Robert of Belesme.

Master of his own realm and enriched by the confiscated lands of the revolted baronage, Henry crossed into Normandy, where the outrages of the Norman nobles forced the more peaceful classes to call the king to their aid. He added Caen and Bayeux to his possessions.

Robert was destitute alike of funds and supporters. Henry overthrew him the next year, 1103, and kept him a prisoner the rest of his life. The struggle had been to enforce obedience on those Norman barons without whose submission neither country could be at peace. The battle which was fought on Norman soil concerned the kingdom scarcely less than the duchy, and every step marked by an advance in the consolidation of the royal power, by the humiliation of some great vassal, or the resumption of some great estate.

Henry during the greatest part of his reign was in the closest alliance with the clergy and with the English people who trusted the clergy. Henry was fully awake to the impossibility of governing England with feudal machinery even clogged and fettered by the checks which the Conqueror had imposed. The faithless and selfish policy of the barons gave him the best excuse for superseding them; he gathered the reins of administrative power into his own hands and formed a strong ministerial body.

Bishop Roger of Salisbury was the prominent justiciar who helped him in every department. He guided the king in the selection of the novi homines out of which came the sheriffs of the counties, the barons of the Exchequer and the justices of the Curia Regis.

Though this class of men sometimes showed a too great zeal in carrying out the policy of their master or took the opportunity of turning their office to their own advantage they were so far an improvement on the feudal administrators that they were not too strong to be brought to justice.

The amount of taxation was not burdensome by its weight as by its regular and inevitable incidence. The Peterborough chronicler says: "The year A.D. 1103 was a year of much distress from the manifold taxes." In 1105 "The manifold taxes never ceased." In 1118 "This was a year of much distress from the taxes which the king raised for his daughter's dowry." There was much truth in the representations. Bad harvest and stormy seasons increased no doubt the distress. The Englishmen as a consolation could say that England had been saved from the ravages of wars and that

the money raised was devoted to the humiliation of the common enemies of king and people. The Chronicler confessed "that he was a good man and great was the awe of him, he made peace for men and deer." (20)

Ordericus (21) gives a favorable account of him: "He governed with a strong hand the duchy of Normandy and the kingdom of England and to the end of his life always studied peace; he never fell away from his first strength and sternness of justice. He overpowered the foremost counts and audacious tyrants. The mean people he at all times kindly cherished and protected. From the eighth year of his reign, in which he acquired hold on power on both sides of the sea, he always sought peace for the natives under him and rigidly punished with austere measures the transgressors of his laws."

Inflexible in the rigour of justice, he kept his native people in quiet and his barons according to their deserts. He was a strong ruler with a clear view of his own interests, methodical and far-sighted. By enforcing order he paved the way for law. Henry's religious policy was the same as that of his father. The clergy stood by the king in his struggle with the feudatories and rejoiced in his victories. His love of order led him to admit the canonical rights of the chapters of the churches, the synodical powers of the clergy. He conceded the canonical elections of the bishops as long as the election was held in his court. Councils could be held at the archbishop's desire provided he agreed. A legate needed a royal licence to visit England. There were still cases where his favour was purchased by a direct payment; however, those Simoniacal practices were not yet regarded as immoral in the secular service of the state. Certain of his mastery he found his interest in using the clergy and in treating his people

kindly.

Loss of Henry'sson.

William, after a long delay, ordered Fitz-Stephen to follow his father. Immediately every sail was unfurled, every oar was plied; but amid the music and revelling, the care of the helm was neglected, and the "White Ship", carried away by the current, suddenly struck against a rock. The occupants were swallowed by the sea. It was not till the morning when the fatal news reached the king. He fell to the ground unconscious. His grief gradually subsided into a settled melancholy and it is said, that from that day he was never observed to smile.

Henry was naturally suspicious, and his disposition has been greatly encouraged by his knowledge of the clandestine attempts of his enemies. On one occasion the keeper of his treasures was convicted of a design on his life; on another, while he was marching in the midst of his army towards Wales, an arrow from an unknown hand struck him on the breast, but was repelled by the temper of his cuirass. Alarmed by these incidents, he always kept on his guard, frequently changed his apartments, and when he retired to rest, ordered sentinels to be stationed at the door, and his sword and shield to be placed near his pillow.

The suspicious are generally dissembling and revengeful. Henry seldom forgot an injury, though he would disguise his enmity under the mask of friendship. Fraud, treachery, and violence were employed to ensnare those who had greatly offended him; and their usual portion was death, blindness, or perpetual imprisonment.

His dissimulation was so well known, that he was mistrusted even by his favourites. When Bloet, bishop of Lincoln, who had for many years been one of his principal justiciars, was told that the king had

spoken of him in terms of the highest commendation; "Then," he replied, "I am undone, for I never knew him praise a man whom he did not intend to ruin." The events justified his apprehensions. The prelate had boasted that the monastery, which he was building at Eynesham, should equal that which Henry had founded at Reading. The words were carried out to the king who deprived him of the office of justiciar; vexatious prosecutions were commenced against him; by fines and extortions all his wealth was drawn to the royal exchequer; and the bishop would probably have been compelled to resign his dignity had he not died of a sudden stroke of apoplexy while speaking to Henry.

Malmesbury has allotted to the king the praise of temperance and continency. Perhaps his claim to these rests on no other ground than the partiality of his panegyrist.

His principal ministers were Roger, bishop of Salisbury, and Robert, earl of Mellent. Roger was appointed grand justiciar of the kingdom. On the plea that the two offices were incompatible with each other, he declined the latter, till his scruples were removed by the joint authority of the pontiff and the metropolitan. To his episcopal duties he devoted the more early part of the day; the remainder was given to the affairs of the state. And, it is no weak argument of his merit, that though he was many years the minister of a rapacious monarch, he never incurred the hatred of the people. While the internal administration was confided to this prelate the department of foreign politics exercised the abilities of the earl of Mellent. He attended the king in all his expeditions into Normandy, and acquired the reputation of being the first statesman in Europe.

These two ministers, as well as every other officer trusted the
king, were foreigners. He felt no gratitude for the services, and held

in no estimation the abilities of his native subjects. If in the hour of danger he appealed to their fidelity, during the time of prosperity he treated them with the most marked contempt. They were carefully excluded from every office of power or emolument, whether in church or state. The most slender recommendation was sufficient to qualify a stranger, were he Italian, French or Norman; no services, no talents could expiate in an Englishman the original sin of his nativity.

The vigorous administration of Henry I completed in fullest detail the system of government which the Conqueror had sketched. The vast estates which had fallen to the crown through revolt and forfeiture were granted out to new men dependent on royal favour. On the ruins of the great feudatories whom he had crushed the king built up a class of lesser nobles whom the older barons of the Conquest looked down upon in scorn but who formed a counterbalancing force and furnished a class of useful administrators whom Henry employed as his sheriffs and judges.

A new organization of justice and finance bound the kingdom together under the royal administration. The clerks of the Royal Chapel were formed into a body of secretaries of royal ministers, whose head bore the title of Chancellor. Above them stood the Justiciar, or lieutenant-general of the kingdom, who in the frequent absence of the king acted as Regent, and whose staff, selected from the barons connected with the royal household, were formed into a Supreme Court of the realm. The King's Court, as this was called, permanently represented the whole court of royal vassals which had hitherto been summoned thrice in the year.

As the royal council, it revised and registered laws, and its "counsel and consent", though merely formal, preserved the principle of the older pop-

ular legislation. As the court of justice it formed the highest court of appeal; it could call up any suit from a lower tribunal on the application of a suitor. The union of several sheriffdoms under some of its members connected it closely with the local courts. As a financial body, its chief work lay in the assessment and collection of the revenue. In this capacity it took the name of the Court of Exchequer from the chequered table, much like a chess-board, at which it sat, and on which accounts were rendered. In their financial capacity its justices became "barons of the Exchequer". Twice a year the sheriff of each county appeared before these barons and rendered the sum of a fixed rent from the royal domains, the Danegeld, the fines of the local courts, and the feudal aids from the baronial estates. Local disputes respecting these payments or the assessment of the town-rents were settled by a detachment of barons from the court who made the circuit of the shires, and whose fiscal visitations led to the judicial visitations the "Judges' circuits". (I come back to these later)

The death of Henry I like that of William Rufus took both Normandy and England by surprise. After Henry's death, his successor found in the exchequer, besides the plates and gems collected by Henry and his two predecessors, one hundred thousand pounds of pennies all of just weight, and of pure silver. So much wealth had enabled him to indulge his taste for architecture; and while the castles which he raised on the borders of Wales contributed to the protection of the country, by repairing or rebuilding most of the royal palaces, he provided for the comfort and splendour of himself and his successors.

But his religious foundations principally displayed his magnificence: these were, three monasteries, two for regular canons at Chichester and Dunstable and one for Benedictine monks, situated at Reading, near the

conflux of the Thames and the Kennet.

With Henry closed the long peace of the Norman rule. An outburst of anarchy followed on the new of his departure, and in the midst of the turmoil, earl Stephen, his nephew, appeared at the gates of London.

C H A P T E R I V S T E P H E N (1135-1154)

Stephen was a son of the Conqueror's daughter Adela, who had married a Count of Blois; he had been brought up at the English court.

The character of Stephen has been drawn up by his adversaries as well as by his partisans; and, if there be some difference in the colouring, the outlines of the two pictures are perfectly similar. It is admitted, that he was prompt in decision and bold in action; that his friends applauded his generosity, and his enemies admired his forbearance; that he won the high by courtesy, the low by condescension all by his affability and benevolence.

Stephen made promises of a good government. He undertook to allow the canonical election of the bishops and not to prolong vacancies, to give up the abuses of the forest jurisdiction and to abolish the Danegeld. If a charter embodied those promises it was lost. Stephen made other concessions, the privileges of which were chiefly ecclesiastical. Simony was forbidden; the property, dignities and customs of the churches are confirmed as they were in the days of the Conqueror. The jurisdiction over ecclesiastics was left in the hands of the bishops. He disclaimed all interference in the testamentary dispositions of the clergy and in the ad-

ministration of vacant churches. He surrendered the forests made in the last reign; he promised peace and justice and undertook to extirpate all exactions and injustice, whether introduced by the sheriffs or others. But Stephen kept none of his promises.

Robert, Matilda's supporter, was aided by his personal popularity. Mere swordsman as he was his good-humour, his generosity, his very prodigality made him a favorite with all. No noble however had as yet ventured to join him, nor had any town opened its gates when London poured out to meet him with uproarious welcome. Neither barons nor prelates were present to constitute a National Council, but the great city did not hesitate to take their place. The voice of her citizens had long been accepted as representative of the popular assent in the election of a king; but it marks the progress of English independence under Henry that London now claimed of itself the right of election. Undismayed by the absence of the hereditary counsellors of the crown, its "Aldermen and wise folk gathered together the folkmoot, and these providing at their own will for the good of the realm, unanimously resolved to choose a king." The solemn deliberation ended in the choice of Stephen; the citizens swore to defend the king with money and blood.

If London was true to her oath, Stephen was false to his. The nineteen years of his reign are years of misrule and disorder unknown elsewhere in English history. Stephen had been acknowledged even by the partisans of Matilda, but his weakness and prodigality soon gave room to feudal revolt.

Stephen was a brave man with military experience but had neither

a strong will nor a clear head. A false report of his death produced a general rising. Hugh Bigod and Baldwin of Redvers opened the hostilities; the king easily subdued them. The successes led him to forget his engagements. The forest assize he held at Brampton proved that he did not care much for his promises. In 1137 he reached his peak when he was victorious in Normandy. Then the clouds gathered; the feudal instinct again prevailed. He worked against himself when he allowed the great vassals to fortify their houses and build castles where they exercised without limitation all the tyrannical privileges which the feudal example of France suggested. (22)

The chronicler tells about the disorder that prevailed. (23) When the traitors perceived that Stephen was a soft and mild man and that he did not enforce justice, they all wondered. They had done homage to him, and sworn oaths, but they kept no faith; all became forsworn and broke their allegiance, for every rich man built his castles and defended them against him. They filled the land full of castles. They greatly oppressed the wretched people by making them work at these castles, and when the castles were finished they filled them with devils and evil men.

They then took those whom they suspected to have any goods by night and by day, seizing both men and women, and they put them in prison for their gold and silver, and tortured them with pains unspeakable, for never were any martyrs tormented as these were. They hung some up by their feet and smoked them with foul smoke, some by their thumbs or by the head; and they hung burning things at their feet. They put a knotted string about their heads, and twisted it till it went into the brain. Many thousands they exhausted with hunger. And this state of things lasted 19 years that Stephen

was king, and ever grew worse and worse. They were continually levying an exaction from the towns; they called the unlawful tax "tenserie", and when the miserable inhabitants had no more to give, they plundered them and burnt all the towns.

At length they spared neither church nor churchyard, but they took all that was valuable therein, and then burned the church. Neither did they spare the monks and the clergy, and every man plundered his neighbor as much as he could.

If two or three men came riding to a town, all the township fled before them, and thought that they were robbers. The bishops and clergy were ever cursing them but this to them was nothing, for they were all accursed, forsworn and reprobate. The earth yielded no corn; you might as well have tilled the sea, for the land was all ruined by such deeds, and it was said openly that Christ and his saints slept.

Geoffrey de Mandeville, earl of Essex, might be taken as a type of those lawless nobles of the time of Stephen. (24) (Seizure of Ramsey Abbey) Geoffrey de Mandeville collected a band of outlaws and attacked the monastery of Ramsey; nor did he fear, after he had driven forth the monks to make an abode for the devil. From there he terrorized the neighboring shires by frequent sallies and raids. God seemed to be asleep, and not to be watching over human affairs, or, rather, over his ecclesiastical matters.

More and more the realm slipped from Stephen's grasp. The great prelates and nobles who had acted as ministers to the late king fortified their castle in self defence against the barons. Roger, Bishop of Salisbury, the Justiciar, and his son Roger the Chancellor, were carried away by the panic.

They fortified their castles, and appeared at court followed by a strong force at their back. The weak violence of the king's temper suddenly broke out. He seized Roger with his son the Chancellor and his nephew the Bishop of Lincoln at Oxford, and forced them to surrender their strongholds. Shame broke the justiciar's heart; he died at the close of the year, and his nephew Nigel of Ely, the treasurer, was driven from the realm. The fall of Roger's house shattered the whole system of government.

The king's violence, while it cost him the support of the clergy, opened the way for Matilda's landing in England. And the country was soon divided between the adherents of the two rivals, the West supporting Matilda, London and the East Stephen.

From then on the king was alternately a prisoner and a conqueror. The barons were in earnest only for their own interests; they cared little either for the king or the empress. The solemn courts were given up, the treasure was spent. Stephen debased the coinage and there was no peace in the realm. The king was powerless. Both the king and the empress allowed their supporters every sort of licence for fear of losing them. The state of thing lasted nineteen years; the parties fought with alternate fortune.

The struggle that devastated England is redeemed by scarcely any examples of loyalty or personal heroism. Neither party was strong enough to achieve a decision. A futile negotiation was taken up in 1140. Stephen in 1141 was taken prisoner by the earls of Chester and Gloucester at Lincoln, while Matilda was received throughout the land as its Lady. The empress had hardly taken the rein of power that she offended her most powerful friends. The disdain with which she repulsed the claim of London to the enjoyment of its older privileges called its burghers to arms, and her re-

solve to hold Stephen a prisoner roused his party again to life. Flying to Oxford, she was besieged there and crossing the river unobserved on the ice, made her way to Abingdon and earl Robert was made prisoner. The war in fact became a mere chaos of pillage and bloodshed. The outrages of the feudal baronage showed from what horrors the rule of the Normans had saved England.

Stephen's fortune improved now and then and it was a wearisome story of tergiversation and selfish intrigues. The storm subsided gradually at the death of Innocent II. The exhaustion of both sides also caused a breathing. A series of ecclesiastical disputes diverted the attention of the bishops from politics; Theobald, at length, found a solution.

In 1152 Thomas, Theobald's agent, invited Henry to appear in England, and on the duke's landing the Archbishop interposed between the rival claimants to the throne. A treaty was signed at Westminster following the negotiations of Wallingford, in which Henry yielded the present possession of the throne upon the promise of succession. With Henry, Stephen schemed a plan of reform.

Order was restored; the king resumed the royal rights usurped by the barons. Many estates seized by intruders were returned to their lawful owners. Eleven hundred unlicensed castles had to be destroyed. The clergy would have peace and be freed from unduly taxes. The sheriff was to become the important man of before; the armed forces were to be disbanded. Disorder had prevailed 17 years and Stephen had performed his laborious task very incompletely when he died in 1154. He left the throne to the great sovereign who succeeded him.

The reign of Stephen is one of the most important of the whole Norman period. It was a period of unprecedented general misery and an im-

pressive lesson to foreign countries. The comparative rarity of notices concerning the social life of the reign makes all minute conclusion concerning the material growth of the nation very improbable. Talking of those twenty years of anarchy historians underline the feudal usurpations and oppressions. The Norman period closed with the accession of Henry II. He had the power of combining and adapting; blending the old and new system of government, he framed a system that had the character of a new creation.

C H A P T E R V

THE ADMINISTRATIVE SYSTEM OF THE NORMANS

The Norman period was the epoch of the growth of a new administrative system having the source of its strength in the royal power. Under the new system the position of the king was prominent; from the throne radiated all power: the household, court, and the council of the king. The king was the head of the nation, the lord paramount of the land. No force could control him, he was a despot. The power of the Norman king would have lasted had they had an hereditary successor. The crown continued to be elective; the candidate prior to the coronation pledged a good government by an oath given in the form of charters. Henry I's and Stephen's only have been preserved. That of the Conqueror is a fabrication of the 13th century.

The theory of deposition for neglect to fulfill the oath was accepted. The captivity of Stephen was interpreted as a sentence of the judgment of God. A neglect of the solemn promises of good government caused

that Matilda had many supporters.

William evaded both the elective principle and the right of inheritance; yet at his death he willed that his eldest son, Robert, should be duke of Normandy; the next son, William, king of England; and the third, Henry, a mere boy, should be given a certain sum of money. His daughter, Adela, was already married to Stephen, count of Blois, a French province.

The arrangements made by William Rufus and duke Robert at Caen in A.D. 1091 that each should be heir to the other in case of dying childless shows that England was not materially distinguished from Normandy where hereditary succession was established by the precedents of many generations. Henry I took measures to have his son recognized as his successor; in A.D. 1116 in the great Council of Salisbury homage was done. The Council of the kingdom in 1127 at London swore to the following: that if the king had no male heir the empress should be maintained in possession of the realm of England.

The queen played a considerable part in the history of their husbands reigns; they acted occasionally as regents or guardians of the kingdom in the absence of the king and with authority which, if it did not supersede that of the justiciar had at least an honorary precedence. They had considerable estates that they governed through their own officers; they had their own chancellors. Stephen's queen negotiated and commanded during his captivity and so far maintained the party of her husband that it fell to pieces at her death.

The heirs were given no definite guarantee of succession: a daughter was dowered with treasure. The king favored his kinsmen with land. The rebellion of Robert against the Conqueror proved that the heir's position was insecure.

THE KING'S OFFICIALS

Several of the great nobles held hereditary offices of high honor. These were the marshal, steward, constable and butler. These offices, however, were largely honorary, with few duties or powers. The actual work of the government was done by a number of ministers or officials who were chosen by the king not from the great noble families but from the lower baronage, or else were churchmen of no especial rank or position. The officials of the household were overshadowed by the four great officers of State, the Chancellor, the Justiciar, the Chamberlain and the Treasurer.

These great officers form the first circle round the throne. They were in constant attendance on the king; they gave him information. As an administrative body they managed the assessment and collection of the crown revenues. The lines that separate the duties of each to the crown and their functions as administrators are hard to be drawn.

Constitutional writers all agree on the fact that the growth of importance of justiciarship is amazing. At first they exercised a vice-royalty during the king's absence from England. William Fitz-Osbern and Odo of Bayeux acted in this capacity during the Conqueror's visit to the Continent in 1067. In 1074 when the king was again in Normandy William of Varenne and Richard of Bienfaite were left in charge of England.

Ordericus gives them the title of "praecipui Angliae justitiarum". Those persons were vice-regents. There is no evidence to show that they held such position during the king's presence in England. William Rufus extended largely the functions of the confidential minister. It first became permanent and included the direction of the whole judicial and finan-

cial arrangements of the kingdom. The warrior king had no ability to govern. To his uncle Odo and William of Carleph according to Malmesbury (25) he gave the title of justiciar.

Ranulf Flambard is the first consolidator of the function of the office of chief adviser, he most likely had a share in the work of the Domesday survey. (26)

Roger, bishop of Salisbury also held the office. He was a poor priest who attracted Henry's notice. He was consecrated to the see of Salisbury when Henry had reconciled with Anselm after the investiture quarrel had abated. He ^{was} then invested with the power of the justiciar. (27) He guided the careful organization of the jurisdiction of the Curia Regis and Exchequer. He earned the title of Sword of Righteousness. He is the 1st justiciar who is called "secundus a rege".

That office had to develop in England for unlike Normandy which was a small territory from which the duke never departed, England could not have her king toreside permanently. Moreover the amount of public business was increasing rapidly and there was utmost importance to avoid the creation of hereditary jurisdictions. A new system had to be devised. So the country needed a representative of the king in all capacities lieutenant in his absence, chief agent in his presence, prime minister in legal, financial and even military affairs. That clerics under the Norman rule were justiciars is not surprising for their spiritual profession prevented them from founding a family of nobles or withdrawing from the crown the powers which he had been commissioned to sustain.

C H A N C E L L O R : The Karolingians had chancellors; the title appeared in history much earlier than that of justiciar. The position was held by an

ecclesiastic who was a member of the royal household and on a footing equal to that of the great dignitaries. He was the most dignified of the royal chaplains and keeper of the royal accounts under the treasurer and justiciar. He directed the drawing up and sealing of the royal writs and the conducting of the king's correspondence. He was the secretary of state for all departments. He was rewarded for his services with a bishopric. He could not retain his office after his consecration.

TREASURER

He was the keeper of the royal treasury preserved at Winchester. At Westminster he received the accounts of the sheriffs. However, like the chancellor it falls far below the first rank of ministerial dignities.

The chamberlain was another financial officer, rather accountant than treasurer. He was only less important than the justiciar in the judicial work of the country. Those officers together with the butler, steward, constable and marshal complete the machinery of the household.

The justiciar eclipsed the steward. The constable was the quarter master-general of the court and army. The marshal's functions are scarcely distinguished from those of the constable. Late in the period, many vassals called themselves the king's constables; it probably comes from the fact that the contending parties of the age of Stephen lavished gifts of honour and titles to retain their fickle partisans. The power of the officers was extended by continual encroachments. Each dignitary of the household was a member of the Curia Regis, and Exchequer. Those officers had a staff over which they exercised judicature and discipline. (28) Their authority covered all offence arising in the department they managed. Their courts were regarded as exceptions to the common law which

the justiciar and his subordinates administered.

ADMINISTRATIVE BODIES

The Great Council.

The witenagemot under William kept its earlier character; bishops and abbots attended thereby giving that body all characteristics of official wisdom and virtue. The officers of State and the Norman baronage also attended. It was a court rather than a council. The feudal qualifications of its members are not known, and probably that before Henry II not all the tenants-in-chief of the crown were members of the assembly. The king undoubtedly admitted to participate in the deliberations such men as he saw fit; a Roman legate, Norman prelates who had lands in England, lawyers, and monks are known to have attended.

The ancient council thus survived in the Great Council; but the occasional and spasmodic gatherings called in time of impending calamity now passed into regular courts. Here the king who wore his crown, like the kings of the previous period met his grandees, the archbishops, suffragan bishops, abbots, earls, thanes and knights. The Great Council was further known as the Curia Regis.

The Council was composed mostly of Normans; they were courtiers holding their lands of the king and summoned much more for a pompous display than for political business. According to the chronicler (29) the king took advice of this court.

In 1086 at the great council of Salisbury all landowners had to be present or send ^{their} excuses by the sheriffs. Therefore only the high-

est class was called on to treat of the highest matters. The people could but hear and obey.

The bishops played in the Council the part they had played before the Norman period. The archbishop of Canterbury was still the 1st constitutional adviser of the crown. It is easily understood by examining either Lanfranc or Anselm's influence. At its best the relations of the archbishops to the Norman kings were hazardous and depended far more on personal than on legal consideration. The fact that William Rufus had to yield to the archbishop proved his constitutional influence.

The assemblies were not frequent; three sessions a year. A magnificent hospitality was accorded to all comers. The Conqueror's sons observed a similar usage whenever and wherever they pleased. Many were held at their forest palaces in Wiltshire and Berkshire. Henry I held councils at Windsor, Rockingham, Woodstock, Oxford and Northampton. When Stephen abandoned those solemn courts it was a fatal mark of national decline.

The powers of the assembly were those of the old witenagemot; but the king controlled that power. There isn't any trace of their independence. William said he acted with their counsel and consent. (30) Henry I says he received the crown by the counsel of the barons. (31) Stephen asserted his election by the clergy and the people but nowhere is the share of the council in the acts distinctly declared. The penalties for false coining declared by Henry I are drawn in the form of edicts where the name of the council is omitted.

The rights of the council to join in taxation is nowhere distinctly stated. It is likely that the king would lay before his barons any plans for increasing the existing burdens. The council took part in frequent judicial proceedings but how free were they? It cannot be asserted. The judicial sentences that condemned the earls Waltheof and Roger were pronounced at a session of the king's court; Durham likewise was tried in 1088. In 1102 Henry I summoned Robert of Belesme to his court where forty-five articles of treason were brought against him, (32) and other cases can be adduced.

The barons acted as judges apparently but the king's sentence prevailed. It was on the counsel of Hugh of Chester that William of Eu suffered mutilation. (33) The Council has asked William Rufus to show mercy; he spared minor criminals. (34) Matters of civil jurisdiction were sometimes submitted to the judgment of the experienced lawyers of the Curia or of the Exchequer. The Council of Pedreda under the Conqueror determined a suit between the churches of York and Worcester. (35)

Most records show that the councils headed business, nominated the bishops, until Henry I yielded to the canonical election, even then the king's court conferred earldoms and knighthood. The council had the right to choose the king. That claim was put forward at the election of the empress and in the rejection of Stephen's heir.

The clergy was then strong; its questions were treated by the secular councils with reserve. In 1108 the canons of the church council at London passed in the presence of the king and assent of the barons. In 1127 Henry gave his assent to the statutes the churchmen passed and confirmed them with his royal power and authority. (36) Henry had had the

office of legate for his primate just back from Rome.

It is practically impossible to draw a line of separation between the powers of the Councils and those of the Exchequer and Curia Regis. The development of the system is obscure.

It is inferred from Domesday that there existed a centralized system of finance, a treasury and a complete staff. Its origin is doubted; it can have originated either in England or in Normandy, both conjectures are defended.

Under the Conqueror and Rufus the term Curia meant the solemn court that met thrice a year or on particular summons. Under Henry I the Curia Regis was presided by the king or the justiciar and offered distinct traces of a judicial system. It was the supreme tribunal of judicature; it was a perpetual committee of the national council; it was the court of the king sitting to administer justice with the advice of his counsellors. Under its widest acceptance it included the tenants-in-chief; most often it was limited to the great officers of the household and to the judges. The officers of the household did not have in the Curia definite seats and functions which they held in the Exchequer.

The business of the Curia consisted largely of the cases in which the king's interests were concerned, or incases brought up by way of appeal when the suitors who could afford it failed to obtain justice in the popular courts. In these particulars it succeeded to the royal jurisdiction of the Anglo-Saxons. The disputes arising between the tenants-in-chief of the Crown were referred to the king's court for those Norman lords were too strong to submit to the justice of any shire or hundred. The Curia Regis issued writs of direct inquiry covering the right

to the land, the obligations of tenure and the legitimacy of the heirs. It enforced the local justice. The Curia was some kind of ministry of justice; it reviewed the judicial action of the county sheriffs' accounts to the provincial judicature.

The EXCHEQUER COURT in which the whole financial business was transacted depended on the fiscal officers' review. Under the Anglo-Saxon kings the taxes were collected by the sheriffs or other reeves, and brought to the treasury of the palace.

The officers of the Exchequer were the four great officers of the household: the justiciar, the chancellor, the constable and chamberlain. The marshal, treasurer and steward together with other counsellors, were present. The barons of the Exchequer were chosen by the king: among these numbered the judges of the Curia Regis.

Twice a year at Easter and Michaelmas full sessions were held at Westminster palace. Barons came with their clerks and servants, places were assigned and duties distributed. Two chambers were used to transact business: the upper one (Exchequer of account) received the reports, the negotiations carried on and recorded the places assigned and the duties of each; the lower one, (Exchequer of receipt) where the money was paid, weighed and tested.

Both the treasurer and the chancellor received a duplicate of the accounts: they were known as the Pipe Roll and Roll of the Chancery. The sheriffs made financial reports of the counties to the Barons at Easter and Michaelmas and paid into the Exchequer an installment keeping only a sufficient sum to cover the current expenses. In token of receipt a tally was made; at Michaelmas the tallies were produced and the

remainder of the accounts made up.

The particulars accounted for by the sheriff were 1.- The firma composed by profits made by ancient claims of the king to the land and by the judicial proceedings; the rent of detached pieces of demesne land; the payments of corporate bodies for primitive gifts, and the fines from county courts. The sheriffs were asked a global sum yearly. Before rendering his account the sheriff discharged the king's debts in the shire, paid the royal benefactions to religious houses and saw to the maintenance of the stock crown lands. He also refunded for the expenses of public business, for the cost of provisions supplied to the court, and covered the travelling expenses, that the king and his visitors incurred within his district.

2.- The Danegeld was also accounted for. It had now the character of a ordinary revenue as the result of the great survey. It was compounded for by the sheriff at a fixed sum. William had increased it in 1084 and trebled the sum later; it was finally six shillings per hide of geldable land. Monasteries benefited of immunities in most cases. Persons working for the king were exempted; but that was a plea on which the sheriff profited. Stephen abolished most of these concessions. Henry II abolished the danegeld but substituted new taxes to make up for the lost.

3.- The proceeds of pleas referred to the crown and of fines for trial by the sheriff or from the ordinary operation of the shire were accounted for. Most important of these were the murdrum which was a fine payable by the hundred in which a murder had taken place,

and the amercement: a fine for non appearance in court and breach to the forest laws.

4.- The feudal income under the different heads of reliefs, aids, wardships and marriages of heiresses, escheats, etc. were paid. The payments received from the sale of public offices were disbursed on that occasion. Whether the king retained the lands or gave them to some of his favorites, they always brought money into the exchequer.

Litigants who had their quarrels settled in the king's court paid fines. Tolls were levied at bridges, fairs, and markets. There existed certain customs on some exports and imports. The king was also entitled to receive fees, rents and tallages from the inhabitants of the boroughs and ports.

The Forest laws of William were severe and cruel. Under Henry I the fines exacted for justice formed a considerable item in the accounts. The offices of dapifer, marshal, chancellor and treasurer were salable.

Henry I gross amount of the revenue amounted to £ 66,000 for the year. Under Stephen the machinery of government became ruinous to the state. The Domesday survey as ordered by William recorded not only the actual revenue but was a rate-book of valuation of all the land in the kingdom, That measure designed to fix and make available the hold of the Conqueror on his conquered people was but the first step in a continuous process. As early as William Rufus the questions of assessment were referred to the crown on reports from the county courts. Under Henry I the assessment and levying of taxes was a portion of the duty of the justices. The creation of itinerant judges trans-

acted the business of the Exchequer in each shire; it boosted the king's treasure considerably.

COUNTY COURTS

These existed throughout the reigns of the Conqueror and William Rufus as they existed in preceding reigns. (37) Their existence is proved by writs addressed to the sheriffs. The lords of the land and the stewards attended. From each township the reeve, four men and a parish priest met twice a year under the sheriff's presidency. In these, criminal and civil jurisdiction were administered as before the Conquest. The only differences were the pleas referred to the Crown, and the interference of royal writs.

The reluctance of the suitors to attend the shire-moot comes from the fact that the sheriffs used that occasion to raise sums of money. Henry I caused those courts to be summoned for his own necessities and pleasure; it helped, for it deprived the sheriffs of wanton exactions.

What is true of the shire-moot existed in the hundred-moot. The reluctance to attend it is proved by the entries of penalties in the Pipe Roll. The laws of Henry I attest the existence of that court.

The manorial courts formed a judicial organ. The lord's judicial rights varied with the terms of the grants by which he was infeofed. The Court-baron or Hall-moot would correspond to the ancient gemot of the township, by-laws were made and local business transacted. In these courts the customary business of the villenage was dispatched.

The manor possessed the rights of sac and soc; it had a criminal jurisdiction. All suitors who attended it were excused from going to the court of the hundred. The lord's tenants were not bound to attend the

sheriff's court. The manorial courts attracted the poorer freemen thereby decreasing the profits of the hundred and of the shire, and by the fact impoverishing the crown.

The abuse of judicial powers by mostly all those who exercised it became tyrannical and resulted in the anarchy that prevailed during Stephen's reign. It was not a small triumph when Henry II had everyone admit the itinerant justices. In these were applied the same principles of procedure as existed in the popular courts: compurgation, ordeal, trial by battle and fines imposed for non attendance. It was a whole accumulation of the ancient customs and of the Norman novelties.

The demesne estates of the crown were subject to the absolute will of the king outside the common law of the kingdom. A commission of special officials, laws and customs to take care of the royal forests existed for over two hundred years. All of William's sons promised to redress the harsh code; yet no change occurred. William's New Forest was a wanton sacrifice of all popular rights; his posterity accursed the whole frame up.

Both William Rufus and Henry I obtained the consent of the barons to retain the forests of their father. Stephen was compelled to resign the forests made by Henry I but he did not keep his engagement. (38)

The forest law ascribed to Henry I and William Rufus shared traits of bloody cruelty. Mutilation and the capital punishment which could not be redeemed by any forfeiture form the principal feature of the tyrannical code. The stringency of the law and the severity of its execution caused a national complaint. To maintain a system so abhorrent to the nation at large it involved the existence of a large staff of

officers and a fabric of local judicature. The Master of the Forests of England seems independent of the great Justiciar. The courts of the forest staff stood side by side with the courts of law.

TITLES

William was not prodigal of earlships, in fact, he bestowed the title on but twelve of his barons. The earls he appointed in the early days of his reign were successors of the English magistrates of the same name. That was the case of William Fitz-Osbern and of Ralph Guader, of Edwin Morcar and Waltheof. The others were counts only.

Though the Conqueror bestowed the title sparingly, his successors lavished it more freely. William Rufus conferred the title on Henry of Beaumont (Warwick), Robert Mowbray (Northumberland), William of Warenne (Surrey) (39) and to his illegitimate son (Gloucester). Stephen to strengthen his party created more earls. Matilda adopted the same expedient. Stephen made Hugh Bigot (Norfolk) Geoffrey de Mandeville (Essex), and moreover the earldoms of Hertford, Yorkshire, Derby, Pembroke and Bedford. The empress created those of Salisbury, Hereford, Somerset and Cambridge.

The dignity of earl conferred a special investiture which included the girding of the sword of the county by the king himself. The relief of the earl was higher than that of the simple baron, his possessions were more considerable. The judicature of the earl was sometimes exercised over all the land (save the bishop's) in the shire; in some cases it involved the hereditary sheriffship; (40) in rare instances it superseded the royal rights of jurisdiction, as in Chester's case. (41)

The earl had his court of barons and the writs ran in his name.

The bishopric of Durham and the earldom of Kent are said by Ord. to have been conferred as palatine earldoms. They had all the powers of a viceroy. The successive wars that were fought during the Norman period gradually reduced those great territorial jurisdictions into merely titular dignities.

The dignity of the earl was not hereditary but the heir acquired the formal rank when he was invested, although he might obtain possession of the lands and share the profits.

BARON

The title only was a creation of the conquest. The word is a synonym of homo and the homines of the king are his barons. Most likely the Anglo-Saxon king's thegn answers to the Norman baron. The term is indefinite, at first it meant nothing more than the idea of royal vassal or tenant-in-chief. All the barons did not share the same wealth and honor; so there existed the majores and the minores, which appear in Magna Carta. They varied with personal qualifications, in official duties and in extent of property.

His territorial jurisdiction was of a limited sort. As lord of his manors he had a court of tenants in each; he might have counsellors, stewards, chamberlains and constables.

KNIGHT

It was the lowest class of tenants-in-chief represented in the royal council. It was not a Norman innovation; the knight succeeded the thegn. The practice of dubbing to knighthood may have had a corresponding usage in Anglo-Saxon times. (42) William himself was knighted by the king of France. Chivalry, in fact, had sprung in all the countries of Europe.

Starting with the Conqueror the ceremony had somewhat of the character of a religious as well as of a legal rite. William Rufus is said to have been knighted by Lanfranc, (43) and Henry I by his father. (44)

The dignity of knighthood was often bestowed on a skillful warrior who had no qualification in land. Of the great fraternity of chivalry only those who were vassals of the king were entitled to take their place in the solemn Council. They were occasionally in the council of burghers and citizens. When the election of Empress Matilda took place the "Communio" of the city of London pleaded for Stephen's liberation. But it is probable that the communio itself could only be heard by petition. The sheriffs might report the wishes and needs of their neighbors; but here again as royal nominees they could not sympathize too deeply with the population they had to assess and oppress.

GROWTH OF TOWNS

The charters that the Conqueror granted to the chief cities of the kingdom had a jealous and scanty character. They was no grant of corporate privileges. Under Henry I more concessions were granted. (45) The city was recognized a distinct unity independent of county organisation. It elected its own officers; its citizens were exempted from attendance to the courts outside its walls. They were freed from the Dane-geld, from the responsibility of murder fines and the obligation of trial by battle. Its citizens were also freed from tolls and duties throughout England.

London was the standard: in A.D. 1130 it had four sheriffs or vice comites. London had right to appoint a sheriff for one hundred marks

of silver, four sheriffs for two marks of gold.(46) The Danegeld was compensated by the Civitates auxilium £ 120. The Londoners were satisfied for they proved faithful to the kings even to Stephen during the greatest part of his reign.

During the Norman period London was a collection of small communities, manors, parishes and guilds held and governed as before the Conquest - either by manorial inheritance, church jurisdiction, bishopric and monasteries. The guild administration was carried on by its own officers. The existence of guilds is mentioned in Domesday. In the time of the Confessor, as represented in Domesday, boroughs had obtained clearly recognized status and their customs are fully recorded.

In those towns the sheriffs superintended except when expressly excluded by grant. Most towns were exempted from the hundred court but not from the shire administration. The sheriff collected the rents and saw that the royal rights were exacted in the courts of justice. The sheriff was answerable to the crown for a certain sum, whatever he collected above it constituted his salary. It was easy for him to exact from the rich burghers that legal sum and appropriate to himself practically the gross receipts he reaped from the shire. Later the burghers obtained to have their estates valued by the town and paid nothing more to the sheriff. Another improvement came later in the ^lperiod when the burghers collected among themselves the firma burgi and were directly responsible to the crown.

A body thus recognized its own strength and obtained other privileges with additional sums of money.

Guilds were formed at first for religious purposes. At Abbotsbury in Dorset, Orcy Hall became a rendez-vous for brothers. Some rules were formulated and contributions paid in bread, wheat and wood; fines were imposed for neglect of duty and offensive words. The members had specified feasts to observe. They had to contribute to the comfort of the dying, attend the burial and pray for the deceased.

The Exeter guild likewise imposed fines for neglect of its feast days, contribution and offensive words. At the death of a brother the members paid an additional contribution of a penny to provide for the funereal services. A subscription of five pence went to a brother whose house had burned.

It was the same with the Cambridge guild; it gave directions for the burial of its members; it exacted fines for mis-greetings and violences. When a brother was robbed the guild helped the victim and prosecuted the thief. If one killed another he could redeem his place in the guild by paying a fine.

Merchant-guilds are as old as the Conquest. A merchant-guild that possessed land exercised jurisdiction and enacted by-laws that assumed an official character. A villein that was admitted to a guild one year and a day became a freeman. A merchant-guild had the monopoly of local trade by charter. These guilds weighed heavily in the administration of local authority. Most of their privileges were obtained in the form of purchased charters.

There existed Craft-guilds. Weavers, shoemakers, etc. had regulations of their own. The crafts possessed some property and covered the expenses of festivals, etc. They were voluntary associations confirmed by charters.

Adulterine guilds were fined. Under Henry II the guild system gained in importance. Under Edward II and III all citizens enrolled in trade-guilds. Edward III decreed that the election of city magistrates was transferred from the representatives of the ward-moots to the trading companies.

The Commune of London and of the other towns as created by the Norman kings was the old English guild in a new French garb. An ancient association, in truth, but directed to the attainment of municipal rather than mercantile privileges. London in its mayor offers a relic of the commune idea; the alderman is the representative of the guilds.

The chartered towns were not numerous in 1066 but their growth continued during the Norman period. Prior to the Norman period the English municipalities had little political power, save in the case of London. Their liberties took the form of immunities and exemptions; they exercised no substantial influence. They tried their own prisoners, taxed their citizens, but had no jurisdiction outside their walls and could not raise a voice to refuse the State contributions. Charters had to be purchased in solid gold and were subject to the confirmation of the successive kings.

At the close of the Norman period the towns had advanced. The *firma burgi* freed them from the pecuniary exactions of the sheriffs. Charters recognized their free customs. Special rules for local administration immemorially observed were maintained, especially the exemption from the Norman innovation of trial by battle.

The example of the king was followed by lords who held boroughs in demesne. There were unchartered towns that depended on lords with no power to grant immunities, or depended of the Crown with no money to purchase a charter.

The villein class is the obscure element in the Norman period. It had no political rights and little power to assert its social rights. The will of his master oppressed him though it could not remove him. His services were claimed without retribution. He had no right against his master and those he enjoyed were exercised through him only. They were known by different names - rusticus, nativus, and servus. Under the Anglo-Saxons they had lived in a state of depression but not of helplessness. They were the chattels of their masters, landless; but free in all personal relations. They could settle on a farm or another, take service in a household, or be hired as labourers.

The barons who took the Domesday survey recognized the existence of that class. The records number 25,000 servi, (Landless labourers) 82,000 bordarii, 7,000 cotarii; the latter seem to denote those who possessed land and houses for which they laboured or paid rent. 110,000 villani altogether. Above these were the liberi homines, or free holders.

The villein class was despicable for its ignorance and coarseness. Because it was immuned from a warlike life it was viewed with contempt by the knights. Under a good lord or a monastery the villein enjoyed immunities and a security that might be envied by superior classes. He had a ready tribunal to remedy his wrongs and had a voice in the management of the village. Some boroughs and guilds had the power to enfranchise (47)

Military system.

The number of knights has been exaggerated.

Ordericus placed the number at 60,000. A knight was a fully-armed horseman who served forty days a year at his own expense. In time of war each baron led his own knights under his banner. The host was arranged by the constable under the supreme command of the king. The other knights appeared with the rest of the forces of the shire under the command of the sheriff. There was no permanent infantry, the king had enough of his force of knights. Yet every freeman swore to join the king in the defence of his title, his lands and his honour within England and without. (48)

After the first crusade a host of veteran adventurers who survived was at the disposal of Henry I. Mercenaries drawn by him from Flanders gave Stephen and Matilda a precedent to economise the blood and sinew of the native English. Those mercenaries, available on both sides of the Channel, formed a powerful engine of warfare in the hands of the king.

C O N C L U S I O N

Constitutional historians do not agree as to how far the Norman kings influenced the kingdom. Was their system a mere translation of English institutions into Norman forms? Was it purely Norman? Was it English? Some contemporary records say its something else than the Norman government; it is an entire novelty. Others attempt to reduce its influence to the merest and most superficial shades of change; they see the permanence of the Anglo-Saxon institutions.

The Danegeld was distinctly English; feudal aids were strictly Norman. William kept both the legal procedure of the hundred and shire-moot of the Saxons and the Norman trial by battle. In the military organization the fyrd is of the Anglo-Saxons; knight service is Norman. In each case the Conqueror introduced the one without abolishing the other. This principle he deemed necessary to provide an institution to blend two distinct nationalities.

As the nationalities combined in one strong nation so combined the institutions. In the new growth some of the old is detected; much would never have come without the combination of the strongest part of the Norman system with the strongest part of the English system. The Normans maintained the local provincial machinery of the latter with the central and sovereign authority characteristic of the former.

Most important of the centralizing system of the Norman kings were the Curia Regis and the Exchequer. Even here the two systems contributed: the Ducis of Normandy had his Curia and Edward the Confessor had something similar to the Exchequer court.

The Norman kings were despotic; the court of the Duke reproduced it in principle. So advanced was the administrative system of Edward that the change from the Witenagemot into the Great Council was less an innovation than a change of actors.

The methods of accounting were much alike. Both England and Normandy had fiscal audits before the Conquest. Norman ministers headed the Domesday survey. Ranulf Flambard and Roger of Salisbury were natives of Normandy. Most likely each borrowed from the other. There are no historical proofs that either one was an offshot or a transplantation of the other.

In the Curia Regis the Norman kings gave judgment in the last resort to litigants who found no justice in the hundred or shire. The Anglo-Saxons had a court where disputes arising between their immediate dependents were settled. The Norman Duke had a feudal court of vassals and a supreme judicature which may or may not be identical with the English court of vassals. The royal judicature in the English reigns of William and Rufus was exercised by the king or by the justiciar, at the great festivals of Christmas, Easter and Whitsuntide. Was it inspired by the Curia Ducis of the Normans or by the English king with his witan? Both theories are supported.

The provincial visitations of the royal judges are less certainly Norman than the itinerant judicature under Alfred. Much of the nomenclature of the Norman system is French: justiciar, account, feoffment, tallage, homage, chattels, assize.

The oath of fealty of the Norman law is different from that of

the Anglo-Saxon in matter and form. The heriot was not the relief, tallage rested on a different principle than the Danegeld. Yet under the combining process one prudently taken is found to represent the other; the obligation and burden are much alike.

The Norman influences introduced after the Conquest are liable of being much exaggerated at a superficial view. They must not be underrated either; they were strong and penetrating rather than ostentatiously prominent. A careful study reveals that the institution had its growth both in England and Normandy.

It is consonant with history that the probability is that the development of two states so closely connected grew simultaneously; yet if not by the same still by equal steps. That neither borrowed its whole policy from the other. That neither in developing her own has **not** imitated her neighbor's growth is altogether inconceivable.

E N D

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