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of

English Constitutional History

EDITED BY

GEORGE BURTON ADAMS

PROFESSOR OF HISTORY IN YALE UNIVERSITY AND

H. MORSE STEPHENS

PROFESSOR OF HISTORY IN CORNELL UNIVERSITY

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**7. Charter of Liberties of Henry I**

(1100. Latin text, Stubbs, S. C. 100. Translation, Cheyney, 3. 1 Stubbs, 330.)

IN the year of the incarnation of the Lord, 1101, Henry, son of King William, after the death of his brother William, by the grace of God, king of the English, to all faithful, greeting:

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 at 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 one 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 one 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 man 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 land. And if when a man is dead his wife remains, and is without children, she shall have her dowry and right of marriage, and I will not give her to a husband except according to her will.

4. And if a wife has survived with children, she shall have her dowry and marriage portion, so long as she shall have kept her body legitimately, and I will not give her in marriage, except according to her will. And the guardian of the land and children shall be either the wife or another one of the relatives as shall seem to be most just. And I require that my barons should deal similarly with the sons and daughters or wives of their men.

5. The common tax on money which used to be taken through the cities and counties, which was not taken in the time of King Edward, I now forbid altogether henceforth to be taken. If any one shall have been seised, whether a moneyer or any other, with false money, strict justice shall be done for it.

6. All fines and all debts which were owed to my brother, I remit, except my rightful rents, and except those payments which had been agreed upon for the inheritances of others or for those things which more justly affected others. And if any one for his

own inheritance has stipulated anything, this I remit, and all reliefs which had been agreed upon for rightful inheritances.

7. And if any of my barons or men shall become feeble, however he himself shall give or arrange to give his money, I grant that it shall be so given. Moreover, if he himself, prevented by arms, or by weakness, shall not have bestowed his money, or arranged to bestow it, his wife or his children or parents, and his legitimate men shall divide it for his soul, as to them shall seem best.

8. If any of my barons or men shall have committed an offence 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 offence 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.

9. 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.

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

11. To those Knights who hold their land by the cuirass, I yield of my own gift the lands of their demesne ploughs free from all payments and from all labor, so that as they have thus been favored by such a great alleviation, so they may readily provide themselves with horses and arms for my service and for the defence of my kingdom.

12. A firm peace in my whole kingdom I establish and require to be kept from henceforth.

13. The law of King Edward I give to you again with those changes with which my father changed it by the counsel of his barons.

14. If any one has taken anything from my possessions since the death of King William, my brother, or from the possessions of any one, let the whole be immediately returned without alteration, and if any one shall have retained anything thence, he upon whom it is found will pay it heavily to me. Witnesses Maurice, bishop of London, and Gundulf, bishop, and William, bishop-elect, and Henry, earl, and Simon, earl, and Walter Giffard, and Robert de Montfort, and Roger Bigod, and Henry de Port, at London, when I was crowned.

**10. First Charter of Stephen**

(1135. Latin text, Stubbs, S. C. 119. Translation, Cheyney, 5. 1 Stubbs, 346.)

STEPHEN, by the grace of God, king of the English, to the justices, sheriffs, barons, and all his ministers and faithful, French and English, greeting.

Know that I have conceded and by this my present charter confirmed to all my barons and men of England all the liberties and good laws which Henry, King of the English, my uncle, gave and conceded to them, and all the good laws and good customs which they had in the time of King Edward, I concede to them. Wherefore I wish and firmly command that they shall have and hold all those good laws and liberties from me and my heirs, they and their heirs, freely, quietly, and fully; and I prohibit any one from bring-

ing any obstacle, or impediment, or diminution upon them in these matters on pain of forfeiture to me. Witness William Martel, at London.

11. Second Charter of Stephen

(1136. Latin text, Stubbs, S. C. 120. Translation, Statutes of the Realm as in G. and H. 66. I Stubbs, 347.)

I STEPHEN, by the grace of God and the assent of the clergy and people elected king of the English, and consecrated by William, archbishop of Canterbury and legate of the Holy Roman Church, and confirmed by Innocent, pontiff of the Holy Roman See, from regard and love to God, do grant holy Church to be free and confirm due reverence to her. I promise that I will not do nor allow any simony in the Church or in church affairs. I permit and confirm justice and power over ecclesiastical persons and all clerks and their effects, and the distribution of ecclesiastical goods to be in the hands of the bishops. The dignities of churches confirmed by their privileges, and their customs had of ancient continuance, I ordain and grant to remain inviolate. All the possessions and holdings of churches which they had on that day when William the king, my grandfather, was alive and dead, I grant to them to be free and absolute without any appeal from claimants. But if the Church shall hereafter seek to regain any of the things held or possessed before the death of the same king which the Church has no longer, I reserve them for my indulgence and dispensation for restoration and for consideration. But I confirm whatever has been bestowed upon them since the death of this same king, by the liberality of kings or the gift of great men, by presentation or acquisition, or by any exchange of the faithful. I promise that I will perform peace and justice in all things, and will maintain these for them as far as I can. I reserve for myself the forests which William my grandfather, and William my uncle established and had. All the others which King Henry further added I give back and grant to the churches and the kingdom without molestation. If any bishop or abbot or other ecclesiastical person shall, before his death, reasonably devise or intend to devise his goods, I grant it to remain firm. But if he shall be overtaken by death let the same devise take place with the advice of the Church for the health of his soul. Moreover, whilst sees shall be without their proper pastors, these and all their posses-

sions I will commit to the hand and custody of the clerks or good men of the same church, until a pastor be canonically appointed to succeed. I entirely abolish all exactions, and injuries, and miskennings wrongly introduced, whether by sheriffs or by any other. I will observe, and command and ordain to be observed, the good laws and ancient and just customs in murders and pleas and other causes. All these things I grant and confirm saving my royal and just dignity. Witness: W. Archbishop of Canterbury, Hugh Archbishop of Rouen, and Henry Bishop of Winchester, and Roger Bishop of Salisbury, and A. Bishop of Lincoln, and Nigel Bishop of Ely, and Everard Bishop of Norwich, and Simon Bishop of Worcester, and Bernard Bishop of Saint David's, and Owen Bishop of Evreux, Richard Bishop of Avranches, Robert Bishop of Hereford, John Bishop of Rochester, Athelwulf Bishop of Carlisle, and other lay signatories. At Oxford, in the year 1136 from the Lord's Incarnation, and the first of my reign.

**26. Writ of Summons**

(May, 1213. Latin text, Stubbs, S. C. 276. Translation, Giles, Roger of Wendover's Flowers of History, ii. 274. I Stubbs, 565.)

THE next day the king sent letters to all the sheriffs of the kingdom, ordering them to send four liege men from each town in their demesnes, together with the warden, to Saint Alban's on the fourth of August, that through them and his other agents he might make inquiries about the losses and confiscated property of each of the bishops, and how much was due to each.

27. Writ of Summons to a Great Council

(November, 1213. Latin text, Stubbs, .9. C. 287. Translation by Editors, I Stubbs, 567, 609.)

THE king to the sheriff of Oxfordshire, greeting. We direct you to cause all the knights of your bailiwick, who have been summoned to appear before me at Oxford on All Saints' Day, to come in fifteen days with their arms; but all the barons to come in like manner unarmed: and that you cause four discreet men of your county to meet us there at the same time to consult with us about the affairs of our realm.

Witness myself at Witney, the seventh day of November. Similar writs were directed to all the sheriffs.

**33. Writ of Summons for Two Knights of the Shire to grant an Aid**

(February, 1254. Latin text, Stubbs, S. C. 376. Translation by Editors. 2 Stubbs, 69, 232.)

FORM directed to all the magnates and sheriffs of England. The king to the sheriff of Bedfordshire and Buckinghamshire, Greeting.

Since the earls and barons and other magnates of our realm

have faithfully promised us that they will be in London in three weeks from next Easter, furnished with horses and arms and well equipped to go without any delay to Portsmouth, to come over to Gascony to us, to aid us against the king of Castile who intends to invade our territory of Gascony with a strong force, next summer, we have ordered you to constrain to this all those in your bailiwick who hold lands worth twenty pounds a year from us in chief, or from others who are under age and in our wardship; we straitly command you, that besides all those aforesaid, you cause to come before our council at Westminster on the fifteenth day after Easter next, four lawful and discreet knights from the said counties whom the said counties shall have chosen for this purpose, in place of all and singular of the said counties, that is, two from one county and two from the other, who together with the knights from the other counties whom we have had summoned for the same day, shall arrange what aid they are willing to pay us in our need. And you yourself carefully set forth to the knights and others of the said counties, our need and how urgent is our business, and effectually persuade them to pay us an aid sufficient for the time being; so that the aforesaid four knights at the aforesaid time shall be able to give definite answer concerning the said aid to the aforesaid council, for each of the said counties. We also give you an absolute command that all dues to us in your bailiwick which are in arrears, and ought to be paid to our exchequer before Easter next, or which ought to be paid to the exchequer at the aforesaid Easter, you shall have at the aforesaid exchequer on the fifteenth day after the aforesaid Easter, and you are to know that unless you have the aforesaid debts then and there, we shall not only cause you to be placed under arrest but we shall also cause those dues to be collected from your lands and tenements to your exceeding loss.

Witness Eleanor the queen and Richard earl of Cornwall, at Windsor, the eleventh day of February.

**34. Provisions of Oxford**

GEORGE BURTON ADAMS (EDITED BY), *Select Documents of English Constitutional History*, London, 1901 (<http://www.constitution.org/ech/eng_const_hist.htm>)

(Summer of 1258. Text, Latin and French, Stubbs, S. C. 387. Translation of Latin by Editors, of French as in Stubbs, S. C. 393. 2 Stubbs, 76.)

Provision made at Oxford

IT is provided that from each county there shall be chosen four discreet and lawful knights, who on each day when the county

court is held, shall meet to hear all complaints made by the sheriffs or bailiffs or any one else against all persons whatsoever, concerning all trespasses whatsoever, and to make the attachments which belong to the said complaints before the next coming of the chief justice into those parts. Also they shall take sufficient sureties from the plaintiff to prosecute and from the defendant to appear for trial before the aforesaid justice at his next coming. And that the aforesaid four knights shall cause enrollment to be made of all the aforesaid complaints, with their attachments in proper order and sequence, that is, each hundred separately and by itself. So that the aforesaid justice at his next coming shall be able to hear and bring to an end the aforesaid complaints, one by one from each hundred. And they shall make known to the sheriff that all the hundredmen and their bailiffs shall be made to appear before the said justice, at his next coming, at a time and place which he shall have announced to them; so that each hundredman shall cause all plaintiffs and defendants from his bailiwick to appear in succession according as the said justice shall have called to trial from the said hundred; and also so many and such knights as well as free and lawful men from his bailiwick by whom the truth of the matter can best be established, in such manner that all shall not be troubled together and at the same time, but as many shall appear as can be tried and brought to an end in one day.

Likewise it is provided that no knight of the aforesaid counties, shall be excused by writ of the lord king that he be not placed upon juries and assizes, nor be quit with respect to this provision thus made for the common advantage of the whole realm.

Those elected from the Party of the Lord King

The lord bishop of London, the lord bishop-elect of Winchester, the lord Henry son of the king of Germany, the lord John earl of Warenne, the lord Guy of Lusignan, the lord William of Valence, the lord John earl of Warwick, the lord John Mansel, friar John of Darlington, the abbot of Westminster, the lord Henry of Wengham.

Those elected from the Party of the Earls and Barons

The lord bishop of Worcester, the lord Simon earl of Leicester, the lord Richard earl of Gloucester, the lord Humphrey earl of Hereford, the lord Roger Marshall, the lord Roger of Mortimer, the lord John Fitz-Geoffrey, the lord Hugh Bigot, the lord Rich-

ard de Gray, the lord William Bardulf, the lord Peter de Montfort, the lord Hugh le Despenser.

And if it happens that any one of these cannot be present, through necessity, the rest of these shall choose whom they will, to wit, the other necessary in the place of the one absent, in order to transact this business.

This the Commonalty of England swore at Oxford

We, so and so, make known to all men, that we have sworn upon the holy Gospels, and are held together by such oath, and promise in good faith, that each one of us and we all together will mutually aid each other, both ourselves and those belonging to us, against all people, doing right and taking nothing that we cannot without doing mischief, saving faith to the king and the crown. And we promise under the same oath, none of us will henceforth take land or movables by which this oath can be disturbed or in any ways impaired. And if any one acts against this, we will hold him as a mortal enemy.

This is the Oath to the Twenty-four

Each swore on the holy Gospels, that he to the honor of God, and to his faith to the king, and to the profit of the realm, will ordain and treat with the aforesaid sworn persons upon the reformation and amendment of the state of the realm. And that he will not fail for gift, nor for promise, for love, nor for hate, nor for fear of any one, nor for gain, nor for loss, loyally to do according to the tenor of the letter which the king and his son have together given for this.

This the Chief Justice of England swor

He swears that he will well and loyally according to his power do that which belongs to the justiciar of right to hold, to all persons, to the profit of the king and the kingdom, according to the provision made and to be made by the twenty-four, and by the counsel of the king and the great men of the land, who shall swear in these things to aid and support him.

This the Chancellor of England swore

That he will seal no writ, excepting writs of course, without the commandment of the king and of his council who shall be present.

Nor shall he seal a gift of a great wardship, or of a great ( ) 1 nor of escheats, without the assent of the great council or of the major part. And that he will seal nothing which may be contrary to the ordinance which is made and shall be made by the twenty-four, or by the major part. And that he will keep no fee otherwise than what is given to the others. And he shall be given a companion in the form which the council shall provide.

This is the Oath which the Guardians of the Kings Castles made

That they will keep the castles of the king loyally and in good faith for the use of the king and of his heirs; and that they will give them up to the king or to his heirs, and to none other, and by his counsel and in no other manner, to wit, by honest men of the land elected as his council, or by the major part. And this form by writ lasts for twelve years. And from that time forward by this settlement and this oath they shall not be hindered so that they cannot freely give them up to the king and his heirs.

These are those who are sworn of the King's Council

The archbishop of Canterbury, the bishop of Worcester, the earl of Leicester, the earl of Gloucester, the earl Marshall, Peter of Savoy, the earl of Albemarle, the earl of Warwick, the earl of Hereford, John Mansel, John Fitz-Geoffrey, Peter de Montfort, Richard de Gray, Roger of Mortimer, James of Aldithley.

The twelve on the king's side have elected out of the twelve on that of the commonalty the earl Roger the Marshall, and Hugh Bigot.

And the party of commonalty have elected out of the twelve who are on the king's side the earl of Warwick and John Mansel.

And these four have power to elect the council of the king, and when they have elected them, they shall present them to the twenty-four; and there, where the greater part of these agree, it shall be held.

These are the Twelve who are elected by the Barons to treat at the Three Parliaments by Year with the Kings Council for all the Commonalty of the Land of the Common Need

The bishop of London, the earl of Winchester, the earl of Hereford, Philip Basset, John of Balliol, John of Verdun, John de

1 A blank space in the manuscript

Gray, Roger of Sumery, Roger de Monthaut, Hugh le Despenser, Thomas of Gresley, Giles d'Argentine.

These are the Twenty-four appointed by the Commonalty to treat of Aid to the King

The bishop of Worcester, the bishop of London, the bishop of Salisbury, the earl of Leicester, the earl of Gloucester, the earl Marshall, Peter of Savoy, the earl of Hereford, the earl of Albemarle, the earl of Winchester, the earl of Oxford, John Fitz-Geoffrey, John de Gray, John of Balliol, Roger of Mortimer, Roger de Monthaut, Roger of Sumery, Peter de Monfort, Thomas of Gresley, Fulk of Kerston, Giles d'Argentine, John Kyriel, Philip Basset, Giles of Erdinton.

And if any one of these cannot or will not serve, those who shall be there have power to elect another in his place.

Of the State of Holy Church

Be it remembered that the state of the holy church be amended by the twenty-four elected to reform the state of the realm of England, when they shall see place and time, according to the power which they have respecting it by the letter of the king of England.

Of the Chief Justice

Moreover, that a justice be appointed, one or two, and what power he shall have, and that he be only for a year. So that at the end of the year, he answer concerning his time before the king and his council and before him who shall follow him.

Of the Treasurer, and of the Exchequer

The like of the treasurer. That he too give account at the end of the year. And other good persons are to be placed at the exchequer according to the direction of the aforesaid twenty-four. And there let all the issues of the land come, and in no part elsewhere. And let that which shall be seen to require amendment, be amended.

Of the Chancellor

The like of the chancellor. That he at the end of the year answer concerning his time. And that he seal nothing out of course by the sole will of the king. But that he do it by the council which shall be around the king.

Of the Power of the Justice and Bailiffs

The chief justice has power to amend the wrongs done by all the other justices and bailiffs, and earls, and barons, and all other people, according to the law and justice of the land, and in fit places, and that the justice take nothing unless it be presents of bread and wine, and such things, to wit, meat and drink, as have been used to be brought to the tables of the chief men for the day. And let this same thing be understood of all the king's councillors and all his bailiffs. And that no bailiff by occasion of plea or of his office, take any fee in his own hand, or through the agency of another in any manner. And if he is convicted, that he be punished, and he who gives likewise. And if it be fitting, that the king give to his justiciar and his people who serve him, so that they have no occasion to take any thing from elsewhere.

Of the Sheriffs

Let there be provided as sheriffs, loyal people, and substantial men, and land tenants; so that in each county there be a vavasour of the same county as sheriff, to treat the people of the county well, loyally, and rightfully. And that he take no fee, and that he be sheriff only for a year together; and that in the year he give up his accounts at the exchequer and answer for his time. And that the king grant unto him out of his own, according to his contribution, so that he can guard the county rightfully. And that he take no fee, neither he nor his bailiffs. And if they be convicted let them be punished.

Be it remembered that such amendment is to be applied to the Jewry, and to the wardens of the Jewry, that the oath as to the same may be kept.

Of the Escheators

Let good escheators be appointed; and that they take nothing of the effects of the dead, of such lands as ought to be in the king's hand. Also that the escheators have free administration of the goods until they shall have done the king's will, if they owe him debts. And that, according to the form of the Charter of liberty. And that inquiry be made into the wrongs done which the escheators have done there aforetime, and amendment be made of such and such. Nor let tallage on any thing else be taken, excepting such as ought to be according to the Charter of liberty.

Let the Charter of liberty be kept firmly.

Of the Exchange of London

Be it remembered to amend the exchange of London, and the city of London, and all the other cities of the king which have gone to shame and destruction by the tallages and other oppressions.

Of the Place of Reception of the King and Queen

Be it remembered to amend the hostelry of the king and the queen.

Of the Parliaments, how Many shall be held by Year, and in what

Manner

It is to be remembered that the twenty-four have ordained that there be three parliaments a year. The first at the octave of Saint Michael. The second the morrow of Candlemas. The third the first day of June, to wit, three weeks before Saint John. To these three parliaments the elected councillors of the king shall come, even if they are not sent for, to see the state of the realm, and to treat of the common wants of the kingdom, and of the king in like manner. And other times in like manner when occasion shall be, by the king's command.

So it is to be remembered that the commonalty elect twelve honest men, who shall come at the parliaments and other times when occasion shall be, when the king or his council shall send for them to treat of the wants of the king and of the kingdom. And that the commonalty shall hold as established that which these twelve shall do. And that shall be done to spare the cost of the commonalty.

There shall be fifteen named by these four, to wit, by the earl Marshall, the earl of Warwick, Hugh Bigot, and John Mansel, who are elected by the twenty-four to name the aforesaid fifteen, who shall be the king's council. And they shall be confirmed by the aforesaid twenty-four, or by the major part of them. And they shall have power to counsel the king in good faith concerning the government of the realm and all things which appertain to the king or to the kingdom; and to amend and redress all things which they shall see require to be redressed and amended. And over the chief justice and over all other people. And if they cannot all be present, that which the majority shall do shall be firm and established. [The names of the principal castles of the king, and of those who have them in keeping, follow in the Ms.]

**35. The Provisions of the Barons or of Westminster**

(October, 1259. Latin text and translation, 1 S. R. 8, Stubbs, S. C. 401.

2 Stubbs, 83.)

IN the year of the Incarnation of our Lord, one thousand two hundred and fifty-nine, and the forty-third year of the reign of king Henry the son of king John, there being assembled at Westminster in the fifteenth of Saint Michael, our said lord the king and his great men, by the common counsel and consent of the said king and great men, the underwritten provisions were made by the same king and great men, and were published in the manner following.

1. Of doing suits, unto the courts of the great men and others the lords of these courts, it is provided and with full consent ordained, that no man who hath been infeoffed by deed shall be distrained from henceforth to do suit unto the court of his lord, unless he be specially bounden to do suit by the form of his deed: except those whose ancestors or who themselves have used to do such suit, before the first voyage of the said lord the king into Brittany; from the time whereof there have passed twenty-nine years and a half at the time of making this ordinance ; and in like manner no man infeoffed without deed from the time of the Conquest, or by other ancient feoffment, shall be distrained to do such suit; unless he or his ancestors have used to do the same, before the first voyage of the said lord the king into Brittany.

2. And if any inheritance wherefrom only one suit was due, shall descend unto many heirs, as parceners thereof, he that hath the elder's share of that inheritance shall do one suit for himself and his coparceners; and his coparceners shall contribute after their shares, to the doing of that suit. And in like manner if many shall have been infeoffed of any inheritance wherefrom one suit were due, the lord of that fee shall have but one suit therefrom ; nor can he exact more than one suit from the said inheritance, as it hath been used to be done before. And if the persons infeoffed have no warrantor or mean who ought to acquit them thereof, then all of them shall contribute after their shares, to the doing of that suit.

3. And if it happen that the lords of courts do distrain their tenants for such suit, contrary to this provision, then upon the complaint of those tenants they shall be attached to appear in the

king's court at a short day to answer therefore; and they shall have but one essoin if they be within the realm; and the cattle or other distresses taken upon this occasion shall be delivered to the plaintiff forthwith, and shall remain delivered until the plea between them be ended. And if the lords of the courts who have made such distresses, shall not appear at the day whereto they were attached, or shall not keep the day given to them upon the essoin, then the sheriff shall be commanded to cause them to come upon another day; at which day if they come not, the sheriff shall be commanded to distrain them by all that they possess within his bailiwick, so that he shall answer to the king for the issues, and to have their bodies by a certain day to be prefixed, so that if they should not come upon that day, the party plaintiff may go thence without day; and the cattle or other distresses shall remain delivered until those lords shall recover that suit by award of the court of our lord the king; and in the mean time such distresses shall cease : saving to the lords of the courts their right to recover those suits in form of law, when they will sue therefore. And when the lords of the courts shall appear to answer unto the plaintiffs for such distresses, if they be thereupon convicted, then by the award of the court, the plaintiffs shall recover against them their damages, which they have sustained by occasion of the aforesaid distress. And in like manner, if tenants, after this act, do withdraw from their lords their suits which they ought to do, and which before the time of the aforesaid voyage and hitherto they have used to do, the lords of the courts shall obtain justice to recover their suits, together with their damages, by the same process and dispatch, in respect of appointment of days and awarding of distresses, like as the tenants do recover their damages. And this matter of recovering damages must be understood of the withdrawings done to themselves, and not of the withdrawings done to their predecessors: nevertheless the lords of the courts shall not recover seisin of such suits against their tenants by default; as that hath not been the custom hitherto. And concerning the suits that were withdrawn before the time of the aforesaid voyage, let the common law have its course, as it hath used to have before.

4. Concerning the sheriff's turn, it is provided that archbishops, bishops, abbots, priors, earls, barons, shall not be obliged to come thither, nor any men of religion, or women, unless their presence be specially required; but the turn shall be holden as it was wont to be in the times of our lord the king's predecessors. And where any do hold tenements in divers hundreds, they shall not be obliged

to come to such turn except in the bailiwicks where they shall dwell: and the turns shall be holden according to the form of the king's Great Charter, and as they were wont to be holden in the times of king John and king Richard.

5. It is also provided that neither in the circuit of justicers, nor in the county and hundred courts, nor in the courts baron, shall fines be taken from any from henceforth for fair pleading, nor for not being troubled on that account.

6. In the plea of dower that is called Unde nihil habet, from henceforth there shall be given four days in the year at least, and more if it may be conveniently done.

7. In assizes of darrein presentment, and in the plea of Quare impedit of churches vacant, the day shall be given from fifteen days to fifteen days, or from three weeks to three weeks, according as the place may be far or near. And in the plea of Quare impedit, if the disturber come not at the first day for which he shall have been summoned, nor cast an essoin, then he shall be attached unto another day, on which day if he come not nor cast an essoin, he shall be distrained by the great distress above mentioned. And if he come not then, upon his default the bishop shall be written to, that the claim of the disturber shall not obstruct the plaintiff for that term; saving unto the disturber his right at another time, when he will sue therefore.

8. Concerning charters of exemption and privilege, that the purchasers shall not be impanelled in assizes, juries, or recognitions, it is provided, that if their oath should be so necessary, that without it justice could not be administered, as in the great assize and perambulations, and where they may have been named as witnesses in charters, or writings of covenants, or in attaints or other like cases, they shall be compelled to swear; saving unto them at another time their aforesaid privilege and exemption.

9. If any heir should be under age after the death of his ancestor, and his lord have the wardship of his lands, if that lord will not render unto the said heir his lands when he cometh to lawful age, without plea, the heir shall recover his land as from the death of his ancestor, together with the damages that he shall have sustained by that withholding from the time of his coming to lawful age; and if an heir at the time of his ancestor's death be of full age, and such heir, apparent and known to be the heir, be found in the inheritance, his chief lord shall not put him out, nor take or remove any thing therefrom, but shall take simple seisin only for the acknowledgment of his seigniory.

10. And if a chief lord do maliciously keep such an heir out of the possession, whereby it behoveth him to proceed by an action of mort d'ancestor or cosinage, then he shall recover his damages, as in the action of novel disseisin.

11. No man from thenceforth shall be permitted, for any manner of cause, to make distresses out of his fee, nor in the king's or common highway, except our lord the king and his officers.

12. It is also provided, that where land that is holden in socage is in the custody of an heir's kinsfolk, because the heirs were within age, those guardians cannot make waste or sale or any despoiling in that inheritance, but shall keep it safely for the use of the heir: so that when he shall come to age, they shall answer unto him by a lawful account for the issues of the said inheritance; saving unto those guardians their reasonable expenses. Neither can the said guardians give or sell the marriage of the said heir, but for the benefit of the heir himself.

13. No escheator, or commissioner, or justice, especially assigned to take any assizes, or to hear and determine any complaints, shall from henceforth have authority to amerce for default of the common summons, except the chief justice or justices in eyre in their circuits.

14. It shall not be lawful for men of religion to enter into any man's fee, without the license of the chief lord of whom the fee is immediately holden.

15. Concerning essoins it is provided, that in the county or hundred courts, or courts baron, or elsewhere, no man shall be obliged to swear for the warranting of his essoin.

16. None but the king from henceforth shall hold plea in his court of a false judgment given in the court of his tenants; because such pleas do especially belong to the king's crown and dignity.

17. It is provided also, that if any man's cattle be taken and unjustly detained, the sheriff after complaint thereof made unto him, may deliver them, without let or gainsaying of him who took the said cattle, if they were taken without liberties, and if such cattle should be taken within liberties, and the bailiffs of the liberties will not deliver them, then the sheriff, for the default of the said bailiffs, shall cause them to be delivered.

18. No man from henceforth shall distrain his free tenants to answer for their freehold, nor for any matters pertaining to their freehold, without the king's writ; nor shall cause his free tenants to swear against their will: for none can do this without a precept of the king.

19. It is provided also, that if bailiffs who are bounden to render account unto their lords shall withdraw themselves, and have no lands or tenements whereby they may be distrained, then they shall be attached by their bodies, so that the sheriffs in whose bailiwicks they shall be found, shall cause them to come to the rendering of their account.

20. Also farmers during their farms, shall not make waste, or sale, or exile, in woods, houses, men, or in any thing else belonging to the tenements which they have to farm; unless they have a special grant in the writing of their covenant, making mention that they may do so. And if they do, and be convicted thereof, they shall restore damages in full.

21. The justices in eyre from henceforth shall not amerce the township in their circuit, because all that are twelve years old do not appear before the sheriffs and coroners upon inquests for the death of man, or other things pertaining to the crown; so that from those townships there come enough for the making of such inquests fully.

22. The fine of murder from henceforth shall not be adjudged before the justices, where it hath been adjudged to be misfortune only: but the fine of murder shall hold place upon those slain feloniously, and not otherwise.

23. It is moreover provided, that no man who is vouched to warranty before the justices in eyre, in a plea of land or tenement, shall from henceforth be amerced because he was not present, save on the first day of the coming of the justices: but if the vouchee be within the county, then the sheriff shall be enjoined to cause him to come within the third or fourth day, according to the distance of the places, as it was wont to be in the circuit of the justices: and if he dwell without the county, then he shall have a reasonable summons of fifteen days at the least, according to the discretion of the justices and the common law. '

24. If any clerk should be arrested for any crime or charge that toucheth the crown, and afterwards by the king's precept, be let to bail, or be replevied, so that those to whom he is let to bail should have him before the justices, from henceforth they to whom he hath been let to bail, or his other pledges shall not be amerced, if they have his body before the justices, although he will not or cannot make answer before them by reason of the privilege of clergy.

**36. Confirmation of the Charters**

(March, 1265. Latin text, Stubbs, S. C. 416. Translation by Editors. 2 Stubbs, 94.)

THE king to all the people of the county of York, Greeting. \* \* \* We will and expressly agree that, if we or the said Edward our son shall have presumed to go in any way contrary — may it be far from us — to the said ordinance, or our provision, or oath, or to disturb the peace and tranquillity of our realm, or to molest, by reason of their former- acts in the time of the late disturbance and war, any one of the aforesaid, or of the party of the aforesaid whom we have defied, or do or procure the doing of injury to any of them, it shall be lawful for every one in our realm to rise against us and to use all the ways and means they can to hinder us; to which we will that each and every one shall henceforth be bound by our command, notwithstanding the fealty and homage which he has sworn to us; so that they shall in no way give attention to us, but that they shall do everything which aims at our injury and shall in no way be bound to us, until that in which we have transgressed and offenced shall have been by a fitting satisfaction brought again into due state, according to the form of the ordinance of the aforesaid, and of our provision or oath; this having been done let them be obedient to us as they were before. \* \* \*

Witness myself at Westminster, the fourteenth day of March, in the forty-ninth year of our reign.

**42. The Statutes of Westminster; the Second**

(June, 1285. Latin text and translation, 1 S. R. 71. 2 Stubbs, 122. Clause I., here given, is known as De donis conditionalibus.)

\* \* \* OUR lord the king in his parliament, after the feast of Easter, holden the thirteenth year of his reign at Westminster, \* \* \* did provide certain acts, as shall appear here following.

First, Concerning lands that many times are given upon condition, that is to wit, where any giveth his land to any man and his wife, and to the heirs begotten of the bodies of the same man and his wife, with such condition expressed that if the same man and his wife die without heir of their bodies between them begotten, the land so given shall revert to the giver or his heir: In case also where one giveth lands in free marriage, which gift hath a condition annexed, though it be not expressed in the deed of gift, which is this, that if the husband and wife die without heir of their bodies begotten, the land so given shall revert to the giver or his heir: in case also where one giveth land to another, and the heirs of his body issuing; it seemed very hard, and yet seemeth to the givers and their heirs, that their will being expressed in the gift, was not heretofore, nor yet is observed: for in all the cases aforesaid, after issue begotten and born between them, to whom the lands were given under such condition, heretofore such feoffees had power to aliene the land so given, and to disherit their issue of the land, contrary to the minds of the givers, and contrary to the form expressed in the gift: and further, when the issue of such feoffee is failing, the land so given ought to return to the giver, or his heir, by form of the gift expressed in the deed though the issue, if any were, had died : yet by the deed and feoffment of them, to whom land was so given upon condition, the donors have heretofore been barred of their reversion, which was directly repugnant to the form of the gift: wherefore our lord the king, perceiving how necessary and expedient it should be to provide remedy in the aforesaid cases, hath ordained, that the will of the giver, according to the form in the deed of gift manifestly expressed, shall be from henceforth observed; so that they to whom the land was given under such condition, shall have no power to aliene the land so given, but that it shall remain unto the issue of them to whom it was given after their death, or unto the giver or his heirs, if issue fail either by reason that there

is no issue at all, or if any issue be, it fail by death, the heir of such issue failing. Neither shall the second husband of any such woman, from henceforth, have any thing in the land so given upon condition, after the death of his wife, by the law of England, nor the issue of the second husband and wife shall succeed in the inheritance, but immediately after the death of the husband and wife, to whom the land was so given, it shall return to their issue, or to the giver, or his heir, as before is said. \* \* \* And it is to wit that this statute shall hold place touching alienation of land contrary to the form of the gift hereafter to be made, and shall not extend to gifts made before. And if a fine be levied hereafter upon such lands, it shall be void in the law; neither shall the heirs, or such as the reversion belongeth unto, though if they be of full age, within England, and out of prison, need to make their claim. \* \* \*

XXIV. \*\*\*\*\*\*\*

**And whensoever from henceforth it shall fortune in the chancery, that in one case a writ is found, and in like case falling under like law, and requiring like remedy, is found none, the clerks of the chancery shall agree in making the writ, or shall adjourn the plaintiffs until the next parliament and write the cases in which they cannot agree, and refer them to the next parliament, and by consent of men learned in the law, a writ shall be made, lest it might happen hereafter that the court should long time fail to minister justice unto complainants.**

GEORGE BURTON ADAMS (EDITED BY), *Select Documents of English Constitutional History*, London, 1901 (<http://www.constitution.org/ech/eng_const_hist.htm>)

**46. Writs of Summons to Parliament**

(30 September-3 October, 1295. Latin text, Stubbs, S. C. 484. Translation, Cheyney, 33. 2 Stubbs, 133, 209, 211, 235.)

Summons of the Clergy

THE King to the venerable father in Christ Robert, by the same grace archbishop of Canterbury, primate of all England, greeting. As a most just law, established by the careful providence of sacred princes, exhorts and decrees that what affects all, by all should be approved, so also, very evidently should common danger be met by means provided in common. You know sufficiently well, and it is now, as we believe, divulged through all regions of the world, how the king of France fraudulently and craftily deprives us of our land of Gascony, by withholding it unjustly from us. Now, however, not satisfied with the before-mentioned fraud and injustice, having gathered together for the conquest of our kingdom a very great fleet, and an abounding multitude of warriors, with which he has made a hostile attack on our kingdom and the inhabitants of the same kingdom, he now proposes to destroy

the English language altogether from the earth, if his power should correspond to the detestable proposition of the contemplated injustice, which God forbid. Because, therefore, darts seen beforehand do less injury, and your interest especially, as that of the rest of the citizens of the same realm, is concerned in this affair, we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster; citing beforehand [præmunientes] the dean and chapter of your church, the archdeacons and all the clergy of your diocese, causing the same dean and archdeacons in their own persons, and the said chapter by one suitable proctor, and the said clergy by two, to be present along with you, having full and sufficient power from the same chapter and clergy, to consider, ordain and provide, along with us and with the rest of the prelates and principal men and other inhabitants of our kingdom, how the dangers and threatened evils of this kind are to be met. Witness the king at Wangham, the thirtieth day of September.

Identical summons were sent out to the two archbishops and eighteen bishops, and, with the omission of the last paragraph, to seventy abbots.

Summons of the Barons

The king to his beloved and faithful relative, Edmund, Earl of Cornwall, greeting. Because we wish to have a consultation and meeting with you and with the rest of the principal men of our kingdom, as to provision for remedies against the dangers which in these days are threatening our whole kingdom; we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster, for considering, ordaining and doing along with us and with the prelates, and the rest of the principal men and other inhabitants of our kingdom, as may be necessary for meeting dangers of this kind.

Witness the king at Canterbury, the first of October.

Similar summons were sent to seven earls and forty-one barons.

Summons of Representatives of the Counties and Boroughs

The king to the sheriff of Northamptonshire. Since we intend to have a consultation and meeting with the earls, barons and other principal men of our kingdom with regard to providing remedies against the dangers which are in these days threatening

the same kingdom; and on that account have commanded them to be with us on the Lord's day next after the feast of St. Martin in the approaching winter, at Westminster, to consider, ordain, and do as may be necessary for the avoidance of these dangers; we strictly require you to cause two knights from the aforesaid county, two citizens from each city in the same county, and two burgesses from each borough, of those who are especially discreet and capable of laboring, to be elected without delay, and to cause them to come to us at the aforesaid time and place.

Moreover, the said knights are to have full and sufficient power for themselves and for the community of the aforesaid county, and the said citizens and burgesses for themselves and the communities of the aforesaid cities and boroughs separately, then and there for doing what shall then be ordained according to the common counsel in the premises; so that the aforesaid business shall not remain unfinished in any way for defect of this power. And you shall have there the names of the knights, citizens and burgesses and this writ.

Witness the king at Canterbury on the third day of October.

Identical summons were sent to the sheriffs of each county.

**48. Confirmatio Cartarum**

(October, 1297. French text and translation, 1 S. R. 123, Stubbs, S. C. 494-496. 2 Stubbs, 146.)

EDWARD, by the grace of God, king of England, lord of Ireland, and duke of Guyenne, to all those that these present letters shall hear or see, Greeting.

1. Know ye that we to the honor of God, and of holy Church, and to the profit of our realm, have granted for us and our heirs, that the great Charter of Liberties, and the Charter of the Forest, which were made by common assent of all the realm, in the time of king Henry our father, shall be kept in every point without breach. And we will that the same charters shall be sent under our seal, as well to our justices of the forest, as to others, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the realm, together with our writs, in the which it shall be contained, that they cause the foresaid charters to be published, and to declare to the people that we have confirmed them in all points; and to our justices, sheriffs, mayors, and other ministers, which under us and by us have the laws of our land to guide, that they shall allow the same charters in all their points, in pleas before them, and in judgments; that is to wit, the Great Charter as the common law, and the Charter of the Forest according to the Assize of the forest, for the wealth of our realm.

2. And we will, that if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers that hold plea before them against the points of the charters, it shall be undone and holden for nought.

3. And we will, that the same charters be sent, under our seal, to cathedral churches throughout our realm, there to remain, and shall be read before the people two times by the year.

4. And that all archbishops and bishops shall pronounce the sentence of great excommunication against all those that by deed, aid, or counsel do contrary to the foresaid charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates aforesaid. And if the same prelates, bishops, or any of them be remiss in the denunciation of the said sentences, the archbishops of Canterbury and York for the time being, as is fitting, shall compel and distrain them to make that denunciation in form aforesaid.

5. And for so much as divers people of our realm are in fear, that the aids and tasks which they have given to us beforetime towards our wars and other business, of their own grant and good will, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and so likewise the prises taken throughout the realm by our ministers in our name; we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises into a custom, for any thing that hath been done heretofore, or that may be found by roll or in any other manner.

6. Moreover we have granted for us and our heirs as well to archbishops, bishops, abbots, priors, and other folk of holy Church, as also to earls, barons, and to all the commonalty of the land, that for no business from henceforth we shall take of our realm such manner of aids, tasks, nor prises, but by the common assent of all the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed.

And for so much as the more part of the commonalty of the realm find themselves sore grieved with the maletote of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same ; we at their requests have clearly released it, and have granted that we will not take such thing nor any other without their common assent and good will; saving to us and our heirs the custom of wools, skins, and leather, granted before by the commonalty aforesaid. In witness of which things we have caused these our letters to be made patents.

Witness Edward our son at London the tenth day of October, the five and twentieth year of our reign.

And be it remembered that this same charter, in the same terms, word for word, was sealed in Flanders under the king's great seal,

that is to say, at Ghent the fifth day of November in the twenty-fifth year of the reign of our aforesaid lord the king, and sent into England.

**49. De Tallagio non Concedendo**

(1297. Latin text, 1 S. R. 125, Stubbs, S. C. 497. Translation, 1 S. R. 125. 2 Stubbs, 148, 5450

1. No tallage or aid shall be laid or levied by us or our heirs in our realm, without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other freemen of our realm.

2. No officer of ours, or of our heirs, shall take corn, wool, leather, or any other goods, of any manner of person, without the good will and assent of the party to whom the goods belonged.

3. Nothing from henceforth shall be taken in the name or by occasion of maletote.

4. We will and grant for us and our heirs, that all clerks and laymen of our land shall have all their laws, liberties, and free customs, as largely and wholly as they have used to have the same at any time when they had them best and most fully; and if any statutes have been made by us or our ancestors, or any customs brought in contrary to them, or any manner of article contained in this present charter, we will and grant, that such manner of statutes and customs shall be void and frustrate for evermore.

5. Moreover, we have pardoned Humphrey Bohun earl of Hereford and Essex, constable of England, Roger Bigod, earl of Norfolk and Suffolk, marshal of England, and other earls, barons, knights, esquires, and namely John of Ferrers, with all other being of their fellowship, confederacy, and bond, and also to all other that hold twenty pound land in our realm, whether they hold of us in chief, or of other, that were appointed at a day certain to pass over with us into Flanders, the rancor and ill-will which for the aforesaid causes we conceived against them, and all other offences, if any, that they have done against us or ours unto the making of this present charter.

6. And for the more assurance of this thing, we will and grant, for ourselves and our heirs, that all archbishops and bishops for ever in their cathedral churches, this present charter being first read, shall excommunicate, and publicly in the several parish churches of their dioceses, shall cause to be excommunicated, or

to be declared excommunicated twice in the year, all those that willingly do or procure to be done any thing contrary to the tenor, force, and effect of this present charter in any point and article. In witness of which thing we have set our seal to this present charter, together with the seals of the archbishops, bishops, earls, barons, and others which voluntarily have sworn that, as much as in them is, they shall observe the tenor of this present charter in all causes and articles, and shall extend their faithful aid to the keeping thereof forever.