

(Stubbs' "Charters," p. 135.)

Assizes of Clarendon 1164

In the year 1164 from the Incarnation of our Lord, in the fourth year of the papacy of Alexander, in the tenth year of the most illustrious king of the English, Henry II., in the presence of that same king, this memorandum or inquest was made of some part of the customs and liberties. and dignities of his predecessors, viz., of king Henry his grandfather and others, which ought to be observed and kept in the kingdom. And on account of the dissensions and discords which had arisen between the clergy and the Justices of the lord king, and the barons of the kingdom concerning the customs and dignities, this inquest was made in the presence of the archbishops and bishops, and clergy and counts, and barons and chiefs of the kingdom. And these customs, recognized by the archbishops and bishops and counts and barons and by the nobler ones and elders of the kingdom, Thomas Archbishop of Canterbury, and Roger archbishop of York, and Gilbert bishop of London, and Henry bishop of Winchester, and Nigel bishop of Ely, and William bishop of Norwich, and Robert bishop of Lincoln, and Hilary bishop of Chichester, and Jocelin bishop of Salisbury, and Richard bishop of Chester, and Bartholemew bishop of Exeter and Robert bishop of Hereford, and David bishop of Mans, and Roger elect of Worcester, did grant; and, upon the Word of Truth did orally firmly promise to keep and observe, under the lord king and under his heirs, in good faith and without evil wile,-in the presence of the following: Robert count of Gloucester, Reginald count of Cornwall, Conan count of Bretagne, John count of Eu, Roger count of Clare, count Geoffrey of Mandeville, Hugo count of Chester, William count of Arundel, count Patrick, William count of Ferrara, Richard de Iuce, Reginald de St. Walelio, Roger Bigot, Reginald de Warren, Richer de Aquila, William de Braiose, Richard de Camville, Nigel de Mowbray, Simon de Bello Campo, Humphrey de Bohem Matthew de Hereford, Walter de

Medway, Manassa Biseth -steward, William Malet, William de Curcy, Robert de Dunstanville, Jocelin de Balliol, William de Lanvale William de Caisnet, Geoffrey de Vere, William de Hastings Hugo de Moreville, Alan de Neville, Simon son of Peter William Malduit-chamberlain, John Malduit, John Marshall, Peter de Mare, and many other chiefs and nobles of the kingdom, clergy as well as laity.

A certain part, moreover, of the customs and dignities of the kingdom which were examined into, is contained in the present writing. Of which part these are the paragraphs;

/1./ If a controversy concerning advowson and presentation of churches arise between laymen, or between laymen and clerks, or between clerks, it shall be treated of and terminated in the court of the lord king.

/2./ Churches of the fee of the lord king cannot, unto all time, be given without his assent and concession.

/3./ Clerks charged and accused of anything, being summoned by the Justice of the king, shall come into his court, about to respond there for what it seems to the king's court that he should respond there; and in the ecclesiastical court for what it seems he should respond there; so that the Justice of the king shall send to the court of the holy church to see in what manner the affair will there be carried on. And if the clerk shall be convicted, or shall confess, the church ought not to protect him further.

/4./ It is not lawful for archbishops, bishops, and persons of the kingdom to go out of the kingdom without the permission of the lord king. And if it please the king and they go out, they shall give assurance that neither in going, nor in making a stay, nor in returning,

will they seek the hurt or harm of king or kingdom.

/5./ The excommunicated shall not give a pledge as a permanency, nor take an oath, but only a pledge and surety of presenting themselves before the tribunal of the church, that they may be absolved.

/6./ Laymen ought not to be accused unless through reliable and legal accusers and witnesses in the presence of the bishop, in such wise that the archdean do not lose his right, nor any thing which he ought to have from it. And if those who are inculpated are such that no one wishes or dares to accuse them, the sheriff, being requested by the bishop, shall cause twelve lawful men of the neigh bourhood or town to swear in the presence of the bishop that they will make manifest the truth in this matter, according to their conscience.

/7./ No one who holds of the king in chief, and no one of his demesne servitors, shall be excommunicated, nor shall the lands of any one of them be placed under an interdict, unless first the lord king, if he be in the land, or his Justice, if he be without the kingdom, be asked to do justice concerning him: and in such way that what shall pertain to the king's court shall there be terminated; and with regard to that which concerns the ecclesiastical court, he shall be sent thither in order that it may there be treated of.

/8./ Concerning appeals, if they shall arise, from the archdean they shall proceed to the bishop, from the bishop to the archbishop. And if the archbishop shall fail to render justice, they must come finally to the lord king, in order that by his command the controversy may be terminated in the court of the archbishop, so that it shall not proceed further without the consent of the lord king.

/9./ If a quarrel arise between a clerk and a layman or between a layman and a clerk concerning any tenement which the clerk wishes to attach to the church property but the layman to a lay fee: by the inquest of twelve lawful men, through the judgment of the chief Justice of the king, it shall be determined, in the presence of the Justice himself, whether the tenement belongs to the church property, or to the lay fee. And if it be recognized as belonging to the church property, the case shall be pleaded in the ecclesiastical court; but if to the lay fee, unless both are holders from the same bishop or baron, the case shall be pleaded in the king's court. But if both vouch to warranty for that fee before the same bishop or baron, the case shall be pleaded in his court; in such way that, on account of the inquest made, he who was first in possession shall not lose his seisin, until, through the pleading, the case shall have been proven.

/10./ Whoever shall belong to the city or castle or fortress or demesne manor of the lord king, if he be summoned by the archdean or bishop for any offense for which he ought to respond to them, and he be unwilling to answer their summonses, it is perfectly right to place him under the interdict; but he ought not to be excommunicated until the chief servitor of the lord king of that town shall be asked to compel him by law to answer the summonses. And if the servitor of the king be negligent in this matter, he himself shall be at the mercy of the lord king, and the bishop may thenceforth visit the man who was accused with ecclesiastical justice.

/11./ Archbishops, bishops, and all persons of the kingdom who hold of the king in chief have their possessions of the lord king as a barony, and answer for them to the Justices and servitors of the king, and follow and perform all the customs and duties as regards the king; and, like other barons, they ought to be present with the barons at the

judgments of the court of the lord king, until it comes to a judgment to loss of life or limb.

/12./ When an archbishopric is vacant, or a bishopric, or an abbey, or a priory of the demesne of the king, it ought to be in his hand; and he ought to receive all the revenues and incomes from it, as demesne ones. And, when it comes to providing for the church, the lord king should summon the more important persons of the church, and, in the lord king's own chapel, the election ought to take place with the assent of the lord king and with the counsel of the persons of the kingdom whom he had called for this purpose. And there, before he is consecrated, the person elected shall do homage and fealty to the lord king as to his liege lord, for his life and his members and his earthly honours, saving his order.

/13./ If any of the nobles of the kingdom shall have dispossessed an archbishop or bishop or archdean, the lord king should compel them personally or through their families to do justice. And if by chance any one shall have dispossessed the lord king of his right, the archbishops and bishops and archdeans ought to compel him to render satisfaction to the lord king.

/14./ A church or cemetery shall not, contrary to the king's justice, detain the chattels of those who are under penalty of forfeiture to the king, for they (the chattels) are the king's, whether they are found within the churches or without them.

/16./ Pleas concerning debts which are due through the giving of a bond, or without the giving of a bond, shall be in the jurisdiction of the king.

/16./ The sons of rustics may not be ordained without the consent of the

lord on whose land they are known to have been born.

Moreover, a record of the aforesaid royal customs and dignities has been made by the foresaid archbishops and bishops, and counts and barons, and nobles and elders of the kingdom, at Clarendon on the fourth day before the Purification of the blessed Mary the perpetual Virgin; the lord Henry being there present with his father the lord king. There are, moreover, many other and great customs and dignities of the holy mother church, and of the lord king, and of the barons of the kingdom, which are not contained in this writ. And may they be preserved to the holy church, and to the lord king, and to his heirs, and to the barons of the kingdom, and may they be inviolably observed for ever.

Henderson's Note

The list of articles laid before Thomas Becket in 1164, for finally refusing to sign which that prelate went into his long exile.

The custom of appealing to Rome—a custom which had begun under Henry I. whose brother was papal legate for England—had assumed alarming dimensions under Henry II. The king had almost no jurisdiction over his clerical subjects. And, to make matters worse, the clergy did not refrain from crimes which called for the utmost severity of the law. In ten years we hear of more than one hundred unpunished cases of murder among them. It was to put a stop to such lawlessness that Henry caused the constitutions of Clarendon to be drawn up by two of his justiciars. They contain nothing new, no right that did not belong by precedent to the crown. It was the way in which the struggle with Becket was carried on, not the weakness of the King's standpoint that caused the latter to fail in his endeavours. Public sympathy turned against him and, in 1174,

he was obliged to expressly permit appeals to Rome. Papal influence was to increase in England until it reached its zenith under Innocent III. liege lord and collector of tribute.

Source:

Henderson, Ernest F.

Select Historical Documents of the Middle Ages

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