

THE PARLIAMENT OF KENILWORTH.¹

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THE battle of Evesham, on August the 4th, 1265, transferred the power of England once more into the hands of Henry III., its legitimate ruler. Amongst the first measures he adopted was the summoning of a parliament on the 8th of September following, at Winchester, to deliberate upon the disposal of the estates of those barons who had been in rebellion against the Crown. At this time the legislature partook more of the nature of a privy council than a parliament; the nobility and the bishops alone were called to the royal council, and on this occasion only such of them as were agreeable to the monarch. Thus, in this first parliament convened after the battle of Evesham, the bishops of London, Worcester, Chester, and Lincoln were omitted, because they were favorable to the cause of Simon de Montfort. It was, indeed, scarcely to be expected that, whilst the events of the preceding years were still fresh, the tribunal would be impartially constituted. Nor would the feelings of the king, after his fourteen months' captivity, permit him to view the proceedings with moderation and justice. The Parliament of Winchester thus framed would, therefore, have little scruple in carrying out the entire wishes of the king. It cannot, then, be a matter of surprise to find that, whilst he exhibited a willingness to extend mercy towards the offenders by humanely sparing their lives, he should have forfeited all their estates.

The parliament decreed that the lands of all who were found in arms against the king should be seized into his hands, and in the next parliament they became absolutely vested in the Crown. This act led (September 21st) to the appointment of two commissioners for each county, who,

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with the sheriffs, were deputed to make a return of the extent of these various possessions by the 13th of October following. Upon this day all the adherents of Simon de Montfort were disinherited. Many of the delinquents pleaded that they were unwilling instruments in the power of the Earl of Leicester. In order, however, to ascertain whether this was really the case, an inquisition was ordered to be taken by the sheriffs and inquiries made, so that right should be done to them.

After the Parliament of Winchester had broken up, the king, who had remained there from the 12th to the 22nd of September, went with a large force to Windsor. His first intention was severely to punish the citizens of London for the part they had taken in assisting Simon de Montfort. But, after receiving their submission and treating them in a manner quite contrary to the promise of safe conduct he had granted for the interview, after violating the reception he had guaranteed, he imprisoned the greater number and seized the liberties of the city.

The parliament having already granted to the king the full possession of the lands of the insurgent barons, he began to use the acquisitions by bestowing them upon such persons as had served him with fidelity during the late war. This, as will presently appear, became the fertile cause of fresh complications and difficulties, and ultimately led to another appeal to arms. It is true that some of those implicated—Ferrers, Earl of Derby, for instance—were permitted to redeem their estates by the payment of money. The citizens of London had, however, sinned beyond the limits of pardon. Henry therefore distributed the property of sixty of the most wealthy of them amongst his favorites, and committed four of the leading citizens to prison. (Jan. 10.)

About the end of November, Simon, son of the Earl of Leicester, who was then in command of the Castle of Kenilworth, foreseeing the probability that it might undergo a severe siege, as indeed it afterwards did, suddenly left it with a chosen band of followers for the purpose of making an incursion into the Isle of Axholme. He was immediately joined by the disinherited barons. As soon as the king received tidings of this unexpected outbreak he sent against them such forces as he had at disposal, placing the army under the command of Prince Edward. The Prince so

vigorously besieged the insurgents that they were forced to surrender, when his cousin retreated to Kenilworth.

A similar outbreak happened in the following year towards the end of April, when Earl Ferrers, who had just received the royal pardon, bringing together a large number of supporters with some of those who were in the Isle of Axholme, began to plunder the counties in the north-west. They were, however, routed at Chesterfield, on the 15th of May, by Henry, the son of the King of Almain.

It is desirable to bear these two engagements in recollection, as they were subsequently the cause of just complaint on the part of the king, whilst the barons who were against him in these engagements were specially included under the second and seventh clause of the award of Kenilworth, as will be hereafter noticed.

On the 14th of December Henry III. left Windsor, resting at Dunstable and Hanslope, for the town of Northampton, where he arrived on the 20th. One of the first acts of the king, on his arrival at this place, was to send precepts, dated on that day, to all the sheriffs throughout England to make proclamation, in their respective counties, that all who held of him *in capite* and owed him service should be at Northampton on the 27th of January, to join the array opposed to his enemies who then held Kenilworth against him. The king and queen passed the Christmas at Northampton, and were attended by Richard Earl of Cornwall, recently elected King of Almain, or, as he is sometimes entitled, King of the Romans. He was brother-in-law of Henry III., and by this connection became uncle to Simon de Montfort. Cardinal Ottoboni, the papal legate, was also among the royal guests.

The presence of the legate in England during the disorder that prevailed was certainly beneficial to the peace of the country. There can be no doubt that he acted the part of a mediator; the ultimate subsidence of the angry passions that had been aroused in the hearts of both the contending parties is mainly attributable to his sage and considerate advice. It was owing both to this, but more particularly to the friendly intervention of the King of the Romans, that Simon de Montfort the younger was induced to submit his cause to their arbitration. After receiving hostages Simon de Montfort was prevailed upon to appear before the king

at Northampton. On his arrival he was introduced into the royal presence by his uncle. The King of Almain opened the business of the visit by thanking his nephew for having saved his life at Kenilworth, when Simon's father was killed in the fight of Evesham; for the garrison of the castle holding it on behalf of the insurgents were so exasperated at the death of the Earl of Leicester, that it was with the utmost difficulty they were restrained from putting the King of Almain, then their prisoner, to death. He was not unmindful of the protection which the younger Simon rendered in this peril, and, in consequence of these services, Henry admitted him to the royal favour. Indeed he would have obtained other advantages had not the Earl of Gloucester interposed and prevented this act of grace. Finally it was arranged that he should give up the Castle of Kenilworth, that he should leave the kingdom, and receive annually 500 marks from the king's exchequer.

Upon these terms being made known to those who held the Castle of Kenilworth, they declared they would neither yield it to the king nor to Simon de Montfort. For they urged that he was still held in restraint, and that they had not received the castle from him but from the countess his mother, who had lately been expelled the kingdom. Therefore, they would only consent to make the surrender to her, and that in her own presence. During this time, whilst Simon de Montfort was kept in the power of the king, Kenilworth was held by the supporters of the countess. When, however, the king returned to London on the 26th of January, his captive found means of escaping to Winchelsea, where he was supported by a large number of privateers belonging to the Cinque Ports. With them he entrusted his fortunes for a time to the ocean, and for the present his name will not be found in the narrative of succeeding events.

On the 10th of January the citizens of London were allowed to make a composition for their liberties. They bound themselves to pay to the king the sum of 20,000 marks in satisfaction of their transgressions. Their pardon contained several grants and exceptions which it is unnecessary here to recite. Ultimately the city recovered all its privileges, though it was not until four years after these transactions.

On the 11th of February, the important question of the disinherited barons engaged the attention of the king. As a preliminary, they had safe conduct given them to come to the sovereign, until Easter, in order effectually to treat with him and make their peace. It has not, however, transpired how many availed themselves of the overture and accepted the terms of composition. All that can be ascertained is that the citizens of London gladly took advantage of the offer, though they were heavily fined for their opposition.

The kingdom at this moment was in a most unsettled state, and consequently many important transactions during the period after the battle of Evesham (August 4, 1265) to the fall of Kenilworth (December 13, 1266) are involved in much obscurity.

Many of the barons escaped after the battle of Evesham, and during the whole of this interval continued in opposition to the king. Although the adherents of Simon de Montfort felt that their cause was daily growing more desperate, they continued still to cherish a faint hope that their ascendancy would be maintained, and their further fortunes preserved unbroken. Some, like Earl Ferrers, had been already disinherited, whilst others lay entirely under the mercy of the Crown. The kingdom continued in a very distracted state. Neither party felt quite secure, and thus the policy of strengthening the power of the king became more urgent. Henry consequently took advantage of every opportunity of increasing it; we accordingly find that, March 15, he wrote to those bishops who had collected a tenth of the ecclesiastical revenues of the kingdom during the time he was held in captivity, desiring them to pay the sums so collected to the bishops of Wells and Coventry, being desirous that it should be expended both in defence of himself and the church.

On the 28th April, Henry III. passed through Brackley to Northampton, where he arrived on the same day, and continued there till the 15th of June. He spent from the 16th till the 24th of the same month at Warwick. On the 25th he appeared before Kenilworth Castle, where he remained with his army till the 16th of December; on that day he left it, returning through Warwick, Banbury, Oxford, and Windsor, to Westminster.

The king collected all his forces to make an assault upon

Kenilworth. It was whilst they were vainly attempting its reduction that the barons in arms against him, now dispersed throughout the country, taking advantage of the absence of the royal army, and knowing that Cambridgeshire and Huntingdonshire were without protection, united and ravaged that part of England (May 22), carrying away considerable booty. Unchecked in their career, early in the month of August they entered the Isle of Ely, where, taking advantage of the fenny nature of the country, they firmly established themselves for a year, extending in the mean time their ravages as far as Lynn.

During the prolonged siege of the castle at Kenilworth, which, for the endurance and valiant defence of the garrison, is one of the most remarkable events of the thirteenth century, the king found it expedient to devise some measures for conciliating the disaffected persons, as well as to provide for the general peace of the realm. In order to accomplish an object so desirable, a meeting was held on the 24th of August, 1266, in the royal camp before the castle, when certain provisions were established which are popularly known under the English title of the Award of Kenilworth. They are, however, printed in the Statute book and mentioned by the chroniclers of the period as the "Dictum de Kenilworth."²

Before entering upon an examination, necessarily brief, of this celebrated Adjudication, Enactment, Edict, Ordinance, or Decree, as it may variously be called, it will be desirable to settle three facts.

I. The nature of the assembly that drew up its clauses.

II. The persons authorised to put them in execution.

III. The aims or proposals of the Council.

I. The meeting at Kenilworth, whose decision made the Dictum the law of the land, strictly speaking can in no sense, as has been customary, be called a Parliament. When summoned on August 22nd, it was devoid of every form that could constitute it a legislative meeting of this description. The pressure of circumstances under which it met rendered it essential for the king's interest that it should be entirely wanting in everything that could make it a popular assembly.³ The people, or at least a large proportion of the kingdom,

² Statutes of the Realm, vol. i. p. 17.

³ Rep. Dign. Peer., v. i. p. 178.

were hostile to the wretched policy that directed the royal councils. They had seen the king's promises violated in the safe-conduct he had guaranteed to the citizens who trusted their persons to him, when they accepted his invitation for a conference at Windsor in September in the previous year. The barons had found that all the constitutional progress they had made under the Provisions of Oxford was entirely destroyed. Neither class could have any faith in Henry's engagements. The Pope, it is true, absolved him from the oaths he took to the magnates, under the pretext that they were adverse to his authority (June 12, 1261), but neither the nobility nor the people admitted so manifestly perverse and unjust an interpretation. These are reasons sufficiently apparent why the king should have feared submitting his own case to popular and dispassionate adjudication. Popular indeed no assembly could then be called, since the utmost privilege the people had then attained was to hear the faint pulsations of liberty struggling for existence in a committee of twenty-four of the aristocracy. Dark and hopeless at this time was the prospect of a national representation, for patriotism was absolutely crushed.

This will show that what has usually been called the Parliament of Kenilworth was in reality a meeting of a totally different kind, even as the word signified in those days of monarchical misrule and feudal oppression. It may excite surprise that these disorders in the body politic, after having been once overcome, should have ever again broken out. But we must remember that a social evil then, as in our own day, takes a long time to eradicate. Nor, again, does it appear that the persons who had the authority to draw up the award were, taken as a body, of that character or so numerously convened that they constituted a legal Parliament.⁴

It has also been doubted by some of our chroniclers whether the Council, for so it must correctly speaking be called, actually held their meeting at the Castle at Kenilworth. A sufficient proof to the contrary is given by one of the copies of the Dictum being dated "in castris apud Kenilworth," whilst we know that the award was in other

⁴ Answer to Mr. Petyt's book entitled the Rights of the Commons asserted, pp. 35-6, in which work Dr. Brady even

controverts the idea of the Commons having any voice in this assembly.

copies dated on the 31st of October, the Castle not being surrendered until the 31st of December following.⁵

II. The nature of this assembly, then, in no manner partaking of that of a Parliament, what was its actual constitution? This is gathered from the terms of the record itself entered on the Patent Rolls that describes it. It is in French, and its purport is as follows :—

Henry by the grace of God King of England, in the fiftieth year of his reign, in the octaves of the Assumption of our Lady, at the request of the honorable father Ottoboni, Legate of England, summoned his Parliament at Kenilworth ; where it was agreed and granted by common consent and common council of the Bishops, Abbots, Priors, Earls, Barons, and others, that six persons, that is to say, the Bishop of Exeter, the Bishop of Bath, the Bishop elect of Worcester, Sir Alan Zouche, Sir Roger Somery and Sir Robert Walerand, by their oath there made, should choose six others, no ways suspected, who knew best and would, according to their understanding, do what was best for the security and peace of the land, of which six one was to be a Bishop, and the other five knights, and those twelve sworn upon the Holy Gospels.⁶

These six are named in the preamble of the Dictum together with the six other Commissioners chosen by them, namely, the Bishop of St. Davids, Gilbert de Clare Earl of Gloucester, Humphry de Bohun Earl of Hereford, Philip Basset, John Baliol, and Warin de Bassingbourn. Five of these knights fought on behalf of the King at Lewes or Evesham.

III. Without examining each of the forty-one clauses of the award, it will answer the present object to state that, amongst other matters, the first six declare the full authority and exercise of the royal power, the liberties of the Church, the remission of pardon and the rights and possessions of the Crown.

The twelfth clause fixes the terms of ransom for those who commenced the war, or who were in arms against the King at Northampton, Lewes, Kenilworth, Evesham, and Chesterfield. All of these were to pay the value of their land for five years. The conditions imposed on the Earl of

⁵ Tyrrell, vol. ii. p. 1067.

⁶ Brady's Answer to Mr. Petyt, &c., p. 35.

Derby and Henry de Hastings were more severe, the redemption of their lands being set at seven years' return.

With the exception of the seventh clause it will be needless to inquire into any others, the same application of the principle of ransom being laid down throughout. These terms of composition were in fact the main objects of the Dictum of Kenilworth.

Considering the particular circumstances under which the authors of the award drew up its provisions, there is even now, when it can be dispassionately reviewed, very little deserving the reprehension of a more civilised age. The seventh clause is, however, an exception. But for the insertion of this, the Dictum might have challenged comparison with many later proffers of mercy shown to political offenders. Its general tone was one of moderation and equity. Its general scope was wide. This clause, however, was for a time fatal to the progress of constitutional liberty, since it utterly annulled and quashed the Provisions of Oxford, to use the word of the award, when speaking of them, "*penitus adnichilentur et cassentur, et pro cassis et pro nullis penitus habeantur.*" The repeal of these provisions at once threw back again all power from the twenty-four into the mere will of the monarchy.

Yet how much blood had been shed to gain this very small advance in the path of practical freedom. In vain had the Barons led on their victorious ranks at Lewes! The repeal of the Oxford Provisions destroyed all the political advantages their contest had gained, and it invested Henry III. once more with uncontrolled and irresponsible power.

An interesting series of documents has been preserved, which give an account of the proceedings subsequent to the publication of the Dictum of Kenilworth. These documents have been printed in a volume which has become of much scarcity, and, therefore, a notice of them is desirable, independently of the particular illustration they give of these events. One of the six documents is entitled,—"*Terræ rebellium datæ fidelibus tempore Regis Henrici III. in diversis comitatibus Angliæ*;" another,—"*Terræ Normanorum seisitæ in manum Domini Regis in diversis comitatibus.*" The other four are,—"*Placita de terris datis et occupatis occasione turbacionis in regno Angliæ, in comitatu*

Essex, in comitatu Northamptoniæ, in comitatu Suffolciæ, in comitatu Cantabrigiæ.”⁷ Thus the six rolls furnish the pleas set up by the owners of the estates confiscated in the four counties of Essex, Northampton, Suffolk, and Cambridge, which were bestowed on the king’s adherents, and those of the Normans seized into the hands of the king in several counties.

The first of these documents simply mentions the names of those who had previously held the forfeited lands, their value, and the names of those upon whom the king had bestowed them.

The Plea Rolls are much fuller. These not only furnish the names of a large number of possessors of property in these four counties, thereby furnishing much information of a topographical and statistical kind, but they supply many minute facts which illustrate the social habits of the period; they give the value of agricultural stock, furniture, wearing apparel, and other personal possessions. The evidence is throughout adduced against the accused with great detail and circumstantiality, whilst the replications are equally minute and positive.

ITINERARY OF HENRY III.

IN HIS 49TH, 50TH, AND 51ST REGNAL YEARS.

49th Henry III.

A.D. 1265.—September 9	. . . . .	Marlborough.
„ 12 to 22	. . . . .	Winchester.
„ 24 to 25	. . . . .	Reading.
Sept. 26 to Oct. 8	. . . . .	Windsor.
October 10 to 20	. . . . .	Westminster.
„ 22 to 28	. . . . .	Canterbury.

50th Year.

Oct. 29 to Nov. 2	. . . . .	Canterbury.
Nov. 5 to Dec. 8	. . . . .	Westminster.

⁷ Rotuli Selecti ad res Anglicas et Domo Capitulari West-Monasteriensi Hibernicas spectantes, ex Archivis in deprompti. 1834.

50th Year.

December 10 to 14	Windsor.
„ 16	Dunstable.
„ 18	Hanslope.

A.D. 1266.--Dec. 20 to Jan. 19	Northampton.
Jan. 24	St. Albans.
„ 25 to 26	Waltham.
Jan. 26 to April 4	Westminster.
April 6 to 17	Windsor.
„ 18	Reading.
„ 22 to 27	Oxford.
„ 28	Brackley.
April 28 to June 15	Northampton.
June 16 to 24	Warwick.
„ 26 to Oct. 28	Kenilworth.

51st Year.

Oct. 29 to Dec. 15	Kenilworth.
December 16	Warwick.
„ 17 to 20	Banbury.
„ 22 to 27	Oxford.
A.D. 1267.-- January 2 to 3	Windsor.
„ 5 to 28	Westminster.
