

STUDIES IN THE CONSTITUTION OF MEDIAEVAL ENGLAND

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SECTION XVIII THE NATURE OF PARLIAMENT

It is worth recalling that the representative members came rather unwillingly — particularly the burgesses — however they were thus given a chance of presenting petitions. Parliament under Edward I was just a casual collection of individuals anxious to get home, and the part they played in parliament was not of great practical importance. The factor that gradually welded the two orders was the Common Petition. In Edward I's time they probably sat apart for the purpose of deliberations, and it is very unlikely that the deliberations of the burgesses were of any importance at all. However they succeeded in attaching themselves to the knights, and in the early XIVth century separate consultations became rarer and joint ones more usual, until by the middle of the century it had become a regular procedure. 'Commons' originally meant 'communes', that is shires or counties — those representing communal bodies. When Parliament was assembled knights and burgesses were charged with petitions to be dealt with by the King in Council. These were mainly private, but some came from county courts. At the beginning of the XIVth century an obvious tendency was for the bearers of these petitions to make as many as possible of them into a single common petition and send it in with the whole weight of the order behind it. By the beginning of Edward III's reign we see that knights and burgesses used to get together to discuss the petitions with which they were charged, and make up a Common Petition which was subsequently presented in Parliament. By this time too they had a regular official representative who presented petitions and had the right of speaking in the parliamentary Chamber, whence came his present title. There was also a 'Clerk of the House of Commons', who made up the Roll, probably did not keep a journal, but simply a role of attendance, and who probably drafted Common Petitions. So we now see that a formal amalgamation of knights and

burgesses has gone so far that they have a Common house, an official representative, and a clerk for clerical work. This was as a result of delivering Common Petitions. In the Parliament for 1325 Rolls distinguished between petitions presented '*per tote la commune*' and '*aliae petitiones*'. By Edward III's time it is quite obvious that petitions are the most important feature in Parliament, and by the middle of his reign, that is by 1348, it had become the regular custom for individual petitions to be referred to the Chancellor and dealt with after dispersal. The answer had now become an Act of Legislation to Common Petition. A grievance shared by everybody was so important that it must be remedied in a solemn and binding way, and here again Common Petitions had an important result.

The Common Petitions influenced also the characteristic form of English legislation. This form has been followed in its main essentials until modern times, and is in itself important constitutionally. In the XIIIth century it was mainly by act of the King. In the XIVth century it consisted of Acts of Crown in Parliament, and finally it became an Act of Parliament itself. When it was an Act of the King there was no very important distinction between the different forms in which the act was laid down, since any royal command or injunction was law. In fact there is no certainty as to whether any differences existed between these forms at all, but during the course of Edward's reign a significant change shows itself in the form of legislation, though whether this was deliberate or not is uncertain. A Statute Roll begins to be kept and the existence of this establishes the difference between those royal acts and commands entered on the Roll and those which are not. Shortly after this they were given the names of Statute and Royal Ordinance respectively. The former term was used to denote a more solemn and binding act, while the latter usually referred to a comparatively temporary measure, used for less important concerns and easier to revoke. The next stage developed very rapidly, and in Edward II's reign it became an established principle that nothing was to go onto the Statute roll which had not received the common consent of King, Lords and Commons in Parliament assembled.

During Edward III's reign the process of initiating legislation shows signs of passing into the hands of the Commons, due to the growth of Common Petitions. Edward was always willing to receive petitions and promise relief for money, and so almost insensibly the process of legislation became (i) a petition from the Commons, (ii) consultation between the King and Lords, followed by an answer to the petition, either promising relief or '*le Roi se visera*'. Then at the end of Parliament judges and men of law drew up a Statute which was to give effect to the King's promises. The law itself was drawn up by judges.

The result of this form was to make the relations between the Statutes and Royal Ordinances a matter of constitutional importance. For example, Richard II made very free use of the Crown's prerogative to issue Royal Ordinances and even issued them to suspend or alter statutes on the Roll¹. On the other hand the Lancastrian kings were very sparing in their use of ordinances, and so the whole matter of relations remained uncertain at the end of the Middle Ages.

The actual formulae used in Parliamentary Statutes is of considerable importance. In the reign of Edward III these statutes were drawn up by the King with the assent of prelates, earls and barons, at the request of the Commons. In the XVth century, during the constitutional experiment, the formulae varied between the old form and one in which the Act is said to be drawn up by the advice and assent of Lords and Commons. Then in 1433 the act says 'done by King by authority of Parliament'. This is a new phrase, and comes to be the regular formula from Henry VII's reign onwards. In Henry VIII's time it was 'King, our Sovereign Lord, at his Parliament holden at Westminster of . . . by the assents of Lords Spiritual and Temporal and Commons in said Parliament assembled and by authority of said Parliament hath done to be made certain statutes and ordinances in manner and form following:'.

SECTION XIX

THE DEVELOPMENT OF MONARCHY AND THE REACTION OF THE BARONS

To begin with, the general course of development following the Norman Conquest had been marked by the growth of a very powerful monarchy, which amounted almost to despotism. This stage was followed by the imposition on this monarchy of a series of controls. At first the Crown suffered chiefly from (i) the ordinary weakness of central authority, mainly due to the feudal state and the fact that the king was simply the greatest of the barons, (ii) Defectiveness of the machinery for government. These difficulties were surmounted by the Norman and Angevine kings, with the result that by the end of the XIIth century the English monarchy had become the most powerful in Western Europe. At the beginning of the XIIIth century Magna Carta marked the

(1) For Richard II's theory of government and his attitude to Royal Ordinances see : F. W. Maitland '*The Constitutional History of England*' pp. 187-188; J.E.A. Jolliffe, *op. cit.* pp. 430 ff.; B. Wilkinson '*Constitutional History of Medieval England*' (Longmans, 1952) Vol. II, pp. 68-77.

beginning of the rule of law, and the mediaeval kings of England, from Henry III to Edward IV, were subject to far more restrictions on their powers than were their successors. The limits imposed were of two kinds. (a) the actual restraints laid down by Magna Carta and similar documents. (b) Practical restraints which resulted from the political role adopted by the baronage. The barons ceased to be a disintegrating and disruptive force. At the beginning of the XIVth century the machinery of government consisted of (i) certain great departments of state which had grown out of the king's household, in particular Chancery and the Exchequer, which were furnished with regular staffs, supplied with special departmental routine and methods, and already possessed a strong corporative feeling and traditions. (ii) A well developed legal system, law courts, professional judges, lawyers, and a peculiar and very individual body of law - English Common Law, (iii) A fairly efficient system of local government, working through such crown officials as sheriffs, royal bailiffs and escheators, and to some extent travelling justices, and much useful amateur work carried out by county courts, coroners, and conservators of peace. (iv) At the beginning of the XIVth century great departments like the Chancery and the Exchequer were becoming less responsible to the personal authority of the Crown, hence XIIIth century kings had begun to make more use in many administrative matters of private household departments instead of the greater departments which had grown out of the household and were no longer within their immediate control. One of these private household departments was the Wardrobe. (v) During the XIIIth century Royal Council, consisting of a small group of chief ministers and personal advisors, had become much more formalised and had gradually acquired a separate institutional identity of its own. It was a central executive body and was of sufficient importance in political routine to make the barons wish to gain control of it. (vi) This Council and the Magnum Concilium had had a common origin in *Curia Regis*, but Magnum Concilium had now developed into Parliament and was becoming a national representative assembly. When Parliament acted in session it was not easy to tell what relation actually existed between the King's Council and the Upper House of Parliament for the two tended to blend into one. This was the system which was in force up till the reign of Edward II, a reign which contained several important features. This period is very important constitutionally, for it foreshadowed the general nature of English politics for the rest of the Middle Ages. Edward was the least effective of the Plantagenets. He possessed no ability, he was too self-indulgent, and he was quite unreliable, even with regard to his favourites. From the beginning of his reign he was faced by strong baronial opposition. The barons who chiefly formed this opposition were not great patriots and there was much changing of sides,

but they were now entering into their heritage as guardians of the constitution. The King also began to have to face (and this was to be a constant factor in the future) the hostility and suspicion felt by the baronage as a whole towards the Court, i.e. a very distinct class, but picked at random, from amongst whom the King chose his administrators of government machinery. These men were of three types: (a) Professional men, judges and lawyers, and men who had entered the Church for the sake of a political career, (b) A large number of men drawn from among the country gentry who filled offices in the King's household, and (c) courtiers in the ordinary sense, personal favourites and attendants of the King. This class was typified by Edward's favourite, Peter Gaveston, who, insolent, conceited and indiscreet, as well as being avaricious and greedy, thought himself to be all-powerful¹. The most important of the King's barons was Thomas of Lancaster. He was the son of Blanche of Artois, the dowager Queen of Navarre, and was probably the wealthiest man in England, besides possessing five different earldoms. The old Earl of Lincoln, who had been a very faithful servant of the King, held a moderate amount of influence, but he died and soon after Edward's succession Lancaster became the leader of the baronial opposition. On the whole he typifies the worst type of the old feudal barons, and in character he appeared to be invariably sulky, stupid and vindictive. In view of the fact that his birth and wealth gave him first precedence after the King he was naturally accepted as the barons' leader, and he exercised a great deal of influence, all of which was bad. Besides him, there were other barons who also possessed considerable powers. During the years 1307 — 11 disputes were constantly arising between the King and the barons, and in 1310 a baronial parliament in London attempted to take over practically complete control of the government. Finally Parliament appointed twenty-one prelates and barons to compile a complete programme of reform, called the Lords' Ordinances. These attempted to set up a baronial oligarchy and laid down that (a) the King was to discharge none of his official duties without the Lords' approval : (b) nor could he raise armies without their consent: (c) important offices of state must be filled by men of whom the barons approved. Apart from these provisions there were no elaborate committees and no permanent baronial council to control the King. This programme is the same as that of 1258, with one important difference. According to the Ordinances there was to be a thorough reform of the King's household, and they had reference to those private administrative departments such as the

(1) For the most recent and lucid account of the career of Peter Gaveston and the causes which led to his downfall, see B. Wilkinson *op. cit.* Chapter III, and other relevant sections.

Wardrobe which had been becoming more and more incompatible with effective administration.

The last stage of this struggle took place between 1311 and 1314, and during this period there occurred a kind of royalist reaction, so that the baronial party lost what little control of the government it had gained from the Ordinances. The death of Gaston caused a quarrel between Pembroke and some of the other great barons, and as a result, from 1312 onwards Pembroke led one section of the baronial party in direct opposition to Lancaster and the extremists. The next stage of the reign is marked by the years 1314 to 1318. The Battle of Bannockburn very nearly unseated the King of England, and as a result political power was thrown into the hands of Lancaster and his extremist following. These four years provide the most complete demonstration of Lancaster's personal incapacity. Eventually in 1315 power passed into the hands of the middle party, led by Pembroke. By that period of the King's reign there existed in the political organisation of England several wellmarked parties. These were as follows:—

(I) The pure, feudal extremists, such as Lancaster, Hereford and their followers.

(II) The middle party led by Pembroke. This party of moderate men were definitely baronial so far as their personal interests were concerned, but tried to prevent Lancaster from reducing the government of England to absolute anarchy, without, at the same time, allowing the King to recover absolute, unchecked control of government machinery.

(III) The Royalist party. These were the King's closest supporters and were generally associated with the name of Despencers.

(IV) The party of the Lord Marchers of Wales. The Marcher lords occupy a very important part in mediaeval history. Although individually not as powerful as Lancaster or Hereford they were relatively very strong in proportion to the extent of their territories. Their military power was much greater than that of the average baron and since there were perpetual disturbances on the Welsh borders they were all fighting men. In addition there were certain special privileges to which they laid claim and which were allowed them. Up to this time the Marchers had been dominated by the great house of Clare, but by the death of Clare at Bannockburn they lost their traditional leader.

During the years 1318 the middle party remained supreme. This party, though definitely baronial, did represent a constitutional position as stable as that of 1311 or 1258, and they had a definite political programme. The

royalist party — associated with the Despensers — were also constitutional up to a point. The elder Despenser was an official of a somewhat bureaucratic type, while the younger was more of a courtier and a favourite. Most of the Marchers were prepared to support Pembroke and the Middle Party in preference to Lancastrian supremacy. The Middle Party eventually succeeded in getting the King into their hands and a settlement was reached by the treaty of Leake¹ between the Earl of Lancaster on one side and the King and eleven prelates on the other. Lancaster was pardoned for all his offences, and it was decided that the Ordinances of 1310-11 should be rigorously applied. Furthermore a standing council was appointed to advise the King, without the consent of which the King could do no act of government. It was a mere re-enactment of the Ordinances of 1311, fortified by those of 1258. The York Parliament marked the triumph of the Middle Party, but there was no element of stability. The King disliked the Middle party almost as much as Lancaster and there was constant intrigue against them for three years. Eventually the enmity of the Despensers proved fatal. Hugh the younger was chiefly responsible for this. He wished to build up a territorial lordship for himself, and as one of the Clare² inheritors it was in Wales and the Marches that he wished to do it. Already he possessed much of the Clare holdings. After Earl Gilbert's death the superiority of the Clare family had vanished, and the other Marchers worked out a tacit federation to preserve a balance of power. William de Broase, the last male of the house, sold all the Gower inheritance to John Mowbray, who did not obtain a royal licence to alienate the land, nor take seisin of it, as he claimed this as a special privilege. However Despenser, as Royal Chamberlain, seized all Gower's lands, castles, etc. in the name of the King. This resulted in a coalition of all the other Marcher barons and civil war began in South Wales. Thomas of Lancaster also took up arms in the North, and eventually the King gave in and the two Despensers were banished. However they returned in 1320-21. At about this time Queen Isabella, while on her way to Kent, arrived at Leeds Castle, which belonged to Lord Badlesmere (of the Middle Party). In his absence his wife was chatelaine and she closed the castle gates against the Queen and refused to open. Troops were thereupon raised and the castle was besieged and captured. This provided an excuse for the raising of more forces. Edward and his supporters summoned the Despensers home again and marched west aga-

(1) for further details concerning the treaty see the excellent account in B. Wilkinson, *op. cit.* - pp. 17 ff.

(2) He had married the eldest Clare heiress.

inst the Marchers. The latter were unprepared and the King occupied all their castles. Thomas of Lancaster again summoned his retainers, but the royalists marched against him and for the next four years the Despencers were in complete control. However they did not set up a despotism, and in 1322 at the Parliament in York certain constitutional principles were laid down. Matters concerning the estate of the King and the realm were to be dealt with in Parliament by the King, the Council of prelates, earls and barons, and the commonality of the realm. The Despenser government proved unpopular and ineffective. New baronial opposition arose, the chief figures in which were the Queen and Roger Mortimer. Their enmity brought about the downfall of the Despencers. The movement was led by the Queen, and eventually the Despencers were captured and executed, and the King captured and deposed in favour of Edward III. Later the ex-King was murdered at Berkeley. His deposition and death furnished a remarkable constitutional precedent and a great moral example.

SECTION XX

THE REIGN OF EDWARD III AND ITS CONSTITUTIONAL PROBLEMS

The reign of Edward III was not marked by very great constitutional developments. Its chief features were, firstly the Hundred Years War which dominated politics throughout, and secondly the rapid growth of a strong national feeling which took the form of an aggressive patriotism. In the early part of Edward's reign there were a series of constitutional crises, but on the whole the two most important constitutional changes were (a) the fairly steady growth in importance and influence of the House of Commons, which had, by the end of the reign gained a more assured position, and exercised much more influence over Parliament, and (b) abandonment of the habit of dealing separately with different orders, particularly merchants when money was needed. This was the first great victory of the Commons as such.

Edward was an ambitious soldier. He was always in need of money and used unpleasant methods of raising it often without parliamentary assent. He was ready to promise anything in order to assuage grievances. On the whole his government was fairly popular, as it brought the country both profit and glory, though Parliament voiced occasional complaints at his methods. Two important constitutional crises occurred. One of these

arose from the King's financial business. Actually he was able to raise considerable sums from trade, mainly in wool, and in addition to regular wool customs Edward began to raise subsidies on wool which seemed not very easily distinguishable from the prices, except that the King apparently used to obtain the approval, not of Parliament, but of the merchants themselves beforehand. Edward was constantly negotiating with merchants, independently of Parliament, during the first ten years of his reign, and the English merchant class now began to assume a more prominent and important position in political life. From the beginning of Edward's reign onwards, too, English commerce steadily developed and the English merchants were now more accustomed to finance the government. This business of supplying money first became a regular feature in the early XIVth century and helped the growth of the middle class. The crisis came in 1340. Parliament demanded the abolition of maltolt and tallage, and Edward agreed as usual. This was the first step towards progress, but the chief result was the disappearance of tallage. It was also a step towards the nationalisation of taxation. The second crisis came in 1341. The discontent of Commons over the King's dealings with the merchants became associated with the quarrel of the King and two of his ministers. Stratford and Parliament took the opportunity to put forward a reform programme, which laid down (I) that commissioners be appointed to account to Parliament for all money grants made. (II) That the Chancellor and other great officials of state should be appointed in Parliament and there sworn to obey the law. (III) That great officials of state should resign their offices at the meeting of each parliament, in order to account for the discharge of their duties and to undergo parliamentary criticism.

During the next part of the reign there were no important developments. The years 1341 to 1351 were marked by the regular course of heavy expenditure on war and of irregular dealings between the government and the merchants, which evoked constant protests from the Commons. The most important feature was that the Commons were welded into a single, self-conscious and active body.

Then in 1349 came the Black Death. There is no doubt that English Politics were definitely affected by the economic changes which resulted from this plague, and the politics of the last half of Edward III's reign, e.g. 1356-1377, differ noticeably from those of the first half. There is one feature in common however, and that is the steady rise in importance of the Commons. From 1350-60, according to some historians, the constitutional role of the barons was taken over by the Commons. The barons we-

re occupied with war, and it is true to say that during the years 1350-1370 the Commons were unusually active and the Lords comparatively unimportant — e. g. attendance fell from 74 lay barons in the time of Edward II to 43 in that of Edward III.

This period shows another feature, and that is the growth of a strong anti-clerical feeling among the laity. Legislation in the form of Provisors in 1351 forbade the Church custom whereby the Papacy provided successors to Church benefices during the lifetime of the existing incumbents, and Praemunire in 1353 forbade, under pain of outlawry and forfeiture, the taking of any causes cognisable in the English constitution to any other tribunal. The movement culminated in the Parliament of 1371, which demanded that only laymen should be appointed to the chief offices of state and that in the future no churchman should be Chancellor, Treasurer, Clerk of the Privy Seal, or a baron of the Exchequer.

The turning point in the later politics of Edward III is the recommencement of the French war in 1369. The last eight years of his reign differ as markedly from the middle years as these did from the first part. The King himself, though not very old, had become much less active and more self-indulgent and had lost whatever interest he ever had in domestic politics. During these last eight years he took no personal part at all, and in his place we see John of Gaunt. In 1369 a new period of constitutional development began. The final years of Edward's reign were marked by gloom and discontentment, and also much political activity. The war in its second phase was an unbroken series of disasters. England was neither strong, nor wealthy, nor populous enough to hold much of France against her will, and the disasters, both military and naval, were a great blow economically and also to the national pride, Edward's finances were now suffering partly from the Black Death and partly as a result of military disasters, particularly that of La Rochelle, in 1372. Hitherto, his reign had seen a great development of English commerce and naval power, but now losses in the field and at sea were followed by loss of control of the channel, resulting in constant enemy attacks on the south coast. These evils were all blamed on the fact that government of the country was being left entirely in the hands of ministers. In 1371 a minor political crisis occurred, in which Edmund Mortimer, Earl of March, forced certain resignations, and the court party in the parliament of the same year attacked the ministry of William of Wykeham, Bishop of Winchester, following which the government fell into the hands of a small aristocratic clique under John of Gaunt. This party remained supreme until the Good Parliament of

1376. The nobles now consisted of two factions - those who were followers of John of Gaunt and those who were opposed to him. This government too was unpopular and was accompanied by disasters and a good deal of corruption and mismanagement. In 1376 ensued the formal parliamentary attack on personal government, and the impeachment took place, not of John of Gaunt, Duke of Lancaster, but of all his chief supporters, particularly Lord Latimer, King's Chamberlain, and Sir Richard Lyons, a great London merchant and chief financial agent of the government.

The charges are interesting. Latimer and Neville were accused of speculating in the King's debts, and of buying at a great discount and then paying in full from the exchequer. Lyons was charged with manipulation of the customs system. England now possessed a considerable export trade in cloth goods, and all export had legally to pass through Calais. Hence customs duties were involved. This system was controlled by Latimer, who not only obtained for himself licences to export direct to Flemish cities, but also sold licences to friends and increased the duties at Calais. The general result of these charges was, for a time, complete success, and before Parliament dissolved the chief offenders were expelled from the King's Council. A new Council was appointed consisting of twelve lords and prelates, whose business it was to advise the King on the control of the government. The leaders of the attack had been a few great lords, who were enemies of Lancaster, and the entire party of Knights in Commons, as well as the Earls of March, Warwick and Pembroke. Their success, however, was only temporary.

SECTION XXI THE PROBLEMS OF CONSTITUTION IN THE REIGN OF RICHARD II.

If we compare Richard II with Edward II there are quite a number of striking differences. Firstly, Richard was an able man, likeable, a good friend, and of strong character. He had a definite policy of his own and a political theory with regard to kingship. This was inevitably to provoke conflict with the government. Further, by the time his reign was reached the country too presented marked differences. Feudalism had almost completely broken down, and great economic changes had taken place. There was a new spirit to be observed in both the men and politics of the day, and a growth of individualism and of revolt against tradition. The Lollard movement had started and the Peasants' Revolt took place in 1381. Finally the position of Parliament was quite different, in that its power and influ-

ence had increased greatly. It now exercised a considerable degree of control over the purse and attempted to control the King and the House of Commons. Nobles now appreciated the necessity of controlling the Commons as far as possible and political factions had begun the device of "packing" the Commons.

John of Gaunt was rich and unpopular, but he was loyal to the King. For some years after Richard's succession Lancaster continued to play an active part in English politics, but as soon as Richard began to take a personal part in the government Lancaster's importance diminished and thereafter he was less prominent. Another of the King's supporters was Gloucester, an able, ambitious and unscrupulous man who was a close relation of Richard's on his mother's side. Others were the Earl of Kent, a crafty, cautious man, and John, Earl of Huntingdon, who was violent, rather stupid, ambitious and greedy. These people formed the nucleus of a strong royalist party and stood or fell with Richard, who on his side did what he could in their interests. Fitzalan, Earl of Arundel and his brother, the Archbishop of Canterbury were two more royalists who wielded much political influence. Richard Fitzalan, the sixth Earl of Arundel, arrogant and domineering in character, was dangerous to the King and was disliked by him. Thomas Arundel was first Bishop of Ely, later Archbishop of York (1388) and finally Archbishop of Canterbury in 1396. He was strictly orthodox from a political point of view and a strong opponent of the new movement in Lollardry.

There are certain clearly marked phases in Richard II's reign:

(i) His minority, 1377-1382. During this period the government was carried on by a number of ministers, forming a "coalition," ministry, and which deliberately included both the friends and supporters of Lancaster and also his opponents. This government was a complete failure and discontent at home, in addition to constant disaster in France, culminated in 1381 in the Peasants' Revolt. The coalition itself was an uneasy one, and Pembroke remained always suspicious of Lancaster.

(ii) 1382-1386. During this second period the young King gradually attempted to take over the personal direction of the government and to escape from the tutelage of the barons appointed by Parliament. He gave all his support and trust to Michael de la Pole, but he had no sympathy with the baronage and wished to put his own ideas into force. De la Pole's policy was peace with France and Scotland and a strong personal government at home, which would strengthen the power of the Crown and weaken that of Parliament. In 1383, in his first attempt at personal government, the King made de la Pole an earl, advanced Robert de Vere, Earl of Oxford, and

dismissed the ministers chosen by Parliament, under the influence of Lancaster. These actions resulted in a quarrel which nearly ended in civil war. At first Richard had some success, but in reality the influence of the barons was too strong to be easily undermined, and Lancaster being in Spain the way was cleared for more unscrupulous barons, such as Gloucester and Arundel. De la Pole's peace policy was a failure and another French campaign was threatened. Disasters and heavy taxation led up to the first great crisis, in 1386.

(iii) His failure 1386-1388. When Parliament met early in 1386, having been packed by Gloucester and Arundel, it attacked the King and his ministers, and when Richard refused to come to Parliament Gloucester moved in the Lords that the records of Edward II's deposition be read. De la Pole was impeached¹, and with de Vere fled the kingdom. Bishop Arundel became Chancellor in his place, Richard was put in tutelage once more, and a council was appointed to take over the whole government. In return, Richard dismissed Parliament, said nothing to detract from the Prerogative Royal, and prepared to fight the matter out. He began to prepare his counter campaign, and at first Derby and Mowbray supported him. They assembled at Nottingham in August, 1387, and a series of questions on constitutional law and practice were put to the judges to which the following formal answers were given :

"Declaration of the Judges on the King's prerogatives,, 1387.

1. Firstly they were asked whether or not the new statute and the ordinance and commission made and published in the last parliament held at Westminster derogate from the regality and prerogative of the said lord our king. To which question they unanimously replied that they do derogate, especially in that they were made against the wishes of the king.

Also they were asked how those who procure the passing of such statutes, ordinances and commissions are to be punished. To this question they unanimously replied that they deserve capital punishment unless the king on his part shall wish them grace...

2. Also they were asked how those who urged the king to consent to the making of this kind of ordinances and commissions should be punished.

(1) For the career of de la Pole see B. Wilkinson, *Constitutional History of Medieval England*, vol. II., relevant passages, and concerning his impeachment, pp 246-248

To which question they unanimously replied that they deserve capital punishment unless the king shall show them grace.

3. Also they were asked what penalty those deserve who have compelled or driven the king to consent to the making of the said statutes, ordinances and commissions. To which question they unanimously replied that they deserve to be punished as traitors.

4. Also they were asked how those are to be punished who prevent the king from exercising what belongs to his regality and prerogative. To this question they unanimously replied that they may also be punished as traitors.

5. Also they were asked if, when parliament has assembled, and the *negotia regni* and the cause of summoning parliament have been shown and declared by the king's command, and certain articles have been set forth by the king, upon which the lords and commons of the realm ought to proceed in that parliament; if then nevertheless, notwithstanding that they were enjoined by the king to the contrary, the lords and commons could determine to proceed entirely upon other articles, and in no way upon the articles set forth by the king until the king should have first replied to the articles set forth by them. (They were asked further) if the king ought to have the direction of parliament in this matter and to rule in effect, so that procedure ought to be first upon the articles set forth by the king, (or whether lords and commons ought first to have a reply on the articles set forth by them) before any further procedure. To which question they unanimously replied that the king ought to have the ruling in this matter, and similarly, in turn, in each other article touching parliament until the end of parliament; and anybody who does anything against this rule of the king should be punished as a traitor.

6. Also they were asked whether or not the king can dissolve parliament whenever he wishes and can command the lords and commons to depart. To which question they unanimously replied that he can.

And if anyone proceeds to act after this, as if parliament is in existence, against the wish of the king, then they are to be punished as traitors.

7. Also they were asked if the king can remove any of his ministers and justices whatsoever, whenever he pleases, and examine and punish them for their offences; and whether or not the lords and commons can impeach those ministers and justices for their offences in parliament without the wish of the king; to which questions they unanimously replied that

they are not able. And if anyone should say to the contrary he is to be punished as a traitor...

8. Also they were asked how he is to be punished who has moved, in parliament, that act by which king Edward, son of Edward the ancestor of the present king, was adjudged in parliament to be no longer king should be placed as a statute — by the inspection of which statute, a new Statute and ordinance and commission were conceived in parliament. To which question they unanimously replied that both he who put forward the act and any other who, by pretext of such a motion, brought that statute into parliament deserved to be punished as traitors.

9. Also they were questioned whether the judgement given against the Earl of Suffolk in the last parliament, held at Westminster, was erroneous and revocable, or not. To which they unanimously replied that if they were called upon to give this judgement, these justices and sergeants would not give it, for it seems to them that judgement is erroneous in all its parts.

In witness of all these things aforesaid, justices and sergeants have affixed their seals to this present. Witness the reverend fathers Alexander, archbishop of York, Robert, archbishop of Dublin, John, bishop of Durham, Thomas, bishop of Chichester, John, bishop of Bangor, Robert, duke of Ireland, Michel, earl of Suffolk, John Ripon, clerk, and John Blake, esquire. Given this place, day, month and year aforesaid ¹.

But Richard was not not strong enough. Thomas Mowbray, Earl of Nottingham, and Derby deserted him. Oxford was beaten and forced to fly. In November 1387 came Richard's submission, and in 1388 Parliament met again. This Parliament is known as the Merciless Parliament, for its ferocious vengeance on the King's friend. Five earls in parliament appealed against the King's supporters on the count of treason, the Lords Appellant being Thomas Duke of Gloucester, Henry Earl of Derby, Richard Earl of Arundel, Thomas Earl of Warwick, and Thomas Earl Marshal ². An unofficial government was formed, but it was very unpopular and within twelve months Richard made another bid for control. By this time, that is May 1389, he was twentytwo, and, having reached his majority, was able to sit in the

(1) From the *Statutes of the Realm, II* : 102, quoted from B. Wilkinson, *ibid.*, pp. 249-51.

(2) For this appeal see documents quoted in B. Wilkinson *ibid.*, 278-283; quoted from *Rotuli Parliamentorum*, III. 228; and for further details J. E. A. Joliffe *op. cit.* pp. 425 ff.

Council Chamber. The supremacy of the Lords Appellant was now at an end and the years between 1389 and 1397 showed a period of constitutional rule by the king. It was also a fairly peaceful period. There was a truce with France and Richard married Isabel of France. He showed, at this time, great judgement and discretion, and did not proscribe his enemies, but brought back the old ministers of Edward III, rather than his own personal adherents. Oxford and the Earl of Suffolk remained in exile and the Lords Arundel were admitted to Council. Bishop Arundel was Lord Chancellor from 1391-1396 and then became Archbishop of Canterbury. But Richard was in reality only dissembling, and was biding his time while preparing his scheme of revenge.

The next crisis came in 1397. Richard still cherished the ideal of absolutism and when Parliament met in September of that year many of the foremost barons were tried for treason. After this action Richard's downfall came swiftly and suddenly, and as a consequence of the folly of his rule during the next two years, during which he tried to put into force his theories of absolute government. A Parliament was held at Shrewsbury in January 1398, which (a) Repealed all the acts of 1386, (b) Reaffirmed the "opinions of Nottingham,, (c) Gave Richard a subsidy on wool for life,¹ (d) Delegated all powers of Parliament to a committee of fourteen, consisting of six lords, six commoners and two proctors for the clergy.

Then followed the banishment and confiscation of inheritance of Hereford, son of John of Gaunt. Richard had now become a complete despot and was confident that he had crushed all opposition. His mind must have been affected to some extent, and he showed a mad cunning. Firstly he proclaimed that seventeen counties had committed treason in 1387 by sending their militia levies to support the Lords Appellant, and fined them La Plesaunce, which was an unstated amount, and forced representatives of each county to give blank bonds to be held "in terroram"; secondly, he compelled many private persons to seal similar bonds on their property for the same reasons; thirdly, he freely exacted forced loans with the idea of giving the country a financial interest in the stability of the throne, and exasperated national feeling. On Gaunt's death on February 3rd, 1399, despite his promises, he confiscated the entire property. This resulted in Hereford's expedition in July.²

(1) *Rotuli Parliamentorum*, III, 368.

(2) For the deposition of Richard see : *Rotuli Parliamentorum*, III, 415-423; Adams and Stephens — Select Documents, pp. 162-65.

SECTION XXII
RICHARD II's DOWNFALL
AND THE NATURE OF THE SUCCEEDING REIGN

There are certain salient features of this time which are worthy of note. The parliamentary history of the period is not very significant — Parliament received no new powers and no new government machinery was put into force, but it received a constant infusion of life as a result of the long record of asserted privilege. Secondly, the period was, however, one which saw greater changes in the national life, mind and character than any other since the time of the Norman conquest. These changes related mainly to the balance of the political forces and the relation of the classes to one another. One of the major causes of change, both political and economic, were the Wars of the Roses, and another important factor was the growth and development of the middle classes. At the end of the period we see a great revival of monarchical power, and this same trend is to be noticed in Europe, although for different reasons. For whereas in Europe it was the result of the concentration of political power in the respective royal households, in England it was the result of the exhaustion of those political forces capable of cramping the king's power. And lastly, there was a transition of the baronage into the nobility and a great alteration in the position of the Church.

There are also special features of this period which need some brief comment. The period of the Lancastrian experiment is one of great importance constitutionally and one which caused a premature testing of the parliamentary system. The administrative system was constantly being tried in an effort to evolve some method which would make practical control of the administrative machinery possible for the dominant class. Parliament was only the instrument of this class. This traditional view¹ of the period, however, needs some modifications. The truth lies midway. It was long and dramatic story, which brought tragedy to the two branches of the royal house in the form of a dynastic struggle. The feudal baronage tore itself to pieces.

In Henry IV's reign there are three aspects of interest. (i) On the purely political side, the picture is one of gradual acquisition by the King of the powers of government. There were frequent rebellions against him, both by the enemies and the supporters of Richard.

(1) Mainly put forth by the XIXth century historians, more especially by Stubbs.

(ii) In his foreign relations with Scotland, Wales and France he was, on the whole, very successful.

(iii) The parliamentary history of his reign is rather an interesting one.

Henry was thirty-two years old when he succeeded, which was a good deal more than most of his predecessors. He was a powerful personality, and a good soldier, cultured for his time and his station, fond of learned men and with a liking for casuistical argument.

His character is rather an enigma and we know little about him apart from his political career before 1399. Henry had to begin his reign as a parliamentary king, hence Parliament's importance was greatly enhanced.

At the outset of the XVth century Parliament was definitely a national one, representing all the estates of the realm, but with the upper house still predominant. Parliament was the great council of the realm and the lords who sat in Parliament considered themselves to be the King's advisers by right of birth. The House of Commons, however, had now definitely increased in importance to the point where it was in the interests of the government and those political parties that aspired to control the latter to make attempts to control its membership. The fact was that since the Commons was an elected body it was possible for election to be controlled or directed and so membership controlled too. In action, its importance was due to particular customs rather than to special rights. Its chief functions were, firstly, to represent to the King what evils afflicted the realm, i.e. Petitions, the chief forms of which originated the legislation, and secondly, the voting of taxes, in which they now took the chief part. The vote nearly always originated with them and the Lords acquiesced.

One important question one may ask is how far and in what way could Parliament influence the government? It had almost no control over the men who ran the administrative machinery and did not appoint any of them. They were simply the King's servants and such attempts as Parliament did make to oblige the King to appoint men of whom it approved were unsuccessful. Impeachment really only affected important ministers. There was another body representing the government — i.e. the King's Council — who were the regular advisers, and relations with this body are of great importance in the XVth century, as they reflect the amount of control or the irresponsible lack of control possessed over the national administration.

The first Parliament of the reign was in 1399. It is of little importance so far as its accomplishments go, apart from its policy of revenge on the followers of Richard II. The second Parliament took place in 1401. On this occasion much constitutional argument and discussion was raised: (i) The Com-

mons complained of ship money, declaring it to be illegal and the King promised that it would not be raised in future; (ii) The Commons demanded that a regular rule of procedure should be made to redress before supply. This the King refused. The third and fourth Parliaments are not very important, but the fifth Parliament, in 1404, is, on the other hand, of great importance. Its attitude was extremely critical and, under the leadership of its Speaker, many complaints were made about the King's extravagance, misapplication of the government income and wealth, and the administrative defects of the rule. In fact, Henry was not extravagant, but expenses were very heavy. There was one important money vote, referring to an 'income tax' to be paid to four special treasurers, who were to account to Parliament for expenditure, and Parliament also demanded that Henry's whole household organisation should be reformed. The sixth Parliament, in 1406, was the most important of all. It is called the 'Long Parliament' and held three sessions of a hundred and fifty-eight days. It was very critical of the government and drew up thirty-one articles wherein it set down rules in accordance with which the government was to be carried on in the following year. The seventh Parliament, held in 1407, is also worthy of note. Its Speaker was Thomas Chaucer. The King, his councillors, and the Lords had discussed what money was needed and the King asked for three twentieths and one tenth. The Commons protested because they wanted freedom to discuss money grants and considered that the first proposal must originate with them. The King admitted the claim and recognised as a right what had previously been a custom — thus a constitution principle was successfully asserted. The Parliaments of 1410 and 1411 are not important constitutionally. The former was very anticlerical in its sympathies, especially with regard to the Lollards.

S E C T I O N XXIII

THE DEVELOPMENT OF KING'S COUNCIL AND ITS POSITION IN THE LATER MIDDLE AGES

It is very difficult to trace the development of the Council. All kings must have had councils, but in early mediaeval history this body was a very variable and indefinite one. It did not become a regular institution until quite late in its history and for the first three hundred years it is very difficult to distinguish from the Great Council. As we follow the growth of Parliament it becomes easier to trace the growth of this Council too, and it starts to assume a very definite form as Parliament becomes more regular. In the XIVth century

Council was a distinct body, though when Parliament was in session it was swallowed up in the Upper House. However one can see the two as separate entities and the office of the councillor does exist. The latter was specially appointed, received fixed wages and took a special oath on admission to office. In the XIVth century this Council possessed two distinguishing features — firstly, it was a more permanent body than Parliament, holding continuous meetings, and secondly, it was more concerned with the routine of government. Moreover in the XIVth century two types of councillor emerge: (a) Regular official councillors, civil servants, etc., and (b) Great barons and men of rank and importance. The latter would demand to be members, but once they were admitted they neither did any real work nor attended the meetings. By the end of Edward III's reign the King's Council was a body recognised by Parliament and chiefly representative of the executive and technical side of the administration. Parliament tried to influence both its composition and its procedure, as a means of controlling the government, and when it had grievances it always complained of evil councillors round the King. Whenever reform of the King's behaviour was desired, he was asked to reform Council. Often Parliament did not know who the councillors were. From the beginning of the XIVth century two tendencies begin to appear in the Council's history (i) The King wanted to make Council the chief organ of government, since it was the easiest to control, and to keep it as a small, purely bureaucratic body — in other words a mere branch of the household, generally with unimportant professionals as councillors. (ii) Parliament and many of the great barons wanted to make it amenable to Parliament, and had a vague idea that it should represent the estates of the realm and should thus contain more elements of each class. They wanted a large council, which they would have liked to turn into a standing committee of Parliament, the members being appointed or approved and sworn in Parliament. In the early years of Henry IV's reign Council did not play a very important part in politics, because (i) the Lancastrian barons wouldn't attend, and (ii) the regular members were less well known.

Soon, however, the King began to introduce more influential men into the Council, and particularly churchmen such as Stafford, Bishop of Exeter and Henry Beaufort, Bishop of Winchester. There were constant complaints by Parliament about misgovernment due to lack of wise councillors and this had its effect. The King announced that at the desire of Commons he had ordained certain lords and others to be his permanent Council, and their names were read. They were Arundel, Archbishop of Canterbury, Henry Beaufort and four other bishops, the Duke of York, the Earl of Somerset, Ralph Nevill, the Lords Berkeley, Ross, Willoughby, Furnival and Lovell, Waterton, Cheyne,

Durward, Norway and Arnold Savage, the Speaker. It was only on condition that the names were published that Parliament would permit grants to be made. After 1407 however the rebellions against Henry's tenure of the throne came to an end and the new dynasty was firmly established. During the rest of Henry's reign Parliament played a less important role. The baronial party continued to act in its customary way with regard to politics, and it was in Council, chiefly composed of members of this group, that political action chiefly took place.

At this point we can trace the growth of two parties in Council : (a) The Beaufort faction, and (b) the Arundel faction, led by the Archbishop and Thomas, the younger brother of the Duke of Clarence. Of these, the former faction was the stronger. From 1409 onwards we see the control of Council government beginning to give rise to the factors which were to lead to the Wars of the Roses.

The last years of Henry IV's reign were chiefly occupied by the rivalry of the two factions. There was rivalry too between the King's three eldest sons, the chief differences between them being foreign policy and England's relations with France. When Henry V succeeded, without any disturbance, he would have favoured the Beaufort faction had not the entire political scene of his reign been dominated by the fresh outbreak of war. Henry V was a man of extraordinary military ability and he introduced scientific methods into the army. He was ambitious and had the ability to realise his ambitions. By nature he was pious and orthodox in religion and cold blooded in his resoluteness. He was probably a man of cold affections, capable of remorseless action. The main feature of internal politics during his reign was the continuation of the tendency which had grown up under his father, namely the increasing political power of the nobility. With the King constantly in France home government was completely in the hands of Council and the nobles were steadily strengthening their control over the latter. Then when Henry died in 1422, leaving a nine-months old baby baronial control was finally confirmed by a long minority.

The regency was given to Bedford and Gloucester. However it was impossible for England to maintain her domination over those parts of France which she already held and in the last years before Henry V's death the strain of military effort had become greater than she could bear. She could not even make good the losses of the small armies with which she had to hold a huge and wealthy country. Nor could she supply the money necessary for the effort and the war had become not only a serious burden but very unpopular in England. Henry had obtained a forced loan for which

he had not dared to ask Parliament. In 1421 he returned to England and the following year died. Charles VI had also died in November and his death, though it was of some advantage to Henry VI, made the occupation of France impossible.

The reasons why the English occupation was able to continue for so long are:

- i) Charles VII was a poor leader and ill served.
- ii) Bedford's rule was statesmanlike and judicious and he kept the terms of the treaty. He ruled with the help of Frenchmen, hence the English rule had the support of a large class of officials.
- iii) The Burgundian alliance held good and Bedford supported the baby king loyally, in return receiving the support of the University of Paris, a large party in the Church, many of the great nobles and the Paris mob. The country and the peasants were against English rule.
- iv) Bedford was personally popular and he tried to cement the alliance by marrying Anne of Burgundy.

The first breach of the alliance came from the affair of Jacqueline of Luxembourg, who laid claim to her inheritance, still held by Brabant. Burgundy there upon warned both Gloucester and Bedford that if they interfered he would support his cousin Brabant. This was the situation at the beginning of Henry VI's reign.

The members of the first Council of Henry VI's reign were: the Protector, Gloucester; three great officials, the Chancellor, Treasurer and the Privy Seal; the Archbishop of Canterbury; four bishops (Winchester, Norwich, Worcester and London); the Duke of Exeter, (Henry Beaufort's brother); five earls (March Warwick, Westmorland, Northumberland and Nottingham); two barons and three knights of the King's household. Later during the minority a number of minor lords entered the Council and played the chief administrative parts, four in particular being Hengesford, Cromwell, Scrope and Tiptoft. From the beginning of the reign onwards there were signs of rivalry between different factions. At first the Beauforts were in the ascendant, but Gloucester, who had a great deal of political ability, gradually began to build up a party for himself — the popular party, based largely on the support of the middle and merchant class. In place of the wool trade the cloth trade started in England and already there was strong rivalry between home and foreign merchants, i.e. the Hansa. Actually an English association had been formed called the Merchant Adventurers, in c. 1407. War had been mainly financed by merchants and lately by foreign merchants and the agent for securing these loans was Beaufort of Winchester. When

he received these advances he had to give a *quid pro quo*. Loans made to the government were always secured on the customs of London, Norwich and Newcastle and one of the most usual methods of securing money was to give special trade licenses. Beaufort was the chief patron of foreign merchants and Gloucester of the home merchants. Thus Gloucester soon became the idol of the London populace and of the country people, as he opposed reactionary legislation. The rivalry between these two was inevitable and the first dangerous clash came in October 1425 when riots broke out in London between Londoners and Beaufort's retainers. Council brought Bedford back from France to heal quarrel wherein Gloucester actually accused Beaufort of offences amounting to treason. Gloucester waited until Parliament was summoned at Leicester in 1426 and made his charges there. Retainers were not to be brought. Eventually Bedford's influence succeeded in apparently reconciling the two rivals. The final decision was that Beaufort should deny the charges on oath and that Gloucester should accept his disavowal and they should shake hands. This was done, but Beaufort regarded the result as an open defeat and Gloucester as a real victory. Beaufort resigned the Chancellorship and having announced that he was going on a pilgrimage, accepted the title of Cardinal and was appointed by the Pope to lead a crusade against the Hussites in Bohemia. Gloucester now made a political error by trying to turn the Protectorship into a regency and asking Council to define his powers. He received another rebuff in the reply "No powers as such., The government was to be carried on by the Council and not according to his own writ.. In 1428 Beaufort returned as Cardinal and Legate, thereby definitely weakening his position as leader of the aristocratic party and giving Gloucester an excuse to try and get him turned out of Council.

SECTION XXIV

THE FRENCH DISASTERS AND THE INCREASE OF THE POWER OF THE CROWN

In 1429 the beginning of the disasters in France and the Beaufort - Gloucester rivalry were temporarily obscured by the efforts of the Council to support Bedford in his hopeless task. As long as he lived there was a faint chance of postponing disaster and up to August 1435 the English lost no very important part of their territories, but the efforts made were laying an impossible strain on the country. In 1433 a statement on the national finances was made by Lord Cromwell, which showed that the total normal

income was only two thirds of the average expenditure and the debts of the Crown were very high.

The turning point in the war came in 1435 when a great congress was held at Arras, where French, Burgundian and English ambassadors met. The French terms were reasonable, namely that England should keep Normandy and Guienne but should give up rest of France and the claim to the French Crown. The English ambassadors insisted on the *status quo* and would not even enter into discussion. When the Congress broke up it was the end of the Burgundian Alliance, for the Duke immediately made a separate.¹ peace. Bedford himself died in September 1435 and as the war continued one disaster after another fell on the English armies. By the end of the year they only held Normandy and Calais. The reason why they had been able to stave off these disasters for so long was that between the years 1436 and 1439 both Council and Parliament had made tremendous efforts and also at that time England possessed a large number of veteran soldiers, as leaders, such as Warwick, Talbot, Willoughby and others.

The chief feature of English politics from 1435 onwards was the gradual development of two parties whose final clash developed into the Wars of the Roses. It is usual to trace the origin of the Lancastrian party back to the growth of a party in England which desired peace and was ready for accommodation with France. It appeared in Council from 1436 onwards. It was headed by Beaufort and he had many supporters against Gloucester, Mortain Somerest and William de la Pole. No doubt the peace party also had selfish motives. Up to 1436 the nobles and the Council were supreme in English government and on the whole the Beaufort faction predominated in Council. The Gloucester opposition was ineffective for two reasons (a) as a political leader he failed owing to defects of character, fitful energy and unstable purpose, (b) as the King's uncle and possible heir he was suspect in the eyes of Council and Parliament. His complete dominance would have been equal to a royal dictatorship, hence the nobles were inclined to support Beaufort. After 1436 the Crown once more began to play a definite part in politics. The young King was growing up and as he did so Cardinal Beaufort saw how much his own influence could be confirmed by influence over his grand nephew. Moreover Henry VI preferred him to

(1) For further information on this Congress and its later implications see :
W. T. Waugh - *A History of Europe from 1378 to 1494* (London) 1943), pp. 81 ff:
274-276 : Otto Cartillieri - *The Court of Burgundy* (London 1929), relevant sections:
Joseph Calmette *Le Moyen Age* (Paris 1948) p. 403.

Gloucester. Further, Beaufort saw that this confirmation of his own influence could be best achieved by invigorating the authority of the Crown as such. Hence new constitutional developments took place between 1437 and 1444. Henry was by nature pious, gentle and probably slightly feeble-minded.

The most effective way of exercising the power of the Crown, apart from general policy and prerogative was, firstly, through the control of its enormous patronage, both lay and ecclesiastical, for the Crown had in its hands the appointment of all sorts of lucrative posts and the disposition of financial rights. Secondly it held the automatic position of centre and motive power of the government machine. All was done officially by the use of seals, but it was the king's will which originated the seals which authenticated movement and action. The Great Seal was the final legal authority and by the XVth century it was the Privy Seal which stimulated the Great Seal into action. From the XIIIth century onwards the Chancellor and his office began to expect more and more a regular warrant from Privy Seal before authenticating an act of State. Early in the XIVth century, in 1338, a royal ordinance forbade the issue of any money from the exchequer except under (a) a writ of Privy Seal, or (b) in special emergencies a warrant signed by all the Council, subsequently to be ratified by the Privy Seal. So by the time of the Lancastrians both the application of the Great Seal and the payment of public money had to be authenticated by Privy Seal and its custodian was an important official, known as the Keeper of the Privy Seal.

The real test of Council's control of the government machinery was the extent of its control over the use of the seals. When the baronial elements in the Council were dominant it was that control which was the index of their power. In the XIVth century Council claimed that while nothing should pass the Great Seal without the warrant of the Privy Seal, nothing should pass Privy Seal without the authentication of Council. Just as the Privy Seal had developed when the Great Seal became official and removed from the direct control of the king, so now it developed a new private seal, the signet. Moreover to back up this development of the signet there was the fact that the XIVth century kings were more familiar with the use of the pen. In addition to the signet, which was used to seal an act of government from the time of Richard II onwards, there was the king's "sign manual", a warrant written by the king. This was used a great deal by Richard II. It was generally authenticated by the Chamberlain of the Royal Household. During the reign of Henry IV Council had attempted to gain control over these various seals and in the Parliament of 1406 a law was passed that all bills endor-

sed by the Chamberlain, all documents authorised by signet, all orders to Chancellor, Treasurer, Keeper of the Privy Seal or other officials should be made only on the advice of Council. This would have meant complete control of the king's power, but it did not work out in practice. However during Henry VI's minority there was no need for such a law, since there were no sign manuals, neither had he any signet, so Council, whose control of Privy Seal was complete, used it freely and also used "Council bills,, warrants signed by all councillors, to set the Privy Seal in action. When the king approached maturity Beaufort saw his chance and in 1437 the young king began freely to issue instruments under his sign manuel or personal signet to the office of Privy Seal. Council could not prevent this and it amounted to the re-establishment of the King's personal control over the government, the enforcement of his signet on Privy Seal. It was also a definite victory on the part of the Beaufort party. From 1437 to 1444 they were predominant.

The next great crisis came in 1444, when the old Cardinal's personal influence was rapidly decreasing owing to age. The real directors of affairs at this time were Mortain, Somerset and de la Pole. In 1443 Somerset was made a duke and was given command of a great expedition to France, which he utterly mismanaged. On his death Mortain succeeded to the earldom and the leadership of the party and together with Suffolk he ruled England. In 1444 they produced their great stroke of policy, the project of a French marriage for the young King, marking a final act of accomodation. The following year Henry married Margaret of Anjou and this was a fatal marriage. This act completed the ascendancy of Suffolk and the King and Queen were his greatest supporters. From 1444-49 there was an interruption to the war and the peace party was now in complete control. In 1447 Gloucester was accused of treason and his final downfall took place. He was arrested on February 18th and was dead by the 23rd, though how he died is unknown. It seems improbable, however, that he was murdered. Suffolk was now supreme, for Somerset was too incompetent to be a rival. However the expedition to France under Somerset and its disastrous ending precipitated the fall of Suffolk at home. Despite his power his position had never been absolutely sure. As one of the Beaufort faction he was unpopular with the working class and he was also disliked by the nobles. His main support was from the King and the Queen. There had been a decrease in the work of the Council, whose work had become the mere routine operation of carrying out decisions made in private at court. The position of Suffolk became more difficult and he took measures to avoid disgrace, but when Parliament met in January 1450 the Commons were resolved on his impeach-

ment. Beaufort was against this and succeeded in persuading Suffolk to throw himself on the King's mercy. The King banished him in March 1450 and the following month he sailed from Ipswich, but was murdered shortly after.

Henceforth the trend of the Constitution of England develops into a prologue to the reign of the Tudors and is beyond the scope of the present *Studies*.
