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THE INTELLECTUAL ROOTS OF THE GREAT CHARTER (1215): BARONIAL POLITICAL THOUGHT AND LEGAL TRADITIONS

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Abstract. This study explores baronial political thought regarding royal authority and absolutism in England, aiming to reveal the intellectual roots of the Great Charter (*Magna Carta*) of 1215. While it is undeniable that the creation of the Great Charter also resulted from unique English political crises, it stemmed from the increasing maturity of political thought in Europe. Rather than treating the Great Charter as a spontaneous reaction to King John's misrule, the paper situates it within a broader continuum of medieval political ideas and customary law. It analyses how feudal obligations, ecclesiastical principles, and classical notions of law and justice converged to define the barons' understanding of sovereignty and resistance. Ultimately, the paper concludes that baronial political thought diverged sharply from the ideals of absolutism and the divine right of kings, anticipating a constitutional vision grounded in law and mutual obligation while marking a significant step toward the medieval origins of constitutionalism.

Keywords: Late Middle Ages, England, King John, the Great Charter, royal absolutism

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1. Introduction

Absolutism, in brief, refers to the centralization of power, whereby decision-making becomes the exclusive monopoly of the monarch, and dialogue or consultation with bodies empowered to represent subjects and defend their rights and privileges is marginalized or overridden (Henshall 1992: 2). However, England did not experience extreme absolutism; unlike other European states – France, for

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example – English monarchs had to contend with exceptionally prominent and powerful parliaments. At times, monarchs even struggled to retain their thrones (McNeese 2000: 4), as occurred during the English Civil Wars and the Glorious Revolution of 1688–1689. Some scholars suggest that a form of enlightened absolutism existed in England during particular periods, although the term itself remains subject to ongoing debate in the historiography**.**

Nevertheless, some English sovereigns, during the early modern age, exercised extraordinary jurisdictions, including even the imposition of taxes and making laws without the people's consent (Lee 2016: 280). This political absolutism characterized not only King Charles I's Personal Rule (1629–1640) in England but also Louis XIV in France, Philip II in Spain, Christian V in Denmark, Charles XII in Sweden, and the Russian Tsars (Cuttica and Burgess 2014: 3). Examining the causal relationships behind the emergence of resistance to monarchic power in England – and the gradual rise of democratic practices – requires addressing numerous multidisciplinary factors, each of which would merit extensive scholarly study. There is, indeed, extensive literature about how and why reformer barons rebelled against monarchs in England (Drew 2004: 200, McKechnie 2014), with a particular emphasis on analysing the personalities of the reigning English monarchs and some leading characters, based on narrative sources. This includes, for instance, numerous rich detailed biographies of King John (Church 2015, Morris 2015, Seel 2012, Turner 2005), Henry III (Carpenter 2020, Church 2017), and Simon de Montfort (Bateman 1923, Maddicott 1996), with vivid descriptions of their rise to power, contextual analyses, and re-evaluation of their reigns. The Great Charter (*Magna Carta*) has received considerably more scholarly attention, particularly from modern researchers who studied its short- and long-term legal, religious, economic, constitutional, political, and recently social and cultural outcomes. Some scholars even compared the Great Charter to other significant charters, such as the *Hungarian Golden Bull* (1222), which placed some constitutional limits on monarchic powers, including the right of the Hungarian nobility to disobey the king in case he acts against law; the *German Statute* (1232), which granted certain royal rights to secular princes; and the *Sachsenspiegel* (c. 1220–1235). Other scholars have examined the charter's role in the development of legal traditions in Europe (Berman 1985) and explored its influence on revolutions such as the American War of Independence (Dickinson 2018).

It is worth noting that there are fewer studies devoted to examining political thought in England, though doing so can offer excellent insight into why a legitimate heir to the throne was replaced by his daughter and her husband, or why, to the world's astonishment, an English king was executed by his subjects at a time when other European monarchs enjoyed unrestricted royal powers and many still believed in the sacrosanctity of royal blood, or why the barons in England, with the Church's considerable support, rebelled against King John and forced him to grant the Great Charter in 1215. These events, which sought to enforce the law by initially breaking it, suggest that English political thought, which might have been the true motivating factor behind these rebellions, was developing independently of the theory of the divine right of kings.

Unlike the Barons' Wars and the Glorious Revolution, the political thought of absolutism was discussed during the English Civil Wars with unprecedented depth, as many absolutist theories and writings emerged during that era and continue to influence ongoing debates on royal authority and monarchical power. Nonetheless, there have been few studies that examine the insightful contributions of John Neville Figgis, notably his work *The Divine Right of Kings*, which has inspired many historians since its first publication in 1896 (Burgess 1992). This paper aims at shedding new light on the political philosophy of royal authority in England, using Figgis's perspective, with a particular focus on studying the period of the early barons' rebellions and their concept of royal authority, which paved the way for the introduction of the Great Charter in 1215. This paper begins with a section discussing the divine right of kings theory: its ancient origin – which can be found in some prehistoric civilizations, its formulation by Figgis in four interrelated elements, and a rich historiographical study of the theory in a broader scope at the end. The second section studies the barons' early rebellions and the drafting of the Great Charter in 1215 through: (1) examining the historical context leading up to rebelling against the monarchy in order to explore and describe the intellectual roots of resistance and (2) analysing certain clauses in the charter, a document that emerged as a result of pressure exerted on the institution of monarchy. These analyses serve as reflections of the rebels' interests and the intellectual climate of the era. Throughout these examinations, a connection is established between the political thought on sovereignty and the four elements of Figgis's theory.

2. The theory of divine right of kings as formulated by Figgis

The doctrine of the divine right of kings emerged as an anti-clerical response articulated by the Roman Emperor to the Pope's assertion of papal supremacy, according to which all earthly governments were considered subordinate to the Roman Catholic Church by virtue of the Pope's role as Vicar of Christ and, therefore, in charge of all humanity. The Emperor interpreted these claims not as purely religious but as political manoeuvres aimed at establishing a universal empire, potentially even leading to his replacement by the Pope. Subsequently, the Emperor adopted a similar controversial approach, asserting the divine right of kings as a counterclaim. According to Baldwin (2008: 164), this claim can be found in the dualist Huguccio's writings, suggesting that the emperor has his sword's power directly from God, not the pope, because the empire and the emperor existed historically before the papacy. This claim is supported by contemporary theologians, including Master Martin, Simon of Tournai, and Robert of Courson at Paris.

John Neville Figgis, whose influential work *The Divine Right of Kings* (1914) inspired a generation of historians (Kern 2013, Oakley 2006), systematically formulated this longstanding theory into four interrelated elements, emphasizing that the first two provide the foundation for the other two. Figgis outlines these elements as follows:

(1) monarchy is a divinely ordained institution;
(2) hereditary right is indefeasible;
(3) kings are accountable to God alone;
(4) and non-resistance and passive obedience are enjoined by God.

The origin of the first element of the theory can be found in the first dynasty of the British Bronze Age Royal House, the House of Ampher, whose rulers claimed divine ancestry (Hughes 2007: 11). They claimed descent from a god or a divine son, a belief also present in early Egyptian history (Moret 1912, Stefoff 2008: 28), Aryan traditions (Cox 1870), and various pagan societies such as the Anglo-Saxons, whose kings traced their lineage to Woden, the god of war (John 1996: 55). The first element suggests that the monarch derives his right to rule directly from the will of God. At times, monarchs were even regarded as living gods (Bray 2012: 346). This doctrine was adopted by many European dynasties, ostensibly to provide monarchs spiritual authority to easily lead and guide their subjects (Robertson 2003: 152–153). However, some studies argue that its underlying purpose was to sever the long-standing ties between the Church and politics, thereby freeing governments from ecclesiastical dominance maintained through the Church's exclusive control over the interpretation of divine laws (Troper 2014: 146–159). Thus, the theory's introduction may be viewed academically as an important early step toward secularism, as it sought to weaken the powerful medieval church and strengthen the authority of the monarchy.

The second element is, in fact, an extension of the first one. Being divinely ordained to replace Christ in his holy mission to look after mankind makes the monarch and his dynasty the chosen ones, with blessed royal blood. The third and the fourth elements are, almost, the targeted outcomes of the first two assumptions when put into practice: making monarchs above being judged or held accountable by the governed – even if they abused power. The last two elements call for passive obedience to monarchs, forbidding any resistance to their authority – those who dared to object these two elements were to face damnation, according to some church teachings (Lemon 2000: 105).

The Church played a significant role in disseminating such ideas across Europe (Perry 2009: 164). During the Middle Ages, priests taught that obedience to the monarch was a sacred duty. Resisting monarchs equated to opposing God's power, and criticizing or cursing the king, even in thoughts, was a damnable sin, as expressed in St. Paul's epistle: 'The powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God. And they that resist shall receive to themselves damnation' (quoted in McMahon and McMahon 2011: 203). Some of these teachings seem to have influenced King James I's political thought of the monarchy, as reflected in his 1610 speech to Commons and Lords at Whitehall: 'The State of MONARCHIE is the supremest thing upon earth: For kings are not onely Gods Lieutenants upon earth, and sit upon Gods thrones, but even by God himself they are called Gods' (quoted in Burgess 1992: 837). King James I, who struggled to adapt to English traditions, codes, and even the language (Smith 1973),

was in constant conflicts with an increasingly self-assertive parliament due to his ardent advocacy of royal absolutism. In 1681, Dr. Gower, Vice-Chancellor of Cambridge University, delivered a speech to King Charles that extended similar claims: 'We still believe and maintain, that our Kings derive not their Titles, from people, but from God; that to him only they are accountable, that it belongs not to Subjects, either to create or censure, but to honour and obey their Sovereign, who comes to be so by fundamental hereditary right of succession, which no Religion, no Law, no Fault or Forfeiture can alter or diminish' (Seller 1689, quoted in Jenkinson 2010: 159). All four elements identified by Figgis were addressed in the preceding passages. However, Dr. Gower's use of the word 'still' implies a shift in public attitudes toward the monarchy. This shift led some individuals to reconsider and, at times, regret the idea of absolute monarchy, particularly during the intense debates over royal power, scope, and legitimacy in the seventeenth-century England.

Robert Filmer vigorously defended the doctrine of the divine right of kings in *Patriarcha, or The Natural Power of Kings* (1685), which was written several years before the English Civil Wars. Filmer argued, invoking some anti-Calvinist scriptural interpretations, that monarchs inherited patriarchal authority from Adam, the first patriarch. He asserted that 'lordship which Adam by creation had over the whole world, and by right descending from him the Patriarchs did enjoy, was as large and ample as the most absolute dominion of any monarch which has been since the creation' (Filmer 1685: 13). Furthermore, Filmer explained that the successive patriarchs exercised 'royal authority over their children' (Filmer 1685: 12) and emphasized that the subordination of Adam's descendants is the source of all royal authority: 'I do not see how the children of Adam, or of any other man, can be free from subjection to their parents. And this subordination of children is the fountain of all royal authority, by the ordination of God himself' (Filmer 1685: 12). Consequently, Filmer justified Adam's divinely ordained authority and advocated obedience and non-resistance to succeeding patriarchs, who inherit their right to rule through male primogeniture – claims that correspond with the first, the second, and the fourth assumptions outlined by Figgis. On these grounds Filmer criticized the legal theories of Hugo Grotius expressed in his work *De Jure Belli ac Pacis* – particularly the chapter entitled *The War of Subjects against their Superiors*, as well as Cardinal Bellarmine's Jesuit philosophy of natural liberty. Any limitations on royal powers to promote the consent of the governed, Filmer argued further in *The Anarchy of a Limited Monarchy* and *The Necessity of Absolute Power of All Kings*, would only lead to anarchy.

Filmer's royalist perspectives received immediate, fierce liberal criticism. John Locke strongly condemned Filmer's patriarchal absolutism in the first treatise of government for its unreasonableness and impracticality, emphasizing instead basic natural individual rights. Similar anti-patriarchalism trends appear in some republican writings such as Henry Neville's *The Isles of Pines* (1668) and Algernon Sidney's *Court Maxims* (c. 1664–1665) , both of which reject the idea of using fatherhood as a force to legitimize kingship, attacking claims of absolute royal prerogatives based on the hereditary right (Cuttica and Burgess 2014: 7). Many early classical

republicans considered power sharing and mixed monarchy as more attractive forms of a government, particularly during the age of King Charles I. Nevertheless, these concepts continued to be heavily attacked by royalists who insisted that they were extreme perspectives that might threaten the country's stability. Robert Sheringham, for example, described mixed monarchy in *The King's Supremacy Asserted* as 'a strange kind of monarchy, not so much heard of until these times, much less established in England, for monarchy is the government of the one' (quoted in Fink 1966: 229). Sheringham unequivocally defended royal absolutism, arguing that the proponents of mixed monarchy misinterpreted Henry de Bracton's *De legibus et consuetudinibus Angliae* and John Fortescue's *De Laudibus Legum Angliae*. He explained that monarchy, as both the notion and the word's etymology imply, should be unlimited – an idea that was also articulated by Jean Bodin, who emphasized that sovereign powers were supreme and indivisible.

Bodin (1967), in *The Six Books of the Commonwealth* (first published in 1576), fully explained the characteristics and nature of supreme power, and he claimed that the need to secure authority and order dictates the recognition of the absolute sovereignty of governments that are divine and do not require any consent of subjects for their validity. Unlike Machiavelli, Bodin gave some importance to morality while gaining power and stability. Bodin referred to the divinity of political authority and stressed the obligation of citizens to unconditionally obey their ruler as a key virtue, stating: 'for it is a law both divine and natural that we should obey the edicts and ordinances of him whom God has set in authority over us' (Bodin 1967: 34). These statements correspond to the first basic assumption of Figgis which suggests that 'monarchy is a divinely ordained institution' and accords with the fourth assumption about passive obedience and non-resistance. According to Thomas Hobbes's *Leviathan* (1651), the need to entrust ultimate powers to one person, or a group of people, is paramount for maintaining political and social order. French works addressing royal sovereignty and authoritarianism, particularly in its legal and political forms, include *De la Souverainete de Roy* (1632), a treatise written by Cardin le Bret. Le Bret was not only a political theorist but also an influential royal counsellor during Richelieu's ministry, who analysed the concept of sovereignty from an internal pragmatic perspective (Giesey et al. 1986: 3). Like Bodin, he suggested the indivisibility of sovereignty as he stated that 'sovereignty is no more divisible than a point in geometry' (Le Bret 1632: 1).

There are, indeed, many theories and studies about absolutism and the divine right of kings – more than can be covered in this historiographical sub-section. Each theory aligns with at least one or two elements of the theory formulated by John Figgis, who, among scholars, has arguably succeeded in presenting a more complete and detailed account of the divine right of kings. His work can thus serve as a reliable reference when discussing related issues.

3. King John and early barons' rebellions

The baronial opposition to King John was, perhaps, among the most extensively studied events by scholars for compelling King John to make some concessions in the Great Charter. It was a continuous tradition that the coronation oath of English kings during the twelfth century should be strengthened by granting some written promises, a tradition that started with King Henry I in the Charter of Liberties (1100) upon his coronation and continued with King Stephen of Blois – who granted even more generous promises of stable governance in terms of state and church powers. King Henry II similarly commenced his reign by granting a comparable charter, reinforcing this continuity of royal commitments. King John, unlike his predecessors, issued no charter upon his coronation in 1199, despite the necessity to secure the support of the baronage at that time to counter his nephew's claim to the English throne and to resist the constant military threats of Philip II of France. Another possible factor contributing to the rise of the baronage opposition was, perhaps, King John's continuous exploitation of the feudal lordship without any satisfactory military achievements. King John, or 'John Lackland' as he was called, lost Normandy, Maine, Anjou, and Touraine (Knight 2013: 199). King John, like his brother Richard I in their rivalry with the French monarch, turned England into a war economy, asking his subjects constantly for heavy military obligations. Barons found themselves each time paying for the king's endless, futile wars under the feudal system. Successful leadership in warfare was a fundamental criterion by which barons judged medieval kings, though some elite churchmen also emphasized the importance of a ruler being fair, just, and law-abiding to maintain order and protect his people – especially since churchmen were forbidden to bear arms and thus relied entirely on a 'just' king for protection of the Church (Fryde 2001: 5).

The rebellious spirit of barons, which likely contradicted Figgis's doctrine of 'passive obedience', as suggested by this paper, can easily be noticed at the beginning of 1215, when the rebels in North England were joined by the barons in East Anglia and Essex in an association that sought to present their case to the monarch at the council of London, with the support of some clerics. The primary objective of the rebel barons was to 'petition the king for their grievances' (Turner 2014: 18). To their disappointment, the monarch scornfully asked them to promise in writing not to demand any similar liberties in the future and postponed his answer until the Northampton council of April, thereby aggravating the situation instead of pacifying the enraged barons. An armed rebellion began in early May under the leadership of Robert Fitzwalter, King John's old foe, after submitting a list of uncompromising demands to the king at Wallingford Castle. Fitzwalter was an influential East Anglian feudal baron, who was a leading character in the baronage opposition to King John in the north. He was implicated in the unsuccessful conspiracy of 1212 – with Eustace de Vesci – to murder King John before a military expedition in Wales (Turner 2014: 9). To the monarch's astonishment, the rebels could easily seize the city of London with the large support of its citizens. The new alliance between the rebels and Londoners placed further pressure on the monarch to accelerate negotiations with the rebels'

representatives and accept the terms of the Articles of the Barons – which laid the foundational groundwork for the Great Charter. William Marshal, Earl of Pembroke and the king's brother-in-law, was a leading intermediary in discussions with King John, which resulted in the adoption of the demands of the Articles of the Barons, including forty-nine articles. Thirteen articles of these articles reappeared in the Great Charter.

Turner explains in an attempt to analyse the barons' rebellions that in addition to hosting new political ideas calling for more liberty, autonomy, and decentralization of powers in London, different sections of the kingdom were growing increasingly resentful of King John's rule. Holt wrote in *The Northerners: A Study in the Reign of King John* that 'it was a rebellion rather of the aggrieved, of the failures; a protest against the quasi-monopoly of privilege by the king and his friends; at its most significant a call, not to break bonds, but to impose them on the most active and experimental administrative force of the day, the monarchy' (Holt 1992: 17). In addition to the king's loss of Normandy, his defeat at Bouvines in 1214 – which dashed the hopes of regaining his lands – and the growth of an administrative monarchy that replaced counsellor barons with loyal royal agents and magnates with mercenary captains, the loss of the Church's support also had a profound impact. The conflict with the Church reached its peak after the death of the Archbishop of Canterbury in 1205, when King John opposed the Pope's nomination of Stephen Langton to the position. He expressed concern over the Pope's choice. Pope Innocent III, Lothar of Segni, was a colleague of Stephen Langton and possibly even his student at Paris (Baldwin 2008: 13). King John mistrusted Stephen Langton for spending long years among his enemies in Paris, and he was unknown in England. Baldwin, in *Master Stephen Langton* (2008: 824), reveals that the Pope, in a letter to King John, expressed his surprise because his candidate was a native of England and received a prebend at York. The king himself wrote to him several times to be recruited for royal service. King John asserted his royal prerogative to appoint archbishops, thereby reviving an old ideological dispute between the monarchy and the Church regarding royal authority. This contributed to a more hostile environment around King John. Ultimately, his reconciliation with the Pope and his decision to place England under apostolic protection were instrumental in mitigating his quarrels with the barons.

The knights, merchants, and even the simple freemen resented the king's arbitrary rule and his excessive taxation to fund his campaigns in France. Many citizens found themselves heavily indebted to the king. Holt depicted the barons' revolt as 'a rebellion of the king's debtors' (Holt 1992: 17) due to the vital role these indebted individuals played in the rebellion. A notable example is the infamous debt of Geoffrey de Mandeville in the early 1214. King John demanded the payment of 20,000 marks within a period of ten months as a debt on Geoffrey de Mandeville for marrying Isabella, countess of Gloucester and the monarch's ex-wife – whose estates had been under royal control since the annulment of their marriage in 1200. In case Geoffrey de Mandeville failed to pay his debt, King John threatened to confiscate all his possessions as compensation and support Geoffrey de Saye's claim to the

Mandeville inheritance. Unable to pay his heavy debt, Geoffrey decided to join and eventually lead the barons' rebellion. He sought redress through the Articles of the Barons (Article 37), which stated that debts imposed 'unjustly and against the law of the land, are to be wholly pardoned…' (Holt 1985: 437). King John knew that Mandeville could not pay the heavy debt and decided to pass on half of it, 10,000 marks, to the Archbishop of Canterbury as a compensation for the losses of clerks during the interdict. Surprisingly, Stephen Langton accepted the offer, though the imposition of the debt was made without any judicial redress. This event was used as the main argument held against Langton to prove his hypocrisy, as suggested in David Carpenter's article, *Archbishop Langton and Magna Carta* (Carpenter 2012).

The wardship system, which granted the king the right to take orphans as wards and to act as a guardian of their property until they came of age, was 'unjustly' used. Many were obliged to pay reliefs to retain the ownership of their property upon adulthood. Young heiresses suffered the most, as they were either forced into marriage to fully utilize their estates or required to pay a fine for choosing to remain unmarried. For instance, it is recorded that Hawise, the widow of Baldwin of Béthune, count of Aumale, paid 5000 marks to abstain from marrying one of King John's favourites (Baldwin 2008: 21). It was not possible to initiate any legal actions against the king under the Angevin judicial system. No one could dare accuse the king of taking his property forcibly without any fair judgment, as the king could directly interfere in the complaints of tenants-in-chief (Turner 2016: 2). He could 'disseizin *per preceptum regis*' *(*by the king's command) and '*per voluntatem regis*' (by the king's will), without any due legal process. In his article *King John's Concept of Royal Authority*, Ralph V. Turner observed:

> John grew up in an environment that blurred the distinction between the monarch's spiritual and temporal qualities, placing him above the law as 'the certain image on earth of the divine majesty', 'the vicar of the Supreme King' or 'the Anointed of the Lord'… Well known to King John and his administrators was a 'tutorial principle' of kingship reaching back to St Augustine, defining the ruler-subject relationship as akin to that of guardian to minor: the monarch is responsible to God/or his subjects, not to them (Turner 1996: 159).

It seems that Turner's description of King John's conception of royal powers corresponds to many elements of Figgis's theory. King John sought to enforce obedience through exercising power to discipline his subjects using fear, threats, and imprisonments. For instance, turning against three of his closest counsellors in 1207 spread fear among the barons that the monarch was likely to turn against them at any time (Turner 2014: 8). It is recorded that Matilda de Braose and her son died at a royal prison at the command of King John after his quarrel with William de Braose. King John also used hostage exaction, financial pressure, and rewards or pledges of properties (Holt 1985: 180). As a feudal monarch, King John fully exploited his feudal rights to expand royal revenues.

A key concept that shaped King John's understanding of royal authority and granted him powers beyond those of a feudal overlord is the *corona et dignitas domini regis*. He used this concept to resist papal powers and confront threats from the Church, which challenged his royal privileges. For instance, he used the following statement to call for cancelling the ecclesiastical confirmation of the Sées Cathedral's nominee: 'contrary to written law and equally contrary to our dignity' (quoted in Turner 1996: 172). He frequently referred to 'dignity' and 'the old custom' as arguments in his disputes over ecclesiastical elections, stating phrases such as 'according to right and our dignity and old and approved custom' or 'our dignities which we and our predecessors had' (Turner 1996: 169). King John's insistence to recall past incidents to legitimize his authority also reveals his deep desire to restore and expand regal powers. During the infamous conflict over the Canterbury election, King John invoked Edward the Confessor's appointment of the Bishop of Worcester and the Anglo-Saxon history, noting that 'all my predecessors conferred archbishoprics, bishoprics and abbeys in their chamber' and that 'in ancient times before the coming of the Normans, the kings of England, even those now canonized, granted cathedral churches to archbishops and bishops entirely at their pleasure. Since the conquest elections have been subject to the king's assent and hitherto have been carried out strictly in this form' (Turner 1996: 163). It is also worth noting that King John's love of splendour – manifested in lavish spending on royal robes, jewellery, expensive tableware, banquets, royal castles, and extravagant festival celebrations – may have served as an attempt to impress his subjects and remind them of his superior status and magnificence as a monarch. For instance, King John was recorded to send for Empress Matilda's regalia on two occasions – in 1207 at a Christmas court challenging the pope's powers and in 1215 when negotiating with the rebel barons – to refer to the monarch's 'semi-priestly character' (Turner 1996: 169).

4. The making of the Great Charter (1215)

The Great Charter continues to attract modern scholars to produce more accurate translations and reconstruct the historical circumstances surrounding its creation and the long-term influence on constitutional developments. J. C. Holt, a recognized expert on the Great Charter, shifted the preceding academic discussion from analysing King John's character, based on narrative sources, to studying baronial beliefs about the distribution of power between monarchs and barons, the sole responsibility of the government, and the construction of the society during the Angevin period, with a particular focus on the 1215 version of the charter. The Great Charter, according to Holt, was the product of 'the increasing maturity of European political thought and practice' (Holt 1985: 174), which emphasized the rule of law within the feudal system. Holt argues that, unlike many charters of liberties granted by some continental rulers to exclusively serve baronial interests, King John's charter made concessions to cover groups below the barons (Turner 2016: 2), including the freemen. There are six clauses in the Great Charter which benefited 'the freemen', a term used to refer to

small landowners who held lands independently and freely of any lord. In 1215, they made up almost half of the population (Turner 2014: 22). This strengthens the claim that the rebel barons who met King John at Runnymede were primarily interested in defying and restricting royal powers as a result of unacceptable preceding English monarchical practices – not only by King John but also by Henry II and Richard I, who were, according to the barons, 'responsible for debasing the good old law of Edward the Confessor and Henry I' (Turner 2014: 17).

Archbishop Stephen Langton, whose role in drafting the Articles of the Barons has been the subject of a heated debate since the mid-twentieth century, has clearly preached resistance to kings who commit mortal sin or act against the court's judgments. Influenced by his Parisian teaching, Langton raised numerous questions concerning political obedience in his biblical exegesis and sermons, emphasizing that subjects are justified in politically resisting kings who act without due judicial process (Baldwin 2008: 820). In *Questiones*, for example, Langton stated the following (Baldwin 2008: 818):

> Disobedience is permitted only when the matter has not been adjudicated. The same principle is applied to the siege of a castle. If the siege has been adjudicated by a sentence of the court, no matter how unjust, the people cannot discuss the decision. But if the king has acted on his own will (*proprio motu*) to besiege the castle wrongly and without a legal judgement, the people will not be disobedient if they refuse to follow him.

For Langton, the most important principle was acting according to the court's decisions, however partial or unjust. Langton emphasized this point when asked about what people should do in case they knew about the injustice of their king's wars. He confirmed: 'If the matter was judged through a sentence by a court, even though the court was partial to the prince, and even though the sentence was unjust, the people must accept, obey and not discuss the sentence' (Baldwin 2008: 818). His response to a dilemma posed by a French knight about what to do as his king waged an unjust war (against King Richard of England at that time) calling for performing a sinful service is also noteworthy: 'I arrive as summoned, but when it comes to taking up arms, either I retire, or I remain without taking up arms' (Baldwin 2008: 818). When obedience to the ruler – which, according to St. Paul's epistle, was a sacred duty – conflicted with the injustice of his actions, people often turned to the Church for guidance, reflecting the deep bond between the faithful and the ecclesiastical institution. For Langton, the response was straightforward: one should refer to the court's sentences. In doing so, he affirmed the superiority of law over controversial royal prerogatives. His perspective, inspired by his teacher Peter the Chanter, was described conclusively by Philippe Buc as 'anti-monarchical' (Baldwin 2008: 813), or more precisely, as challenging the divine right of kings' theory and the doctrine of passive obedience in particular, which, according to Figgis, calls for unconditional passive obedience.

Langton studied at Peter the Chanter's school at Paris, which influenced the political thought of the twelfth century with its anti-monarchical perspectives – this may have been the main motive behind King John's opposition to Stephen Langton's appointment as the Archbishop of Canterbury. Langton's thought on kingship seems to have derived from his Parisian years. He described the royal government as having a sinful, predatory nature. He called for placing limits on monarchical powers – as God ordered the Hebrews and the Prophet Samuel to restrain their first king's financial exaction and to resist him if he commanded a mortal sin. Langton argued that some monarchs 'collect treasure not in order they sustain necessity, but to satiate their cupidity' (quoted in Turner 2014: 11). In most of his sermons and biblical commentaries, he emphasized the establishment of justice, even if it required opposing monarchical powers. Like Thomas Becket, who defied King Henry II to defend the Church's independence, Langton turned to law books to challenge the powers of the Angevin dynasty.

It seems that, as James Holt observed, 'the idea of a right to judgment was so ingrained in the medieval mind that judgment was almost equated with justice' (Holt 1985: 193). The barons learned from old feudal traditions that freemen had some privileges, including protection from arbitrary dispossession and punishment by their lords, which could be done only *per judicium* – through lawful judgement. It was recorded in Laws of Henry I, or the *Leges Henrici Primi,* around 1115, that no one ought to be deprived of goods and lands without legal judgment *(nisi de jure et ratione, per legem terrae et justiciam et per judicium curiae*). It further stated that 'Each person is to be judged by men who are of equal status and from the same district as himself' (Downer 1972: 134–135). Clauses 39 and 52 of the Great Charter clearly correspond to Langton's views and this old copy. They state that 'No free man is to be arrested, or imprisoned, or disseised, or outlawed, or exiled, or in any way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land' (The 1215 Magna Carta: Clause 39). 'If anyone has been disseised or dispossessed by us, without lawful judgment of his peers, of lands, castles, liberties, or of his right, we will restore them to him immediately.' (The 1215 Magna Carta: Clause 52). These clauses list and forbid many royal actions that King John used to take against freemen without a due process of judgment in lawfully constituted courts. In addition to *Leges Henrici Primi*, Turner explains that the barons' political conception of government *per judicium* had been influenced by Henry I's Coronation Charter – a copy of which Langton had allegedly possessed and presented to the barons, according to Roger of Wendover, a claim also accepted by Baldwin – and the *Leges Edwardi Confessoris* (Turner 1996: 165). At his coronation, Henry I promised that law should be modified only after the consent of his barons' counsel. This point was re-emphasized in Clause 12 of the Great Charter, stating that 'No scutage nor aid shall be imposed in our kingdom, except by common counsel of our kingdom' (The 1215 Magna Carta: Clause 12).

Feudal custom reinforced the baronial belief that freemen had the right to give advice, magnates were consulted by monarchs, and vassals gave counsel to their lords and participated in negotiations to resolve disputes and promote harmony

through the process of consultation. It seems also that the barons saw it both as a right and duty to have an assembly that represented them and the kingdom's subjects collectively, as suggested by Turner: 'Not surprisingly, the barons believed that a baronial assembly not only could represent their own interests but those of the "community of the realm", all the king's subjects. This concept of *communa totius terrae* with the baronage as its spokesmen is probably their most original contribution' (Turner 1996: 167). Instead of seeking baronial counsel, King John preferred to turn to his familiars – intimate royal servants, professional officials, and counsellors – who encouraged theoretical royal absolutism. These royal bureaucrats limited the barons' access to the monarch and challenged their socio-economic pre-eminence as they had to compete with them. This discontent was addressed in Clause 14 of the Great Charter, which reinforced the barons' counsel and detailed how, when, and by whom counsel should be given. The barons were also dissatisfied with King John's appointment of non-English officials to some high positions. This point was addressed in Clause 45 of the charter: 'We will not appoint justices, constables, sheriffs, or bailiffs except from such as know the law of the kingdom and are willing to keep it well' (The 1215 Magna Carta: Clause 45).

The principles emphasized by the Great Charter to enforce the rule of law and guarantee certain rights for the freeman in the thirteenth century raise many questions about the philosophy, experience, and education of those who wrote it and negotiated with King John to seal it. Although there is no consensus on Langton's exact role in drafting the charter and leading negotiations between King John and the barons listed in the preamble, the contribution of the Church and the legal background of its clerical intellectuals is undeniable. Langton was described as the originator of the charter by Roger of Wendover, and as a moderator – not an innovator – in the Barnwell Chronicle and the account of Coggeshall, as well as in the writings of modern historians such as James Holt and David Carpenter. For more detail, see the contribution of Carpenter, *Archbishop Langton and Magna Carta* (Carpenter 2011), in which Carpenter argues that it hardly needed Langton's intervention to accentuate the 'rule of law', which had already been known to the barons who had access to Henry I's Coronation Charter. Carpenter explains that Langton's only achievement was the addition of Clause 1 on the freedom of the Church to the Great Charter. Langton tried to present the Church in a prestigious position, distanced from the violent schism between the monarch and the barons, which suggests the charter to be its result. It seems that the barons who sought ecclesiastical support for the revolt and the charter did not object to opening it with a clause emphasizing the freedom of the Church – as had also been the case in King Henry I's Coronation Charter. Stephen Langton, who preached political resistance in the absence of prior court judgments, did not condemn or punish the barons' revolt.

Professor Helmholz suggests a possible link between some clauses of the Great Charter and the Roman-canonical law (Helmholz 1999: 66) – notably Article 25 of the Articles of the Barons which was rephrased in Clause 52 of the Great Charter, in which the technical term *appellatione remota*, meaning 'without the possibility of an appeal', was used, referring to an old doctrine in canon law. Helmholz suggests

William of Bardney and Adam of Tilney – Stephen Langton's episcopal *familia* who were trained in Roman and canon law – may have contributed to drafting the articles, referring to the revival of interest in studying Roman canon law in England at that time and its possible influence on the evolution of early English common law.

The rebel barons were undoubtedly instrumental in forcing the king to make the concessions in the charter, although most barons had been previously considered by the Church as illiterate. Nonetheless, by the early thirteenth-century, many barons and knights were able to read Latin and Anglo-Norman French. They had access to coronation charters and Anglo-Norman legal texts and the influential laws of King Henry I and Edward the Confessor. Geoffrey of Monmouth's chronicle, *The History of the Kings of Britain*, and *Layamon's Brut* were also widely popular among English barons. These works profoundly influenced vernacular literature, portraying King Arthur as the legendary ruler of the Britons. He was depicted as defying the Romans and often consulting his knights at the Round Table, symbolizing shared authority. David Carpenter notes that King Arthur was described as 'a consensual ruler with a real concern for law, justice and the welfare of his people' (Carpenter 2015: 255). Arthurian romances helped construct an idealized vision of chivalry and consultative kingship among English barons, who contrasted Arthur's popular model of rule with the arbitrary governance of the Angevin monarchs (Carpenter 2015: 14), especially King John, whose military failures and disregard for baronial counsel deepened their resentment.

Participating in shire courts and presiding over their own affairs gave the barons some experience and understanding about customary laws and encouraged them to rebel to defend their rights whenever necessary, particularly in money-related issues. King John was obliged to abandon some military campaigns in 1205 and 1215 due to the barons' reluctance to support him financially (Carpenter 2015: 12). In 1213, the barons in northern England refused to provide military service for the Poitou campaign, arguing that the monarch could demand service only in England, Normandy, and Brittany. These dissatisfactions were addressed by the Unknown Charter of Liberties, which is almost a reproduction of King Henry I's Coronation Charter – at least five articles of the Unknown Charter, out of fourteen, correspond directly to Henry I's Coronation Charter provisions on marriage, dowries, wardship, relief, and royal forest. It is also interesting that the first article of the Unknown Charter begins with a statement emphasizing the establishment of justice and the right of judgment (Baldwin 2008: 29). The barons demanded that overseas military services be limited and refused the scutage that the king imposed in punishment for not sending their quotas of knights to Poitou. The recalcitrant barons in northern England and the wealthy, autonomous marcher lords in South Wales were a major concern for King John, who tried unsuccessfully to bring them under royal control. After the military failure in Poitou, King John ordered his mercenary forces to deal with the rebels in the north, but Archbishop Langton argued that his unilateral action lacked the required prior legal judgment of the court.

The Great Charter was substantially based on the Articles of the Barons, though it is more precise to say that it represented a combination of: (1) King Henry I's

Coronation Charter, which consisted of fourteen articles addressing his barons' grievances, including a restatement of certain laws of King Edward; (2) the Unknown Charter, which contained twelve articles adapting King Henry's charter to the feudal conditions of the time; and (3) the Articles of the Barons, with forty-nine articles serving as a preliminary draft for the final text of the Great Charter, which was accepted in Runnymede on 15 June 1215 (Baldwin 2008: 832). The final text, which was therefore born through an accumulative process, begins by addressing the grievance of the Church by ending the monarch's interference in ecclesiastical elections (Drew 2004: 1). It also addresses everyday issues such as limitations on royal imposition of relief, scutages, aid; the guarantee of a basic right to justice; and various economic and property protections. Most significantly, it subjects the king to accountability and makes him liable to correction through the establishment of a council of twenty-five elected barons to ensure that the monarch acted in accordance with the charter, as asserted in the security clause, Clause 61: 'The barons shall elect twenty-five of their number to keep and cause to be observed, with all their might, the peace and liberties granted and confirmed to them by this charter' (Linebaugh 2008: 294). If the king refused to observe these rights, the barons granted themselves the right to 'distrain upon and assail us in every way possible, with the support of the whole community of the land, by seizing castles, lands, possessions, or anything else' (Linebaugh 2008: 294). These two decisive clauses clearly established the barons' right to resist and even to rebel if the Crown acted in violation of the law. The expression 'the whole community' and the principle of 'the community of our realm' also merit attention, as both refer to the laity and the clergy. In this clause, the community is portrayed as a unified body distinct from the king and capable of opposing him when necessary. This principle corresponds to Langton's concept of 'the congregation of all the faithful', which refers to the Church in its broadest sense, including not only the prelacy, but also the clergy, their prelates, and people (Baldwin 2008: 825–834).

5. Conclusion

Although the Great Charter, drafted at Runnymede, was written in the language of voluntarily granted rights, benefitting the Church, barons, and freemen, it placed severe hostile limitations on regal powers. The committee of twenty-five barons, in particular, was regarded as an unacceptable restriction on monarchical authority even by modern scholars, notably because most of the committee's chosen members were long-standing personal enemies of the king, including conspirators in the revolt against the king in 1212 such as Eustace de Vesci and Robert Fitzwalter. Surprisingly, even the respected figures listed in the charter's preamble were not selected to serve on the committee. Although King John, reluctantly, agreed to seal – but not to sign – the document after the renewal of baronial homage, he did not intend to abandon the Angevin royal powers permanently. Not even a ceremonial sealing took place at Runnymede to mark the issuing of the new document. It is not

surprising that the charter remained in effect for no more than three months before King John sought release from it by Pope Innocent III, who declared the charter null and void, excommunicated the rebel barons, and suspended Archbishop Langton from his office for refusing to submit to the Pope's judgment. Although King John's political conception of monarchical authority was very close to absolutism, dualism, and Gallicanism, he was compelled to submit to papal hierocracy and the doctrine of the two swords, accepting the Pope's superiority as a ruler of a universal Christian realm. In 1213, after a prolonged and fruitless dispute with the Pope over his rights as a monarch, during which he was excommunicated in 1209, placing England under interdict and strengthening ties with his enemy, the French king, King John offered England as a papal fief. Reconciliation with Pope Innocent III was probably his best means of avoiding a potential crusade against England, led by the French king, Louis of France (Louis Augustus), under papal sanction. As a papal vassal and ruler of England, King John sought to secure ultimate papal protection against any attack on England, even at the expense of his Angevin inheritance. Christopher Robert Cheney, in *Pope Innocent III and England*, noted that 'From the moment [John] put himself under apostolic protection and made his kingdom part of St. Peter's Patrimony, there was no prince in the Roman world who would dare attack him or invade his lands to the damage of the Apostolic See' (Cheney 1976: 339). On the other hand, barons sought to incorporate the right of resistance to monarchical powers in a written charter (Kern 2013: 129). Their evolving conception of royal authority diverged markedly from the four elements proposed in Figgis's *The Divine Right of Kings*. Clause 61 of the charter almost disempowered the king and humiliated him. It was an attempt to force the king to acknowledge that his power was not absolute; it was subject to the rule of law. It also implied that the monarch could be held accountable and even punished, like any other human being who erred. The English monarch, therefore, was compelled to obey some fixed laws in England that were beyond his will (Guthrie 1916: 25). This was, as described in the words of V. H. Gallbraith, 'the most fantastic surrender of any English king to his subjects' (quoted in Ispir 2017: 102).

Data availability statement

This study is qualitative; hence, no quantitative data are used. All data supporting the findings are contained within this article and its referenced sources.

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