THE PROTESTATION OF RICHARD II IN THE TOWER IN SEPTEMBER, 1399.

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THE story of the capitulation of Richard II as narrated in the roll of Henry IV's first parliament was suspect from the first, and has long had open doubt cast upon it. It has recently been subjected to close scrutiny and analysis, and it has been clearly demonstrated that Henry's partisan account, supported by Lancastrian chronicles, must not be accepted at its apparent value. "The free resignation at Conway and the account of Richard's cheerful bearing in the Tower are soothing falsehoods which probably no one at the time believed or was expected to believe." The official fiction of a voluntary and happy resignation was untrue, but there is reason to believe that the version was more widely disseminated because from the time Richard became a prisoner every attempt was made to conceal the truth that he regarded himself, as he never ceased to do, as true king. Instead, therefore, of a story of absolute surrender, we have one of capitulation on conditions: instead of a picture of Richard in the Tower as a happy man, there is the suggestion both of coercion and a denial of a hearing in Parliament. For what happened in the Tower we have only, it has seemed, Henry's account of Richard as "benigne respondens" (Rot. Parl., iii, 416) to guide us. The reservations which Richard made before his surrender, and which he maintained in the Tower, naturally found no place in the records. They have, however, been preserved in other


sources, some of which have long been in print. The form in which they appear is somewhat confused and corrupt, but their reiteration in substance clearly bespeaks some authoritative and first-hand source. The corruptness of the text is probably the reason that they have never attracted the attention of any historians but Stubbs and Sir James Ramsay, and them only slightly.

Richard's reservations were threefold but brief. His first and major objection was that he had not yielded and could not yield up the office of King, though he might hand the reins of government over to another person. The two minor points were that he wished Henry of Lancaster to be next in the line of succession, and that he desired his provisions for an obit to be carried out. Even in the Roll of Parliament we have the first of these minor reservations, as much as it was in Henry's interest to issue: "Rex Renunciation et Cessioni predictis verbo-tenus adjunxit, Quod si esset in potestate sua, dictus Dux Lancastriae succederet sibi in regno." As will be shown later, Richard's wish was that Henry "proximo succederet," which, while Richard was still reigning, was not the same as the substance of Henry's statement. This statement is verbally reproduced by Walsingham in the portion of the fuller version of his chronicle which has been printed as Annales Ricardi Secundi, but he also reveals that Richard did actually raise his major objection, not on the same occasion, but after his deposition when Thirning came to the Tower to announce it to him: "Ubi vero Dominus Willelmus Thernyng dixit ei quod renun-avit omnibus honoribus et dignitatibus Regi pertinentibus respondit quod noluit renunciare spirituali honori characteris sibi impressi, et inunctioni, quibus renunciare nec potuit nec ab hiis cessare." A reference to the third, or obit reservation, is contained in a

1 Stubbs, Const. Hist., III, 2nd ed., p. 13, § 362: "Richard ... refused to renounce the spiritual honour of the royal character impressed upon him or his union" (from Ann. Hen., p. 286). Genesis of Lancaster, Vol. II, pp. 368-9: "In the course of some conversation that ensued Richard maintained that the spiritual authority imparted to him by his hallowing was indelible and could not be renounced by him, a doctrine emphatically rejected by the Chief Justice."

3 With Trokelowe, R.S., p. 256.  
4 Ibid., p. 286.
London chronicle: "Outake the landes and possessions for me and my obyt ordeyned and bouht."

It is the Monk of Evesham who gives the fullest account of Richard's case: "In quo quidem parliamanto primo viz. die parliamenti, dicto Rege Ricardo absente, et in Turri (ut praefertur) in salva custodia existente, ceteris Dominis spiritu- alibus et temporaliibus totius Regni ac plebeis praesentibus per nuncius, a Rege Ricardo destinatos, quaedam resignatio, per ipsum Regem sponte factura, extitit praesentata. Cuius resignationis tenor talis est. . . . Ego Ricardus, Rex praedictus, me subscribo, praesentibus viris . . . et aliis, praemissa cum protestatione, quod noluit nec intendebat renunciare carrectis, animae suae impressis. Item et quod reservavit sibi redditum, terras et tenementa, empta et perquisita de Domino Ricardo le Scrope pro obitu suo et aliorn apud Westmonasterium faciendo et injussu, voluitque (note: In usu, noluitque-Cl.) et declaravit, quod (in quanto in ipso fuit) quod Dominus Henricus, Dux Lancastriae, proximo succederet sibi in Regno."

This contains all three reservations, but linked with Henry IV's voluntary resignation story, the two accounts being evidently interwoven by the chronicler. There is the official Lancastrian version in "resignatio per ipsum Regem sponte factura," and

1 Chronicles of London, ed. C. L. Kingsford (1905) I, Julius B. II, 1399, p. 21. Professor Calbraith kindly points out that the fifteenth-century translation of a continuation of Higden mentions this and the second point. (Polychronicon, R.S., VIII, p. 509): "Also the seide kynge Richarde desirede that he myghte reioyce certeyne lyvelode boughte afore, whiche he intendede to distribute for his sawle to the monastery of Westmonastery. Which kynge desyrede and seide openly that hit was his wylle that the seide duke of Lncastre, cosyn to hym, scholde succeede in that realme of Ynglond, and reioyce his crowne."

In a letter to Professor Tait, Professor Calbraith says: "We shall never, in my opinion, reconstruct accurately what happened to Richard in the Tower, as we do not know what force or fear was used on him. But it is quite clear that at some stage Richard made the threefold protestation. Exactly when is uncertain (the Annales place it a day later than others), but it seems likely, I think, that he made it by word of mouth only (as in the Annales) when called on to subscribe to the prepared act of renunciation and abdication." If, however, Richard made his protestation by word of mouth only, someone must have taken it down, or it would be difficult to account for Stowe MS. 66 or Agarde's "Record" (v. p. 16).

2 Monk of Evesham, ed. Hearne (1729), pp. 157, 159. Hearne's alternative reading "In usu," etc., is from Cotton MS. Claud. B. 9, fol. 302b.
there is the statement of objections raised by Richard. The Monk of Evesham, being a compiler with access to various official sources, might be expected sometimes to gather and weave together contradictory fragments. The evidence of Walsingham and Evesham, being that of chroniclers hostile to Richard II, is the more valuable on that account.

The evidence for Richard’s reservations which has so far been considered has long been in print, though, as we have seen, it has attracted little attention. There is a further source, still in manuscript, and practically unknown, which has the merit of showing how all the references fit in together, confirm one another, and point to some common source. It is a contemporary document, and sets out more clearly than in Evesham the three-fold declaration. In that portion of his Descriptive Catalogue of Manuscripts relating to the history of Great Britain and Ireland which remains in manuscript at the Public Record Office, Sir Thomas Duffus Hardy refers to the document as being among the Earl of Ashburnham’s manuscripts. “The written pages,” he says, “are only four, but they appear to be coeval with Richard II. Annexed to it is the Protestatio Regis Ricardi ante Resignationem.” It is elsewhere described as “A quarto of four vellum pages apparently coeval with Richard II.” The MS. has an illuminated initial and is of small size. Its somewhat careless ‘layout,’ and the character of its script do not suggest official origin. It consists of the following parts:—

1 Brit. Mus., Stowe MS. 66 (Index Stowe, Vol. I, p. 43), Vellum ff. 2, XVth Cent., Duodecimo. The Stowe MSS. were collected early in the nineteenth century by the Marquis of Buckingham. They had been chiefly the property of Thomas Astle, Keeper of the Records in the Tower, who died in 1803, leaving them by his will to the Marquis for a nominal sum. In 1849 the Stowe MSS., with important additions made by purchase, were bought by the Earl of Ashburnham to form one of the four great sections of his library of MSS. In 1883 the British Museum bought the Stowe MSS. apart from the others.

2 Professor Galbraith says that the script of Stowe MS. 66 is of the early fifteenth century.


4 Or, rather part of it.

I. A version of the document by which Richard II released his subjects from their allegiance to him, i.e. the act of abdication or resignation.

II. A list of those present in the Tower when Richard is said to have subscribed to the act of resignation.

III. A Protestation made by Richard before his resignation.

IV. Henry of Lancaster's declaration after the notification in Parliament of the resignation.

V. Henry of Lancaster's declaration before his election.

VI. Four lines of verse moralising on Richard's fall.

VII. Twenty lines of verse in praise of England.¹

VIII. A few lines of spiritual advice—possibly in a different hand, and not written with equal care.

The act of Resignation in Stowe MS. 66 follows the Act in the Roll of Parliament very closely in the main, but there are about twenty minor differences. In addition, there are two places where the text of the Roll is in stronger phrasing by the omission in the Stowe MS. of the terms "Dimissioni" and "Resignationi," and further, while the Roll ends with "Ego Ricardus Rex antedictus propria manu me subscribo," the Stowe MS. has "Et ego Ricardus praedictus subscribo."² The original document of resignation with Richard's sign-manual affixed is not extant. The Roll of Parliament contains the text of a pretended act of resignation, but it is in no way authenticated.³ It may have been true in whole or in part only. If Henry IV's story was accurate there was much to gain and nothing to lose by adding the original document to

¹ Brit. Mus. Cat., Stowe MSS. (Vol. I, p. 43) says that the twenty lines of verse beginning "Anglia terra ferax et fertilis angulus orbis" have been attributed by Trithemius to Richard of Cluny, to Alfred of Beverley and to Henry of Huntingdon. There is another copy, Addit. MS. 11983. The first line is reflected in "Engleterre q'est la plus habundant Angle de Richesse parmy tout le Monde," the words of Archbishop Arundel at the opening of the Parliament of September, 1399.


³ Professor Calbraith says: "I think we must accept the fact that he signed the renunciation. There were too many witnesses for that to be false."
the official record. It is not unlikely, therefore, that if the Stowe MS. differs significantly, and with corroboration from other sources, from the official record in the text of the Act of Resignation, we are dealing with a document that brings us nearer to the truth. If Henry of Lancaster used coercion upon Richard in the Tower,¹ changes to strengthen the document in Henry's favour are explicable. This is interesting if the Stowe MS. can be confirmed in the statement made in its third section that there was a "Protestatio regis Ricardi ante Resignationem." In view of such a protest it is not easy to believe that Richard signed any document of resignation "hillari vultu," although it would be necessary for Henry to maintain in Parliament that Richard had done so. According to Hardynge, Richard, under duress in the Tower, did make a renunciation,² used to the full by Henry in his official account. What is not allowed to appear

² "Primo negavit," says the author of the continuation of the Eulogium Historiarum (R.S. III, p. 382) "sed post ostenderunt sibi quod oportebat eum renuntiare, et hoc absolute et sine conditione." Here a euphemism clearly conceals coercive persuasion.
"The Harleian MS. has here the following prose addition—which also occurs at the end of the Selden MS.—"Nos Henricus Percy, Comes Northumbrie . . . Henricus Percy Primogenitus nostor . . . et Thomas Percy Comes Worcestrie . . . ponimus, dicimus, et probare intendemus manibus nostris personaliter, die instante, contra te Henricum ducem Lancastrie, complices tuos et fautores, te injuste presumentem et nominantem regem Anglie, sine titulo juris nisi tamen de dolo tuo et vi fautorum tuorum, Quod quando tu post exilium tuum Angliae intrasti, apud Doncastrte tu jurasti nobis supra sacra evangelia corporaliter per te tacta et oscultata justa clamare regnum, seu regium statum, nisi solummodo hereditatem tuam propriam et hereditatem uxoris tuae in Anglia, et quod Ricardus dominus noster rex ad tunc regnaret ad terminum vitem sue gubernatur per bonum consilium dominorum spiritualium et temporalium. Tu ipsum dominum tuum et regem nostrum imprisonasti infra turrin London quousque resignaverat metu mortis regna Angliae et Francie, et renuicaverat totum jus suum regni praedicti . . . tu te coronasti contra sacramentum tuum: unde perjurator sc, et falsus." Ibid., p. 353: "For I, John Hardynge . . . herde the erle of Northumberlonde . . . saie, that the seid kyng Henry made kynge Richard under duress of prison in the Toure of London in fare of his life to make a resignaion of his right to hym. And upon that a renunciation of the seide right. . . ." As Professor Tait points out, Northumberland did not dispute that Richard renounced all his right. He rested his case on the coercion. Northumberland’s silence about the "protestation" does not seem to
in Henry’s story of a vacant throne, and that for the very evident reason that in a few words it is the very negation of that narrative, is that the throne, as Richard the right occupant contended, was still indefeasibly and officially occupied. The occupant, according to the third section of the Stowe MS., categorically declared “ante resignationem,” that the sacred marks of kingship would not be surrendered, a clear challenge to the validity of the ceremony of “resignation” then about to take place. Richard’s protest, according to the Stowe MS., was: “Praemissa protestatione quod noluit nec intendebat renuntiare carcteribus animae suae impressis a sacramentali unctione. Item quod reservavit redditus, terras et tenementa per ipsum empta et perquisita de domino Ricardo Scrop pro obitu suo et aliornum apud Westmonasterium faciendo et in usu

mean that he was ignorant of it, but rather that he left it to be understood that coercion, made necessary by Richard’s defence of his inalienable rights, covered all.

In his introduction to Hardyng’s Chronicle, Ellis says he made use of four MSS., B. Mus. MS. Harl. 661, Bibl. Bodl. MSS. Archiv. Seld., B. 10, MS. Ashmole 34, and Lansdowne MS. 204. In spite of this careful collation there is a difficulty in the reading: “... tu jurasti nobis supra sacra evangelia corporaliter per te tacta et osculata juxta clamare regnum, seu regnum statum...” which is the opposite of what Northumberland apparently meant, and a reading which Professor Tait had doubted. The MS. Harl. 661 gives this version, but there is a transcript of the prose additions to Hardyng (MS. Harl. 293, f. 78)—“The Quarrell of Sir Henrye Peircye at Shrewsbur, his Father the Earl of Northumberland, and Unkle Thomas Percie, Earl of Worcester, by the Councell of Scroope Archbishop of Yorke, and other holy men: with King Henry IV. Written by John Harding.” which gives what seems to be a more accurate rendering. The verbal differences are italicized. “... intendimus manibus nostris personaliter die instante contra te Henricum Ducem Lancastriae comlices tuos et fautores te injuste presurnentem et nominantem Regem Angliae sine titulo juris nisi tamen de dolo tuo et vi fautorum tuorum, quod quando tu post exilium tuum Angliam intrasti apud Doncastre tu jurasti nobis supra sacra evangelia corporaliter per te tacta et osculata, nunquam clamare coronam regnum regam statum nisi solummodo hereditatem tuam propriam et hereditatem uxoris tuae in Anglia et quod Ricardus dominus noster rex et turn regnaret ad terminum vitae suae gubernatus per bonum consilium dominorum spiritualium et temporalium tu ipsum dominum et regem nostrum imprisonasti infra turrim Londoni quousque resignaverit metu mortis Regna Angliae et Franciae et resuntiaverat totum jus suum in regnis praeeditis et aliis dominii suis et terris de ultra mare colore quarum resignationis et renuntiationis tuorum fautorum consilio ac publica vociferatione vulgaris populi Westmonasterium te et tuos complices collecti tu te coronasti in regem regnorum praeeditorum et seissiri fecisti omniaque castra et dominia...” Here “quousque resignaverit... Regna” seems to mean that Richard was imprisoned until he should resign.
etc. Item voluit et declaravit quod renuntiavit regimen regni in quod quantum in eo fuit dominus Henricus dux Lancastriae proxime sibi succederet in regno." This forms a close parallel to the relevant passage in Evesham, with the significant addition of "Sacramentali unctione" and "renuntiavit regimen regni." It is something new and foreign to Henry's case. It shows Richard doing his utmost to invalidate the ceremony of Henry's enthronement, and such action is efficacious because he can deny the essential part of the ceremony, the statement that he is yielding up a kingship, the essentials of which by those divine and permanent characteristics, once given with every accompaniment of reverence and austere dignity that man could devise, can never be obliterated. It is no wonder that at the critical moment in Parliament, the enthronement of Henry, Richard appeared only by proxy. This objection on Richard's part probably explains the double process completed by Thirning, the Chief Justice. If the Act of Resipation produced by Henry were Richard's free deed, the latter had given back to all men their oath of fealty and homage, and that was enough; but Thirning went to the Tower and retracted the homage and fealty of all men from Richard. This latter act is explicable in the light of Richard's protest—that he was still king, and that fealty and homage were still due to him and not to Henry.¹

¹ "Furthermore the said states, willing that nothing should be wanting which might be of value, or ought to be required touching the premises, being severally interrogated thereupon, did constitute the same persons that were before nominated commissioners, to be their procurators, jointly and separately to resign and give back to the said King Richard, the homage and fealty to him before made," Rot. Parl., III, p. 422. "This was a form which we should think very unnecessary and valueless, but to which great importance seems to have been attached," Campbell, Lives of the Lord Chief Justices, Vol. I, p. 117. Regarding this retraction of fealty and homage, Professor Tait says: "I am not quite sure that it would not have been formally requisite even if there had been no protestatio. There could not be much 'freedom' in a prison. There is also the precedent of the withdrawal of allegiance and homage from Edward II after his abdication."

² In the parallel case of Edward II, "The King had a complete remedy for what he did under constraint. When the governor and head of the law was in prison the law itself was in prison." (Year Book 20 21 Ed. I, R.S., p. 192). "The king by his own grant could do nothing in restraint of the royal power." (Eye of Kent, Seld. Soc., Vol. III, pp. 172 3.) J. Conway Davies, Baronial Opposition to Edward II (Cambridge, 1918) p. 43.
To understand further the force of Richard’s objection and to realise what the mystical marks or characters denoted which Richard was resolute not to surrender, it is necessary to refer to the implications of the mysterious process that made a king. The mediæval conception of kingship follows that of the Old Testament in paying extreme regard to the ceremony of anointing, by which the person elected to kingship became a deacon. “The King duly anointed,” says Lyndewood, the English canonist, “is no mere layman, but a persona mixta, one in whom the characters of clerk and lay are combined.” ¹ By the English Common Law an anointed king had spiritual jurisdiction at his command. The sacring concerned itself with the “characters” mentioned by Richard II as the core of his objection. “This sacred character (to use a theological expression) was impressed upon him at his coronation, when he was anointed and consecrated king.”² It is clear, then, that the climax of the whole coronation service is the anointing, which confers the characters of kingship and the sevenfold gifts of the Holy Spirit upon the king. “Nothing which goes before, and nothing which follows, can approach the anointing in significance . . . the king is vested and adorned with the regalia because he is anointed . . . he is not anointed in order that he may receive the regalia.”³ How sacred the unction was regarded may be seen much earlier than 1399, for what made the crime of Becket’s murderers particularly heinous was that their swords defiled the crown of the archbishop’s head, once anointed with the holy oil of chrism.⁴ Such a balm had given kingship to Richard II, and on this conception of the unique, sacred and indissoluble character impressed upon his being when the unction made him a royal person, he took his stand.

To solve this problem of Richard’s protest that the characters of kingship were inviolable Henry took two courses. He first tried to lessen the reverence due to Richard by a story

³ Leopold G. W. Legg, English Coronation Records, 1901, p. xxxiv.
alleged to have been invented by his father¹ that his own descent was from the elder son of Henry III. Since on this view Edward I was not the elder son, Richard's claim would be inferior to that of Henry of Bolingbroke.² "He seid he entred and toke upon hym the Corone, as right enheriter to Kyng Henry the third, and not as a conquerour."³ Henry IV's second means was to adapt to his own purposes a legend existing since the time of Edward II. This legend described how the Virgin appeared to St. Thomas of Canterbury, when in exile in France, and gave him a phial of oil in a golden eagle. She said, according to a letter of Pope John XXII to Edward II,⁴ that a king would arise, a champion of the Church, and the fifth king after Henry II, who by virtue of this most holy oil, which he was to find, would recover the Holy Land. Owing to the efforts of Henry IV, this legend was widely disseminated in 1400 with two discrepancies: first that Edward III, and not Edward II, was the king in whose reign the phial was found: and secondly, that after the first Duke of Lancaster, who received it from the finder, gave it to the Black Prince, the phial was neglected and lost to sight, being found by chance late in the reign of Richard II. Richard was then alleged to have taken

¹ John Hardyng, *Chron.* (Ed. H. Ellis, London, 1812), p. 354, "John of Gaunt feyned and forgied the seide Cronycle that Edmonde shuld be the el&brother, to make his son Henry a title to the aoun ... whiche title he (Henry of Lancaster) put furste furth after he hade kynge Richard in the Toure. . . ." Stubbs (C.H., 2nd ed., III, pp. 11, 12, § 302) and Armitage-Smith (*John of Gaunt*, pp. 358-362), do not accept Hardyng's assertion of forgery by John of Gaunt, but the claim was raised in September, 1399 (Usk, 30) and though rejected by Henry's advisers, may be vaguely advanced in his own words in the Roll of Parliament: "I . . . chalenge yis Rewme . . . als I yt am disendit be right lyne of the Blode comyng fro the gude lorde Kyng Henry therde and thorghe yat ryght yat God of his grace hath sent me . . . to recover it. . . ." (Cf. Stubbs, *loc. cit.*) The continuator of the *Eulogium* says (under 1394), "In hoc parhamento dux Lancastriae petit quod filius suus Henricus judicaretur haeres regni Angliae; cui contradixit comes Marchiae. . . . Econtrario dux dicebat quod Rex Henricus Tertius habuit duos (filios), Edmundum seniorem et primogenitum, et Edwardum. Qui tamen Edmundus dorum habuit fractum . . . quare pater eorum eos sic componere fecit, quod Edwardus regnaret. . . ." *Eulog. Hist.*, R.S., Vol. III (*Continuatio Eulogii*), p. 369. This may seem to support Hardyng, but the continuator, like Hardyng himself, wrote in the fifteenth century and his statement is unsupported.

⁴ Leopold G. W. Legg, *op. cit.*, p. xxxvii and p. 73.
it to Ireland, and to have brought it back after asking in vain to be reanointed. Such a ceremony, it was pointed out, could not be performed twice. The phial was therefore handed over to the Archbishop of Canterbury: “Quam petenti Archi-
episcopo apud Cestriam tradidit, dicens sibi jam patenter clari-
escere quod non fuit voluntatis divinae ut ungeretur illo unganue, sed alteri debere tam nobile sacramentum. Archiepiscopus vero, reservans tanta jocalia sub veneranda custodia, ea tenuit usque ad tempus Coronationis Regis moderni, qui primus Regum Angliae unctus est tam pretioso liquore.”¹ In addition to Walsingham’s version of the legend as used by Henry IV, there is another source,² which “professes to be a relation by the Archbishop of the delivery of the oil, and represents the state of the legend early in the fifteenth century. The MS. is de-
fective and missing words are supplied by a MS. of the same century (Ashm., MS. 59, fo. 77) which has an extremely corrupt text.”³ “This is the oil,” says the Virgin Mary in this text, “with which the Kings of England must be anointed, but not those who now reign or will reign, and who, on account of their many crimes, have lost and will lose much. But kings of the English shall arise who will be anointed with this oil, and who will be good and champions of the Church. They will recover peacefully the lands lost by their forefathers as long as they have the eagle and phial. . . . Now there will be a King of the English who will be the first to be anointed with this oil; he shall recover without force the land lost by his forefathers, that is to say Normandy and Aquitaine. He will be greatest among kings, and he it is that will build many churches in the Holy Land, and will put all heathen from Babylon to flight, and will cause many holy churches to be built there, and as often as he carries this eagle on his breast he will have the victory over all his enemies and his kingdom will be ever increased. . . .”⁴ Henry thus

² Bodl. Ashm. MS. 1393, fo. 52.
³ Leopold G. W. Legg, op. cit., p. 169.
⁴ Ibid., “statimque apparuit michi beata virgo maria . . . et aquilam cum ampulla in manu mea posuit et hec verba per ordinem dixit, ista est unccio de qua debent ungi reges anglorum non isti qui modo regnant sed qui regnabunt, ipsi maligni sunt et erunt, propter eorum peccata multa amiserunt et amittent,
claimed a monopoly of all the sanctity there was in the royal anointing. That he took such steps to nullify the sanctity of Richard's anointing shows that the protest raised by Richard was of some moment; that when the latter stated he did not wish, nor was it his intention, to renounce those signs or characters impressed upon his soul by the sacramental unction, he was laying down the condition that he could not be divested of the characters of kingship—"quibus renunciare nec potuit nec ab his cessare." 1 When Richard says, as reported in Stowe MS. 66, that he gave up the "regimen regni," there is the plain meaning of mere rule or government of the country, 2 such as was always apt to be taken out of the weak hands of inefficient kings by groups of nobles acting in concert, ostensibly for the salvation of the realm. Evil kings, weak kings, or minors suffered this experience. "Lack of governance" is the state of affairs that society cannot endure. Henry III and Edward II, and even Richard himself on a previous occasion, had given up this government or regimen for a time, but not the regnum. Richard, however, was giving up this regimen with a proviso—that the proximate heir should be Henry. There could not be two kings reigning at the same time. Here Richard was clearly not renouncing the crown and leaving the throne empty. 3

sunt autem reges anglorum futuri qui ista unccione ungentur, benigni et pugiles ecclesie erunt. Nam illi terram amissam a parentibus pacifice recuperabunt donec aquilam cum ampulla secum habeant. . . . Est etenim rex futurus qui post ista unccione ungetur qui terras a parentibus amissas videlicet Normaniam et Aquitaniam recuperabat sine vi. Rex iste maximus erit inter reges et est ille qui recuperabit multas ecclesias in terra sancta et effugabit omnes paganos de babilonia, et ibidem plures ecclesias sanctas edificari faciet. Quociscunque vero Rex iste dictam aquilam in pectore suo portabit de suis inimicis victoriam habebit et regnum eius augmentabitur. . . .

1 Annales, R.S., p. 286.
3 Henry and the Lancastrian partisans emphasise a resignation, a cession of an empty crown and a vacant throne, not the transfer of "regimen." Cf. Usk (ed. Maunde Thompson, 1904), pp. 31-2: "In festo Sancti Michaelis, missa erant regi in Turri, pro parte cleri, archiepiscopis Eboracensis et episcopis Herfordensis . . . ad recipiendum cessionem regia Ricardi"; p. 30: "... deponenti Ricardum cause fuerant sufficientes; et licet cedere paratum fuerat . . ."; p. 32: "Ipsius status regii resignacionem . . . in pleno legit parlamento"; Evesham, p. 160: "Ego Henricus Dux . . . istum Tronum regium,
The idea of himself being king while the ruling of the kingdom was done by others was not new to him, for he had had a long experience of tutelage and subordination to ambitious uncles. Twenty-two years before, under Thomas, Duke of Gloucester, there was actual talk of deposing Richard temporarily while a small coterie of great lords carried on the government. As one of the lords who took the government completely out of Richard's hands for a year, Henry of Lancaster would be perfectly familiar with this suggested deposition. Richard, on his part, would, in 1399, be saving the Crown's prerogative and liberties not for the first, but for the second time, and had a previous experience to guide him, as it would appear, out of the impasse. It was characteristic of Richard's belief in the divine right of kings, that as long as he lived he should view


1"In that, that I was in place ther it was communed and spoken in manere of deposyl of my liege lord trewly I knoweche wele that we were assented thereto for two dayes or thre, and than we for to have done our homage and our ooths and putt hym as heily in hys estate as ever he was. . .” Gloucester's Confession in Owens College Historical Essays (Ed. T. F. Tout and J. Tait), p. 207. See Rot. Parl., III, 379.

2 In 1397 Richard attributed the rejection of the suggestion of his deposition to the intervention of Henry, then Earl of Derby, and the Earl of Nottingham (Rot. Parl., III, p. 376). The Monk of Westminster, however, ascribed it to the Earl of Warwick (Higden, Polychronicon, IX, pp. 109-110). Richard gave way to the lords and commons in Parliament under the threat of deposition. In October, 1386, Parliament maintained that “liciumt est eis (the lords and commons in Parliament) cum communi assensu et consensu populi regni ipsum regem de regali solio abrogare, et propinquorem aliquem de stirpe regia loco eius in regni solio sublimare,” (Knighton, Chron., II, p. 219), but Richard protested personally in Parliament against anything which had been done contrary to the Crown's prerogative and liberties: “Le Roi en plein Parlement, devant le fyn d'icell, fist ouverte Protestation par sa bouche demesne, Qe pur riens q'estoit fait en le dit Parlement il ne verroit q prejudice avendroit a luy ne a sa Corone, einz q sa Prerogatif . . .” (Rot. Parl., III, p. 224).
himself as king. That his reign had been marked by misrule he considered untrue. He had just not pleased the people.\(^1\)

The recurrent mention of indelibly impressed characters seems to show that there was a common document somewhere embodying Richard's statement in defence of his inalienable rights. A trace of such a common source seems to be found in a seventeenth-century transcript\(^2\) of the documents touching the resignation of the crown by Richard and its acceptance by Henry of Lancaster. It was made at a time when exalted claims concerning prerogative and the divine right of kingly authority resulted in close examination of fourteenth-century parliamentary records. One item of the transcript is noted as “The Resignation of the Crown by Richard II and the Acceptation by Henry IV (copied out of the Record the 2nd of Sept., 1612, being in the Hands of Mr. Arthur Agard, Keeper of the Records at Westminster.”\(^3\) Here again the parallel with Stowe MS. 66 is so close that one would like to know what was the original in the hands of the Keeper of the Records. It was certainly not the official account on the Roll of Parliament.


\(^2\) Harl. MS. 293:

Fo. 40. The names of such as have the Guard of Richard II.

406. Short notes touching the Confession of the Duke of Gloucester, temp. Richard II.

47/8. The Resignation of the Crown by Richard II and the Acceptation by Henry IV (copied out of the Record the 2nd of Sept., 1612, being in the Hands of Mr. Arthur Agard, Keeper of the Records at Westminster.

49. Artieckles against King Richard II.

78. The Quarrell of Sir Henry Peircye at Shrewsbury . . . written by John Hardyng.

83. A proclamation clearing the lords of treason.

83. The Articles objected to King Richard II whereby he was accounted worthy to be deposed from his Principality, A.D. 1399.

84b. A copy of the instrument touching the Declaration of the Commissioners sent from the States in Parliament unto King Richard II.

85b. The Tenour of the Instrumente whereby King Richard resigneth the Crowne to the Duke of Lancaster.

866. The Duke of Lancaster's challenge or Claime to the Crowne.

\(^3\) Harl. MS. 293, ff. 47/8.
As may be seen from the contents of the Stowe section alone of the three thousand MSS. of the Ashburnham library, there must have been at times a leakage of documents from the national archives, and although Agarde’s original is not now traceable, it is justifiable to assume from his own note that it was once among the records. Besides several verbal differences from the Roll of Parliament, it contains, in its version of the Act of Renunciation, the clause—‘‘Salvis terris et possessionibus per me pro obitu meo . . .’’ already referred to as being in the Protestation clause of Stowe MS. 66 but not in the Roll. It contains the obit clause again in its protestation section. It does not, further, contain ‘‘Ego Ricardus Rex antedictus propria manu me subscribo,’’ which is in the Parliamentary Act of Resignation. Following Agard’s Act of Resignation is a list of those present when Richard ‘‘subscribed’’ to the act, and then follows (fo. 48): ‘‘Premissa Protestatione quod noluit nec intendebat renuntiare carectibus anime sue in premissis. Id quod reservavit sibi redditus, terras et tenementa per ipsum empta et perquisita de Domino Ricardo Lescrop pro obitu suo et aliorum apud Westmonasterium faciendo et in usu etc. Item voluit et declaravit quod renuntiavit regimen Regni ita quod quantum in eo fuerat quod Dominus Henricus Dux Lancastriæ proxime sibi succedat in Regno.’’ Agarde says that this was ‘‘copied out of the Record,’’ but in the Roll of Parliament I Henry IV there is not the slightest indication of the clause ‘‘noluit renuntiare carectibus anime sue,’’ nor the obit clause, nor ‘‘renuntiavit regimen regni,’’ and the word ‘‘proxime’’ does not appear. Each of these four points is contained in Stowe MS. 66.

It has been shown, therefore, that there is substantial support for the assumption that, instead of an unconditional surrender of his person, and of all his rights, Richard sought to make a bargain with Henry. The terms of this are faithfully reflected in the three-fold protestation.

1 So in France also, of course, for in Les Manuscrits du Comte d’Ashburnham (Paris, 1883), M. Léopold Delisle, the author, sets out to prove that part of the library, not the Stowe, but the Libri and Barrois sections, could not legally be sold, being French national property wrongfully acquired.

2 The reading is ‘‘proximo.’’ In Monk of Evesham (1729), p. 159, Hearne gives ‘‘proximo’’ in ‘‘dux Lancastriæ proxime succederet sibi in regno’’ (Bibl. Cotton Claudius B. ix, f. 302).