THE MORROW OF THE GREAT CHARTER: AN ADDENDUM

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Kindly critics have pointed out two lapses in the article which appeared under the above title in the Bulletin for October, 1944. These lapses do not affect the argument or the conclusions, but they do impair the story, which I may perhaps be permitted to put right.

In the first place, it was not made clear—indeed, the fact was obscured—that, although the great charter was dated 15th June, it was ratified on the 19th. Mr. W. S. McKechnie established a very convincing case for the view that it was on 15th June that King John accepted the demands made upon him by the barons and signified his acceptance by having the great seal affixed to the Articles embodying their terms. Not until the 19th did the king himself say that peace had been made, and it seems necessary to deduce that it was on that day that final agreement had been reached on the wording of the charter.¹

Four days of discussion would produce the much corrected draft which I have postulated and which, because of the difficulties it presented to the transcribers, would explain the differences between the four sealed copies of the charter that have survived. Even so, it is perhaps uncertain whether the first fair example, which seems to have been preserved in the treasury of the exchequer, was written out and sealed on the 19th, for John continued to reside at Windsor until the 25th,² and his chancery continued to date instruments from Runnymede until 23rd June.

With these modifications the account I gave of the sealing and promulgation of the charter stands. Copies of the charter, all, of course, bearing the same date of 15th June, continued to be made until 22nd July, while the writs to the sheriffs, which assume that a sealed copy of the charter was available in every

¹ McKechnie, Magna Carta, pp. 37-41.
² So we can infer from Hardy's Itinerary.
county, were dated 19th June, although many of them were
despached, and certainly were delivered, well after that date.
It was on this evidence that I argued that the great charter was
accepted by all parties during the council of Oxford which began
on 16th July and continued in session for a week or more. In
turn this involves a corollary, namely that the charter was still,
at least outwardly, accepted until an adjourned meeting of the
council which was fixed for 20th August. The inference seems
justified that the happenings at this meeting were the cause of
the second breach between the king and the barons. A letter
of 19th August sent by the king to the assembled bishops and
barons, notifying his refusal to attend, and his action thereafter,
in making his way to the coast and taking ship for Sandwich,
would alone point in this direction, while a chronicler, who is
believed to have been a canon of Barnwell Priory, appears to
reveal the manner in which the breach came; the disclosure at
the council of a papal mandate, identifiable, from the details
given, with one embodied by Roger of Wendover in his *Flores
Historiarum* and known from its opening words as ‘Miramur
plurimum’. Unfortunately, although the Barnwell chronicler
obviously had available good sources of information, his narrative
will not bear close examination, and it is safe to rely upon him
only when he is corroborated. However, a letter of 5th Sep-
tember from the three commissioners named in the mandate
bears out the chronicler to this extent, that it shows that before
that date the barons had formally ‘defied’ the king by the
mouth of Robert fitz Walter’s chaplain and that the mandate
itself had not been accepted as binding by Stephen Langton and
his suffragans, or at least those of his suffragans who stood by
him, for we must make exception of the bishop of Winchester
and the bishop elect of Norwich. It was the evidence of this
letter that I overlooked, although it had been published by
Professor F. M. Powicke in 1929, and should have retained a
place in my memory.

Having said so much, I have repaired the omissions in my
previous article, for I was concerned, in particular, with the
relations of the barons and the king and with the organisation

1 *English Historical Review*, xlv. 87-93.
they set up before and after Runnymede. But a fresh reading of the instruments that Innocent III issued in 1215 and the comments that have been passed upon them have suggested that it might be helpful to say something more of the part played by the pope in the contest, for I am not sure that it has been fully understood.

To begin with, it may be well to emphasise two points. The first is that papal bulls and mandates did not execute themselves. They came, as a rule, into the hands of those who had sought them, and they might be suppressed or withheld for a time. Many were inoperative for other reasons, into which it is unnecessary at the moment to enter. Among suppressed instruments we can, in all probability, include a bull of 18th June which has attracted attention in recent years. This threatened the barons with excommunication and their lands with interdict unless they accepted and observed the procedure the pope had devised for settling their differences with the king. Not only was the pope’s projected procedure plainly superseded by the great charter and the procedure therein laid down, but had there been any attempt to make use of this instrument when it came to hand, about the last week in July, we cannot doubt that there would have ensued an explosion of wrath against the king forthwith, instead of three weeks or so later, when the barons were provoked to ‘defy’ the king by their knowledge that he was seeking to give effect to ‘Miramur plurimum’ (if, for the moment, we may continue to repeat an incorrect title). It is safe therefore to conclude that the bull of 18th June was known to none, outside a narrow official circle, until it was printed by Prynne in the seventeenth century.\(^1\) It leaves no trace on contemporary history and any information it gives is of subordinate interest.

The second point to emphasise is that the documents issuing

\(^1\) Exact Chronological Vindication, iii. 27-28: re-edited by G. B. Adams in Magna Carta Commemoration Essays, pp. 41-45, and reprinted in his Council and Courts in Anglo-Norman England, pp. 367-371. The document was already mutilated when Prynne discovered it and the address and opening words are lost. It is evident that at the same time a mandate for enforcing the bull was addressed to Archbishop Langton and his suffragans: this, too, presumably was suppressed.
from the papal and royal chanceries have a value as historical evidence quite different from that of chronicles. This is doubtless a truism, but nevertheless it seems sometimes to be forgotten, and quite unnecessary difficulties are created by treating as statements of fact the errors of writers who, though much nearer to the events than we are, had much fewer sources of information, though it is true that they sometimes possessed documents that have failed to survive. The two chroniclers already mentioned, Roger of Wendover and the canon of Barnwell, provide the principal narrative sources available for our particular purpose: the former has long been recognised as confused in his chronology and unmindful of the integrity of the documents he had at his disposal, but the defects of the latter have scarcely been perceived.¹ I have already had occasion to point out that his account of the arrangements made by the barons for administering those parts of the country under their control is wrongly placed after the second breach with the king in late August instead of four months earlier,² and this, in itself, should arouse our suspicions of the reliability of a narrative in which such confusion was possible. On some points, as we shall see, his testimony must be rejected altogether.

To understand how Innocent came to issue the instruments we know he did issue in 1215, either because they have come down to us or because there are references to them, we must keep clearly before our minds that, from the point of view of the Curia, the dispute which centres round the great charter was primarily a judicial issue. We are apt to think of the issue as being primarily political, and we may get the impression that judge and politician were sometimes confused in the person of Innocent, but whether he himself was conscious of any distinction between these capacities may be doubted. By John's surrender of 1213, England had become part of the patrimony of saint

¹ Stubbs, who edited the chronicle, which is preserved in the Memoriale of Walter of Coventry, recognised that the author's chronology was not to be relied on, but believed that he retained 'an exact knowledge of the sequence of events' (vol. ii, pp. viii-ix). An examination of his narrative for 1215 shows that for this year, at least, the sequence of events is hopelessly confused.

² Bulletin, xxviii. 431.
Peter\(^1\) and, if for no other reason, the differences between John and his barons were justiciable before the papal court. Innocent reiterates his desire and intention to do justice between the parties and both were, in fact, represented before the Curia.\(^2\) But while the pope was willing and anxious to give a patient hearing to the barons and to render judgement upon the points in dispute, they persisted in pursuing their own methods of settlement outside the court, methods that certainly at times had the appearance of violence, making themselves, as Innocent said, judges and executioners in their own cause.\(^3\) There was another complication when John assumed the cross and obtained thereby the special measure of protection afforded to crusaders, but this did not seriously affect the issue, though it added to the proximity of the documents and produced some disingenuous arguments.

From the standpoint Innocent assumed, that of a judge with litigants before him, the barons were contumacious and the only methods of coercion open to him were excommunication and interdict. These weapons he was disposed to use freely, but he could not very well employ them directly: sentence must be pronounced locally with local knowledge if it was to touch individual culprits and leave the innocent unscathed. The obvious agent for the purpose was Stephen Langton, the archbishop of Canterbury whom Innocent himself had thrust upon a more than reluctant king, and we know that Langton had received a mandate on several occasions to pronounce the barons excommunicate.\(^4\) He had on each occasion failed to do so. We

\(^1\) Letter of John to Innocent, 29th May, 1215: ‘Nos vero... asserebamus nostris quod terra nostra patrimonium erat beati Petri’ (Foedera, i. 129). So also in the letter of 5th September: ‘contra... pacem regni, quod est patrimonium beati Petri... excessus quos in prefectum regem crucesignatum et beati Petri patrimonium commiserunt’ (English Historical Review, xliv. 92-93).

\(^2\) Apart from the inferences to be drawn from the instruments issued by the Curia, there is the account of William Mauclerc, the king’s agent, in February, 1215, of the arrival of the barons’ messengers (Foedera, i. 120).

\(^3\) See especially the bull ‘Utinam in persecutione’ of 25th August, 1215, addressed to the barons: ‘in causa ipsa vos iudices et executores feceritis’ (Foedera, i. 136). There are similar words in ‘Etsi karissimus’ (ibid. ; Bémont, Chartes des libertés anglaises, p. 43).

\(^4\) Innocent’s letter to Langton of 18th March (Foedera, i. 127); letter from John to Innocent of 29th May (ibid., p. 129); letter of 5th September to Langton
must not suppose that in this he was remiss or wilfully disobedient. We must remember that the Curia was some five weeks distant from England and that no instrument was issued in the course of litigation except upon the motion of one of the parties. As the action developed, representatives of the parties on the spot could do little on their own initiative except to combat the moves of the other side. Every mandate, every bull, meant a message from England, so that, unless extraordinary steps were taken to hasten the messengers on their way, a period of little less than three months must elapse before a request could receive its answer. With the swift march of events the instruments that came in rapid succession from Rome were all too certain to be out of date on arrival and to bear little relation to existing circumstances. Exception could then quite properly be taken to them and they might have to be set aside, since to act upon them would not be fulfilling the intention of the court and might be unjust.¹ Nor must we exclude the possibility that the ex parte allegations, upon which action had been taken at Rome, might be false or not wholly true, and no one who received a mandate founded upon misrepresentations would, if he knew the actual facts, be justified in executing it.

I am far from suggesting that, in a court of law and before impartial judges, all the wrong would be found upon John’s side and all the right upon the barons’. But there was a very considerable measure of right on the barons’ side and a man of inflexible integrity, which Langton seems to have been, would be difficult to persuade that coercion by excommunication was justified by the circumstances at any stage in the dispute, especially since, as we have good reason to suppose, he believed that an accommodation was possible and was himself playing the part of mediator.² To John the position at length became

(English Historical Review, xliv. 92). As I have indicated above, the mandate mentioned in Innocent’s bull of 18th June probably never reached the archbishop.

¹ So John tells the Pope that Langton had replied to him ‘quod sententiam excommunicationis in eos nullo modo proferret, quia bene sciebat mentem vestram’ (Foedera, i. 129).

² That Langton played a leading part in the actual framing either of the demands of the barons or of the charter I very much doubt. I find it impossible
intolerable and the only way of escape was to circumvent Langton. Now it was the practice of the papal court to address mandates (or letters of justice) to three commissioners named by the party who sought them. The common case was where a plaintiff named the judges delegate who were to try an action, in the country of the litigants, on behalf of the distant pope, the universal ordinary:¹ but the system was capable of extension to other forms of legal process, of which we have an example in ‘Mirari cogimur’, the correct title, as it turns out, of the mandate previously known, from Wendover’s corrupt version, as ‘Miramur plurimum’.² The purpose of this mandate (often loosely called a bull) was to compel Langton and his suffragans to pass sentence of excommunication upon the contumacious barons, and the three commissioners appointed to effect this were undoubtedly named by John. The first in order was Peter des Roches, bishop of Winchester, who, when he was nominated towards the end of May, was justiciar and entirely at the service of the king.³ The second was Simon, abbot of Reading, who a few months before had been on a mission to Flanders to recover large sums of

to believe Wendover’s story that Langton discovered Henry I’s coronation charter and communicated it to the barons. Not only was this charter easily accessible in a Latin text, as Professor Powicke has pointed out in this connection (Stephen Langton, pp. 113-116), but it was available in the vernacular. Liebermann printed a French translation which may be dated c. 1200 (Transactions Royal Historical Soc., New Series, viii. 46-48). Harleian MS. 458, which contains this, contains also French translations of the coronation charters of Stephen and Henry II. Liebermann’s dating of this manuscript (p. 37) is incomprehensible to me. He seemed to think that half a century separated the writing of fo. 3 from the writing of fo. 4. I should myself deduce that all these charters were circulating in Latin and in French translation about the turn of the century.

¹ For contemporary examples see Madox, Formulare Anglicanum, nos. 44, 45. For a contemporary application by a plaintiff for the appointment of three specified dignitaries as judges delegate see Formularies (Oxford Historical Soc.), ii. 275.

² Wendover, Flores Historiarum (ed. Coxe), iii. 336; English Historical Review, xlv. 91. It should perhaps be noted that a previous mandate of Innocent’s of 18th March opens with the same words ‘Mirari cogimur et moveri’ (Foedera, i. 127).

³ He was superseded by Hubert de Burgh in the course of the meeting at Runnymede (M. Paris, Chronica Maiora (Additamenta), vi. 65). This presumably was done to placate the barons.
money that the king had on deposit there. The third was Pandulf, the pope's familiar and his personal representative in England, who had proved indispensable to John, as the king warmly acknowledged a few months later, and who had been rewarded with the bishopric of Norwich early in August.

At this point I should perhaps interject some comments on a system which, at first sight, might seem a travesty of justice. Nowadays we should no more dream of letting one of two litigants choose his own judges than we should dream of permitting bribery. But the system was so hedged about with safeguards that we can say no worse of it than that, in ordinary cases, it might entail the parties in undue inconvenience, delay and expense. It was the result of the exercise of universal jurisdiction by a remote and ill-informed court, lacking organised tribunals except at the centre: decentralised tribunals could not indeed be organised, since they would have duplicated existing local tribunals. Without delegated jurisdiction of this kind it would probably have been impossible, in the circumstances of the time, to enforce over the length and breadth of Western Christendom a uniform and highly technical canon law that was approaching its maturity in the pontificate of Innocent III, and the system, slovenly and dilatory as it was, had therefore its justification. Manifestly, however, if the safeguards against partiality were, in exceptional cases, wanting, then there was danger of abuse.

To return now to 'Mirari cogimur'. It is dated 7th July and the request for the appointment of the three commissioners was therefore made, as I have already indicated, about the end of May. John had, in fact, written to the pope on 29th May complaining both of the barons' and of Langton's attitude, but

1 He went in November, 1214, in company with the abbot of Waverley and three others (Rotuli Litterarum Clausarum, i. 175 a, b; Rotuli Litterarum Patentium, pp. 122b, 123-124).
2 Foedera, i. 135: 'dominus Pandulphus, fidelis subdiaconus vester, Norwicensis electus, nobis prenecessarius esset in Anglia'.
3 He had been elected before 9th August, when the king committed the temporalities to master R. of Warham, a monk of Norwich, and another whom master Pandulf should choose to act with him (Rot. Litt. Pat., p. 152).
4 Foedera, i. 129.
he makes there no request of which we can find the specific fulfilment in the mandate, and this instrument must therefore be the result either of a separate application that has not survived or, what is perhaps more likely, of instructions to the king’s agents at the Curia. The purpose of the mandate is quite plainly expressed. All the disturbers of the king and kingdom, their accomplices and accessories are excommunicate and their lands are placed under interdict. Langton and his fellow bishops are strictly enjoined, on pain of suspension, to cause both sentences to be published every Sunday and festival throughout England until the offenders make satisfaction to the king and return humbly to his service. No appeal is to stand in the way of the execution of these instructions and everything else pertinent to the business. Finally power is given, in the usual terms, to two of the commissioners to act, if one of the three is unable to do so.¹

There was ample time for this mandate to reach the king before 20th August, the day appointed for the adjourned meeting of the council, and, if use were to be made of the mandate at all, this meeting provided an opportunity for communicating it to all those principally concerned. I am inclined to accept the Barnwell chronicler’s statement that events did fall out in this fashion,² even though there is no direct corroboration of his story. There is, however, indirect corroboration. It is quite clear that the barons could not have ‘defied’ John before the meeting on 20th August, while it is certain that they had done so by 5th September. The anonymous minstrel of Béthune, who was associated with the mercenary troops in the king’s service and who retails what was believed by them, says that John did not dare await the coming of the barons but fled by sea to Kent,³ which, indeed, the evidence provided by the chancery rolls substantially confirms.⁴ It would seem, therefore,

¹ English Historical Review, xliv. 91-92. That this follows common form will be apparent by comparison with other contemporary mandates.

² Walter of Coventry, Memoriale, ii. 223.


⁴ Hardy’s Itinerary shows the king at Ludgershall, Wilts., on the 19th (whence he wrote to the assembled bishops and barons at Oxford), then at Downton on
that John was formally defied within a day or two of the Oxford
meeting for, until this was done, the barons would not take up
arms against the king. Why, then, should the knowledge that
he intended to use ‘Mirari cogimur’ provoke such resentment
that the barons decided to resort to war?

The letter of 5th September helps us to answer that question.
The circumstances in which the mandate had been demanded
had been radically changed by the concord of Runnymede. So
long as that concord, embodied in the great charter, subsisted,
the mandate was inoperative. But if one of the parties violated
the terms of the agreement, the others would not be bound, and
the position would at least approximate to that obtaining when
the mandate had been sought. In the account given by the
Barnwell chronicler of the meeting of 20th August, we get a
hint that this consideration was in the king’s mind. John’s
representatives, so the chronicler says, declared that the king had
given up many things, in accordance with the agreement, and
had refused nothing, but, since the peace, he had suffered grave
wrongs and great damage: consequently it was not for him to
make amends.\footnote{Walter of Coventry, \textit{Memoriale}, ii. 223: \textquoteleft sicut eis convenerat, plurima
resignasse, sibi nihil esse refusum, immo post pacem initam graves injurias et
enormia sibi damna illata, nec esse qui emendaret.} Whether the chronicler had any direct authority
for this statement of his, or whether it is no more than an inference,
he is borne out in substance by the words of Peter des Roches
and his fellow commissioners. They say, in their letter of 5th
September, that the barons had taken up arms against the king
and the peace of the realm and against the three-fold treaty—
\textit{triplex forma pacis}—that is the great charter, for it embodied an
agreement to which the pope, through his representative Pandulf,
had been a consenting party, as well as the king and the barons.
They praise, perhaps incautiously, the charter as being honour-
able and fair and acceptable to god-fearing men. Then, after a
long denunciation of the activities of the barons and a demand
that the archbishop and his suffragans shall act in accordance
with the pope’s mandate, the commissioners annul any constitu-
tions, assizes, infeudations, grants or judgements made by the

the same and following days, and at Wareham on the 20th, 21st and 22nd. No
further movements are recorded until 28th August, when John is at Sandwich.
barons or to be made by them without royal authority. Still
the letter rolls noisily along, denouncing and fulminating; but
we need not follow it to the end, for it adds nothing immediately
relevant.\(^1\) The commissioners make it clear that, while they
praise the charter and do not, in express words, declare it void,
they regard it as inoperative. Nothing the Twenty-five may do
in exercise of the powers of coercion conferred upon them by
chapter sixty-one is recognised as lawful; and as for the wider
powers of governing the country, which the Twenty-five assumed
to be theirs, in the light perhaps of chapter fifty-five and of the
‘convention’ made at the Oxford Council in July,\(^2\) these the
commissioners abrogate when they annul the constitutions and
other acts of the barons.

If anything like this, and it would seem certain that some-
thing very like it, was said by the king’s representatives at the
meeting at Oxford on 20th August, the bishops and the barons
had a plain notification that John did not intend to be bound by
the charter. The barons’ reply is not in doubt: formal defiance
and war. What was the reply of Langton and his fellow bishops?\(^3\)
According to the Barnwell chronicler, they continued their
attempts at mediation and pursued the king to the coast, having
a last, fruitless, meeting with him when he had already embarked.
That this might have been their wish we may well believe, but
unfortunately the chronicler’s details, both of time and place,
are impossible to accept. He seems to antedate the meeting at
Oxford: he certainly sends the bishops to the wrong port in
their quest for the king.\(^4\) And then he brings them back to a

\(^1\) *English Historical Review*, xliv. 92-93.

\(^2\) *Bulletin*, xxviii. 434.

\(^3\) He seems to make the council meet on 16th instead of 20th August, and to
last three days. After the close of the council, so he asserts, ‘rescererunt itaque

... episcopi apud Portesmue cum festinatione regem adeuentes’ (W. of Coventry,

*Memoriale*, ii. 223). Now John’s presence at Wareham is evidenced by official
instruments from 20th to 22nd August. The minstrel of Béthune is so far in
accord as to say that the king placed the queen and his son Henry in safety in
Corfe Castle, five miles to the south-east (*Histoire des Ducs de Normandie*, p. 152).
The latter writer says that John embarked at Southampton; the Barnwell
chronicler says it was at Portsmouth. Either port, but especially Portsmouth,
would involve a considerable land journey, of which there is no trace in John’s
itinerary. The probabilities point to embarkation from Poole Harbour. If
John transhipped at Portsmouth, there is no likelihood that the bishops would
know that they could find him there.
meeting with the barons at Staines on 26th August, at which, if
we were to believe him, a very strange incident occurred. After
much debate, because of the threat of suspension hanging over
them, the bishops pronounced sentence of excommunication
against the disturbers of the king and the kingdom. This, it is
suggested, was done in so ambiguous a way that the sentence
might be supposed to fall on the head of the king.¹ This story,
undoubtedly _ben trovato_, has been generally accepted, yet, if it
were true, it would not only involve a charge of childish subterfuge
and inconsistency against Langton, but it would render incom-
prehensible the subsequent proceedings against him. What the
archbishop was, in the view of Peter des Roches and Pandulf,
required to do was to give instructions that the sentence of ex-
communication, in which the barons were already involved by
the decision of the pope, should be published throughout the
province of Canterbury repeatedly, every Sunday and holiday,
until the barons submitted completely and entirely to the king.
Langton had not done this by 5th September and he never, in
fact, complied with the mandate. We are told by Roger of
Wendover that he objected, on the ground that the truth had
been suppressed when sentence of excommunication had been
passed by Innocent upon the barons, and that he stated that he
would in no wise publish the sentence until he learned the pope’s
true intention by word of mouth.² Roger seems to have had
before him an account of the whole process against Langton,
but from a source hostile to the archbishop,³ and it is difficult

¹ W. of Coventry, _Memoriale_, ii. 224. A meeting at Staines on 26th August
is mentioned also in ‘Matthew of Westminster’, _Flores Historiarum_, ii. 153;
‘Annals of Southwark and Merton’, _Surrey Archaeological Collections_, xxxvi, 50;
and the continuation of William of Malmesbury in _Liber de Antiquis Legibus_,
p. 202. The two latter confuse the meeting with the council of Oxford and
make it last three days. Only the Barnwell writer mentions the sentence of ex-
communication. Behind all these there is evidently a common, and apparently
obscure, source.

² _Flores Historiarum_, iii. 340. Ralf of Coggeshall has a somewhat similar
account, but was obviously less well informed ( _Chronicon Anglicanum_, p. 174).
³ Presumably this came to St. Albans when the king visited the convent in
December, 1215, and demanded that the monks should send the pope’s con-
firmation of Langton’s suspension to all cathedral and monastic churches in
England (Wendover, iii. 347). A note endorsed on the close roll refers to these
[Footnote continued overleaf]
to know how much reliance to place upon the details he gives. Langton surely had much stronger ground than the commonplace exceptions of *suggestio falsitatis or veritatis suppressio*,¹ and Peter des Roches and Pandulf were fully aware of the difficulty of reconciling the authority given them by a mandate of 7th July with the concord reached at Runnymede while the mandate was on its way. But whatever argument Langton put forward, none was likely to affect the result. In the face of his persistent refusal, Peter des Roches and Pandulf suspended him, and Langton appealed to the pope.² It will be observed that I have mentioned two commissioners without the third; but, after his appearance in the letter of 5th September, the abbot of Reading drops out of the proceedings: nor was it necessary that he should take an active part, for his fellow commissioners had full power to proceed in his absence. And after they had suspended Langton, Peter des Roches and Pandulf drop out too: their function was fulfilled.

Langton’s appeal was heard at Rome. It is important to note, since it is corroborative evidence that ‘Mirari cogimur’ was issued at John’s instance, that the respondent to the appeal was the king, whose case was conducted by his proctors, Hugh, abbot of Beaulieu,³ Thomas of Hardington and Geoffrey of Crowcombe. This information comes from Wendover and is doubtless correct: what is difficult to accept is the picture he gives of Langton at the trial, confused and tongue-tied, admitting guilt and begging for absolution.⁴ The trial was swift and by letters from St. Albans: it shows that certain of them were addressed to suffragan bishops and one to Llewellyn. These were in the hands of Henry of Cerne, a clerk of the king’s chapel (*Rotuli Litterarum Clausarum*, i. 269).

¹ For these exceptions in such circumstances, see the contemporary text-book of Tancred, *Ordo Iudiciarius*, lib. ii, tit. 5, c. 1 (ed. Bergmann, p. 140).

² For this we have the evidence of the pope’s confirmation of the sentence, cited below.

³ This name suggests that it was difficult to get an ecclesiastic of repute to appear against Langton. Beaulieu was a Cistercian house of John’s foundation, and abbot Hugh was frequently employed by the king. His questionable conduct led to his deposition but was no obstacle to his subsequent elevation to the see of Carlisle. See D. Knowles, *The Monastic Order in England*, pp. 658-659.

⁴ Wendover, *Flores Historiarum*, iii. 344-345; Wendover’s words are: ‘archiepiscopus, quasi convictus et non mediocreret certus, nihil respondit, nisi quod a suspensione postulavit absolvi’. This passage and much else must, I think, be derived from the report brought by Hardington and Crowcombe to the king (*ibid.* p. 346).
4th November the pope had given his decision. On that day he informed the suffragans and people of the province of Canterbury that he had confirmed the sentence of suspension. Before the trial, soon after his arrival at Rome towards the end of October, Langton must have heard that Innocent had annulled the greater charter. The archbishop’s return to England had become, for the time being, impossible, and though his suspension seems to have been lifted shortly afterwards, he remained, or was detained, in Rome.

‘Mirari cogimur’ had served the king’s purpose in ridding him of Langton, but when, about the end of September, John received the bull of 24th August annulling the charter, any previous papal instrument bearing on his quarrel with the barons could be laid aside. ‘Esti karissimus’ was the weapon on which he now relied. There is a grim irony in the contrast between the praises lavished by the pope’s commissioners upon the charter and the denunciation of it by the pope, all unknown to them, a few days earlier, as not only base and shameful but also illegal and unjust, to the utmost diminution and derogation of the king’s right and honour. There is a grimmer irony in the re-issue of the charter in the following year, with the active approval of Cardinal Guala, the representative of the new pope, Honorius III. In similar circumstances political fatuity has not infrequently expressed itself in like fashion, but never more convincingly. It would seem impossible that Langton, with all his reverence for papal authority, did not at length discern the levity and incapacity with which so weighty a matter had been

1 Wendover, op. cit., iii. p. 345; Feodera, i. 139. Assuming that Wendover’s text is reliable, there were two mandates in identical terms of the same date, one addressed to the suffragans, and the other to the people, of the province.

2 Our sole authority for the removal of Langton’s suspension is Wendover (iii. 360). What he writes does not make very good sense, though the bare fact is presumably true.


4 Innocent’s actual words are: ‘compositionem non solum vilem et turpem, verum etiam illicitam et iniquam, in nimiam diminutionem et derogationem sui iuris pariter et honoris’.

5 The charter of 12 November, 1216, is issued ‘per consilium... domini Gualonis tituli sancti Martini presbiteri cardinalis apostolice sedis legati...’, whose name appears first, and his seal, together with that of William Marshal, is affixed to the charter.
treated by him who, above all other popes, had aspired to be the ruler of princes. These may seem harsh words, but we can only excuse Innocent on the ground that the mistakes were the mistakes of subordinates: but though of some details the pope is not likely to have had direct knowledge, the responsibility was his and he himself would not have wished to plead ignorance of the general plan. Even when Innocent’s errors had, so far as possible, been righted and the re-issue of the charter had justified the archbishop beyond all question and cavil, he was kept out of England. Rome could find a use for inflexible integrity only at appropriate seasons.

Of the further fortunes of Langton I can say nothing here, and I must leave him in the bitterness and frustration of exile. But he may serve, while he is yet in mind, as a foil to the shady adventurers who were the servants of an evil king. In a healthy reaction against the crudities of an earlier age, English historians have taken a kindlier view of Innocent III than the facts seem to warrant, and have extended their charity to his and the king’s creatures and agents, for they became confounded when the pope, to serve his own ends, served those of John. I need waste no words on the lesser tools, such as the worldly abbots of Beaulieu and Reading, and will say but little more of the leaders, the Poitevin Peter des Roches and the Italian Pandulf. ‘Etsi carissimus’ was, it may be recalled, issued on 24th August. Reckoning back five weeks, to calculate the approximate date of John’s letter that evoked the bull, we arrive at 20th July, while the council of Oxford was still sitting. At this council it became manifest that the barons were intent upon enforcing the great charter in every detail and that in this task they could count upon the mediation of the bishops as a whole, should any difficulties arise between themselves and the king. If John and his intimates had had any expectation that the clauses of the charter most irksome to the king could be evaded, the proceedings at the council, as they unfolded, must soon have brought disillusion. We have good reason therefore to deduce that it was now that the decision was taken to ask Innocent to annul the charter altogether. Peter des Roches and Pandulf were among the

king's advisers at the council,\(^1\) and it is beyond all probability that they were not consulted, or that Pandulf, in particular, did not give advice, on the approach to be made to the pope. When, therefore, a month later, they were about to execute the commission confided to them by 'Mirari cogimur', it cannot be supposed that they were in ignorance of the king's negotiations or of the possibility that the charter they praised might before long be swept aside. What might have surprised them, had they known, was the language in which Innocent was to condemn the charter. Well, double-dealers must make slips occasionally, and this could have no serious consequences.

If English historians have judged Innocent and these time-serving prelates too kindly, in a reaction against the beatification of the great charter they have tended also to judge the insurgent barons harshly. Of the three parties, I cannot but think that the barons emerged from the contest with more credit than the Curia, both on moral grounds and on the score of plain political sagacity. They were not particularly astute; they may have been self-seeking, though not singular in that respect; but, with all their limitations of mind and purpose, they were honest and constant, and therein lay their advantage. It is the tincture of volatile, over-reaching cleverness that makes a mockery of the cloak of piety and impartiality which Innocent and his coadjutators were in the habit of wearing when their conduct was most open to suspicion. As I have said, the pope's attitude throughout was that of a judge before whom king and barons were litigating, and if it be conceded that a man, provided he be pope, is competent to act as judge in a cause he has made his own, it is hard to question the procedural rectitude with which the contest was conducted from the side of the Curia. The procedure was as regular and as blameless as that of the trial of Joan of Arc. That it was no more intelligent was due to the blindness of Innocent to all but what he conceived to be the immediate interest of the Roman church. We must, however, wonder that a man who handled with such worldly perspicacity the matrimonial cause in

\(^1\) The others were the archbishop of Dublin, William Marshal, the earls Warenne and Arundel and the justiciar, Hubert de Burgh (Rotuli Litterarum Patentium, p. 149).
which Philip Augustus was involved, handled English politics
with so little insight and did not perceive that there are political
issues where any code of law is an irrelevance, just as there are
legal issues which it is unwise to press to their logical conclusion.
As for John, his reputation in every field of conduct is beyond
redemption, though it is possible that his character may have
been unnecessarily blackened by scandalous tongue and pious
pen. I venture to suggest, however, that, but for Innocent’s
readiness to condone and support conduct in itself uncondonable
and insupportable, John might well have expired, full of years
and without indignity, in an odour, certainly not of sanctity, but
of constitutional rectitude. His worst friend, as she had proved
his most determined enemy, was the church of Rome.