Historical Miscellany
Edited by Earle W. Dow

EMANCIPATION OF THE MEDIEVAL TOWNS

BY
A. GIRY AND A. RÉVILLE

TRANSLATED AND EDITED BY
FRANK GREENE BATES
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AND
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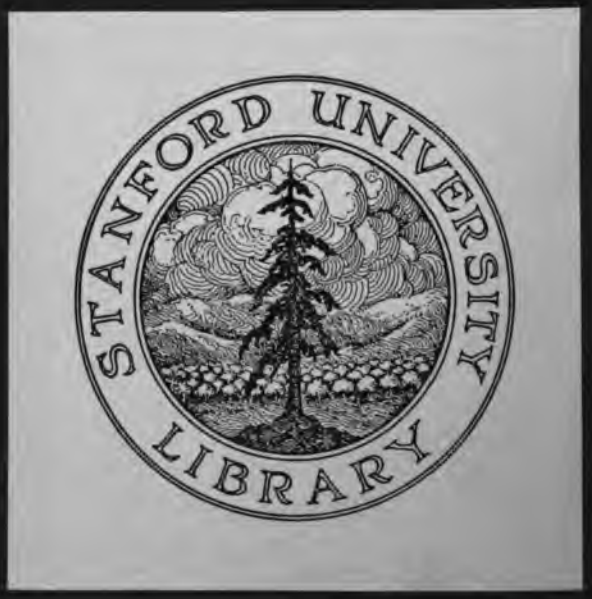

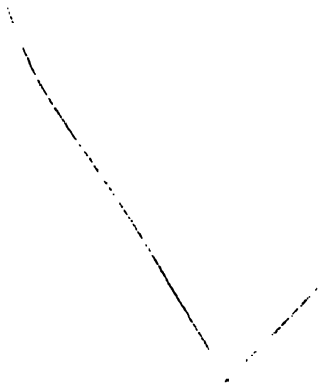

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NOTE

This work is a translation of chapter viii of the second volume of Lavisse and Rambaud's *Histoire Générale*. In view of the present trend of historical teaching it is not likely that too many works upon the social and economic life of the middle ages will be made available to the undergraduate student. The comparative meagerness of existing discussions of this sort in English is the justification offered for the appearance of this translation.

In dealing with technical terms the translators have put into English the words strictly translatable; those not so translatable have been given on their first occurrence in the original form in italics, sometimes accompanied by a note, and afterwards used as English words. The foot-notes enclosed in brackets are inserted by the editors, or are matter transferred from the original text; others are translations of notes in the French.

It is desired to acknowledge our indebtedness to the editor of this series for valuable suggestions.

FRANK GREENE BATES
PAUL EMERSON TITSWORTH

ALFRED, N. Y., October, 1905

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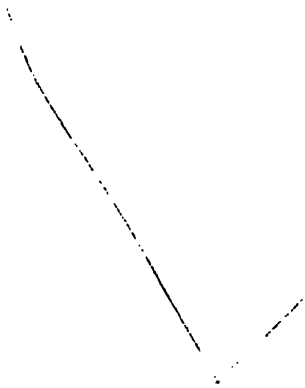

tection of Saint Bertin, it was devastated twice in succession, in 860 and 878, together with the region which surrounded it. Taught by experience, the monks surrounded their monastery by walls, so that when the Normans returned the third time in 891, the abbey was in position to resist them. This domain was settled so rapidly that by the tenth century the former monastery had become a town.

To-day, of more than five hundred French towns hardly eighty date back to the Gallo-Roman period; the others are for the most part fortified villages. The generic name which is given them is simply the Latin word *villa,* which means rural domain.

Condition of the Towns down to the Eleventh Century.—Care should be taken not to overestimate the importance of the urban communities during the first centuries of the middle ages. They were more numerous than important, and it is probable that they were neither very populous nor very rich. In a backward state of civilization it is impossible for towns to develop. A large city can live only by the exchange of its products for those things which it does not produce but which are brought to it. Without commerce there can be no large cities. Now, in that obscure age which extends from the fifth to the tenth century, all commerce was reduced to an indispensable minimum, except during an ephemeral renaissance in the time of Charlemagne. Only the shores of the Mediterranean continued to be frequented by merchants, and the relations between Provence, Italy, Greece, and the Orient were never entirly broken. In consequence, the cities of that privileged region preserved, it seems, a commercial class and a certain degree of prosperity. Everywhere else commerce was nearly annihilated, because there was neither the security nor the centers of exchange which it needed. Each domain lived upon itself, was almost self-sufficient; made the iron, wood, and woolen articles it needed, as well as produced its own wheat. The towns probably did the same; they were rural bourgs, and the inhabitants were peasants who worked on the surrounding land. Besides, custom did not aid in their development. Kings, nobles, Gallo-Roman and Germanic proprietors preferred to live in the country; the towns were no longer the theater of great events.

It is difficult to form a clear picture of the urban groups at

that time and of the people that composed them. The new small towns huddled around the castles, abbeys, and churches. The old cities, once spacious, razed their former suburbs and restricted their limits so as to have less area to defend, as at Paris, Bordeaux, Evreux, Poitiers, and Sens. Roman monuments are discovered to-day outside the enclosures which these towns made for themselves at the time of the invasions. All towns, whenever possible, encircled themselves with ramparts, with embattled walls surrounded by moats, and armed their counterscarps with traps, abatis, and palisades. Inside the city the population, although not numerous, must have lived crowded together, as the architecture of the houses shows. The Roman dwelling was spread out in a comfortable way, with a large inner court, the atrium, and was generally low. Now the atrium was given up, filled in, and the roof rose high over a series of stories, which perhaps already were built so as to overhang, to gain still more room. As for monuments, the only ones which adorned the towns were those which the Romans had left. And sometimes even these were appropriated to strange uses, like the temple of Vesuna at Périgueux, which was changed into a tower for purposes of defense, or like the circus of Nîmes, which sheltered a part of the inhabitants and formed a veritable "quarter." Sometimes, too, these monuments were destroyed that the materials might be used for other constructions, especially for fortifications.

Between the church and the seigniorial dwelling, which was usually built to one side upon a precipitous hill or upon an artificial mound, the townsman passed his monotonous life, happy when a private war or an incursion for pillage did not bring upon his house or upon him the horrors of assault. Of political rights, he had none. The lord or his officers ruled the inhabitants as masters, imposed dues upon them, arrested, and judged them. The civil condition of the inhabitants must also have grown harder. It seems, indeed, that the number of freemen had noticeably diminished in the towns as well as in the country. Perhaps the cities of the south, thanks to their privileged situation, may have escaped in part this social decline; but this decline was general in the north, where only those preserved their inde-

pendence who made it their business to bear arms in the following of a seignior and to live at the expense of others.

Thus from the sixth to the tenth century, townsmen did not count in society. Bishop Adalberon, in a famous poem to King Robert, considered around him only two classes: churchmen and nobles, beneath whom, but very far beneath, were the commons who worked.

First Groupings of Townspeople.—Perhaps it would be exaggeration to admit that the inhabitants existed only as individuals, that there was no community among them; probably from these early times the urban populations began to group themselves. In the first place, it is likely that the exercise of jurisdiction was not the exclusive privilege of the lord. At Strassburg, according to a document which probably dates from the end of the tenth century, the bishop chose quite freely his officers, except the advocate,[1] who exercised for life high justice over the citizens, whom he appointed "by the choice and with the approval of the canons, ministerials, and burghers."[2] And, besides, it is known that the Carolingian tribunals presided over by the counts or by their *missi*, had as assessors a certain number of freemen, who were permanent judges but chosen from among the inhabitants of the country. These were the *scabini*. This institution seems to have persisted in the towns of the south as well as in those of the north, for it is found there again during the eleventh century. This was, as it were, a first organ of community. It was incomplete and emanated from the lord, who appointed the *échevins*,[3] but it was independent, since these officials, it seems, were chosen for life, and with at least the apparent consent of the inhabitants.

On the other hand, the custom of association was very widespread in the middle ages. When the individual was insufficiently protected by the police and by the laws, he had to defend himself, and for that purpose association with others seemed

[1 In the Latin, *advocatus;* in German, *Vogt*. This office dates from the Frankish period; its holders administered or controlled secular interests of monasteries and churches.]

[2 "*cum electione et consensu canonicorum ministeralium et burgensium*."]

[3 Same as *scabini*.]

necessary. In some places merchants formed themselves into societies, as at Valenciennes under the name of "Brotherhood of the *Halle Basse*," or as at Arras, and in many towns of the north and east. In the English boroughs flourished the leagues of peace, or frith-gilds, whose members swore, in a sense of common responsibility, to render mutual aid in every circumstance, and to sustain and avenge one another. Elsewhere, a part of the inhabitants united under a religious guise to recommend themselves to the protection of the saints, and thus they constituted secret or public groups called charities or brotherhoods.

Many other causes also contributed to the formation, among the inhabitants of the towns, of relations which were finally to group them into a community. Among those who were subjects of the same lord, who were amenable to the same tribunal, faithful to the same church, suffered the same abuses, and participated in the same advantages, there was formed as a natural consequence, by the solidarity of interests, a sort of corporate bond. At the same time there grew up usages which prepared the way for a customary municipal law. Works of general utility necessitated common agreement. Public calamities also tended to the same end.

Without doubt, it can hardly be said that these vague lines constituted the beginning of a municipal régime. Nothing of that existed yet, or could even be foreseen. But let order be reëstablished, let commerce be revived and the towns become populous, let the townspeople become conscious of their strength, and they will find in these barely outlined groupings the point of departure of a communal and privileged organization.

II

THE COMMUNAL REVOLUTION

THERE came a day when the towns demanded of their lords guaranties against the arbitrary exploitation of which they were victims; when certain of them demanded and obtained a relative autonomy; when those serfs and commons that bishop Adalberon looked down upon with scorn, treated with their masters upon an equal footing. This movement of emancipation of the towns, which extended throughout western Europe from the end of the tenth century to the thirteenth, has received the name of the communal revolution.

Origin of Urban Institutions.—As often happens, for this very simple phenomenon historians have sought profound and complicated causes, and have set its origins as far back as antiquity. Some have thought that this revolution was only the resurrection of old Roman institutions, and have taken pleasure in pointing out all the exterior resemblances of the communal system to the Roman municipal organization in the period of the decline: especially the terms *municipium, consul, libertas romana,* often used in the middle ages. This doctrine is to-day abandoned, for, as we have seen, nothing remained of that régime which Rome imposed upon the cities. As for the coincidences which have struck historians, they are easily explained by the use of the Latin language and by the necessity of designating new institutions by old terms more or less appropriate.

Other scholars, such as Leo, Eichhorn, Maurer, and Hegel in Germany, have believed that these same origins must be sought, not in Rome, but in the Germanic institutions brought into Gaul and Italy by the invasions. According to them, the domanial régime, the organization of the villa, of the mark, of the hundred, or of the village, with their officers, contained from the beginning

all the elements which, by being transformed and accommodated to the needs of the times, were gradually to supply the essential parts of the municipal system of the middle ages.

Without stopping upon the detailed criticisms which each of these theories provokes, we can charge them with the grave fault of not accounting for the communal revolution. Why should that movement occur at the particular time it did, and not before? Why should it assume variable forms? Why should it manifest itself at the same time in old and in new towns,—in the cities of Italy, where the memories of Roman civilization had perhaps been preserved, as well as in those of the north, where Germanic influence had been so active?

The real cause of the emancipation of the towns was more immediate. It lay in the economic and social transformation which was taking place from the tenth to the twelfth century, in the revival of labor and of production in all its forms, which was then stirring Europe. From the end of the tenth century, the feudal world was in process of organization; in the midst of the universal parceling, a relative degree of order prevailed; there was no longer the anarchy of former times, and each lord endeavored to organize and exploit his fief for his best interests: new markets were opened; relations were established between town and town. Traffickers multiplied and ventured far from the walls which protected them; men began again to exchange commodities: local commerce was reëstablished. At the same time, the society which had been languishing in the villages and bourgs contracted the taste for travel and adventure, for pilgrimages even to the Holy Land; the world grew larger; the horizon of men's minds broadened; relations were opened between the north and the south, between the occident and the orient: commerce on a large scale was revived. The result upon the towns was immediately felt. Necessarily poor and weak when there was no commerce, they now grew in wealth and population. The inhabitants soon became able to resist their lords. The best proof in support of this explanation is that the path of emancipation followed exactly the great commercial currents of the time. The first towns to grow were the cities of Italy; then came the towns of the Rhine,—that great highway of commerce

which united northern Europe with the Mediterranean,—and the principal places of Flanders, Hainault, and Picardy, that is to say, the principal commercial centers of the middle ages. And it was the merchants who directed the communal revolution in each town: their associations were the cradles of the communes; and often their place of meeting, their gild-hall, the cloth-hall, as at Beauvais, Ypres, and Arras, was the first town hall.[1]

But, it will be asked, how could the townspeople everywhere be organized against their lords? How could they be grouped thus in opposition to the powers over them? The reason is that everywhere the towns were suffering from the same evils. The preambles of the charters of the communes give most eloquent testimony on the subject. Louis VII confirmed the commune of Mantes "because of the excessive oppression under which the poor were groaning." The counts of Ponthieu assured liberties to the towns of Abbeville and Doullens, "to free them from the wrongs and exactions which the townspeople continued to suffer at the hands of the lords of the land." The evils which these documents signalize were without doubt of long standing; they must have called forth complaints for a long time. But when there came to be in each urban community a merchant aristocracy, wealthy, bold, and capable of consecrating its resources to the work of common emancipation, complaints led to acts, and the revolution began.

Favorable Condition of the Towns of Southern Europe.—This revolution developed very early upon the shores of the Mediterranean, in Italy and in Provence. Here the old cities had never ceased to have trade relations with the Orient; their traffic, although reduced by the universal disorganization into which Europe fell at the beginning of the middle ages, does not seem to have suffered complete interruption. Even the more recent towns attracted to themselves a portion—often considerable—of this commerce. Not only did Venice, Genoa, and Amalfi send their galleys into the Byzantine Empire, but Arles, a city of less im-

[1 This last sentence especially may be misleading, unless it is taken to say not that the new town organizations were simply developments from the merchant gilds, but that the general movement among townspeople here called the communal revolution was due chiefly to the initiative of the merchant class.—D.]

portance, sustained with Greece relations regular enough to be mentioned as early as 921. In the eleventh and twelfth centuries, when the passion for pilgrimages and crusades spread abroad, this commerce greatly increased, not only with Constantinople but especially with the Infidel. Thus the urban communities of the south were early richer and more populous than elsewhere. In them was formed an opulent burghal class, experienced in business, capable of resisting the lords, and even of triumphing over them.

This was so much more the case because these towns, different from the northern bourgs, were inhabited not simply by common people. The small nobles also lived in them; knights, vavasors,[1] and captains, who were accustomed to command and to handle the sword, who were independent as regards the high barons, and who were the more jealous of their prerogatives because they possessed few of them. This latter class was always ready to uphold the citizens in their demands,—a valuable alliance for the people, since it assured them of what was too often lacking in the north, the coöperation of men-at-arms. Again, the southern lords, who were more civilized, more broad-minded, and more far-sighted, took an interest, not only in war and in the crusades but also in the commerce which was enriching them while it enriched their subjects. They understood more quickly, perhaps, the advantage which there was for them in freeing the working classes, who should be more prosperous according as they were more independent, and they did not show toward the efforts of the communities the savage and obstinate hostility that was seen elsewhere.

Finally, the sovereigns were far away. The king of France was not likely to interfere in favor of a vassal, such as the count of Toulouse, who might be threatened by the ambitious designs of his lesser subjects. The German emperor never appeared in Provence, and made into Italy only rapid and infrequent expeditions. In short, the most diverse circumstances united to render

[1 Or vavasour, or vavassor, or valvasor; in the medieval Latin, *vassus vassorum*. A feudal lord holding not directly from the sovereign, but of another lord; a vassal not of the first rank. In this class were usually found chatelains holding fortified houses and rights of territorial justice.]

the emancipation of the Mediterranean towns prompt, easy, and complete.

Towns of Provence and of Languedoc.—Like that of the Italian cities, and for the same reason, the emancipation of the communities of Provence, though somewhat later, was precocious. If the Italian cities obtained full liberty as early as the eleventh century, those of southern France were only beginning their transformation at that time, and this work of emancipation, less favored by circumstances, was prolonged until the year 1200 and later. It is very difficult to fix with greater precision the time when the towns of southern France succeeded in escaping from the seigniorial despotism. One must not think that they did not enjoy any independence until they were in possession of a communal charter and of a clearly organized municipal administration; these did not come until later. The oldest charters of enfranchisement granted them date from the twelfth century and do not antedate the charters of liberties given the towns of the north. Many even were not issued before the first years of the thirteenth century. But at that time these communities had long enjoyed, in fact if not in law, incontestable privileges, and some of these must have had a very remote origin. Arles, for example, which had a very stormy history, and which in 1154 did not yet have officially recognized liberties—since the emperor Frederic I handed over that city to the archbishop in full lordship[1]—possessed certain rights from the eleventh century, and even from the tenth. The inhabitants took part in public life. The most prominent were consulted whenever there were important decisions to be made, and their approbation was mentioned expressly in acts of general interest. In 962 count Boso entered into an agreement with the abbey of Saint Victor of Marseilles "in the presence of all the men of Arles . . . . and with the counsel of the principal inhabitants;" there follows a list of names. A hundred years later, between 1065 and 1079, a donation of the count to the same monastery received again "the approbation of the citizens,[2] and all those who are present ratify it;" and yet for a long time there was to be no question of a charter or of official organization. At Moissac, as early as 1067, the count of Tou-

[1 "*cum omni integritate sua.*"] [2 *Cives.*]

louse conceded privileges to the inhabitants, but it was not until the first half of the twelfth century that they received an acknowledgment of customs. At Nimes, on May 7, 1080, the archbishop convoked the citizens in general assembly to approve a donation to a church. "All were present," it is said. . . . . "The archbishop acted by the will and upon the prayers of the lords and of the citizens. . . . This act was confirmed and corroborated by all the citizens of the town."

And if it be said that these inhabitants perhaps played in the various instances simply a rôle of mute witnesses, acted purely formally, here is a case in which they surely gave proof of initiative. At Carcassonne, at the end of the eleventh century, between 1096 and 1107, four hundred and eighty-five persons representing the community swore allegiance to the count of Barcelona. Shortly after, about 1107, another group took the same oaths, not to the count but to his rival, the viscount Bernard Atto, in these terms: "We, known men of Carcassonne, knights, burgesses, and all the rest of the people, together with suburbans, promise thee fidelity." They took sides according to their preferences, conducted themselves as independent persons, not as churls but as vassals. And nevertheless, the first charter of privileges granted to this town dates from 1184.

It was indispensable to multiply these examples, in order to show how general this reversed evolution was. How may this contradiction be explained? It is probable that in the south emancipation began very early, from the end of the tenth century; that, meeting no insurmountable opposition, it developed little by little, without serious reverses, according to the needs of the day, by a number of precedents which by dint of repetition became law, and that there was thus established a vaguely defined condition which varied greatly from one town to another. Later there came a time when the people wished to make these conditions regular, official, definitive, when they made theory out of reality. Then it was that there were given these towns charters of enfranchisement which perhaps did not assure them a single additional privilege. This hypothesis is confirmed by the very subject-matter of the customs of Albi. They date only from 1220; still the inhabitants exercised enough influence as early

as 1035 to obtain the construction of a bridge. Let us note that these customs were but the résumé of old public usages in thirteen articles. They were recorded, it is said, after inquest made by the old men of the city who sought to find out "what had been from former times the liberties and the customs."[1] It was the same at Montauban. Thus we can say, in short, that the communal charter, appearing very late in the cities of the south, was less a concession of new privileges than the confirmation, or at most the extension, of old franchises.

It is not then astonishing that the emancipation, under this modest, slow, and intangible form, proceeded peaceably, without wars and without dramatic incidents. Moreover, certain special circumstances were of a nature to favor it. Most of these towns were shared among many lords, lay and ecclesiastical. These mesne lords, these joint seigniors, continually fighting among themselves, found among the people possible allies, whom they must treat gently, and gain to their cause. Through these conflicts, doubtless, the communities saw their privileges grow. Arles, for example, in the twelfth century, was divided into four towns, each within its special enclosure: the City, which belonged to the archbishop; the Old Bourg, which was shared by the counts of Provence, the archbishop, and the Porcellet family; the Market, dependent upon the archbishop, who had subinfeudated one half of it to the viscounts of Marseilles, and the other to the provosts of Arles; finally, the New Bourg, the domain of the lords of les Baux. We can imagine whether or not the relations between these combative barons were always cordial, and what benefits the inhabitants drew from their disagreements. From the eleventh century they generally sustained their prelates in their interminable quarrels with the counts of Provence; later, in the thirteenth century, when France and the Empire were disputing over Provence, when Charles of Anjou conquered this province, the people of Arles took sides with the emperor. Thanks to these various conflicts their independence was developed. Thus the communities of townsfolk were drawn by their lords themselves into political intrigues. They constituted a public power and had but to exact payment for their aid.

[1 " . . . *qualiter . . . libertates et consuetudines steterant antiquitus.*"]

Insurrection in the Towns of Languedoc.—There were, however, many cases of popular insurrection, but they occurred later, when this evolution was approaching its end. In 1188, Toulouse arose against its count, Raymond, and civil war broke out. At Montpellier the consuls were excommunicated in 1142, for having driven out their lord, William. The people of Nîmes, probably in 1207, arose against the constable and the provost of the count of Toulouse. They killed the provost, ravaged his domain, plundered his house, ransacked the count's palace and a mill belonging to it, refused the count entrance into the town, brought in his enemies instead, and substituted themselves for his officers in the exercise of criminal justice.

But the most dramatic episode took place at Béziers, in 1167. The people complained of being oppressed by their viscount. During an expedition of their lord, Raymond Trencavel, a man from his army quarreled with a knight and robbed him of a packhorse. The lord delivered the culprit to the knights, and they, says the chronicler mysteriously, punished him "lightly, in truth, but in a way which disgraced him for the rest of his life." The people swore vengeance, and when the campaign was finished they besought the viscount to remove the opprobrium which reflected upon them all. Raymond explained kindly that he was constrained to appease the knights of his army, that he would willingly repair the wrong and would take counsel of the principal inhabitants. On the day specified he betook himself to the church of the Madeleine, and with the bishop there awaited the people. These came with their arms and carrying concealed poniards. The offended person presented himself and asked Trencavel if he was ready to avenge him. When the viscount again replied that he would leave the decision to the council of the lords, and to the arbitration of the citizens, the conspirators drew their arms, rushed upon Raymond, and in spite of the intervention of the bishop they killed him before the altar with his barons. His son Roger was exiled. Two years later, however, he was reëstablished, but he had to swear to the commune not to avenge his father. Hardly was he reinstalled when he ordered his Aragonese troops to proceed to a general massacre of the inhabitants. They gave quarter only to the Jews, and also, as the chronicler says,

to the women, whom the soldiers then married to repeople the town.

These are about all the cases of municipal sedition in the south of France. Doubtless there were others the knowledge of which, through the fault of annalists, has not come down to us. Nevertheless, silence of the writers and of the charters would be inexplicable if the examples had been frequent.

Towns of the North.—The emancipation of the towns of central and northern France, of Germany, and of England, followed closely the emancipation of the Mediterranean cities. The first manifestations were in Flanders, on the banks of the Rhine, and in the French provinces of the north-east. As early as 957 the inhabitants of Cambrai, taking advantage of the absence of their bishop, banded together and had the audacity to shut the gates of the town in his face when he returned. In 967 the abbey of Saint Arnulf of Metz granted a charter of liberties to the bourg of Morville-sur-Seille, and some years later, in 984, it granted another to the domain of Broc. In 1003 the emperor, Henry II, recognized privileges for the bourg of Cateau-Cambrésis. Nevertheless these were rare and premature cases, and more than half a century passed before other attempts came to light. Then, however, they multiplied. Saint-Quentin conquered its title of commune before 1077, and Beauvais before 1099; Arras became independent in the course of the eleventh century; Noyon emancipated itself about 1108; Valenciennes in 1114; Amiens between 1113 and 1117; Corbie about the year 1120; Soissons about 1126; Bruges, Lille, and Saint-Omer about 1127; and Ghent and Liège a few years after. This was the heroic age of the communal revolution. From this time on the movement was accentuated; the budding desire for independence spread from town to town. The freed cities became models; their successes emboldened others. The wave reached its height in the twelfth century and in the first half of the thirteenth; then it slowly receded. It had done its work in two hundred years. The cities had obtained satisfaction. The map of feudal Europe was dotted from north to south and from east to west with independent or privileged communities. The public mind was penetrated by a new idea, that of the free

town; the political vocabulary was enriched by a new word, commune.

This work of emancipation was not carried out without great difficulties. The urban communities were less populous, less rich, and less strong in the north than upon the shores of the Mediterranean. Besides, the seigniorial class was so powerful in the north that the people there seemed incapable of making way against it. Finally, the king of France, the king of England, and the German emperor were near at hand, and it seemed certain that they would sustain their vassals energetically.

The Clergy and the Towns.—the clergy showed themselves especially intractable. The famous words of Abbot Guibert of Nogent have often been quoted, "Commune! new, detestable name!" That was the general sentiment of churchmen. Monastic chroniclers, preachers, and bishops vied with one another in exclaiming against these factious "turbulent conspiracies" which shook the social order to its foundations. In 1099, Ives of Chartres, one of the most eminent prelates of his time, affirmed to the deans and canons of Beauvais that they were not obliged to keep the oath taken to the recent customs of the city; "such compacts," he said, "are binding upon no one, are void, because they are contrary to the canonical law and to the decisions of the holy fathers." In the twelfth century, Bishop Stephen of Tournai manifested his horror at these cities of confusion in terms more violent still, if not as elevated or in as good taste. "There are in this world," he said, "three or perhaps four bawling herds upon whom silence is not easily imposed: a commune of workmen who wish to play the lord, women in dispute, a drove of grunting pigs, and quarreling canons. We make fun of the second, we scorn the third, but, Lord deliver us from the first and from the last!" The synod of Paris in 1213 cast opprobrium upon "these associations which usurers and exactors have built up in almost every city, town, and village of France, commonly called communes, which have established diabolical usages tending to overthrow the jurisdiction of the church." Finally, the papacy itself, from Innocent II to Boniface VIII, joined in this concert of maledictions, especially when it was a question of ecclesiastical towns. Gregory IX solemnly excommunicated the people of Rheims who

had risen against their mother the church, expelled their father the archbishop, and appropriated his goods, "wherein they have surpassed the ferocity of vipers."

The Lords and the Towns.—As for the lay lords, at first they manifested hardly more tenderness for these urban associations. "By these leagues," said Guibert of Nogent angrily, "the holders by cens ceased to be submissive to the arbitrary charges which weigh upon the serfs." This was exactly the sentiment of the lords in regard to the communes. Their omnipotence was limited; their revenues and their political and judicial prerogatives were lessened; in their very faces a collection of villains arrogated to themselves a part of their power. Consequently, most of them, in the twelfth century, offered an energetic resistance to these pretentions. The count of Flanders, Philip of Alsace, frightened the towns of his domain by a series of bloody executions.

However, the hostility which they manifested to the emancipation of the towns was less keen, less general, and especially less tenacious, than that of the clergy. A few, the needy ones, more eager for money than for power, gave in to the golden arguments which the rich communities offered. Others, like the dukes of Burgundy and the counts of Nevers, aided the emancipation for policy's sake, to gain alliances against neighboring lords, and notably to oppose the implacable church lords. Others were intelligent enough to perceive that by emancipating their towns they aided the prosperity and growth of these towns, and that thus they derived revenues superior to all the arbitrary taxes they could impose upon miserable serfs. Still others, among the most powerful, like the dukes of Normandy and the counts of Champagne, prevented insurrections by granting the franchises voluntarily; instead of fighting against the current of emancipation they believed it better to direct it and to hold it within bounds. These variations, however, came later, after the wane of the twelfth century. In principle, it seems, the feudal lords had been unanimous in combatting the efforts of the towns.

The French Kings and the Towns.—Like the feudal lords and for the same reasons, the French kings, in principle, refused independence to the towns of their domain. Louis VII suppressed

with severity a seditious attempt at Orleans. But upon the lands of their vassals, where they intervened as suzerains, they did not have the same reasons for declaring and enforcing their opinion. Here their policy, which was not inspired by any fixed principle, lacked clearness and continuity. Tradition formerly attributed to Louis VI the honor of having "freed the communes." Such, however, was not the case. While he confirmed a number of charters granted by the lords, on the other hand he did not hesitate to aid by his own forces barons who were struggling against rebellious communities: the bishop of Noyon, and the abbots of Saint-Riquier and Corbie. In the same year, 1112, he protected the commune of Amiens and destroyed that of Laon. Very sensitive to the attractions of gain, he sometimes offered independence to towns, but, money in hand, he was ready to turn against them, if later he found it to his advantage. Upon the square of Laon, over which the bishop and the people were disputing, his support was literally bid off at auction. His successor, Louis VII, apparently saw more clearly that communes upon the lands of vassals whom he feared were natural allies of the crown in the camp of the enemy, and that it was to his interest to aid in their development. If he protected the rights of the archbishops of Rheims and of Sens, of the bishops of Beauvais, Châlons-sur-Marne, Soissons, of the abbots of Tournus and of Corbie, on the other hand he multiplied the concessions of charters and sustained the emancipated towns against the hostility of the lords. Philip Augustus, accentuating this policy, confirmed charters granted by others, and he even freed a number of communities in the districts which he united to the crown, and even in the domain. But he made them pay for his support, and he imposed upon them his protection, giving out liberties with one hand while with the other he extended royal supremacy.

This systematic benevolence was tardy, for the communal revolution was by that date drawing to a close. So it may be said, in résumé, that in the beginning the towns met a universal resistance, which in some cases was never done away with but in others was weakened or transformed at the bidding of interest.

The Sworn Commune.—The means by which the inhabitants of the towns were enabled to prepare for the struggle, and by

which they were often assured the victory was apparently the same, or nearly so, everywhere; this was the conjuration.[1] The inhabitants, as we know, were bound together in various associations under a variety of names, such as gilds, associations of friendship, brotherhoods, and banqueting clubs. The most important by reason of wealth and the most highly esteemed by the public were the societies of merchants or tradesmen, designated at times by particular titles according to the kind of traffic especially carried on in each town: in one place the association of navigators; in another, of drapers; in still another, of money-changers. Primarily they had no political character, but nearly everywhere, circumstances aiding, they developed into veritable leagues, arrayed the rest of the inhabitants with themselves, and made them swear allegiance to the common cause. Fortified by this harmony and by these oaths they treated with their lords in the name of the entire population. This process was the same throughout northern Europe, in Germany as in France, in Flanders as in England. Usually the commune was only the extension of a powerful, private association.[2]

Sometimes, to be sure, this same rôle was played, not by an association of merchants, but by a religious brotherhood. At Châteauneuf, a bourg near the city of Tours, the brotherhood of Saint Eloi organized a conspiracy, and proclaimed, in 1305, the freedom of the place. At Poitiers the "hundred peers," who formed the town corporation, were recruited from the brotherhood of Saint Hilary. Still, perhaps, it is an exception more apparent than real; some of these associations being only companies of merchants under a religious guise. Such was the brotherhood *l' Assomption de la Vierge,* which gave rise, it is said, to the commune of Mantes. As for the associations of arts and crafts, they nowhere directed the movement. The lesser people composing them were still too little developed to exercise upon events any profound and concerted influence. They followed impulses which they received and when need arose accentuated them, but did not originate them.

[1 *Conjuratio.*]

[2 It may be well to recall here and throughout this section on "the sworn commune," the caution suggested on page 10, note.—Tr.]

Thus the communes generally took their rise from an oath-bound league of all the inhabitants, brought together by the burghal aristocracy. Hence the expression "sworn commune," by which the free towns in the north of France during the middle ages are often designated. Hence, too, the name "conjuration," which was given by the chroniclers to these urban revolts: "riotous conjuration of the commune which had been formed," [1] as is said of Beauvais at the end of the eleventh century. The seigniors were very fearful of these conjurations, which armed entire cities against them. When a conflict broke out, in 1208, between the people of Lyons and their archbishop, the decree by which order was restored attributed the whole trouble to the oaths required of the citizens, and it stipulated "that they had sworn never again to make a conspiracy of this kind, never again to take any communal or consular oath."

It was not sufficient for the merchants to organize a commune and to make the inhabitants swear allegiance to it. It was especially necessary to obtain from the lord his acknowledgment or his acquiescence.

Communal Insurrections; Laon, Sens, and Cambrai.—Cases of communal insurrection were not infrequent in the twelfth century. Augustin Thierry, who wrote dramatic accounts, liked to picture sturdy artisans armed with their mallets, their hatchets, and their working tools, struggling successfully against their lords in the labyrinth of narrow and tortuous streets. We have just seen how little part the artisans took in this revolution; but it is certain that in the history of these uprisings there were tragic scenes.

Especially, the uprising in Laon will always be cited. This place was a veritable den of cut-throats in the beginning of the twelfth century. The nobles threw themselves upon the burghers at night or even in the daytime, and exacted ransoms from them; the burghers captured peasants who came to market and imprisoned them in their houses; the bishops imposed upon the inhabitants arbitrary tailles, and had those who were unable to pay them condemned. The man who became bishop in 1106 was a warlike Norman and a great hunter, "who loved above everything else

[1 "*turbulenta conjuratio factæ communionis.*"]

to talk of combats, dogs, and falcons." He had all who displeased him tortured by a black slave. While he was in England (1106), the people of Laon consulted together, adopted a plan of commune, and by the aid of money got the clergy and the knights governing in his absence to agree to it. Upon his return the bishop was very much enraged, but, won over by a goodly sum of money, he confirmed the concession. And finally the king himself, attracted by the promise of an annual payment, ratified it in his turn. The people's money had worked marvels, but the prelate, who spent large sums, was not long in regretting the time when his exactions had not been limited. To gain the support of Louis VI, he promised him seven hundred livres, and then by virtue of his pontifical authority he released the king and himself from the oaths which they had both taken, and annulled the communal charter (1112). The inhabitants were in consternation; the shops and the inns were closed. The agitation reached its climax when the news came that the bishop, in order to pay the aid promised to the king, was about to demand of each burgher the same sum that each had given toward the work of emancipation.

There was a muttering of coming storm. Forty of the boldest swore upon their lives to kill their lord and his accomplices. The prelate was quickly warned. "What!" he replied, "die at the hands of such beings!" Already many houses belonging to the nobles had been attacked and pillaged, but the bishop lost nothing of his haughty confidence. "What," he asked, "can you expect these folk to do by their commotions? If my negro John were to seize the most terrible one of them by the nose, the fellow would not dare to give even a growl. What they yesterday called their commune, I have forced them to give up, at least as long as I live." The next day a cry resounded through the town: "Commune! Commune!" It was the signal for the insurrection. Bands of men took possession of the church, massacred the nobles who came to the aid of their lord, besieged the episcopal palace, and entered it by force. They ransacked the apartments and finally discovered the bishop, disguised as a servant and lying hidden in a cask at the bottom of the cellar. "Somebody there?" cried one of the infuriated men, dealing it a heavy blow with a

club. "An unhappy prisoner," replied the unfortunate bishop, trembling. He was recognized and dragged by the hair into the street, where a few blows from a hatchet finished him. His corpse, even, was not respected. To obtain his episcopal ring a finger was cut off, and the body was then stoned and smeared with mud. The nobles were insulted and beaten. The people vented their malice upon noble ladies and stripped them of their rich clothing. The houses of the nobles were set on fire; an entire quarter was in flames. When the king marched against the town the principal culprits fled. The nobles avenged themselves cruelly for their suffering, massacring in the streets, and even in the churches, the inhabitants who had not been able to escape, pillaging in their turn also the houses of their enemies and carrying away everything even to the furniture and the bolts of the doors. Louis VI reëstablished order in the town. Sixteen years later, in 1128, fearing a second explosion of popular hatred, he consented to grant a new commune, which received, however, the less offensive name of "Institution of Peace."[1]

It would be easy to multiply examples: le Mans, Amiens, Beauvais, and Ghent struggled for their emancipation. At Lille, the officers of the count of Flanders, Charles the Good, wished to arrest a free man whom they claimed to be a serf. The inhabitants arose and exiled their lord and his advisers. The citizens of Rheims, in 1130, obtained a communal charter, but, in 1160, the archbishop undertook to limit it. An insurrection broke out at once. The king sustained the prelate, but the uprising increased. Between 1103 and 1106, the abbot of Vézelay laid a tax upon the houses of the bourg. The people arose and killed him.

In 1146, the citizens of Sens formed an association and, with the consent of Louis VII, adopted the charter of liberties of Soissons. But the clergy, and especially the monks of Saint-Pierre-le-Vif, saw their jurisdictions destroyed and gave the alarm. The abbot of Saint-Pierre, Herbert, laid his grievances before Pope Eugene III, who was then in France, and, at the request of the holy father, the king dissolved the commune. Hardly had the abbot returned when the citizens assembled,

[1 *Institutio pacis.*]

broke down the doors of the monastery, and murdered the prelate and his nephew. The town was at once taken by the royal troops and the principals and accomplices in the crime were seized. Some were executed without form of trial; others were forced to throw themselves from the tower of Saint-Pierre; the rest were taken to Paris and condemned to death. As for the commune, it was not reëestablished until later.

At Cambrai, the struggle between the bishop and his subjects was marked by acts of ferocity. The inhabitants having conspired in the absence of their lord, he recruited in Germany and Flanders an army of mercenaries, with which he reëntered his trembling city in a peaceable manner. Then, at unawares, he gave the town over to his soldiers, who massacred the inhabitants upon the squares, in the streets, and even in the churches. Torturing their prisoners, they cut off their feet and hands, put out their eyes, and branded their foreheads with red-hot irons. When another uprising broke out the prelate seized a burgher, and on his refusal to betray the conspirators, he had him beaten with rods, had his tongue and eyes torn out, and then ordered him to be dispatched by the sword.

That the insurrections were not always successful is apparent. There were communities which never gave up and which, although repeatedly conquered, did not cease to reorganize. The people of Cambrai had been struggling for more than a century when, in 1073, they organized a commune; a little later it was destroyed by the count of Mons. They reëstablished it in 1107; this time it was the German emperor who put an end to it. As tenacious as their enemies, they revived it again in 1127. At Vézelay, from 1103 to 1250, there occurred no less than five insurrections and almost always they were mercilessly put down. Lastly, the most strikingly characteristic example is that of the bourg of Châteauneuf near Tours. Twelve times, from the twelfth to the fourteenth century, it arose against its lord, the abbot of Saint Martin, and twelve times it was conquered. On the other hand, there were other communities so completely prostrated after their first effort that they never dared again to demand the right of commune. Such was Orleans, a royal town, which adopted a charter in 1137. Louis VII hastened to the spot and " as the mad-

ness of some fools hath striven against the royal majesty, he boldly put it down, *not without destroying some.*" Orleans retained such a profound memory of this event that it never renewed the attempt.

Thus, whether victorious or beaten, there were many communities that sought emancipation by revolt. Care should be taken, however, not to raise the communal insurrection to the plane of a general theory. This was the error of Augustin Thierry and the historians of his school. They saw the emancipation of the towns in the middle ages in the light of the revolutions of the nineteenth century. They could not conceive of emancipation except as a consequence of revolt, and since they found in ancient documents many examples of a nature to confirm this opinion, they declared that for a long time the "communal condition in its full development was scarce ever brought about except by open force and by compelling authority to capitulate in spite of itself." [1] The truth is, on the contrary, that war was merely an accident in the evolution of the towns, and that most of them obtained privileges without any armed struggle.

Other Modes of Emancipation.—Often when the lords were engaged in war the townspeople withheld their support, stated their terms to both sides, sold their assistance to the highest bidder, and thus in the midst of such hostilities secured their freedom. In this way Neufchâteau made itself a commune in 1231, when the duke of Lorraine, Matthew, was fighting with Thibaut, count of Champagne, and the town received from the latter aid and succor against its lord. On the other hand the feudal lords did not hesitate to grant privileges to the towns when they had need of their assistance; if many claimants were disputing over a fief, there was at times among them a deluge of generosity. This happened in Flanders in 1127-1128. William Clito, grandson of the Conqueror, in 1126 married Jane of Savoy, sister of the queen of France, and received investiture for the county of Flanders. Desirous of being welcome, he had scarcely arrived before he granted guaranties to the people of Lille, Ghent, Bruges, Ardembourg, Béthune, Thérouanne, and Saint-Omer, all in 1127. But

[1 *Lettres sur l'Histoire de France*, XIII.]

he had a rival, Thierry of Alsace, who, attacking him and making use of the same weapons, granted privileges to Arras, Thérouanne, Bruges, Saint-Omer, Lille, and Aire. Thus we see certain of these towns received favors from two sources.

It was especially by arguments of pounds and pennies that the towns gained independence. The lords were needy or prodigal, and always short of money. If they wished to go to the Holy Land, to found a monastery, to undertake an expedition, or to pay their ransom, they made an appeal to their subjects, who untied their purse-strings only in exchange for a parchment. Most of the communal charters were probably purchases, even though the commercial clause, little flattering to seigniorial pride, was rarely specified in them. Louis VI sold to the town of Amiens an act of enfranchisement. The charter of the citizens of Laon, granted in 1174, was annulled in consequence of conflicts with the bishop, but the inhabitants bought it back, promising to pay to the sovereign a whole list of dues. Later, in 1196, they obtained the commutation of these charges into a lump sum. In 1216 or 1217—a singular example—the people of Auxerre obtained from their count a lease of his town for six years on condition of paying him an annual rental of two thousand livres of Provins.

The treaty of peace concluded with the lord was usually but a truce, and the towns allowed no opportunity to escape to gain new franchises. It was by money, again, that these successive encroachments were made. In 1186, Philip Augustus granted some new privileges to the people of Compiègne, who had been free from 1153. The commune of Beauvais, which had been constituted before 1099, increased its rights from 1175 to 1217, under the pontificate of Philip of Dreux, a warlike prelate who was always engaged in distant wars and who never ceased to lack funds. Saint-Omer, which was free as early as 1127, bought from count Thierry of Alsace its town hall in 1151, and privileges at the fairs of Lille, Messines, and Ypres in 1157. In 1209, the seneschal of the chatelain [1] sold to the people a meadow situated not far from the walls, and in 1275, gave up to them the rights

[1 From the Latin *castellum*; in the medieval Latin, *castellanus*. The keeper or guardian of a castle. In France, a territorial lord who had the right to hold a castle.]

of socome which he had preserved on certain lands of the commune in exchange for one hundred and sixty livres of Paris,[1] "for my great necessity," he said humbly, "which is known and apparent."

Lastly, the townspeople in England did not conquer their famous municipal liberties; they acquired them and gradually extended them by the aid of money. A charter relating to the town of Leicester furnishes an example of this which is naïve, and perhaps legendary; it is at least an expression symbolic of the truth. The burghers complained that in the processes of justice they were compelled to resort to the wager of battle[2] and they desired to substitute for it compurgation, or testimonial proof furnished by neighbors and relatives. "It happened," says the document in question, "that two relatives, Nicholas, son of Acon, and Geoffry, son of Nicholas, fought a duel over a piece of land which both coveted. The duel lasted from the first hour to the ninth without decisive result. One of them, while stepping backward, came near the curb of a small well and was about to fall in, when his adversary said to him: 'Take care, you are going to fall!'" At these words the spectators raised such a clamor that the count, perplexed, demanded its cause. They narrated the affair to him, the duel and the generosity of one of the combatants, and the burghers, moved with compassion, offered him an annual payment of three pence upon each house having a gable upon the main street if he would consent to suppress the trial by battle and to confide to twenty-four jurors the care of hearing and judging all their causes. The request was granted.

Some lords, far from resisting the claims of the towns, favored them; as much from interest as from generosity. In their fiefs the bourgs had no struggles to maintain and no sacrifices of money to make. Such were the counts of Ponthieu, and especially William III, who, at the beginning of the thirteenth century, of his own volition, granted communal charters to le Crotoy, Doul-

[1] Down to the time of Louis XIV reckonings in France were made chiefly either in *livres parisis* (livres of Paris), or in *livres tournois* (livres of Tours). The former were worth one-fourth more than the latter.]

[2] On the duel as a method of securing proof, see Seignobos, *Feudal Régime*, p. 62.]

lens, Ergny, Rue, and Saint-Josse-sur-Mer, where he acted in spite of the abbey that shared with him the lordship of the place. In the same way Jane of Constantinople, who was countess of Flanders from 1211 to 1244, showed herself very liberal toward her towns. She distributed privileges upon all sides, to Bruges, Courtrai, Damme, Dunkirk, Eecloo, Furnes, Ghent, Middleburg, Mude, and Valenciennes.

Other centers were not obliged even to solicit their liberties, which were imposed upon them by their lords. These were the communities of France which were dependent upon the king of England. Between 1169 and 1179, Henry II conferred on Rouen and La Rochelle the famous municipal constitution known as the Establishments of Rouen. The same statute was successively extended to the towns of Normandy, to Saintes, Angoulême, Poitiers, Cognac, Saint-Jean-d'Angély, Bordeaux, Bayonne, and the islands of Ré and Oléron. These liberties were carefully limited, and the English sovereigns had nothing to fear from them; indeed, they seemed destined to assure to those sovereigns the sympathy and alliance of the urban populations.

Towns of the Holy Roman Empire.—In this common work of enfranchisement the lot of the towns of the Empire was peculiar. Instead of conquering their liberties all at once by force or by some adroit maneuver, and of extending them little by little by taking advantage of every favorable circumstance, as the other communities did, they were obliged to pass through two clearly separated stages to attain independence. In the twelfth century, like all the other urban agglomerations, they strove to free themselves. But the emperor, upon whom they were directly dependent after he had raised them to the rank of tenants-in-chief, held them under his powerful hand and consented to grant them only civil liberties. Each time that they desired autonomy and independence they met with his refusal. In 1161, Barbarossa subjugated the burghers of Treves, who had conspired against their archbishop. In 1163, learning that the people of Mainz had killed their lord, he hastened thither, sacked the city, and razed the ramparts. Thus in the twelfth century the towns gained only the most essential liberties: guaranties against the arbitrary power of their lords; never political independence. In the middle of the thir-

teenth century, however, the Swabian dynasty died out and feudal Germany enjoyed a prolonged interregnum. The towns, which now had only local sovereigns to oppose them, pressed their claims, and after a struggle in which success and failure were mingled, many of them triumphed. Metz, which had been enjoying certain liberties since the twelfth century, then attained full independence. Strassburg obtained a municipal administration distinct from the episcopal administration. Besançon organized a commune and in 1290 had its emancipation sanctioned by the new emperor, Rudolph. The second stage was passed a hundred years after the first, and it was then that the famous free towns of the Empire were constituted.

Thus all Europe presented the same spectacle from the eleventh to the thirteenth century. The urban communities, before so humble and so profoundly silent that we know almost nothing of them, were developing, were raising their voices, and were all tending toward the same end, emancipation. Everywhere, in spite of diversities of place, time, circumstances, obstacles, or aids, they reached their goal or approached it more or less closely. It was a universal current which carried all with it.

Rural Communes.—This tendency was so general that it extended even to the country, and simple villages obtained, either by benevolent grant of their lords or even by insurrection, charters of liberties. A good many of them are preserved, like those of Arques in Flanders and of Bruyères in Picardy. In all probability many more have not come down to us. There were rural communes in all the provinces of France, and it is astonishing to notice that even villages of two or three hundred inhabitants, whose population was never much larger, enjoyed this title in the twelfth and thirteenth centuries. Often, too, localities too weak to organize by themselves joined forces, federated themselves, and thus formed a sort of collective commune. These were to be found in southern France,—in the valleys of the Pyrenees, in the Alps; and also in the north, in Picardy, Ponthieu, Artois, and Flanders, like the *Franc* of Bruges, the Four Trades on the domain of Saint-Bavon of Ghent, Lederzeele, and the province of Waes. The best known is that of the region about Laon. It was formed of seventeen villages whose political center was Anizy-le-

Château, which received in 1128 the charter of Laon, called the Institution of Peace.

What was the result of this universal effort, at times heroic and often prolonged, which the communities of every rank, small and great, made to escape the arbitrary exploitation of which they were the victims?

III

THE COMMUNES

As they had attained their emancipation by the most diverse ways, the towns of the middle ages were not likely to have any uniform constitution, and their independence, like their organization, varied greatly from one center to another. One commune was almost autonomous, while another had only the appearance of liberty. In some cases the source of authority resided in a general assembly of the inhabitants, in others the power was in the hands of an oligarchy formed of a few families who reserved for themselves the magistracies and the municipal offices. Thus it is impossible to characterize the situation in these towns comprehensively and precisely. And on the other hand, between the localities which were most independent and those which remained under the immediate surveillance of royal or seigniorial officials, there were so many intermediate types, so many degrees and shades of liberty or of subjection, the transitions from one to another were so imperceptible, that it is no less difficult to find categories into which they can be grouped for systematic study. They formed a continuous hierarchy without breaks, or without periods of arrested development. Nevertheless historians are accustomed to rank them in two distinct classes: communes and towns of burgessy. Under the name of communes they designate those centers which had acquired from their lord a certain degree of political independence. In the towns of burgessy, on the contrary, the inhabitants had gained civil liberties only, guaranties against the administrative, fiscal, judicial, and military despotism of the master; they had not conquered the right to govern themselves. This division is purely arbitrary. It does not date from

the middle ages and in practice it would be difficult, if not impossible, to distinguish clearly the least free of the communes from the most independent of the towns of burgessy. With this reservation we shall make use of it, because it is used and is perhaps as good as any.

The Communal Charter.—Whether extended or restricted, the rights of the commune were almost always set forth in a written indenture, a contract which was entered into between the commune and the lord, a fundamental agreement which could be referred to in case of new difficulties or of disputes, and which served at the same time as a certificate of birth and as a deed of constitution. This was the communal charter. It is true that certain places, like Abbeville, are cited where emancipation was not at first sanctioned upon parchment, but these are exceptions to the rule.

Although these charters were zealously guarded in coffers, the keys of which were in possession of the municipal authorities alone, they have rarely been preserved to us in their original form; usually they are known only by more recent confirmations. They differed remarkably from each other. That of Corbie comprised only seven articles; that of Molliens-Vidame, a little place in Picardy, contained sixty. The length of the act was not in proportion to the importance of the place. They were drawn up ordinarily in the form of a seigniorial, but sometimes in an impersonal, style. The clauses were usually an enumeration without order, often ambiguous, and at times contradictory. As a rule they aimed principally to guarantee the existence of the communal bond, to regulate the relation of the commune to its suzerain, especially in the matter of justice and of imposts, and to determine the rights and privileges of the burgesses. These liberties, as they were called, concerned the limitation of the taille,[1] taxes, corvées, tolls, banalities, chevauchée, and war, and the exercise and extent of seigniorial justice. The charters rarely described the whole municipal constitution. Generally they mentioned only the innovations and illuminated the doubtful points, while they passed in silence established usages which were not subjects of dispute.

[1 For explanation of feudal terms see Seignobos, *Feudal Régime*.]

Hence the incoherence, vagueness, and incompleteness apparent in these charters.[1]

On the other hand they frequently fixed certain points of the customary law and served in a certain measure as a civil and criminal code. "By them," said Guibert of Nogent, "the holders by cens are condemned, for infraction of the law, only to a legally determined penalty." Here is the manner, the often naïve form of their punishment: "He who shall have committed a murder in the town shall find sanctuary nowhere; if he escape punishment by flight his houses shall be razed and his goods shall be confiscated, and he shall not be permitted to return until he shall be reconciled with the relatives of his victim and shall have paid ten livres, of which a hundred sous shall go to the chatelain and a hundred to the commune for the fortifications. He who shall have wounded with a weapon some person in the town, and shall have been convicted of it by witnesses, shall pay ten livres,—a third to the victim, a third to the chatelain, and a third to the commune for the fortifications. He who shall have struck someone in the town shall pay a hundred sous. He who shall have torn out someone's hair shall pay forty sous. He who shall have insulted some-

[1 It may be questioned whether this characterization of the communal charter and its objects is in all respects true; and the impressions it conveys may not be quite corrected by statements on later pages. That the charters did not describe the whole of the municipal constitution is easily explained by the fact that they were issued not exactly to a municipality or for the purpose of creating a municipality; but to a commune—an organization more or less inclusive of the inhabitants of a town—and for the purpose of modifying in various particulars the conditions and laws prevailing in a given place. The development of a municipality was especially promoted by such an organization taking such steps; but even in towns where there was a commune, the municipality did not necessarily owe either its origin or all its growth to the communal organization. Furthermore, the disorder, incoherence, vagueness, and incompleteness which the writers of this account saw in the communal charters are not so apparent when one reads them, not as documents which ought somehow to have described the municipa- constitution but did not, but strictly as what they were designed to be: written guaranties of those particular innovations and those settlements of doubtful points which the communal organization was established and maintained to secure. When so read, at least many of the communal charters not only assume an orderly form, but reveal without incoherence or undue vagueness and incompleteness, the objects the communers had in view. See Dow, "Some French Communes in the Light of their Charters," in *American Historical Review*, July 1903.—D.]

one shall pay forty sous. He who shall have wounded with a weapon someone within the banlieue and shall have been convicted of it by two witnesses, shall pay a hundred sous; and if he shall have killed him, ten livres, of which a hundred sous shall go to the chatelain, and a hundred to the commune for the fortifications." [1]

Most of the communal charters endeavored also to gain security for outside merchants: "If an outside merchant comes to Beauvais for market and any one do him wrong or injury within the limits of the banlieue, if complaint of it be made to the mayor and the merchant can find the malefactor in the town the peers shall render justice, unless the merchant be one of the enemies of the commune." Finally, these acts almost always sanctioned, in the most varying terms, the principle of solidarity of the burghers: "All the men of the commune shall aid each other with all their power," says the charter of Senlis. "Each of the men of the commune," says the charter of Abbeville, "shall be faithful to his fellow, come to his succor, and lend him aid and counsel." "Whoever," states a third, "shall have committed a wrong against a man who shall have sworn this commune, the peers of the commune, if complaint be addressed to them, shall do justice upon the body and goods of the culprit according to their judgment."

To be sure, not every contract of this kind contained such a variety of stipulations. This or that clause, largely developed in one act, was totally omitted in another. At times the charter consisted merely of an amnesty, or of a benevolent concession of the lord which was limited in extent and briefly stated.

This diversity, though, must not be exaggerated. It cannot be said that there were as many different types as there were charters. Some charters, in fact, were imitated, copied, and passed on from town to town. The count of Ponthieu, between 1130 and 1194, granted a constitution to Abbeville, "according to the rights and customs of the communes of Amiens, Corbie, and Saint-Quentin." Ardres was organized in the twelfth century in imitation of Saint-Omer; Athies and Ferrières,[2] on the model of Péronne. Perhaps the reputation arising from the successful

[1 Charter of Saint-Omer, 1168.] [2 In Department of the Somme.]

operation of these charters assured for them a good degree of favor; perhaps the larger centers infected the small bourgs which surrounded them, like Soissons and Dijon, whose communal organization was imitated throughout the duchy of Burgundy; perhaps certain lords from political motives secured the adoption of the same constitution at several places in their domain. One need not recall that this was the case with the Establishments of Rouen. In northern France the mother-town was distinguished from its daughters by the name "mistress of interpretation;"[1] these demanded enlightenment of her when the meaning of an article or clause appeared to them obscure. Consultation was usual with them, at times even obligatory. The charter was like a sacred text which the metropolis had dictated in an hour of inspiration, and which it alone was authorized to interpret.

The Collective Communal Seigniory.—The commune in its entirety, considered without reference to the individuals who composed it, has been said to be nothing but a collective seigniory. This likening a town of burghers to a fief, however strange it may seem, is fully justified, and present-day historians unite in approving it. It should be remarked first of all that collective seigniories were not rare in the middle ages: such were the abbeys and chapters, in their way. The communes, which were born when feudalism was in full flower, when the seigniorial form was investing and embracing everything,—states, persons, and ideas, —entered necessarily into the feudal mould and there developed. However burghal the commune appeared, it had in reality all the qualities of a feudatory, and the free town was a fief.

Relations of the Commune to its Suzerain: Homage, Dues.—The relations between the inhabitants and their lord, their reciprocal obligations, were identical with those which in feudal society united the suzerains with their noble vassals.

The lord had duties toward his townsmen just as toward his barons, and he promised not only to respect their privileges but to give protection. "I will procure them peace with all persons," the count of Flanders said, in 1127, in the communal charter of Saint-Omer; "I will maintain and defend them against my men."

[1 *Chef de sens.*]

In return, the town, like a vassal, owed its lord homage, aids, and military service. Examples of the homages which the communes rendered through their magistrates, are extremely numerous. They were in form nearly like those of a fief: "We swear," said the consuls of Périgueux, "to keep faith to our lord, king Philip II, the illustrious king of France, and to his heirs, against all men and all women living or dead." This oath was repeated at each change of suzerain, and even in certain localities, every time the municipal government was renewed.

The pecuniary obligations varied. Some communes owed their lords taille, but it was always a taille that was limited in advance, and invariable. Beyond that sum, fixed once for all, the baron could impose no fiscal charge upon his burghers. Many towns, by virtue of their privileges, were even completely exempt from the taille. All, without exception, under the same regulation as the feudatories, were required to furnish subsidies; that is, the feudal aids in the four fixed cases.

Military Service of the Communes.—The communes owed their lords military service also, which consisted of the host and the chevauchée.[1] The community was liable for this service only within a certain distance of the commune or during a fixed number of days and no more. According to an act of 1212, Sisteron equipped for its lord, the count of Forcalquier, one hundred footmen and five knights: in case of necessity only, during one month of the year at the most, and the men were not obliged to go beyond the limits of the county. In 1257, the same place promised Charles of Anjou to arm two hundred men—fifty of them were to be cross-bowmen—to serve at their own expense for fifty days each year throughout the counties of Provence and Forcalquier. In 1176, Nice owed to the count of Provence one hundred guards for one chevauchée between the Siagne and the Var, and fifty guards for one chevauchée between the Siagne and the Rhone. In other places this obligation was much less heavy; the service to which the little commune of Bruyères in Picardy was bound,

[1 *Ost et chevauchée.* Host was the obligation of accompanying the lord upon his expeditions; chevauchée, that of accompanying him on his incursions into a hostile country.]

was limited to a single day. Certain localities, like Marseilles and Bayonne, furnished their contingents at sea; in 1242, Henry III of England ordered the people of Bayonne to send their galleys to la Rochelle and to do that place as much harm as possible. These obligations were not absolute; they were accompanied by certain reservations. For example, the people of Valmy, in 1202, did not owe the host and chevauchée to the countess Blanche of Troyes unless she was with the army, or at least unless someone was present from her household. Often also it was stipulated that this aid would be required in case of invasion only, or that it would not be exacted against this or that person, notably against the king, the emperor, or the church. Like the feudal castles, the free towns were frequently "deliverable and surrenderable" at the first demand of the lord.

The service of arms was not particularly agreeable to the people of the towns, especially in the north. The expeditions tore the peaceful and commercial burghers from their occupations and ways of life, usually to realize an ambition in which they had no interest. In general they did not play a brilliant rôle in them. In 1127, the chatelain of Ghent, if the chronicler Galbert is to be believed, ordered the inhabitants to assemble their commune and to come and attack the castle of Bruges, "because they had the reputation of being famous in sieges and battles," and their forces were "innumerable." But such testimonies are rare. Especially, care should be taken against thinking that the French towns exercised in the wars of the twelfth and thirteenth centuries the great influence that modern historians have been pleased to attribute to them. A misunderstanding of the text of a chronicler is responsible for the idea that at the time of the German invasion of 1214 the urban militia helped to defend the national soil. Their conduct at Bouvines was far from being as glorious as has been believed. With ranks broken at the beginning of the action, in exposing the king they all but compromised the fortune of the day. If burghers rendered good service it was behind their ramparts. The kings of England understood this, and it was with this thought in mind that, to assure the defense of their continental towns, they established communes in most of them. Likewise in France, Corbie was able to resist the count of Flan-

ders, Philip of Alsace, in 1185; and Mantes, besieged by the king of England in 1188, defended itself until relieved by Philip Augustus. As for fighting away from home, they did not care for it. So they frequently sought to redeem their military obligations. Arras, in place of furnishing one thousand men-at-arms, was authorized to pay three thousand livres; Beauvais gave, as she chose, either fifteen hundred livres or five hundred men-at-arms. In the thirteenth century, in all the places depending upon the royal power, the impost of blood was commuted gradually into an impost of money, and there no longer existed any personal service except the obligation of keeping the watch. But this was still not of a nature to distinguish the towns from the fiefs. More than one lord sought in this unknightly fashion to free himself from military duty.

Seigniorial Rights of the Communes.—While the communes fulfilled feudal obligations toward their suzerains, they exercised in their turn a series of seigniorial rights. To begin with, as they acquired domains they might infeudate them, and thus create vassals whose duty it was to follow their banners. Ordinarily the cities of the south could point to many vassals among their dependents; in 1220 Pierre and Géraud Amics rendered avowal and homage to Avignon for the villages and castles which they held from it. By the same right as the nobles the communes had a clearly defined place in the aristocratic hierarchy.

Just as among the barons some were entirely independent of all royal interference, while others remained strictly dependent upon their suzerain, so the bond of fidelity which attached the urban centers to their masters might be either close or extremely lax. The Italian towns were the most free. Those of southern France, notably of Provence, were scarcely less independent. The commune of Apt owed oath of fidelity to the Empire and service at the imperial court, but with this exception it was entirely free. Arles, which comprised three hundred fortified houses surmounted by towers, conducted itself in the thirteenth century as a sovereign state. In 1222, it acquired from the abbot Montmajour the castle of Miramas; in 1224, it bought the seigniory of Aureilles, in the direction of la Crau; in 1225, it obtained from Hugh of les Baux the Etang de Valcarès, the land called

Lonclongue, and some vineyards on the Isle de la Camargue;[1] in 1226, it lent forty thousand sous to Raymond VII of Toulouse, and received in exchange the places of le Baron, Malmissane, and Notre-Dame of the Sea; at the same time the council of the town deputed twelve citizens to make a treaty "of alliance, friendship, and fellowship" with the king of France, Louis VIII. Another year the general council and the heads of the trades delegated eight citizens of Arles to negotiate with the count of Provence. They were given full powers to dispose of even the sovereignty of the city. These examples, occurring within a few years, show how real this autonomy was. Few lords had a prouder emblem than that which in the twelfth century was displayed upon the municipal seal of Arles. One of the faces represented a town dominated by three towers, with this legend, "*Urbs Arelatensis est hostibus hostis et ensis;*"[2] on the reverse was a lion, and the words "*Nobilis inprimis dici solet ira leonis.*"[3] Marseilles, Béziers, Narbonne, Montpellier, Toulouse, and Périgueux were scarcely less free. The independence of these rich burghal groups is comparable to that of the great feudatories.

If in Italy and in southern France the lords had reserved to themselves only honorary privileges of suzerainty, everywhere else they had kept more extensive, real, and direct rights over the communes. The communities of northern and north-eastern France—of Artois, Picardy, Flanders, and Burgundy—had conquered great liberties, their judicial and administrative autonomy; but they were not sovereign states. In political, fiscal, and military matters they were subject, like most fiefs, to strict obligations of vassalage. In England and in western France, in the Anglo-Norman provinces, the part of the suzerain was still greater. In the localities where the Establishments of Rouen had been widely adopted, most of the revenues, high justice, and the control of the municipal administration belonged to him. The minimum of rights which the towns having the rank of commune could possess was what remained to the citizens. In the same way the

[1 In the Rhone delta; the body of water known as Etang de Valcarès is on this island.]

[2 The city of Arles is to its enemies an enemy and a sword.]

[3 The wrath of the lion is wont to be called especially noble.]

urban centers of Germany were as yet in possession of only restricted liberties, and it was not until the second half of the thirteenth century that they won their entire autonomy. The German, English, and Anglo-Norman towns are comparable to fiefs having only partial sovereignty.

The Right of War and of Peace.—All these communities possessed the right of war and of peace, some without limitation, others under certain reservations, and a few within only the narrowest limits. As early as 1082, Carcassone made war against the feudal nobles. A little later Toulouse, Marseilles, Avignon, Périgueux, and Narbonne formed an alliance, separated, formed another alliance, entered into hostilities with the lords, avenged their injuries arms in hand, besieged hostile towns, and pursued even into their castles the nobles who had insulted them. Arles was concerned in all the intrigues and all the wars of this region, seeking friendships and quarrels even beyond the mountains, uniting with Genoa against Pisa, but ready some years after to unite with Pisa, fighting and making treaties without cessation. This perpetual effervescence, which nothing could restrain, was not a rare thing in the cities of the south. For the communes of the north, which were less free, the right of war and of peace was ordinarily restricted. Almost all, however, enjoyed a singular privilege somewhat analogous to the right of private war. Originally, when they received an offense, they were authorized to burn the dwelling of the culprit; this was called the right of arson. But, if vengeance was sweet to the hearts of the irascible burghers, it might be dangerous to them in a time when the houses, ordinarily of wood, gave the flames opportunity to spread through the entire town. Accordingly, in place of burning the house of the offender it was preferable to tear it down, and the right of arson was converted into the right of demolition. When the edifice which was the object of public hatred was within the town wall, the steps to be taken were generally easy enough. But when it was a castle situated in the country a real military expedition was organized; the militia was assembled, the vassals called in and the aid of allied towns solicited.

Alliances among the Communes.—Finally, the consciousness of a similar origin, of a like danger to combat, and of a uniform

policy to pursue, at times united the cities and the bourgs of a region into great alliances directed against the common enemy, in the same way as in certain countries—in England for example—the greater part of the nobles united against despotic kings. In Italy, where the towns were bold and strong, these relations finally resulted in powerful leagues, against which feudalism, and even the imperial power, sometimes broke. The fortunes of the Lombard league are well known. Thanks to these federations, the most important cities, associating lesser localities with their destinies, transformed themselves into veritable republics. It was by forming confederations among themselves, or with peasants of the country, or with lords of their neighborhood, that the German cities succeeded in the thirteenth, fourteenth, and fifteenth centuries in protecting their commerce and saving their independence. The league of the Rhine and that of Swabia alike had their days of glory. In southern France, too, the great centers likewise constituted durable alliances,—less illustrious, however, because they were not participants in such important events. Arles, Avignon, Marseilles, and a lord, Barral of les Baux, in 1247, concluded an offensive and defensive league which was to last fifty years. Each commune agreed to maintain one hundred horsemen in time of war and fifty in time of peace. Marseilles and Avignon were besides to arm ten vessels for the defense of the Camargue during the two months of harvest. In the north these alliances were very much more rare. Association through an imitated charter did not create between the "mistress of interpretation" and its affiliated towns more than a constitutive, or elemental bond. In Flanders, in the twelfth century, a beginning was made upon a sort of federation of communes of which Arras was in a way the metropolis. But in consequence of the vicissitudes which dismembered this province at the end of the century, and a little later created Artois, this union fell to pieces and commercial rivalries appeared in its place. Elsewhere, the royal opposition prevented these timid alliances from becoming leagues dangerous to the sovereign authority, and all the attempts of this kind were forestalled or severely put down. Even at the end of the thirteenth century, the jurisconsult, Beaumanoir, considered them a formidable danger, recalled the example of the Lombard

towns and of Frederic Barbarossa, and concluded that, as soon as such alliances were perceived, they ought to be crushed, their franchises abolished, the towns destroyed, the inhabitants imprisoned, and the leaders hanged.

Internal Constitution of the Communes; Citizens and Burgesses.—Internally the communes were wholly or in part masters of their affairs. They made laws, dispensed justice, presided over the public administration, and managed their finances. But what are we to understand by the word commune? Of what elements was this controlling group composed? Originally, it is to be presumed, those who had conspired to obtain the concession of liberties from their lords ruled in the free towns. But was this association numerous and open to all who wished to enter it? Or, on the contrary, was it a closed coterie? In the heroic epoch of struggles and perilous negotiations, everything would indicate that the leaders were obliged to recruit as many auxiliaries as possible and that all the inhabitants were doubtless brought into the commune, some even against their will. This broad régime of universal participation was perpetuated in certain centers. William, count of Forcalquier, granting, in 1206, a charter to Manosque, permitted the inhabitants to assemble whenever they should think it proper. At Marseilles, the entire people was consulted upon important matters. At Lyons, the public acts were entitled as follows: "We, the citizens, people, and community of Lyons, assembled according to usage, etc. . . ." Likewise at Beauvais, Senlis, and Rouen, whoever resided within the walls or in the suburbs had to swear allegiance to the commune. "If some refuse," said the charter of Compiègne, "all the others will do justice upon their goods." In such cases all the inhabitants without exception received the title of citizens or of burgesses; citizens in the episcopal cities, burgesses in the other towns.

But most often the exercise of political rights was a monopoly in the hands of a privileged class. In some instances such rights were denied to serfs, natural children, and debtors, or again, to the entire laboring class. Many municipal constitutions, for example, those of Soissons, Noyon, and Laon, declared that to enjoy these privileges it was not enough to reside within the walls, but

that it was necessary to own a house there. Besides, after having satisfied the necessary requirements, an entry-tax must be paid, which varied acording to the place, sometimes according to the wealth of the candidate. In these cases, proprietors alone participated in the benefits and the honors of the association.

Just as political rights had to be acquired, so also they could be lost because of unworthiness. At Tournai a murder caused the civil degradation of the person guilty of it, but he might be restored to his former status upon the payment of four livres of Paris.

As for nobles and churchmen, their situation varied; admitted in some places, they were kept out in others. In Italy and in southern France, vavasors, captains, and knights held an important place in the towns and enjoyed all the public liberties, but in the northern centers, ordinarily both nobles and clergy were courteously excluded; they were at times authorized to swear allegiance to the commune, but they did not enter it. This law, nevertheless, like all those of the middle ages, had a goodly number of exceptions. At Saint-Quentin and at Aire there were knights in the body politic. An act of Philip Augustus in 1180, relative to Corbie, specified that the municipal association was composed of knights, clergy, and confederated burghers. It was even true, at the beginning of the thirteenth century, that a powerful baron, Enguerrand of Coucy, was a citizen of Laon, and a lord of Ponthieu was mayor of Abbeville. But these exceptions did not weaken the prevailing rule.

Thus, in many cases the liberties belonged only to a minority; the lower class, the artisans, or, as they said, the common people, had no part in the administration. The members of the rich commercial class, with the addition in the south of some nobles, alone exercised power; they alone were citizens or burgesses, while the *manants* were not. "The manants," said a contemporary, "are those who live in the towns and cities and do not have the burghal privileges." And in proportion as the prosperity of the towns increased, as the municipal privileges became more desirable and the honors more lucrative, new admissions were more rare, and the governing class was more and more exclusive. While demo-

cratic here and there, ordinarily this régime sanctioned the reign of a sort of aristocracy of wealth; sometimes it was even the prey of an oligarchy.

General Assembly of the Inhabitants.—In a certain number of communes, the source of all authority was in a general assembly of the citizens or burgesses. It not only named the magistrates, but itself did part of the work of government,—deliberated upon important affairs, and accepted or rejected imposts. In the towns of the south, this assembly bore the name parliament; at Aix, at the beginning of the thirteenth century, the notables [1] came together from time to time "in full parliament." [2] At Narbonne, the assembly was convoked at least once a month, and at Sisteron and Montpellier also very frequently. At Marseilles the whole people gathered on the square of Sainte-Marie-des-Accoules, before the town hall.[3] From the balcony they were informed as to the deliberations of the council and of the projects worked out, and the people approved them by acclamation or rejected them by sharp cries. At Lyons in 1292, all the inhabitants without exception were summoned to the church of Saint-Nizier, solemnly, at the sound of the great bell, in order to accept or reject the protection of the king of France. A great multitude of people was present (more than two-thirds of the citizens), and the entire assembly accepted what was proposed. And we read in this document that this meeting was in no way extraordinary, that it was according to custom [4]—an interesting fact. Here were at least the appearances of direct government. But this was possible only in the simplest cases, when the questions were clearly put and when the body politic in assembly had only to come to a decision of yes or no. Also, it might be asked whether the consultation secured a really true, satisfactory expression of the sentiments of the majority. This could scarcely be affirmed, especially with respect to the large towns. Save when it possessed the right of electing the public officers, the assembly could exercise upon the conduct of affairs only an intermittent influence, only an insecure control.

[1 *Probi homines.*]
[2 *in pleno parlemento.*]
[3 *Palatium communis Massilie.*]
[4 "*more solito.*"]

Municipal Magistrates: Towns of the South.—Quite different was the rôle of the magistrates. It was they who really ruled the communes, and administered them.

There was nothing uniform in the organization of these magistracies, either in regard to their number, their titles, or the manner of their choice. In southern France, they often received the name consuls or councilors;[1] there were consuls at Marseilles, Avignon, Narbonne, Lectoure, Albi, Montpellier, and elsewhere. At Toulouse, where their meeting was known as the chapter,[2] they were called sometimes *consules de capitulo,* and sometimes *capitularii,* a term which in common speech has given the word *capitouls.* Hence the town hall came to be designated as the capitol —a name which in no way dates back to antiquity, as local pride has vainly maintained since the fourteenth century. At Bordeaux and in the surrounding region, at la Réole, Mont-de-Marsan, and Dax, the power was in the hands of a mayor and jurats[3]—from this word was drawn in the sixteenth century, the learned expression *jurade,* to designate their college. Elsewhere, it was syndics that governed.

The number of these officers often varied from two to six; occasionally it was larger. There were eight consuls at Avignon, twelve at Marseilles, twenty-four at Toulouse; and fifty jurats at Bordeaux. At Montpellier, they distinguished between twelve major consuls charged with the administration, and seven consuls representing the seven classes of the inhabitants.

Generally they did not govern alone, but with the aid of one or two councils which were real deliberative bodies. Thus there was at Marseilles in the thirteenth century a body of eighty-nine persons. The great majority of its members, or eighty, were taken from the first class of citizens, that of the rich burghers; the second class, that of clerics who had the title of doctor, furnished three representatives; the remainder was made up of six heads of trades. At Arles the public council included the archbishop, the consuls, and the foremost inhabitants.[4] At Bordeaux, under the English rule, in the thirteenth century the magistrates had the aid

[1 *Consules,* or *consiliarii.*]
[2 *Capitulum.*]
[3 *Jurati.*]
[4 *Principes.*]

of two assemblies, one of thirty councilors, the other of three hundred citizens elected under the title of defensors.

The manner of choosing the magistrates varied from one city to another. At Lectoure and Albi, the consuls were elected by direct suffrages of the whole body of citizens; but this régime was too simple to be adopted everywhere, and the confused minds of the people of those times often preferred modes that were infinitely complicated. They usually accorded part of the voting power to the members of the commune; they also considered that the magistrates retiring from office should have a special voting privilege. These two elements were combined in unequal proportions, and from this combination resulted electoral bodies which were most diversely constituted. Thus at Montpellier the burgesses named electors of the second degree, who met with the retiring consuls and both together chose sixty notables, from whom the new officers were drawn by lot. Very frequently the inhabitants of the towns were divided into several classes, each having its fixed number of representatives. The nobles in particular almost always elected magistrates distinct from those of the burghers. At Arles, there were two consuls from each order, and later four noble consuls against eight from the burghers. At Cordes, they were two against six, and at Rabastens, two against eight. At Nîmes, in 1208, to aid in the maintenance of the public peace it was decided that the burghers should name the consuls of the nobles, and the nobles the consuls of the burghers. In a few towns the seignior preserved the right of influencing the election. Thus it was with the archbishop at Arles. In 1207, the retiring officers not being able to agree as to their successors, the archbishop created new consuls by his own authority, "and the people accepted them with gratitude and good will." Elsewhere the suzerain chose these magistrates from a list drawn up and presented by the electors. Sometimes he only ratified the election, without participating in it. The only characteristic common to all these methods of choice was, that the high offices in the towns of the south were accessible only to two classes, the nobles and the rich burghers, but not to the lesser inhabitants.

Almost everywhere the citizens were divided into factions to such an extent that it was at times impossible to find among them

impartial depositories of public power. Consequently a number of towns in Provence, following the example of the Italian cities, had recourse to that singular institution, the podestà. Marseilles in 1214, Arles in 1220, and Avignon in 1223 called to their aid outsiders of good repute, almost always Italian nobles who, indifferent to local rivalries, swore to govern "without hate, without favor, without fear, and without personal profit." They were then invested with full powers and the entire constitution was subordinated to them. This was provisional dictatorship superimposed upon the communal régime. It lasted until the middle of the thirteenth century.

The most characteristic trait of the organization of the southern towns, which stands out in spite of the infinite variety of forms, was their independence. They governed themselves, through magistrates whom they had chosen themselves—or at most their lords intervened in the choice. Very free externally, they were very autonomous internally.

Magistracies of the Northern Communes.—The same conditions did not exist in the north. There also, however, communal magistrates bore various names. In Flanders, Artois, Picardy, and Burgundy they were generally called échevins, like the local judges of the Carolingian epoch whose functions they had in part preserved. Elsewhere, and notably in the west, they were called *jurés*, a term which is identical with jurats, which was applied to the magistrates of the region of Bordeaux. Often they were called peers. In certain regions there were accumulations of the most varied names. Saint-Quentin had two councils juxtaposed, that of the échevins, and that of the jurés. Lille was governed by échevins, *rewards, voire-jurés*,[1] jurés, and counts of the Hansa. Rouen and all the localities where the celebrated Establishments of Rouen were in force, was administered by an assembly of a hundred peers, and by two small bodies, one of twelve échevins, the other of twelve councilors, their members being chosen among the hundred peers. Besides, at the head of each of these communes was a personage (sometimes two or three) invested with the supreme authority of the municipality.

[1 *Vere-iurati.*]

This was the mayor. By exception, at Tournai this officer was called the provost, at Autun the *vierg*, and at Lille the *reward*.

The charters give but scant information as to the principles according to which these magistrates were chosen. It has long been repeated that the fundamental character of every commune was to have the magistrates elected periodically by the inhabitants. This is an error. In many communes, and in those of not the least power, the magistracies were filled by the lords. At Cambrai the archbishop named the échevins and the jurés. The vierg of Autun was simply the representative of the duke of Burgundy. The duke also chose the mayor and the échevins of Dijon. According to the Establishments of Rouen the mayor was to be chosen by the duke of Normandy from a list of three candidates drawn up by the municipal body. The charter of Corbie said "the échevins and the office of échevin of the said town belong to the church." Sometimes also the college of public officers was coöptative. At Rouen, the real power was concentrated in the hands of the hundred peers, who selected certain among them to perform the duties of échevins and councilors; when one of these peers died the others chose his successor immediately, without consulting the rest of the commune. And from all this it will be clear, too, that often the magistrates were not subjected to periodical reëlections. At Bruges, Brussels, in fact in many localities, their tenure of office was for life. But again in other towns, like Athies, the mayor and the twelve jurés were named annually by the common election and assent of the town. These anomalies are explained if one recalls that the communal constitutions—which were really contracts entered into as the result of negotiation, purchase, and war—were made up of compromises. The burgesses, far from modifying throughout the existing seigniorial administration, retained as much of it as they could, and were content to adapt it bodily to their needs, in so far as their lord would consent: in some cases they confiscated the organs of that administration to their own use; in other cases they were obliged to share them with the suzerain. Thus the body of échevins, the old Carolingian tribunal which the barons had appropriated, became almost everywhere the town council, often preserving the aspect of a mixed institution, at once feudal

and communal. It is proper to add that more and more, in the course of the thirteenth century, the towns tended to dispossess the lords and take complete possession of this office of échevin and make it annual. Ghent attained this end in 1212, Montdidier in 1220, Brussels in 1234, Lille in 1235, and Bruges in 1241. A similar concession was granted to Douai in 1228; but, curiously, the magistrates of this town were to be reëlected only every thirteen months.

If this transformation increased the independence of the communes viewed as wholes, the mass of the inhabitants profited but little by it. The people of the lower class had perhaps taken part in the communal revolution, had perhaps sustained with all their might the public demands; but it does not appear that they aspired from the first to municipal honors. They had simply changed masters. Instead of being lessened, the distance which separated the higher burghers from the lower classes continually increased. However varied and complicated were the modes of election, their uniform result was to maintain continuously the same families in power. These privileged clans, which always furnished the magistrates, bore in the towns of Flanders and of the east the special name of *lineages* or of *parages*. They formed a close aristocracy, which became more and more close. Sometimes they went back to ancient titles in order to justify and legalize, in a way, the monopoly which they enjoyed. Thus at Verdun, toward the end of the thirteenth century, three families claimed that they had formerly furnished the sum of twenty thousand livres to buy from the bishop the viscountship of the town, and they made use of this to claim exclusive possession of the municipal magistracies. Less learned, and less independent of all seigniorial interference, the municipal constitutions of the northern towns were still more oligarchical than those of the southern cities.

Powers of Communal Magistrates: Justice.—These magistrates, who were organs, though not always mandataries of the commune, exercised powers in its name. These powers, or prerogatives, were precisely the same as were attached to the possession of a barony. First of all—and this was one of their essential rights—they dispensed justice to their fellow citizens, as a lord did to his villains. In the middle ages it was said that

"fief and justice are one." So, the powerful centers of the south and the sworn towns of the north possessed a jurisdiction as unlimited as that of the lords. They imposed fines, and inflicted blows and capital punishment. They had their pillories where they exposed and flogged their criminals and their gibbets where the worst were executed by the hangman. Some have tried to make this right of justice one of the essential attributes of the communal towns. This is an error. Certain of these communes—recognized as such in all the documents, including their charters—possessed it only in part. In the centers where the constitution called the Establishments of Rouen was in force the jurés, who were elected each year by the peers, took cognizance of civil and criminal causes; but with reference to crimes, they exercised only middle and low justice. High justice belonged to the officers of the suzerain. The former imposed fines, and punishment by imprisonment and the pillory, but only the latter had the right to decree mutilations or death. There were communes, too, which possessed jurisdiction simply in matters of police and the streets; and in some, even, as at Chauny in Picardy, there was not the least trace of jurisdiction to be found.

Scholars have long discussed the origin of these judicial prerogatives, and have asked how simple burghers succeeded in such large measure in dismembering the feudal sovereignties. To explain this fact it must first be recalled that the tribunals of échevins were often the centers of new franchises, that these magistrates, while remaining judges, frequently became the first officers of the commune. When, on the contrary, circumstances left to this magistracy its seigniorial character, the community none the less acquired a jurisdiction of its own. This came about through the fateful law in accordance with which every authority tends to increase in power; through a natural extension of the police rights with which the municipal administrators were invested, the rights of vengeance, arson, and demolition which they exercised against all who insulted the town or injured its interests; and finally, through that solidarity which, in virtue indeed of the charters of foundation, ordered all the burghers to render assistance and mutual aid. The practical working-out of the rights

and usages brought with it a kind of jurisdiction which it was easy to increase by a continuous series of usurpations.

Judicial Division of the Towns.—But one might get a false idea of these towns, even of the most favored among them, by imagining that the entire population was dependent upon the municipal magistrates. As a rule they contained enclaves, islets as it were, which depended upon the king, the suzerain, or particular lords. In the episcopal cities, the bishop and his chapter always retained jurisdiction over the cloister, often also over a part of the surrounding locality, sometimes even over the entire "city," for it might happen that the "bourg" alone was free. The churches and the abbeys likewise preserved their domains. Frequently the castle and the fortress were under a chatelain, a viscount, or a vidame—a vassal or officer of the suzerain, the bishop or the king. And again other persons might possess, within the walls themselves, fiefs exempt from the jurisdiction of the communes; for example, a street, or a quarter, as that of the abbey of Saint Vaast at Arras. At Amiens, the municipal justice was exercised side by side with that of the bishop, who was represented by a vidame, with that of the king, who was represented by a chatelain, and with that of the count, who was represented by another chatelain. Thus the commune never comprised the entire territory of the town wherein it was established. It strove, it is true, to conquer it bit by bit, profiting by every circumstance, proceeding sometimes by encroachment and usurpation, or again by negotiation and purchase. Tournai took from the bishop all his judicial power. But those towns were very rare which attained this end. Even when they succeeded in ruling the entire territory comprised within their boundaries, there still remained a considerable number of inhabitants whose social condition exempted them from the communal law. The nobles remained amenable to feudal jurisdiction, and the clergy to that of the church; the serfs always belonged to their masters; and besides all these there were certain classes of persons to be found in most localities who, under the name of "freemen" or "free burghers" or "free sergeants," enjoyed various immunities and depended upon this or that lord, on the church, or on the king. These remarks, too often omitted by the historians of the

towns, are indispensable if one desires to know what a commune was like from the inside, and how its inhabitants lived from day to day.

But these constitutions, so different from one place to another, these judicial prerogatives so unevenly divided, and this complication of domains interwoven one with another even to chaos, were not of a nature, either, to distinguish the towns from the fiefs. It suffices to glance at the map of some feudal province to see how much the noble lands encroached upon one another, in what inextricable tangles they were, and with how many holes the fiefs were here and there perforated.

Legislative and Administrative Powers of Communal Magistrates.—The communal magistrates had legislative power, issued ordinances, and regulated industry. They received fines, administered—very badly, it is true—the municipal finances, and managed communal property. They fixed and levied imposts necessary for the maintenance of the buildings and fortifications and for the conduct of affairs; such as the tailles, tolls, octrois, and market dues. They commanded the militia, drilled them, and led them to battle. There was, nevertheless, one privilege which the towns, even the most favored, never shared with the lords, at least in France; that of coining money. Whatever may have been claimed, no pieces stamped with the communal device have been found.[1]

In the exercise of these numerous prerogatives the magistrates had of course the aid of minor officials. Such were the municipal receiver,[2] and the clerk of the commune, who besides performing the duties of a modern town clerk, served at the same time as clerk of the court of justice. Such also were numerous employees: sergeants, ushers, police officers, watchmen, and porters. In the important towns, certain powers were even delegated to commissions, like that of *paiseurs*, sort of justices of the peace charged with a rôle of conciliation before lawsuits; that of *gard'-orphènes*,

[1] It is probably necessary to make exceptions in the case of certain small copper coins, *mailles*, *pittes*, and *pougeoises*, which seem to have been issued in certain towns by communal authority. But these subsidiary pieces, created to facilitate transactions, did not, properly speaking, constitute real money.

[2] Called in the north, *argentier*, *dépensier*, *trésoirier*; in the south, *clavaire*.]

to whom was confided the wardship of orphans; and many others, to keep up the fortifications, see to the assessment of imposts, and so on.

Communal Seal.—Finally, the communes, which like the barons enjoyed seigniorial rights, had seals, symbols of the judicial, legislative, and administrative power which they possessed. This was a mark of emancipation, and of entrance into the feudal class. At first they had but a single communal seal. Later this great seal was reserved for solemn acts of general interest, and the seal of causes, called also the seal of recognizance, of smaller form, was made for use in acts of secondary importance, to give authenticity to judgments, private contracts, and so on. These imprints, which have been preserved in considerable numbers are very interesting. They are undisputed documents coming from the communes themselves, and reveal, each by its peculiar embossing, the nature and pretensions of these small seigniories. Upon some, as that of Saint-Omer, is a sitting of the communal council; on others, as that of Arras, one may see the seat of the municipality, the monumental house of the merchants, become the town hall. Others give a reduced image of the place and of its enclosing walls. Often they are of a warlike appearance, representing a strong castle, a man-at-arms, or the mayor standing clothed in coat of mail, with helmet on his head and buckler and sword in his hand. At Poitiers, Saint-Riquier, Saint-Josse, Péronne, and Doullens it is a knight fully armed that symbolizes the burghal power.

The Watch-tower.—The commune, moreover, was a fortified place, analogous to the seigniorial castle. It was surrounded by walls, and did not lack even the donjon, which was its watch-tower. This was a high tower, rising above one of the squares of the town, and in it hung the public bells. The ringers, always on the watch (whence their name of watchmen), abode there, and looking out from a single turret to all points of the horizon, gave warning to the people as soon as any danger appeared. They also called the burghers to the assembly, the workmen to their tasks, and the inhabitants to rest at night by sounding the curfew. And since at this time the cities had not yet erected the admirable town halls which came in the fourteenth, fifteenth, and

sixteenth centuries, it was the watch-tower, in default of a hall, which often served as their public building. In the lower part of this tower they kept their prisoners. Above was the assembly hall of the échevins; and still higher were deposited the archives, charters, seals, and treasure. This was the center, the rallying place of the town.

On the whole, the emancipated communities, like the knights, were a part of the feudal hierarchy; they were vassals and suzerains. Within, whether their constitution was very aristocratic or only half so, whether the magistrates, depositories of the public authority, were many or few, the general fact remains that they exercised like the feudatories, judicial, legislative, and financial powers, and that the free towns had their own seal and their watch-tower, which were emblems of a seigniory, and palpable evidences of their resemblance to baronies. When the king destroyed a commune and appropriated it, he had the seal broken and the watch-tower demolished; when he took possession of a fief, he had the donjon razed. Internally, as externally, the commune had the features of a collective seigniory.

Public Peace in the Communes.—It must not be believed that the charters of enfranchisement put an end to the impassioned struggles between the towns and the lords. Without doubt the communities were no longer victims of overwhelming exactions; but they sought incessantly to develop their prerogatives, while the suzerains tried in their turn to recover what they had lost by past concessions. Also, without respect for the jurisdictions juxtaposed with their own, the communities incessantly attempted to expel those feudal powers that had retained domains or rights upon the municipal territory. Now since emancipation had afforded them powerful means of attack and resistance the result was bitter struggles and sharp and prolonged crises. While there is a charm in the possession of liberty and the strength to fight, even at the risk of being conquered, it is also to be presumed that the townspeople often had to suffer.

Conflicts with the Church.—It was chiefly with the church that the burghers had incessant, sometimes tragic struggles. If the clergy, on their part, nourished a spirit of systematic hostility, the burghers showed equally malevolent sentiments toward them.

Especially, they tried to subject the churchmen to the communal taille and to force them to contribute to the public expenses, whence acts of resistance and violent conflicts. At the beginning of the thirteenth century, the people of Verdun having compelled the clergy to pay taxes, the bishop assembled troops, besieged the city, and forced it to surrender. The communes violated, too, the privileges of jurisdiction belonging to the chapters and the abbeys, pursuing malefactors even upon their domains, in spite of the right of sanctuary, and arresting the vassals and the servants of the clergy. At Noyon, in 1222, the magistrates seized a servitor of the chapter of Notre Dame, in the cemetery of that church, and threw him into prison. Forthwith the chapter put the town under an interdict and excommunicated the mayor and the jurés. Then the burghers at repeated cries of "Commune! Commune!" assembled, invaded the cloister, and the cathedral, where they wounded the official, the dean, and a canon. The monks were pursued into the streets, insulted, and hooted. At Laon, in 1294, two nobles maltreated a burgher. His fellow-townsmen turned out against them, but they took refuge in the cathedral. A dignitary, hoping to save them, sent them up into a tower, and the crowd, being refused their surrender, guarded the doors. On the morrow the tocsin called the inhabitants to arms, and the crowd tumultuously invaded the church, seized the nobles and their protector, dragged them by their feet and hair through the streets and squares to the house of the maltreated burgher, struck them with their fists, and with clubs and hatchets, and threw them into prison, where one died. At Beauvais, Rheims, and Arras, the burghers all pledged themselves not to sell anything to the clergy or to their agents; they would thus starve them.

For their part, the ecclesiastical lords were scarcely more tender. The abbot of Vézelay and the bishop of Beauvais put their respective towns in a state of blockade, forbidding the inhabitants of neighboring localities to bring provisions to their villains. In 1305, the bishop of Beauvais, imitating the exploits of the archbishop of Cambrai, gave his own city over to armed bands who subjected it to pillage, fire, and bloodshed. Elsewhere the ecclesiastical courts, supported by the royal tribunals, crushed

the communities with fines. The history of the commune of Soissons was but one long series of conflicts between the burghal magistracy and the chapter. Beauvais, Corbie, Laon, and Saint-Riquier were in perpetual hostility to the church.

Brotherhoods in the Towns of Southern France.—There was hardly more peace in the southern cities, where the inhabitants, to organize the struggle against their common enemies, established veritable secret societies, under the name of brotherhoods. At Marseilles, in 1212, the inhabitants formed a brotherhood "to defend the innocent and repress unjust violences." Toulouse and Bayonne had their political brotherhoods, which were very much feared by the lords. At Avignon in 1215, the nobles complained of having been despoiled by the brotherhoods. At Arles, in the first half of the thirteenth century, the archbishop was constantly struggling against these sworn associations. About 1232, a *sirvente*[1] by Bertrand d'Alamanon accused the prelate of having caused a certain Junquere (perhaps William of Jonquières) to perish in prison for having been one of the chiefs of the brotherhoods. In 1235, one of these societies overturned the podestà, seized the government, imposed the oath of obedience upon all the inhabitants, took possession of the palace of the archbishop, and of his lands and stock, and had even the temerity to put the church under an interdict—celebrating marriages without ecclesiastical intervention, and forbidding anything to be sold to the clergy or even water to be brought to them. Continually dissolved, the brotherhoods were as continually reëstablished in response to the quick and violent passions of the inhabitants.

Internal and Social Discord.—When the burghers were not fighting their common enemies they were fighting among themselves. The body of citizens was usually divided into two or more factions, grouped around those families which reserved the public honors to themselves and at the same time wrangled over them. The wars between these families were endless, being transmitted from generation to generation, and so bitter that in

[1 From the Latin, *servire*; Old French, *serventois*. Originally it was a poem of the service of the saints; later it was dedicated to princes and ladies, expressing praise or censure. Still later it became, under the use of the troubadours, mostly satirical.]

some of the southern cities, as we have seen, they rendered necessary the institution of the podestà.

In the course of the thirteenth century, these family rivalries became involved with grave social troubles. In all the towns, let us recall, even where the constitution had originally had a democratic character, the power was in the hands of rich burghers, who ruled absolutely, and whose unchangeable and indolent lot a cleric of Troyes envied in a romance entitled "Renard le Contrefait." This caste, as exclusive and narrow as that of the feudal lords, was also as harsh toward the people of the lower classes, who had supported it—oppressing them with imposts, charges, and injustices. But these people, who were the majority of the inhabitants, were not long in organizing themselves. They formed a little commune within the greater, an association which had its laws and its chiefs and conspired in its turn, arousing insurrections against the aristocracy. The chief sin they laid at the door of the dominant coterie was the bad administration of the municipal finances. At every turn they accused the magistrates of fraud and venality, and claimed the right of supervising their administration. "And after that," said Beaumanoir, "when the common people demanded that they render accounts to them they evaded the demands by saying that they rendered their accounts to each other." The complaint concerning the finances was well founded, for the towns kept running into debt, in England as in France, in the Low Counties as in Germany and in Italy. And this led to frequent disorders. At Beauvais in 1233, the town was divided between two camps, that of the lower and that of the higher people, the latter represented especially by the money changers. An uprising resulted; the populace rushed upon the money changers, killing some and wounding others. The peace was so disturbed that Saint Louis appointed to the office of mayor an outsider. Hardly had he arrived when the insurrectionists pursued him, insulted him, and tore his clothing, crying: "That's how we make you mayor." Then the king marched against the mutinous town, demolished the houses of the principal culprits, and imprisoned fifteen hundred of the factious inhabitants. At this date the aristocracy was still too strong to allow its privileges to be invaded; but at the end of the thirteenth century, as

the evil that the urban populations suffered from had only grown worse, there were so many outbreaks of hatred and violence that it became impossible to resist them. In the Italian cities the lower classes, or as they were called in Florence, the "minor arts," succeeded in having representatives in the public councils. In Flanders, at Ghent, Douai, Bruges, Ypres, and Arras, the populace revolted between 1275 and 1280. At Rouen, about the same time, a mayor was assassinated. Before this flood of menacing demands the coteries in the towns were obliged to capitulate; and in the course of the fourteenth century the communes of Flanders, like those of Germany, were to give a larger place, in the election of the magistrates, to the corporations of workmen.

Seizure of the French Communes by the King.—In France it was the royal power which undertook to reëstablish the peace of the cities and bourgs. As early as the reign of Philip Augustus, the legists of the crown had proclaimed the principle that all the communes of the realm, those which were situated in the seigniories of feudatories as well as those of the royal domain, were royal towns and depended immediately upon the sovereign. Their followers strove successfully to make this doctrine prevail; they evoked "royal cases" from the municipal jurisdictions to the king's court, received in Parlement appeals from the communal decisions, summoned the communes for service in the king's army, controlled the administration of the magistrates, interfered in the elections and imposed fines on intractable communes. Desirous of satisfying the popular complaints and of restricting the arbitrary power of the oligarchy, the royal power often modified the constitutions for the benefit of the common people, but it took advantage of the circumstances to confiscate communal liberties. The beginning upon this was made under Saint Louis, when the chamber of accounts extended its control over the management of the municipal finances. The town budgets, many of which have come down to us, show that usually the expenses exceeded the receipts and that the amount of the debt was generally enormous; but the royal financial administration was in large part responsible for this disastrous state. Not content with seeing the communities overloaded with taxes and imposts, it strove to impoverish them; it overwhelmed them with enormous fines for the least

fault, certain in this manner to reduce them to its mercy. This was a devouring and usurping guardianship, which under the pretext of justice despoiled its protégés. Ruined, agitated by revolts of the common people, and tormented by the royal functionaries, the communes finally asked for liquidation; and that meant suppression of their privileges, their autonomy, and their independence. Numerous towns had to succumb thus, especially under Philip the Fair, and those which survived kept but a vain semblance of their former condition. This time again royalty acted toward the communes the same as toward the lords.

We have passed beyond the chronological limits of this study. This was necessary, to show the political and social régime to which the urban communities were subjected and the consequences which it brought in its train. Incessant strifes with the nobles, mortal struggles with the clergy, and internal discords and civil wars provoked by the oligarchical tyranny of an exclusive caste formed the daily condition of the free town in the middle ages, down to the day when the constitutions of some were modified and others felt the tightening grasp of the royal hand. These municipal constitutions were sometimes called "institutions of peace," but this turned out to be bitter irony. Never was liberty more contentious nor more exclusive than in these little republics, and one may wonder whether the condition of the lower classes was not sometimes as rigorous as in the past. In that case the communal revolution should be considered as having only removed the masses from the power of one man to deliver them over to exploitation by a group, only substituted for the lordship of one master the collective seigniory of a few burghers. Nevertheless, in spite of all its defects, the communal régime had the incontestable merit of awakening public spirit in the towns, of shaking off the torpor of the inhabitants, of giving them enthusiasm for public causes, and of developing in them the sentiments of noble and independent pride which liberty inspires not only in those who enjoy its benefits but also in those who try to attain it.

IV

TOWNS OF BURGESSY; NEW TOWNS

Towns of Burgessy.—Under this conventional name, as we have seen, are designated those communities which did not have the fortune of dismembering to their profit the seigniorial sovereignty, of gaining even the slightest autonomy, but which succeeded nevertheless in limiting the exercise of arbitrary power to which they had been subjected. Without the right of war and peace, without legislative power, independent jurisdiction, watch-tower, or municipal seal, their inhabitants still had guaranties against such exactions as imposts, taxes, armed service, and justice. In such a case the charter consisted especially of a series of limitations imposed upon seigniorial omnipotence; it was a succession of negative provisions. However, it also mentioned the prerogatives, or liberties, granted to the inhabitants. But these liberties were not of a political order; they were rather fiscal, judicial, and commercial favors.

One of the most celebrated of these documents is the charter granted by Louis VII to the little town of Lorris. It is made up of thirty-three articles. Let us first note the most important restrictive provisions. No man of Lorris was to be subjected to any impost on food-stuffs, to any tolls, market-dues, tariff, or watch-duties, or to any tailles or exactions. As for corvées, the king could not impose any, except to take his wine to Orleans, but not elsewhere. Each person was to pay an annual quit-rent of not more than six deniers for his house, and an equal sum for every arpent of land which he cultivated; (this article was found in most of these charters). The right of credit to which the prince and his officers were entitled was regulated, and limited to fifteen

days. The inhabitants owed host and chevauchée only on condition of being able to return home the evening of the day on which they left. The royal provost would dispense justice, but the burghers should not be compelled to go out of their towns to be judged. They were not to be held in prison if they could give bail, nor was the wager of battle to be imposed upon them. Lastly the scale of fines was to be reduced. The positive privileges were of less number: when the provost and the sergeants assumed office, they were to swear to observe the customs; security at the fairs and markets of Lorris was to be guaranteed, when a serf had lived in a town a year and a day without his master reclaiming him, he was to be free. Elsewhere these favors were different, as for example at Bourges, where the charter permitted all the inhabitants to build houses against the town walls, and widows to remarry without royal consent.

There was nothing in these contracts which resembled a constitutive law; they were but series of guaranties, or favors. Individually the inhabitants of Lorris or of Bourges enjoyed divers privileges; collectively they had no rights and did not exist. But conditions were not everywhere the same, and other towns of burgessy constituted communities, possessed certain rights as collective bodies. Such was the little place of Beaumont-en-Argonne, which received, about 1182, a law of fifty-five articles from the archbishop of Rheims, Guillaume aux Blanches-Mains. It was administered by a mayor and jurés elected each year by the inhabitants, who reported their financial administration to the seigniorial officers. They were assisted by a council of forty burgesses, who had the power of reforming the statutes, and who later added to them provisions of civil law in a hundred and thirty-four articles. They even had some jurisdiction, dispensing low justice in the name of the archbishop, who reserved for his officers only the more important cases. A constitution of this kind was singularly like the communal type. Beaumont was, indeed, but an embryo commune; it lacked only the name. It is almost impossible to establish a valid distinction, or draw a hard and fast line between these two kinds of towns.

These liberties were restricted; the cities and bourgs enjoying them were far from being sovereign states. But on the other

hand peace ruled in them; and internal discord did not ravage them. The advantages of these charters must without doubt have outweighed their defects in the eyes of the people of the middle ages, for they were appreciated in very eulogistic terms, and they spread with extreme rapidity. That of Lorris became the inheritance of more than eighty places in the Isle-de-France, Orléanais, Berry, and Touraine, whence it invaded Burgundy and the Anglo-Norman provinces. The law of Beaumont was adopted in more than three hundred towns and villages of the north-east: the archbishop of Rheims, the dukes of Lorraine, the dukes of Luxemburg, and the counts of Chiny vied with one another in spreading it on their domains.

These half-free towns were especially abundant in the center of the realm, thus separating the region of the consular municipalities from that of the sworn communes. This was because the king of France ruled there. He was powerful enough to hinder complete emancipation, and clever enough, ordinarily, to grant the communities the most needed guaranties. There autonomous centers were very rare, and those of burgessy very numerous. Orleans and Paris never had any other régime than that of burgessy.

New Towns.—There was also another factor which contributed to the spread of these charters; namely, the creation, from the eleventh to the fourteenth century, of numerous new towns. As early as the eleventh century many abbeys and lords thought to exploit their domains to better advantage by establishing new centers of habitation upon them. On a carefully chosen site, with boundaries marked by crosses—symbols of the "Peace of God" which was to rule there,—a church was erected, an allotment of lands made, and an encircling wall built. Also, a charter was promulgated offering to settlers inducements in the way of liberties, privileges, the creation of a market, distributions of lands, and the promise of security. From that time the place became a sanctuary, protected by conciliar ordinances relative to the Peace of God, by ecclesiastical immunities, by special privileges, and by the military power of the lord upon whose lands it was established. Thither came peasants and artisans desirous of escaping servile burdens, runaway serfs, and many of those nomads who were so numerous in the middle ages, and who were thus brought to

settle down. Ordinarily two lords, most often a church and a great layman, joined in a reciprocal agreement for the creation of settlements of this kind. One of them furnished the site, the church extended to it the privileges of immunity which its possessions enjoyed and conferred upon it the right of sanctuary, and the lord added the protection of his power. Then the two co-lords ruled together, sharing the expenses and the profits. These new centers were long called in France by the very significant name of "refuges."[1] Some were established upon lands until then uncultivated and uninhabited, others on the contrary were founded beside already existing centers, often near a monastery, a castle, or even an older town. Most were never anything but villages or small market-towns, but others became important places, such as Lavaur, Montauban, Bayonne, and la Rochelle—these, to name but a few, owed, some their origin, others their growth, to creations of this kind.

They multiplied especially when in the twelfth century lay authority had become more powerful and possessed wider means of action. Often nobles or churches made a reciprocal agreement with the sovereign, whose representative thus came to exercise co-seigniorial rights over the lands of lay or ecclesiastical vassals. It is easily imagined to what extent the kings would favor these settlements, the most of which were for them real acquisitions. Thus the movement spread rapidly throughout France. In the north these new centers were designated as this or that *Villeneuve*. Most of the numerous localities of this name had this artificial origin. Louis VII founded Villeneuve-le-Roi in Senonais, Villeneuve near Compiègne, Villeneuve d'Etampes, and so on. In 1175, the Count of Champagne created Villeneuve des Ponts-sur-Seine. In the south these new places were called *bastides*, a name sufficient in itself to indicate fortified places. Military aid, in fact, was often added to the other advantages which these settlements offered. The kings of England in their continental possessions, and the kings of France in their southern provinces, after the treaty of Paris of 1229, constructed numerous bastides. Most of them are recognizable to-day by their character-

[1 *Salvitates.*]

istic name, but especially by their regular plan, at least the traces of which they have generally preserved. It was always a rectangle, as regular as the nature of the place permitted, and surrounded by walls which were pierced by fortified gates and dominated by towers. Near the center there was a great square, the market, surrounded by arcades which were formed by overhanging stories supported upon arches and piers. In the middle of this arose the market-hall, whose upper story served as a town hall. Another square, the cemetery, surrounded the church, which was often fortified so as to serve as a place of retreat. In these squares terminated wide, straight streets, which were cut at right angles by other streets; so that the plan of these bastides resembled a checker-board.

These towns, in the north as in the south, were granted at their foundation charters of customs, privileges, and liberties, very analogous to those just analyzed. Beaumont, a summary of whose most important prerogatives was given, was a new town, a place of sanctuary, where exiles, strangers, and condemned persons could seek refuge—provided they had not committed theft or murder. Limitations of imposts and of corvées, tariffs of fines, rules of civil and penal law, such were often the favors promised to the inhabitants. This was, in short, under a modest form, the régime of Lorris; and so from these new collectivities which arose in great number, were formed veritable towns of burgessy.

Although these communities were less clamorous, less ambitious, and made less show than the sovereign cities, they played no less a rôle in the history of the urban classes in the middle ages. In the first place, they were very numerous; they could be counted by hundreds. This was the most frequent form of private emancipation. Moreover, if they did not have a class of citizens who exercised public powers with complete independence, as compensation to the lower classes in them were never oppressed by a dominant coterie. All of the inhabitants participated in the same rights and liberties, which meant less prerogatives for the few and more guaranties for the masses. Lastly, if it be remembered that at least in France the autonomy of the most powerful communes was already menaced and doomed by the encroaching power of the king, and that it could not be long before they were absorbed, it

will be understood why many historians have considered the condition of the towns of burgessy preferable to that of the free towns. If it was not so flattering to public vanity, it was less troubled and less precarious. Less proud, it owed to its very humility preservation from serious falls.

V

CONCLUSION

On the whole, nothing could be more variable, or diverse, than the condition of the towns in the middle of the thirteenth century. Diverse in their origin, some dated back to antiquity; others, born of the wretchedness of the times, during the ninth and tenth centuries, were slowly formed by continuous agglomeration about a monastery or a castle; a goodly number were of recent and artificial formation and owed their existence to the intelligent initiative of a few barons. Diverse in their history, some sustained struggles that were prolonged and hard, and sometimes savage; many bought more privileges than they gained by conquest; certain ones neither had to fight nor spend money, and saw themselves granted privileges which they did not ask for. Diverse in their prerogatives, some became independent republics, others consular municipalities or sworn communes, free like the lords, and involved like them in the feudal hierarchy; some, finally, possessed liberties so strictly limited to the civil and the administrative order that historians have made of them a separate class, under the name of towns of burgessy. These innumerable differences should not surprise us; it is the law of life and of progress. Societies, like species, become diversified as they develop.

Development, in fact, is the common characteristic of the history of urban populations of the middle ages; the variety of their development is infinite. Let us note the profound transformation they underwent. In place of small bourgs, continually narrowing their boundaries in order to have less to defend, and becoming depopulated through wars, pillage, and famines that commerce no longer mitigated, were substituted more numerous and larger

towns, which outgrew their walls and had powerful suburbs, and in which, thanks to the impulse of industry and trade, inhabitants abounded. In place of miserable and servile populations succeeded new generations, which attained competence, sometimes wealth, and through competence liberty: personal and civil liberty always and everywhere; often also collective and political liberty, although in infinitely varied degrees and very unequally distributed. The towns from the seventh to the tenth century seemed mute; a sepulchral atmosphere pervaded them. In the thirteenth century the cities hummed like hives. The streets were still narrow, irregular, and unsanitary, but they were teeming with life. Encumbering them were bales, baskets, venders crying their wares, and enormous signs swinging in the wind, which sometimes imperiled the safety of passers-by. It was a new civilization bursting into bloom. Splendid monuments arose, attesting the public prosperity and the genius of modest, unknown builders: romanesque and gothic churches lifted towards heaven their domes, campaniles, or spires; glorious belfries, which dominated and threatened their surroundings, awaiting the approaching time when the inimitable town halls, with their brilliant ornamentations of stone, should cause them to be forgotten. The town bell was the public voice of the city, as the church bell was the voice of souls. The city in the thirteenth century lived, spoke, and acted. It was a new factor in society. A heretofore ignored order, which grand and distant destinies awaited, was slowly growing. This order, was the Third Estate.

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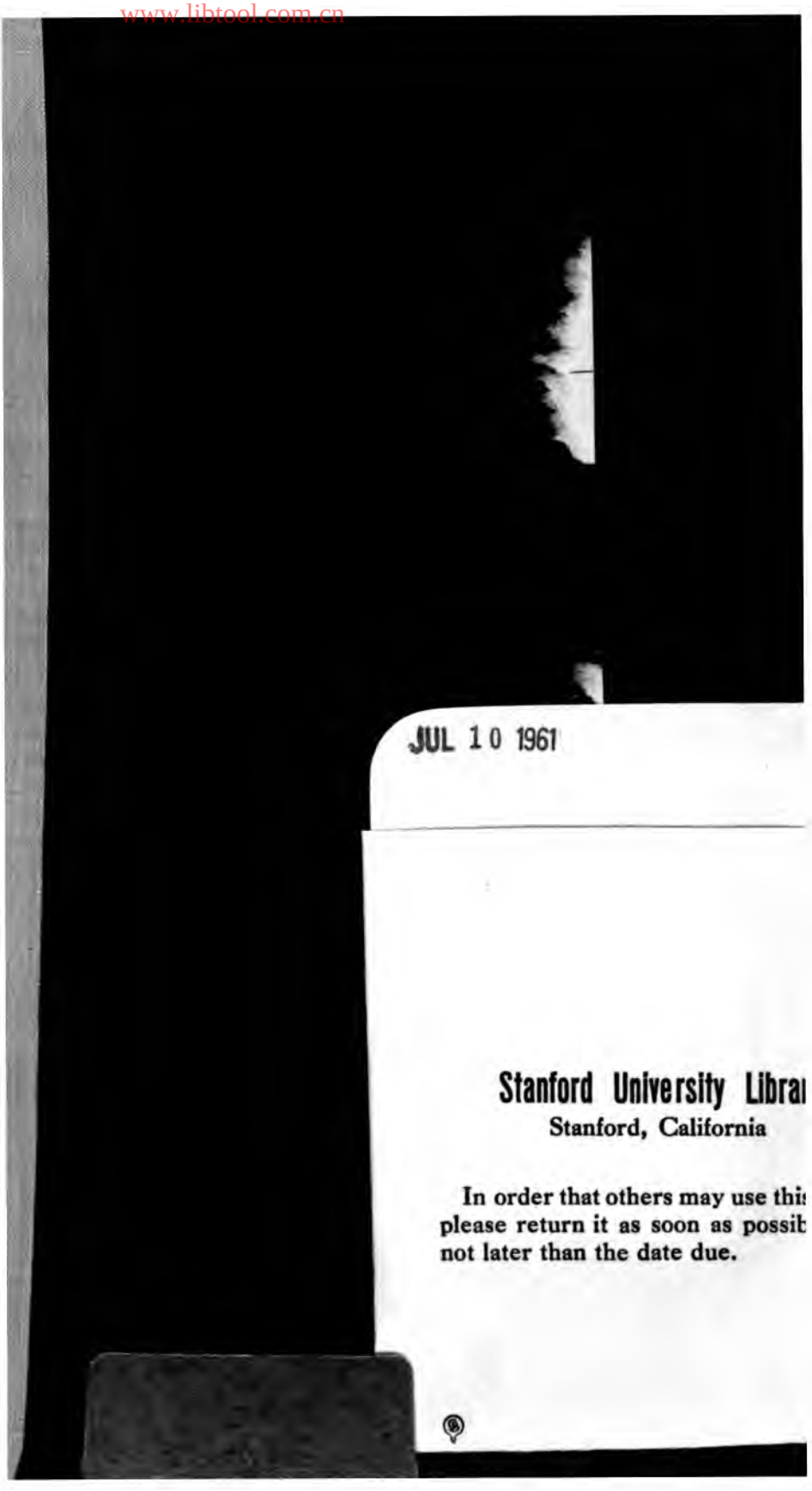

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