

THE MEDIEVAL LAW MERCHANT, ECONOMIC GROWTH AND THE
CHALLENGE OF THE PUBLIC CHOICE STATE - LEONARD P. LIGGIO

"Globalization, in other words, may not be quite as fresh as it sometimes seems. Since at least the 13th century, when Florentine merchants lent money to the English to pay for King Edward I's wars, international capital has roamed the world in search of high returns. (The start was inauspicious: England defaulted, causing the collapse of two Florentine banks.)" ...

"Still, there is no question that freer capital flows have brought tremendous benefits to the global economy, as well as perils. Some places, like Hong Kong, have opened themselves to capital flows without restriction and are examples of the prosperity that free movements of capital can reap. ...

"What are these capital flows? They are not some sinister force, but simply the result of ordinary people's cash roaming in search of a good return. When an American deposits money at the corner bank, some of that may end up being lent to a Brazilian company, and the same person's pension fund may dabble in the Hong Kong stock market.

"In the United States, trading in foreign securities amounted to 2 percent of gross national product in 1975 and 213 percent last year, according to data from the Bank for International Settlements.

"Paradoxically, historians sometimes attribute the modern boom in international capital, beyond the easy reach of any regulator, to the Communists. In the 1950's, China and Russia kept their dollars out of the United States, for fear Washington would freeze their accounts, and instead deposited the dollars in Europe.

"One result was the "Eurodollars" market and a growing investment pool that flitted from country to country and currency to currency in pursuit of higher interest rates. The amount of foreign currency bank deposits around the world reached \$1 billion only in 1961 and now is almost \$1.5 trillion. ...

"Even in the 19th century, sailing ships used to carry gold to distant countries in pursuit of higher interest rates. In 1849, England raised its interest rate by 2 percentage points, prompting an early demonstration of the volatility of capital flows: ships that were already at sea, headed for America with their gold, turned around and sailed to England to get the higher rate." (The New York Times INTERNATIONAL, September 20, 1998, p. 18.)

The production of greater amounts of capital due to lower taxes and de-regulation means more opportunities for individuals to begin new businesses or for investors to risk more to the vagaries of the irresponsible statesmen of the world. The world's individuals have gained greatly in recent decades from free capital flows, by capital account convertibility. The insane, the politicians, are threatening to destroy the future for hundreds of millions of poor people by seeking to impose various restrictions on the free convertibility of capital accounts. The politicians are similar to the Sorcerer's Apprentice, the fool who tries to use magic to replace the sound understanding of the wise economic scientists.

The default by King Edward I, bankrupting the Florentine banks, is a landmark event. Be mindful that this occurred at the end of the Thirteenth Century when the translations from Arabic to Latin in the Andalusian schools brought Aristotle's Ethics and Politics and his Arabic commentators to the new universities of Europe, in particular Thomas Aquinas, the "Dumb Ox of Sicily's," Summa Contra Gentiles (contra the arguments of Moslems and Jews), and Summa Theologica.

It is the time when the last part of the Crusader Kingdom of Jerusalem, the citadel of Acre (which had been conceded by Saladin to Richard the Lion-Hearted after the disaster at the Battle of the Horns of Hattin 1187 A.D.) fell to the Mamelukes of Cairo in 1291. This dispersed the three Crusader orders of knight-monks. The Teutonic Knights transferred to the Baltic to struggle with the three Baltic peoples - Prussians, Lithuanians and Latvians. The Hospitalers of St. John the Baptist of Jerusalem moved to the Island of Rhodes (and later to Malta). The Knights Templars moved from the battle-front to their major Temples in London and Paris and their rich commanderies in Europe.

The Pre-Crusades in Sicily and Iberia and the First Crusade to Jerusalem were possible due to the limitation on political forces in Europe and the wealth that was the consequence of the limitation. After 950 A.D. the abbots and monks and the bishops and priests led and organized the peasants to chain the desires of knights and barons who were using their political power for looting the rest of the people. The abbot- or bishop-led armed population constrained the political leaders to contract not to continue their evil practices.

By the Peace of God the barons were constrained not to engage in warfare during each of the days of the week associated with the Passion, Crucifixion and Resurrection of Jesus - from Wednesday sunset to dawn on Monday of each week. Also, no warfare during Advent and Lent and octaves of Feast Days. By the Truce of God, the barons swore not to injure peasants, merchants, religious, or Jews, or their animals or properties.

After 1000 European producers, peasants, merchants, monks, Jews began to improve their farming, their husbandry, their industry, their commerce. Cities began to revive as centers of production and of trade. New centers of trade developed. Although bound by the chains of the Peace and Truce of God from looting the people, the uncountable manors and baronies meant uncounted jurisdictions in close proximity.

This polycentric juridic system created a check on politicians; the artisan or merchant could move down the road to another jurisdiction if taxes or regulation were imposed. Surplus funds could be kept with an international Italian banking firm far from any local politician. A town arising at a river crossing where several jurisdictions - abbey, county, bishopric - met. If any threat of taxation from the count, the merchant could move to a place he would own across the street in the abbey's competing jurisdiction. The city of London, a tiny jurisdiction, was surrounded by many different borough jurisdictions. Cf: E.L. Jones, The European Miracle (Cambridge: Cambridge University Press, 1981); Tom W. Bell, "Polycentric Law," Humane Studies Review (Volume 7, Number 1, Winter, 1991-92.).

New deep furrow plows were among the many technological advances that were made. These plows might have been the source for the progress to more developed forms of the firm. Many cultures, Islam, India, and China, had partnerships, but they were generally based on family. An example were the Sephardic Jewish partnerships in Cairo for foreign trade to the Emirate of Sicily and to Tunisia. We have a large number of these contracts for long-absent traders among religious confreres and relatives. But, in Italy, firms for long-distance trade were formed among strangers other than relatives; shares were taken in commercial ventures without reference to familial relationships. One explanation is that peasants in Lombardy's heavy soils needed four teams of oxen to pull the deep furrow plows; peasant family tended to have two oxen teams and needed to cooperate with neighbors to have sufficient oxen power to achieve their profitable goals. Whatever the source, the Italians progressed to non-family partnerships.

After 1000 Europe was covered with growing centers of local, regional and international trade. There were weekly markets in villages and towns. Many abbeys or cathedrals were the goal of pilgrims during the feast days of the saint who was honored by being named the patron of the abbey or cathedral. The courtyards were the focus of religious plays about the saint or the scriptures, as well as the liturgies of celebration. Large crowds gathered once in several months or annually in one place attracted many merchants to offer their wares.

It was very valuable to the abbey or cathedral that there be no obstacles to the arrival and departure of the pilgrims who were very generous in their support of the liturgies and alms of these churches. Ecclesiastical penalties were threatened against anyone disturbing those traveling to and from the abbey or cathedral; such spiritual penalties meant anyone could fully punish the convicted outlaw. Given the value of the alms, the abbeys and cathedral hired guards to patrol the roads of the pilgrims, and merchants, and to pursue anyone daring to rob holy pilgrims.

Some markets became regional or international fairs. The most significant fairs were the Fairs of Champagne which for two hundred years were the focus of international merchants, and then bankers. The Counts of Champagne in the late 1000's encouraged the existing fairs at abbeys and cathedrals to become an annual round of fairs - six during the year. Each fair lasted for a month or more and then merchants moved on to the next scheduled fair. Champagne was a major producer of woolen textiles. Italian merchants purchased unfinished cloth for finishing and dyeing in Florence. England was a major producer of raw wool; Flanders was an important manufacturer of unfinished cloth. Raw wool or cloth were high value products for Italian merchants. Some Italian merchants became the changers of the various moneys in use, and then dealers in letters of exchange.

The Fairs of Champagne collapsed after the Counts' family died out; the last daughter married the king of France and their son inherited Ile de France and Champagne. As the rival of King Edward I in the beginning of the Hundred Years' War, Philip the Fair subjected Champagne to high taxes. The trade fled. Italian merchants began to sail to England and Flanders through the Straits of Gibraltar and the Atlantic Ocean.

This is the Nine Hundredth anniversary of the Hospitalers (Knights of Malta) founded at the time of the First Crusade. The Tuetonic Knights and Templars were founded soon after. From catering to pilgrims to the Holy Land in hospices, the brothers began to defend militarily the pilgrims from raiders on route, becoming knight-monks. Rejecting the rivalry and egoism of secular knights, the knight-monks became the reliable and permanent defenders of the Holy Land until their massacre at the Battle of the Horns of Hattan.

But, they began to provide another unique service: banking and travelers checks. Pilgrims did not want to carry gold or silver on route to Jerusalem. Commercial bankers were engage in investment in trade. The faithful donated large sums, especially in land, to support the chivalry of the knight-monks in the Holy Land. Important citadels were built by the Templars in London (Inner Temple and Middle Temple) and in Paris (Temple district on Right Bank) to hold the receipts for forwarding to Jerusalem. They might purchase letters of credits and bills of exchange to be paid in the Levant by the Knights Templar's establishments.

Pilgrims began to deposit their funds in the major European Temples and carried letters of credit to receive the money in Jerusalem. Soon people, including kings, princes and bishops, felt that these strong-hold Temples and the knight-monks were a physically and morally safe place for deposits and transfers. Finally, returning to Europe after the fall of Acre, the Templars began to specialize in financial activities, loaning or guaranteeing loans to kings.

The commerce of the Mediterranean Sea was the source of international commercial legal relations. The island of Rhodes in the Aegean Sea off the coast of Asia Minor and along the routes from Egypt and Syria was the center of commerce in the Hellenistic and Roman eras. By evolution and competition the merchants of this most active port discovered the rules for just conduct most conducive to trade. These rules evolved into the Sea Laws of Rhodes which were accepted in the classical world.

The city of Rome developed on the edge of the Hellenistic world commercial civilization which stretched eastward from Greater Greece (Southern Italy and Sicily) to the Hellenistic cities in Central Asia and the Indus Valley. Rome conquered its western rival, Carthage, and the Hellenistic countries of Greece, Asia Minor, Syria and Egypt. While the political center was in Rome, the commercial and productive center was in the Hellenistic East.

Rome's legal system was rustic and primitive based on the original production and trade in hogs. Roman citizens were proud of their archaic legal system, and felt its rustic nature kept them close to their roots. But, as Rome conquered more commercial civilizations, Rome became the recipient of huge wealth looted in wars and sale as slaves of prisoners of war. Years of military service meant that Roman citizen-soldiers could not cultivate their fields and pay taxes, so they lost their ownership. They had to resort to pensions and doles to citizens who crowded into Rome paid for by the annual taxes of the eastern provinces.

The trade to Rome was not in the hands of Roman citizens (a very tiny part of the Roman Empire) but of Greeks, Syrians, Egyptians, etc. of the productive Hellenistic provinces of Rome. With trade, they also brought their eastern religions. Since this important commercial population were not Roman citizens, they had no recourse to the courts of Roman citizens. The Romans therefore created a special court for the foreigners.

The praetors or judges elected annual for this court operated parallel to the courts for the Roman citizens. The members of the class eligible for offices competed in annual elections. One started competing for a lower office such as the head of the building and maintenance of the roads and aqueducts. Usually, someone from the eligible class would have studied at a school of rhetoric, often operated by Greek Sophists who could defend any side of an argument. In a general sense, theirs was an education which we might call pre-law. Thus, no candidate had any training in the works he was to administer. Since only the wealthy sought office, once elected the office-holder would hire the best engineers as advisors because the quality of his office was the basis of his campaign for the next highest office, such as treasurer. Again, the new office holder would hire the best collectors and book-keepers.

The next rung in the 'curial ladder' was praetor or judge. Afterwards, one might compete annually for election as one of the two consuls, paired as check against monarchy. After serving as a consul, each was rewarded by the Senate with the goal of all this political competition, the governorship of one of the provinces for five years. The governor controlled the administration and appointed the syndicates which could collect the taxes for the province and for Rome - a very profitable office.

The praetors were not trained lawyers so they appointed experts or *juris consultus* to make judgments and write the opinions. Since the Roman law had been rustic, the experts helped the judges in the discovery of the law and to evolve its decisions. Richard Epstein has explained it well in his analysis of the law of torts. The Roman legal system was similar to the northern European customary law and the English common law. The Roman law of the Republic and Empire was an evolutionary legal system.

The praetor or praetor urbanus dealt with civil cases; over time there were several each term of office and they were elected by the *comitia centuriata*. They wore purple fringed robes, presided from an ivory chair, and were preceded by two lectors bearing emblems. About 242 B.C. the increase in foreign inhabitants and merchants to judge cases between foreigners (*peregrini*) or between foreigners and Roman citizens. This judge was the praetor peregrinus. The praetor peregrinus' scholarly advisors drew upon the more advanced commercial customs of the Hellenistic East which stretched to Central Asia and the Indus Valley. The decisions of the praetor peregrinus were based on those of his predecessors, but corrected, amplified and improved from year to year. If some correction or amplification did not work, it was not repeated or recognized by the successor praetori peregrini. The Roman commercial law was evolutionary and customary.

But, from 530 A. D. the Emperor Justinian felt that the Byzantine successor to Rome was besieged and faced with decline, so he wanted to freeze the legal system and prohibit any evolution. The Justinian Code was the consequence of his drawing from the existing Roman law, then Justinian destroyed all the Roman commentaries on the law by the great or not so great scholars so as not confuse future generations.

However, a later Byzantine emperor, Basil I, in the eighth century, issued a systematic collection of maritime customs and rules, the *Basilica*. Much of it was derived from the ancient *Lex Rhodia* or Law of the Isle of Rhodes. The re-emergence of trade in the Western Mediterranean witness the flourishing of cities which were connected to the Byzantine Empire. Venice was one. Amalfi near Naples was a small, but well protected harbor and part of the Byzantine provinces of southern Italy. The Customs of Amalfi (1010 A. D.) were widely accepted, and contributed to the later stages of maritime law in Europe.

Leon Trakman, The Law Merchant: The Evolution of Commercial Law (Littleton, Colorado, Fred B. Rothman & Co., 1983) originated from his real life legal practice in Cape Town, South Africa after the closure of the Suez Canal in the October War of 1973. The Suez route from Persian Gulf to Europe of small oil tankers was closed until international negotiations could follow the military truce. Bidding for super-tanks became elevated. Maritime contracts could be broken to take the higher prices being offered in a radically changed market. Much of the super-tank trade was by way of the Cape of Good Hope and Cape Town. Trakman learned that insurance companies behind the contracts did not rely on government courts but contracted for their own adjudication of disputes or breach of contract. According to Trakman:

The principle of free trade has prevailed in law for centuries. As a legal concept, freedom to contract has signified the dominance of the libertarian notion of laissez-faire over government intervention in business affairs. Evolving out of the economic theory of perfect competition and philosophical concepts of free will, this sanctification of the business process has matured into a central tenet of the law governing international trade. Merchants engaged in world trade are to be free to transact business across national boundaries in accordance with their own trade design.

This book proposes that the legal diminution of the freedom to transact across national boundaries undermines the autonomy of business obligations. To permit judicial interference with private international agreements is to disregard the internal capability of the agreement, the marketplace and the trade to regulate international business bargains.

For centuries the sanctity of contracts has dominated the regime of international trade. The agreements of merchants have been respected as a matter of sound business sense. Various reasons account for the legal sanctification of commercial freedom. Merchants in the sophisticated domain of international trade generally appreciate the sophisticated domain of international trade generally appreciate the nature of their own needs and the capacity of the international market to satisfy them. Indeed, their very survival in the marketplace demands that they balance together market supply and market demand, price and competition in determining the nature of their bargains. Merchants decide with whom they wish to contract and upon what terms; they determine the limits of their own requirements; they establish the parameter of their obligations. They do so themselves. The law does not fulfill such functions for them. Within this context, the sanctity of their bargain is not merely a legal privilege; it is a commercial necessity. The business agreement, construed against the background of similar international agreements, is the most effective means towards interpersonal harmony in international trade. The contract is devised as a matter of the free will of the parties; it is reciprocal in intent; it is adaptable in its scope of application.

The focal point of free trade therefore fore lies in the interaction among three concepts: marketplace, agreement and time.

Even in medieval times there was abundant evidence of highly developed commercial instruments. Merchant practices gave rise to commercial paper, letters of credit and bills of exchange, all reflecting noticeable uniformity in character and design.

Proceedings before Law Merchant tribunals had these features in common. Adjudication was essentially oral. Formal testimonies, written affidavits and extensive judgments were generally dispensed with as a matter of course. Commercial adjudicators took judicial notice of trade custom and business practice; and they avoided the delays that would otherwise arise from administration of oaths, the tedious cross-examination of witnesses and the lengthy adjournment of proceedings.

Within this business domain, merchant institutions were translated into legal institutions. Codes of law operating at merchant centers embodied the custom of the merchants; they reflected trade habits and market usages. Most importantly, in regulating transregional trade local influences subserved to the demands of the cosmopolitan trader. Such was the nature of the medieval law merchants.

Arbitration proceedings embody commercial understandings within their arbitral frameworks; while conciliators and mediators resolve international disputes over nonperformance by balancing needs, interests and concerns of merchants. Custom, not law, has been the fulcrum of commerce since the origins of exchange. From the earliest times, merchants have devised their own business practices and regulated their own conduct. International trade law has been fostered by merchant custom.

The eleventh century heralded a localization of custom within specific regions. Towns and markets reduced local practices into regulatory codes. Merchants began to transact business across local boundaries, transporting innovative practices in trade to foreign markets. The mobility of the merchant carried with it a mobility of local custom from region to region. The laws of particular towns, usually trade centers, inevitably grew into dominant codes of custom of trans-territorial proportions. In this way, the customs of Barcelona, known as the *Consolato del Mare* (approximately 1340 A. D.) ascended as an internationally recognized body of mercantile custom. The island of Oleron in the twelfth century produced the famous *Rolls of Oleron*, which had a profound effect on the evolution of English Admiralty Law. And the *Laws of Wisby* came into prominence as the third great commercial code of Europe several centuries later under Baltic influence. Each of these codifications exemplified the localization of custom throughout the medieval world. The needs of sea-borne traffic led to a distinctive creation which was to dominate European trade for centuries thereafter. This creation was the cosmopolitan *Law Merchant*, which gained ascendancy in the twelfth and thirteenth centuries. The *Law Merchant* reflected the ultimate move away from local law towards a universal system of law, based upon mercantile interests.

The only law which could effectively enhance the activities of merchants under these conditions would be suppletive law, i. e., law which recognized the capacity of merchants to regulate their own affairs through their customs, their usages, and their practices. (Trakman, pp. ix-x, 1-9.)

In the late 13th century, several important dynasties died out lacking male heirs. One was the County of Champagne. The heiress of the last count was married to the son of the king of France. Their son inherited the County of Champagne and added it to the Ile de France (surrounding Paris) of which he was the king. That son was Philip IV, or Philip the Fair. He terminated the two centuries long policy of the Counts of Champagne to avoid taxation of the merchants and observe the self-judgment by the merchants. Taxes were raised and merchants' autonomy compromised in Champagne.

The Italian merchants took advantage of the new nautical navigation instruments, new maritime technology and improved cartography associated with the brilliant Sephardic community in the Moslem Balearic Islands off the coast of Catalonia. Genovese and Venetian convoys began to sail into the Atlantic to Southampton and Bruges with wares and financial human capital they had previously carried to the Fairs of Champagne; they returned by sea with the wool and woolens produced in the undeveloped north. Catalanian merchants developed the provisions of the *Consolato del Mare* of Barcelona (Cf: Stanley S. Jados, *Consulate of the Sea and Related Documents* (University, Alabama, The University of Alabama Press, 1975)).

Thereby, the Italians were in direct trade with the North and Baltic Seas merchants who were associated in the Hanseatic League. The Hanseatic League was formed by the regional associations of merchant cities in the Holy Roman Empire of the German Nation. One focus of the Hansa was northward toward the Baltic and North Seas with their important trading houses in London and Bruges in the west, Bergen in the north, and St. Peterhof in the Republic of Novgorod, Russia's window to the west and outside the Tartars' sphere of conquest in Russia.

Italian bankers opened agencies in Bruges and Ghent to dispense loans from the developed low-interest Italian savers to the undeveloped high-interest emerging markets. The records of the Italian banking houses were studied by the economist/accountant, Professor Raymond de Roover, of Antwerp and Boston College Graduate School. De Roover was the scholar who unraveled the medieval bankers exchange contracts to reveal the interest payments in the exchange rates. Similarly, de Roover showed how the medieval moralists had disentangled the primitive pastoral admonitions in the Bible about charging usury to one's relatives from the modern market's economic need for pricing capital for its most productive use for society. Joseph Schumpeter drew on his friend de Roover's work for parts of his History of Economic Analysis.

The most productive and thus wealthy part of northern Europe was the County of Flanders which was clawed from the North Sea for agriculture and woolen textile production. The internal polycentric political system protected merchants from the normal politicians' lust for taxes. The large concentration of textile workers created a demand for agricultural and husbandry products. The ruling dynasty died out. The French and the English kings supported rival claimants for the countship. The Flemish militias were able to defeat the royal knights and select their own dynasty.

But, the French and English kings continued their rivalry which became the Hundred Years' War. Originally, each imagined his side would win. But, the conflict continued unresolved leading over a hundred years' later to the Henry V's great victory; but his early death left a child heir and a French widow, whose later natural child was the ancestor of the Tudor dynasty. The English rule over France led to Joan of Arc, the restoration of the French king, crowned by Joan of Arc in Rheims, and the penultimate expulsion of England from France in 1453.

The consequences of the French and English war-preparation economic policies created in the two countries a two hundred years long depression. In Italy and the Holy Roman Empire of the German Nation there was ever increasing prosperity and wealth. The Italian merchants Atlantic trade to Bruges and Ghent, and their overland trade to the Rhine Corridor or through the Brenner Pass to Prague, Vienna, Cracow multiplied wealth. Of course, the prosperity of German and Italian cities occurred because they lacked the benefits of a central state.

The English king was particularly encased in constitutional constraints. The feudal lords were committed to answer the military call of the monarch if the realm was threatened with invasion. They were not required to support the monarch in an invasion of another country. To fight in Flanders, the king needed to acquire money to pay mercenary troops as his involvement in Flanders was his personal diplomacy and nothing to do with the constitutional obligations of the English lords or people.

The English and French kings had four groups to loot to pay for their Flemish rivalry. The first were the Italian bankers. The Italian banking houses had been lending money to the French and Italian kings for the lesser wars. For example, the English king was engaged in wars against the Welsh and the Scots. The kings defaulted on the loans from the Italian bankers driving the banking houses and their investors into bankruptcies. Sadly for the kings, they could not find new bankers to lend them money for the wars.

The kings turned to the income of the Church to finance their war efforts. The bishops and abbots resisted the unprecedented demands of the monarchies. The Holy See supported the bishops and abbots against the looters in the kings' services. Philip the Fair sent agents to Rome to kidnap Pope Boniface VIII and drag him around the region until he died of a heart attack. This was the method of the Byzantine Emperors to dispatch independent bishops.

The people of Rome did not appreciate the killing of the Pope. The French king declared that the Romans' hostile attitude to the French made it impractical for the cardinals to hold the election of a new pontiff in Rome. Instead the election was to occur in a papal enclave surrounded by French territory, Avignon. The cardinals who attended were inspired to select one of Philip the Fair's French bishops as the new pope. Since the Roman people remained hostile to the French, the new pope decided to establish the Papacy in Avignon within the friendly protection of the French army. Of course, the new pope agreed with all the demands of the English and French kings for control over the abbeys and bishoprics and diversion of income that went with the control. The papacy remained in Avignon for over seventy-five years, and is called the Babylonian Captivity of the Papacy. After the death of the pope who returned to Rome, the French cardinals elected an anti-pope in Avignon creating the Great Western Schism of the Church which lasted another forty years.

While engaged in the looting of the income of the abbeys and bishoprics, the desire for loot to carry out the war that would not end brought the kings' attentions to the Jews. The property of the English and French Jews was seized and the Jews were exiled finding refuge in German cities. Jews were not permitted to return to England until after 1650.

But, the conflict continued and the kings turned to another group with much wealth, The Knights Templars. After the fall of Acre in 1291, the Templars did not stay in the Levant, but regrouped in their European temples and commandaries. Their expertise in finance and banking led kings to call on them as neutral, because they were monks, advisors and deposit-holders. With the popes in the Babylonian Captivity in Avignon, Philip the Fair fell on the world headquarters of the Templars in Paris, seized their properties, and tried and killed the Templar leaders for heresy. Other kings were not far behind in the holy work of looting the disbanded Templars.

Having exhausted lootable groups, the French and English kings needed to find new, and with the protracted war, long term methods of fleecing their subjects. Thus, parliamentary democracy was born. Having ruled for centuries with the advice of Great Councils of dukes, barons, abbots and bishops, the kings used models from various church assemblies. In the process of gaining local clergy's acceptance of royal control over church revenues, the English king used the clergy's Convocations of the Archdioceses of Canterbury and York to regularize taxation of the clergy.

Along side the Great Council of lords spiritual and temporal, which became the House of Lords, the English king called a lower house, the House of Commons. The members of the Commons were elected as two 'knights of the shire' from each county, and two 'burgesses or citizens' from the boroughs and cities around England, mainly the trading ports on the coasts to the number of several hundred.

The overwhelming numbers from the trading ports indicates that the Commons was drawn not by representation by population as most of the people lived in the rural hamlets in the counties. The burgesses and citizens represented the cash wealth of England, and in particular those handling the cash of the import/export trade along the coasts. To move from insular feudalism to expansionist public finance meant that the English and French kings were seeking to stand athwart economic progress and achieved a two centuries long depression. England and France emerged to economic freedom and prosperity in the sixteenth century and Italy and the Holy Roman Empire suffered wars, protectionism and taxation.

Philip the Fair initiated a French parliamentary system by establishing the Estates General. It was composed of three parliamentary houses. The First Estate composed of the delegates elected by the clergy of each diocese, thus more widely representative than the Spiritual Lords of bishops and abbots. The Second Estate was composed of the delegates elected by the nobles. In England only the eldest son was noble, all children of nobles were nobles. Also, there were a great many lesser nobles in some provinces, such as Brittany. The Third Estate was composed of delegates elected by the merchants of the towns.

The merchants of the French towns formed the municipal corporations which administered the rules of the guilds. These merchants were the people who had access to the scarce commodity, coins and credit. Continuing until the French Revolution of 1789, the merchant municipal corporations were the most consistent sources of credit for the French crown. The municipal corporations would guarantee loans to the crown in exchange for privileges or renewal of privileges.

The merchants who dominated the House of Commons or the Third Estate were most willing to cooperate with the crown to impose tariffs on imports if tariffs could be used to deter the competition of Italian merchants. As the merchants were the only people who had the coins or credit needed to hire mercenaries, their cooperation in the system of tariffs was imperative in exchange for reduction of competition.

Since the taxes on imports and exports was the major source of coin for the crown, the ongoing wars between the French and English kings created the necessity of calling annual parliaments. The taxes for the wars were extraordinary taxes, and the taxes needed to be renewed annually. Thus, the House of Commons had to be called almost annually for its first fifty years of existence. Thus, what could have been a temporary expedient for the crown became an established and recognized institution.

As the English and French economies suffered from the prolonged conflicts, the boroughs and towns began to decline. New trade patterns developed, especially in the Baltic and North Sea trade with the Hanseatic League. These important boroughs became little fishing villages or rural hamlets, and the elections of the two members came into the hands of local landowners. Thus, over the centuries the majority of the House of Commons became landowners instead of the original majority of merchants. The later Houses of Commons had different fiscal interests than the original ones. Thus, the House of Commons were tax-payers and thus opponents of the governments' fiscal policies. The government's establishment of the Corn Laws to maintain high war time grain prices after the Napoleonic Wars (1815) made the House of Commons a collaborator with the government. The public reaction was the Reform Act of 1832 which gave parliamentary seats to the new industrial cities, and as a consequence, the victory of the Anti-Corn Law League of Richard Cobden and John Bright and the repeal of the tariffs.

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