The National Society Magna Charta Dames

Instituted March 1, 1909

October 1935

The Council of the National Society Magna Charta Dames

Announces the election on October 1, 1935, of

Mrs. George Harrison Houston

née Mary Stuart Hoge

as

President of the Society

Mrs. Houston is also a Vice-President of
The Colonial Dames of America
and President General of
The Sovereign Colonial Society Americans of Royal Descent

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Additional Copies may be obtained
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Philadelphia, Pa.

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For convenience kindly address
all correspondence to the Society's
Post Office Box, No. 4222, Philadelphia, Pa.

Huntingdon Valley

Reception and Luncheon

June 18, 1935

AT the June Meeting, 1935, the members of the National Society Magna Charta Dames and their escorts were entertained at luncheon by Mrs. George Harrison Houston, a Regent of the Society, at The Huntingdon Valley Country Club near Jenkintown, Pennsylvania. In this delightful natural setting of beautiful, rolling country, the Society held one of its most brilliant and successful meetings. The colors red and gold, most appropriately displayed in the floral and other decorations, lent color and interest to the occasion.

The guests having assembled at the tables, Bishop Taitt was asked to offer the invocation.

Grace Before Meat

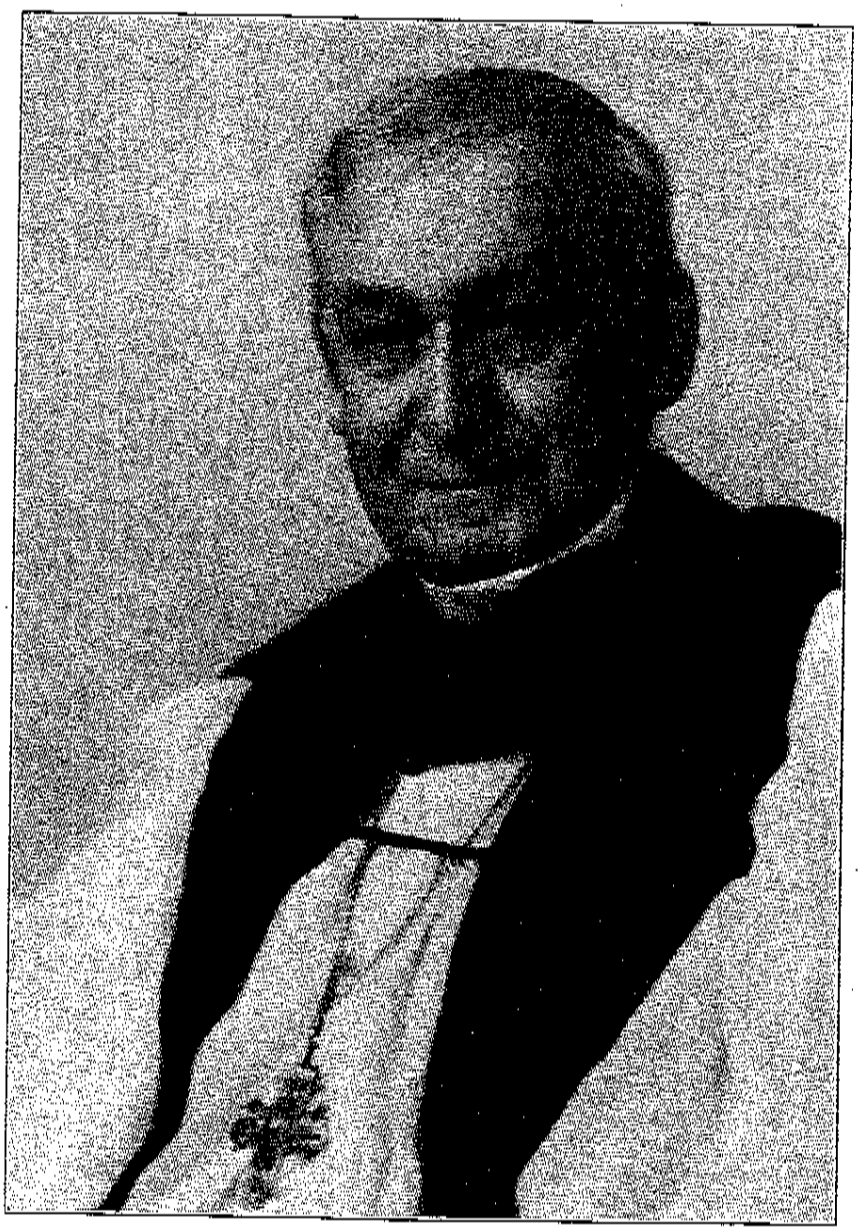
June 18, 1935

offered by

The Rt. Rev. Francis M. Taitt, S.T.D.

GOD, who art the author of peace and lover of concord; in knowing of whom is eternal life and whose service procures for us perfect freedom; we thank **Thee** that in times when freedom in Church or State has been in jeopardy, men have been raised up to defend these inalienable rights. Especially we thank **Thee** that when in our mother country, a monarch handed over the liberties of his country to a foreign potentate, the Barons of Runnymede compelled his granting the Great Charter of liberty for Church and State.

May this spirit be in the descendants of these noble men. May **Thy** Fatherly Hand be ever over them and **Thy Holy Spirit** ever with them and lead us all in the knowledge and obedience of **Thy** Holy Word. Bless us as we gather 'round the festive board. May **Thy** goodness make us love and serve **Thee** and make us ever mindful of the wants of others, through **Jesus Christ** our **Lord.** Amen.



Rt. Rev. Francis Marion Taitt, S.T.D., LL.D.
Bishop of Pennsylvania

The Rt. Rev. Francis Marion Taitt, S.T.D., LL.D., Bishop of the Protestant Episcopal Church in the Diocese of Pennsylvania, was born in Burlington, New Jersey, January 3, 1862.

In early Colonial days Bishop Taitt's maternal ancestors settled on the Eastern shore of Maryland, and their descendants are still occupying these ancestral properties. About the year 1800 his paternal grandfather, a schoolmaster of Edinborough, also removed to the same region. Bishop Taitt is connected with the families of Richardson, Donoho, Marshall and Ward and with General Francis Marion.

His parents moved to Philadelphia when he was eight years of age and the family became affiliated with Old Christ Church. A graduate of the Boys' Central High School and the Philadelphia Divinity School, Bishop Taitt was in 1885 advanced to the Priesthood by the late Bishop Scarborough, of New Jersey. Following his Ordination he became Assistant Minister at St. Peter's Church, Philadelphia, and on Advent Sunday, 1887, he became Rector of Old Trinity Church, Southwark, then located on Catharine Street west of Second Street.

After more than five years at Trinity Church, Bishop Taitt on June 1, 1893, became Rector of St. Paul's Church, Chester, which had its organization back in early Colonial days. When called by the Diocese in June, 1929, to be Bishop Coadjutor he was entering the thirty-seventh year of his rectorship at St. Paul's. Following Bishop Garland's death on March 1, 1931, Bishop Taitt became Bishop of the Diocese of Pennsylvania.

Throughout his ministry Bishop Taitt has always devoted himself to the work of the Diocese. For more than twenty-six years he was Dean of the Convocation of Chester and for many years served on the Faculty of the Church Training and Deaconess School. For twenty-one years he was a member of the Standing Committee and was Deputy to the General Conventions of 1922, 1925 and 1928. He is President Ex Officio of the Board of Trustees of the Philadelphia Divinity School. He is a member of the Board of Managers of the Chester Hospital, a Trustee of the Crozer Home for Incurables in Chester and President of the Pennsylvania Military College at Chester. In June, 1932, Temple University conferred upon him the honorary degree of Doctor of Laws.

Mrs. Houston welcomed her guests in the following words:

Fellow Members of the Society of Magna Charta Dames and Distinguished Guests:

IT makes me very happy to see so many of you here—some of you, I know, have come from a distance and all of you have put aside the duties and interests of busy lives to be with us, and to help us celebrate the 720th anniversary of Magna Charta.

In the name of our Society as well as in my own, it gives me great pleasure to welcome you here today.

Mrs. John S. Wurts, Acting President of our Society needs no introduction to you. I am very happy to present her to you, and to give the meeting into her capable hands.

Mrs. Wurts responded as follows:

It is with great delight, Mrs. Houston, that the Magna Charta Dames have gathered here today in response to your gracious invitation.

From its very inception this Society has believed that a knowledge of the great crises of history and an appreciation of the fact that we were there present in the persons of our ancestors should make us more keenly alive to the events now taking place so rapidly in our own land and throughout the world.

The Barons for the Magna Charta, our ancestors, permanently established equitable principles on which the constitutions and laws of all Christendom have been based. These gatherings of our beloved Society are always delightful but they are more than mere refreshment,—they are ennobling. They stir us with the challenge of our responsibility, the necessity for righteous living and insistence upon justice and freedom of personality for all. And so, Mrs. Houston, at your bidding and under your gracious provision

we have come today to fellowship and to receive new inspiration and strength for the responsibilities which are ours.

Happy are we that Mr. Houston will introduce his friend as the speaker of the day.

Responding to this call Mr. Houston said:

The Magna Charta, sealed by King John so long ago in the meadow of Runnymede, has been the symbol to all Englishmen during the intervening centuries, of the supremacy of law. It has stood as a bulwark to guard the rights and liberties of the individual. It was obtained originally by strife and conflict and has been retained since only by eternal vigilance. The American people, born of this English parentage, enjoy this heritage. Its spirit inspired their own Declaration of Independence which pledged the signers to the establishment of its principles upon American soil. Many years later Abraham Lincoln, upon the field of Gettysburg, dedicated the American people anew to the safeguarding of this heritage.

Again after the passage of many years Woodrow Wilson led our people into the Great War, dedicating their efforts to making the world safe for democracy. Unfortunately this objective has not yet been accomplished. More than 20 years have passed since Germany invaded Belgium and more than 18 years since America went to France. The principles laid down in the Magna Charta appear to be in greater peril today, from autocracy, than for many centuries. We, in America, have been relatively free from this peril until recently, but we now are feeling the impact of the forces that have made for autocracy in Europe. Our present peril is made manifest by a determined effort, becoming daily more apparent, to ignore or resist the restraining safeguards of the Constitution in order to foster a highly centralized and autocratic form of government.

The arguments advanced to justify these changes are that our institutions are outmoded and no longer fit our needs. Our defense must be the lasting need of man for personal liberty and the permanency of the eternal verities. We must educate our people and particularly our youth to understand and value this heritage from the past and to feel a deep responsibility for passing it on to future generations, undefiled. We must again dedicate ourselves to this objective as our fathers did before us.

It is very fitting that your organization, pledged to the maintenance of the great tradition of the Magna Charta, should, upon this occasion, consider also the charter of our own country and refresh your understanding and appreciation of its principles.

You are fortunate in having as your speaker today Mr. Gilbert Montague of New York, and as his subject, the Magna Charta and the Constitution. Mr. Montague will speak not only with the academic knowledge of the lawyer, learned in the Constitution, but with an intimate and practical knowledge of Constitutional law, acquired from years of actual experience in that field.

Gilbert Holland Montague, lawyer and author, was born at Springfield, Massachusetts, May 27, 1880, the son of Dwight Billings Montague and his wife, Sarah Helen Perry. He has received the following degrees: A.B. *Summa cum Laude*, Harvard, 1901; A.M. 1902; LL.B. 1904. In 1907 he married Miss Amy Angell Collier of New York.

In litigation he has represented many leading corporations as well as the French government. He has been in great demand in cases arising out of more than 200 codes and other establishments under the New Deal. In his profession he has filled many positions of trust and honor and as an after-dinner speaker is much sought after.

The Constitution and Magna Charta

an Address by

Gilbert H. Montague, Esquire

of the New York Bar

delivered before

The National Society Magna Charta Dames
Meeting at the Huntingdon Valley Country Club
June 18, 1935
In Celebration of the 720th Anniversary of the
Granting of Magna Charta

...

Mrs. Houston, Mrs. Wurts, Members of the Society and my fellow Guests:

WE MEET at a moment in national history that recalls Runnymede and Magna Charta. Obeying its sworn duty under the Constitution, the Supreme Court of the United States, on the afternoon of May 27, 1935, unanimously decided that the President's removal of a Federal Trade Commissioner without cause, and the enactment by Congress of the Farm Mortgage Moratorium Act, and the enactment by Congress of the National Industrial Recovery Act, and the codes and orders promulgated by the President under that Act, were all invalid because in excess of the powers which the people of the United States in their Constitution had vested in Congress and the President.

Opinions by great judges can sometimes be literature.

If you relish vibrant speech, even when it deals with law, listen to the concurring opinion of Mr. Justice Cardozo, in the Supreme Court's decision on the National Industrial Recovery Act:

"The delegated power of legislation...in this code," says Mr. Justice Cardozo, "is not canalized within banks that keep it from overflowing. It is unconfined and vagrant...

"Here in effect is a roving commission to inquire into evils and upon discovery correct them...

"If that conception shall prevail, anything that Congress may do within the limits of the commerce clause for the betterment of business may be done by the President upon the recommendation of a trade association by calling it a code. This is delegation running riot".

"I find no authority", continues Mr. Justice Cardozo, "for the regulation of wages and hours in...intra-state transactions...

"There is a view of causation that would obliterate the distinction between what is national and what is local in the activities of commerce.

"Motion at the outer rim is communicated perceptibly, though minutely, to recording instruments at the center."

And then quoting Judge Learned Hand, another master of literary expression among our Federal Judges, Mr. Justice Cardozo continues:

"A society such as ours 'is an elastic medium which transmits all tremors through its territory; the only question is of their size'...

"The law is not indifferent to considerations of degree. Activities local in their immediacy do not become interstate and national because of distant repercussions.

"What is near and what is distant may at times be uncertain...

"There is no penumbra of uncertainty obscuring judgment here.

"To find immediacy or directness here is to find it almost everywhere.

"If centripetal forces are to be isolated to the exclusion of the forces that oppose and counteract them, there will be an end to our federal system".

II

Events that have ensued since this Supreme Court decision have strikingly proved how strong are the deeper currents of American political faith, as contrasted with its occasional surface exuberances and vagaries.

Demagogic appeals to passion and prejudice, which in recent months have assailed us from the radio and the platform, have for the moment been shamed into a refreshing silence, by the majesty of these Supreme Court decisions.

In Congress and throughout the country, with unimportant exceptions, these decisions have been received with quiet approval and widespread relief.

Though it was Congress which the Supreme Court in two of these decisions led back to the limits of authority prescribed by the people in the Constitution, Congress has refrained, with unimportant exceptions, from undertaking to criticize any of these unanimous Supreme Court decisions.

Not from Congress, but only from the Executive, and then only in respect of the unanimous Supreme Court decision invalidating the National Industrial Recovery Act and the codes and orders promulgated by the President under that Act, has there come, from any coordinate branch of the Government, any criticism of the Supreme Court for performing its constitutional duty, which the court could not have flinched from performing without being recreant

to a principle that is basic in the Federal Constitution and in the Constitution of each of the forty-eight States of the Union, and has been fundamental in the political faith of the Anglo-Saxon race ever since Magna Charta.

Straight from Runnymede in 1215, down through the centuries, and into our own Federal and State Constitutions, has come the great lesson of Magna Charta, which is that the Anglo-Saxon race will permit no Executive to place himself above the supremacy of fundamental law.

This is a conception that the Greeks once dreamed of:

"Rulers ought to be governed by principles of rational generality", declared Aristotle twenty-three centuries ago.

"He who bids the law rule, bids God and reason rule... The laws should be the rulers...Laws ought to be supreme over all".

This conception might still be only a dream, if widespread dissatisfaction over their very immediate vexations in respect of scutage, feudal dues, borough customs, trade privileges, local courts, and a long list of other matters so remote from modern experience that antiquarians now dispute as to what some of them really were, had not led a united body of English barons, English ecclesiastics, and London burghers to take arms against King John in the Spring of 1215, and after eight days of ardent bargaining at Runnymede in June to settle their grievances in business-like fashion in a very practical document, which since has been called Magna Charta.

Because of its intense practicality, Magna Charta is rather disappointing to the modern reader who expects to find in it glittering phrases and purple passages such as Jefferson wrote in the Declaration of Independence and the Virginia Bill of Rights.

The practical-minded Englishmen who won Magna Charta knew little Greek, and even less of Aristotle and political theory.

They knew King John, however, and they knew the immediate vexations which they were determined should be corrected. And they knew how to draft a competent document, by which to commit King John definitely and unequivocally to the immediate correction of these abuses.

They did their job in a common sense, straightforward, unpoetical English fashion, and not till after it was done did they and the world realize that for the first time in history a nation had dramatically compelled its Executive to acknowledge that he cannot be an absolute ruler, but must always be subject to the supremacy of a definite body of clearly formulated law, which he is bound at all times to observe.

III

This is why, in every crisis of Anglo-Saxon liberty, Magna Charta has been the ideal and symbol to which the race has always repaired.

In years of quiet Magna Charta may be forgotten. Shakespeare was able to write his entire play **King John** without once mentioning it.

But whenever any Anglo-Saxon Executive shows signs of dissatisfaction with the restraints imposed upon him by the supreme law of the land, the Anglo-Saxon race instinctively turns to Magna Charta as the palladium of its liberties.

This was so in the contests between Parliament and the King in the days of Coke and James I, and of Hampden and Pym and Cromwell and Charles I. It was so in the Revolution of 1688 that deposed James II. It was so in the American Revolution against George III.

Liberties that the Anglo-Saxon race has stoutly and continuously asserted, sometimes with much bloodshed, for seven hundred and twenty years, are not likely to be forgot-

ten and lost by any absent-mindedness in these later centuries.

Listen to Chief Justice Marshall, speaking for the then young Supreme Court of the United States in 1803, when the court was confronted by extra-constitutional behavior on the part of the then triumphant Jefferson administration:

"The distinction between a government with limited and unlimited powers is abolished", says Chief Justice Marshall, "if those limits do not confine the persons on which they are imposed, and if acts prohibited and acts allowed are of equal obligation."

Then follows a passage, which is literature as well as law:

"It is a proposition too plain to be contested", continues Chief Justice Marshall, "that the Constitution controls any legislative act repugnant to it; or that the legislature may alter the Constitution by an ordinary act.

"Between these alternatives there is no middle ground...

"If two laws conflict with each other, the courts must decide on the operation of each.

"So if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the court must determine which of these conflicting rules governs the case.

"This is of the very essence of judicial duty."

"In these words", if I may quote from a famous essay by Judge Cardozo, now a Justice of the Supreme Court of the United States, "we hear the voice of the law speaking by its consecrated ministers with the calmness and assurance that are born of a sense of mastery and power.

"Thus Marshall seemed to judge, and a hush falls upon us even now as we listen to his words.

"Those organ tones of his were meant to fill cathedrals or the most exalted of tribunals. . . The thrill is irresistible. We feel the mystery and the awe of inspired revelation. . . Nothing is here of doubt; nothing of apology; no blurred edges or uncertain lines. 'There is no middle ground.' The choice that is made is 'of the very essence of judicial duty.' "

Against the inexorable force of these great principles, how trivial it is to scold the unanimous decision of the Supreme Court on May 27, 1935, in the National Recovery Administration case, because the Supreme Court unanimously decided not to disregard constitutional requirements that place restrictions upon centralized authoritarian government, and because the Supreme Court unanimously held that "emergencies" and "extraordinary conditions do not create or enlarge constitutional power"! And how trivial it is to charge that the consequences of the Supreme Court's unanimous decision are to take away from our national government powers that other national governments have, and to put our country "back into the horse and buggy stage"!

IV

In a very real sense, all these issues were raised by King John, and were decisively settled against him in Magna Charta.

The centralized authoritarian government built up by the extraordinary genius of Henry II, and inherited by his son John, was the most perfect governmental machinery that had been developed up to that time.

It was simply because this centralized authoritarian government could be so misused by an ambitious or careless

Executive that Magna Charta had to be imposed upon what was then the most efficient form of government in the world.

If "emergencies" and "extraordinary conditions" could justify freedom from constitutional restraints, the innumerable "emergencies" and "extraordinary conditions" of thirteenth century England would have enabled King John to argue down every provision of Magna Charta.

Magna Charta took away from King John national governmental powers which were then possessed by every other national government in western Europe.

How ardently King John pressed this particular point at Runnymede appears in every account of the negotiations that preceded Magna Charta. The terms of that instrument are eloquent proof of the conclusiveness with which that argument was rejected.

The "horse and buggy" argument was pressed by King John at Runnymede, just as it has been revived and pressed by every ambitious Executive who at any time during the seven hundred and twenty years since Magna Charta has chafed under constitutional restraints.

The "horse and buggy" argument has never succeeded.

"We have also granted", King John was forced to say at the beginning of Magna Charta, "to all freemen of our kingdom, for us and our heirs forever, all the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever".

Among these "underwritten liberties" are the following ancient customs and fundamental laws, which came down from the "horse and buggy stage" that preceded King John's own day:

"And the City of London shall have all the ancient liberties and free customs...furthermore we decree and grant that all other cities, boroughs, towns, and ports shall

have all their liberties and free customs" (Magna Charta, chapter thirteen).

"No freeman shall be taken or (and) imprisoned or disseized or exiled or in any way destroyed, nor will we go upon him, nor send upon him, except by the lawful judgment of his peers or (and) by the law of the land" (Magna Charta, chapter thirty-nine).

"All fines made with us unjustly and against the law of the land, and all amercements imposed unjustly and against the law of the land, shall be entirely remitted... (Magna Charta, chapter fifty-five).

"All the underwritten liberties, to be had and held by them and their heirs, of us and our heirs forever"—"All the ancient liberties and free customs"—"The lawful judgment of his peers"—"The law of the land"!

How precious all these must have become, during the years of King John's usurpations!

In 1215 Parliament as a legislative body did not exist.

The King in Council was the reservoir of all legislative as well as all executive and judicial power.

The barons and ecclesiastics and burghers who forced King John's assent to Magna Charta intended that all the "liberties", "customs", and "law of the land" guaranteed in Magna Charta should be binding and obligatory upon the legislative power of the State, as well as upon its executive power and its judicial branch.

Here in embryo is the Constitution of the United States.

"All the underwritten liberties", "all the ancient liberties and free customs", and all "the law of the land" established by the Constitution are made obligatory and binding upon Congress as the legislative power of the United States, as well as upon the President as its Chief Executive, and the Supreme Court as its judicial branch.

V

Under the National Industrial Recovery Act, law-making power which the Constitution says must "be vested in a Congress of the United States" was made to flow from Congress to the President, and then by a sort of Apostolic succession from the President to the supervisory Boards of National Recovery Administration, from which it then divided into two streams:

One stream flowed from the supervisory Boards of the National Recovery Administration into the latter's Division Administrators, Deputy Administrators, and Assistant Deputy Administrators, who exercised, subject to the direction of these Boards, functions and powers of the President under the National Industrial Recovery Act, or whose recommendations regarding the exercise of such functions and powers were, in the ordinary routine, approved and promulgated by the National Recovery Administration in the name and behalf of the President.

The other stream of this law-making power flowed from the supervisory Boards of the National Recovery Administration, or directly from the President himself, according as was provided by the terms of the code or supplemental code and the Act under which they were approved, into code authorities whose voting members were recruited from and designated by the industry sponsoring the code, and thence into such committees, officers and employees as such code authorities might designate for the purpose, and into whatever subordinate code authorities might be set up for directing group or regional sections within the industry, and thence into such committees, officers and employees as these subordinate code authorities might delegate for the purpose.

In the hey-day of the National Recovery Administration, the functionaries inside and outside the Administration

who possessed authority delegated by or in behalf of the President to approve or recommend for routine approval codes, supplemental codes, code amendments, administrative orders, office orders, interpretations, rules, regulations, and other executive-made laws, each having the force of an Act of Congress, aggregated on a conservative estimate upwards of five or six thousand persons.

The personnel of these thousands of law-making functionaries was constantly changing, and their particular identity at any given moment of time was, in the complete aggregate, absolutely unascertainable by anyone, inside or outside of the National Recovery Administration.

The powers of these thousands of law-making functionaries were limited only by the terms of the codes and supplemental codes and the Act under which they were appointed, and by the power of veto reserved in the National Recovery Administration and the President.

Power of veto was not really reserved, however, and right of appeal was only illusory, because in most instances right of appeal was limited to reargument before the functionary who originally had decided the question against the appellant, and went no further than to permit the appellant to make an argument before some higher functionary, who already was on record as having joined in the decision of the original functionary against the appellant.

These conditions, and the profusion with which powers and functions of the President under the National Industrial Recovery Act were delegated by the President to thousands of functionaries inside and outside of the National Recovery Administration, were necessarily a standing invitation to the possibility of hole-in-the-corner, particularistic, overlapping, coercive, monopolistic, uneconomic, and unevenly enforced executive-made laws.

VI

Executive law-making in action, as exemplified in the National Industrial Recovery Act, and some other New Deal legislation, cannot be pictured without emphasizing the ingenuity with which free-will elements inserted in such legislation to insure its passage through Congress and to try to save it from being held unconstitutional in the courts have been offset, overbalanced, and circumvented, for all practical purposes, by introducing into the situation other elements which, in a practical though perhaps not a legal sense, have been coercive elements of great potency and effectiveness.

On July 20, 1933, in a blaze of high-powered nation-wide government propaganda, the President launched the "Blue Eagle" campaign in furtherance of the President's Reemployment Agreement, which had been formulated by the National Recovery Administration without any hearings or advance notice.

Nowhere in the National Industrial Recovery Act, as enacted by Congress, was there any requirement for any "Blue Eagle" or any President's Reemployment Agreement. Both were called into being only by Presidential Executive Orders under the Act.

In order to obtain a "Blue Eagle", an employer was required either to sign the President's Reemployment Agreement, or join with other employers in his industry in applying under the National Industrial Recovery Act for a code containing labor provisions less onerous and more practical than those contained in the President's Reemployment Agreement.

Nowhere in the sections of the National Industrial Recovery Act relevant to codes was there any mention of contracts with federal departments or contracts financed from public funds.

What Congress in the National Industrial Recovery Act as passed had refrained from doing was done a few weeks later by an Executive Order, which the President issued in the midst of the "Blue Eagle" campaign and later augmented by additional Executive Orders.

These Executive Orders of the President directed that in all contracts with federal departments, and in all contracts financed from federal funds, all the contractors and also the sub-contractors, material men and supply men must execute agreements or certificates to the effect that they and all the work and material that they furnished under these contracts would comply with every applicable code under the National Industrial Recovery Act or, if no code is applicable, then with the terms of the President's Reemployment Agreement.

In many lines of business—particularly in the capital-goods industries—most of the activity during the National Recovery Administration period was on such contracts.

In this large fraction of the nation's entire recent economic life, not because of any requirement of Congress, but solely because of Presidential Executive Orders, business men were obliged to furnish to their customers executed certificates of compliance, warranting to their customers that in each transaction there had been complete compliance with every applicable code, or if no code were applicable, then with the terms of the President's Reemployment Agreement.

Coercive contrivances by an Executive over-eager for power were among the grievances to which Magna Charta was addressed:

"We will immediately restore all hostages and charters delivered to us by Englishmen, as sureties of the peace or of faithful performance" (Magna Charta, chapter forty-nine).

"If anyone has been dispossessed or removed by us, without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him. . ." (Magna Charta, chapter fifty-two).

VII

Perhaps King John has acquired in history a reputation somewhat worse than he deserved.

"Externally", says the historian John Richard Green, "John possessed all the quickness, the vivacity, the cleverness, the good humor, the social charm which distinguished his house.

"His worst enemies owned that he toiled steadily and closely at the work of administration.

"He was fond of learned men", continues Mr. Green. "He had a strange gift of attracting friends...

"In the rapidity and breadth of his political combinations he far surpassed the statesmen of his time. Throughout his reign we see him quick to discern the difficulties of his position, and inexhaustible in the resources with which he met them...

"The closer study of John's history clears away the charges of sloth and incapacity with which men tried to explain the greatness of his fall.

"The awful lesson of his life rests on the fact that the king who lost Normandy, became the vassal of the pope, and perished in a struggle of despair against English freedom, was no weak and indolent voluptuary, but the ablest and most ruthless of the Angevins."

Charitably we may excuse some Executive vexation, in the recent collapse of the National Recovery Administration.

Not since the Tower of Babel was halted by Divine wrath has so ambitious a structure been so suddenly struck down.

In this debacle, there crashed to earth more than seven hundred codes and supplemental codes, nearly two thousand Presidential Executive Orders, more than twelve thousand National Recovery Administration Orders, created not by any requirement of Congress but solely by Executive Orders

of the President and carrying penalties of fine and imprisonment, all having the force and effect of an Act of Congress, and all comprised in nearly 18,000 printed pages of executive law, exceeding in quantity more than all the statutes passed by Congress since the foundation of the Government, and more than twice the volume of all Congressional legislation now in force.

This colossal National Recovery Administration code structure cost the government more than twenty million dollars, and cost industry more than seventy million dollars in Code Authority expenditures, and probably cost industry a great deal more than an additional seventy million dollars in legal, accounting, and clerical expenses for formulating these codes and in traveling and hotel expenses attending code meetings and code hearings, and probably cost industry a round half billion dollars more in company executives' time occupied on code matters.

VIII

"Our material progress", said Charles Evans Hughes, now Chief Justice of the Supreme Court of the United States, in an address in 1920, "seems to have created complexities beyond our political competency, and disregarding the lessons of history there has been a disposition to revert to the methods of tyranny in order to meet the problems of democracy."

"Intent on some immediate exigency", declared Mr. Hughes, "and with slight consideration of larger issues, we create autocratic power by giving administrative officials who can threaten indictment the opportunities of criminal statutes without any appropriate definition of crime.

"When King John in the great charter said, 'And we will not set forth against him nor send against him, unless by the lawful judgment of his peers and by the law of the

land,' the assurance was of protection against arbitrary power, and we should know by this time that arbitrariness is quite as likely to proceed from an unrestrained administrative officer of the republic reigning by the grace of an indefinite statute as by the personal government of a despotic king."

"Finding the intricacies of modern life too much for clearly expressed law", continued Mr. Hughes, "we have formed the habit of turning the whole business over to bureau chiefs, who with the opportunity to create manifold restrictions and annoyances hold the power of life and death over enterprise and reputation.

"This has seemed to be a comfortable way of dealing with evils, and the mischief it has been breeding has received scant attention."

"We are a commission-ridden people", said Roscoe Pound, Dean of the Harvard Law School, in an address in 1920.

"Today every side and almost every item of our lives is governed actually or potentially by some administrative commission.

"All public and all quasi-public service and all the details of such services are under the control of commissions.

"Through control of transportation and its incidents, commissions can make and unmake businesses, industries, communities, cities—yes, whole regions."

"Even our supposedly fundamental political dogma of the separation of powers yields to the pressure for government by commissions", declared Dean Pound.

"Judicial powers are conferred upon them whenever judicial construction of constitutions will permit, and ingenious devices are resorted to that they may have the substance of judicial power while the shadow is reserved for the courts.

"More and more it has become the fashion to give them a wide rule-making power, a wide power of filling in

the details of legislation, a wide power of replacing common-law standards of reasonableness by fixed rules and detailed rates and exactly limited zones, which is none the less legislative because it is more conveniently exercised by such bodies than by legislative assemblies."

"The up-to-date American statute setting up an administrative commission", continued Dean Pound, "contains something very like a **lex regia,** and sets up something very like a Byzantine princeps, only that the scope of the authority of that princeps is limited to one general subject.

"Within the limits of that subject, it may be as autocratic as Basil Bulgaroktonos, as free to follow its own conscience as St. Louis under the oak at Vincennes, or as capricious as Harun al Raschid or Baldwin of the Hatchet."

IX

From this dangerous course, the Supreme Court of the United States, in obedience to its sworn duty under the Constitution and in three unanimous decisions on May 27, 1935, has led Congress and the President back to the limits of authority prescribed by the people in the Constitution, and has again recalled to the world the great lesson of Magna Charta, which is that the Anglo-Saxon race will permit no Executive to place himself above the supremacy of fundamental law.

The National Society
Magna Charta Dames

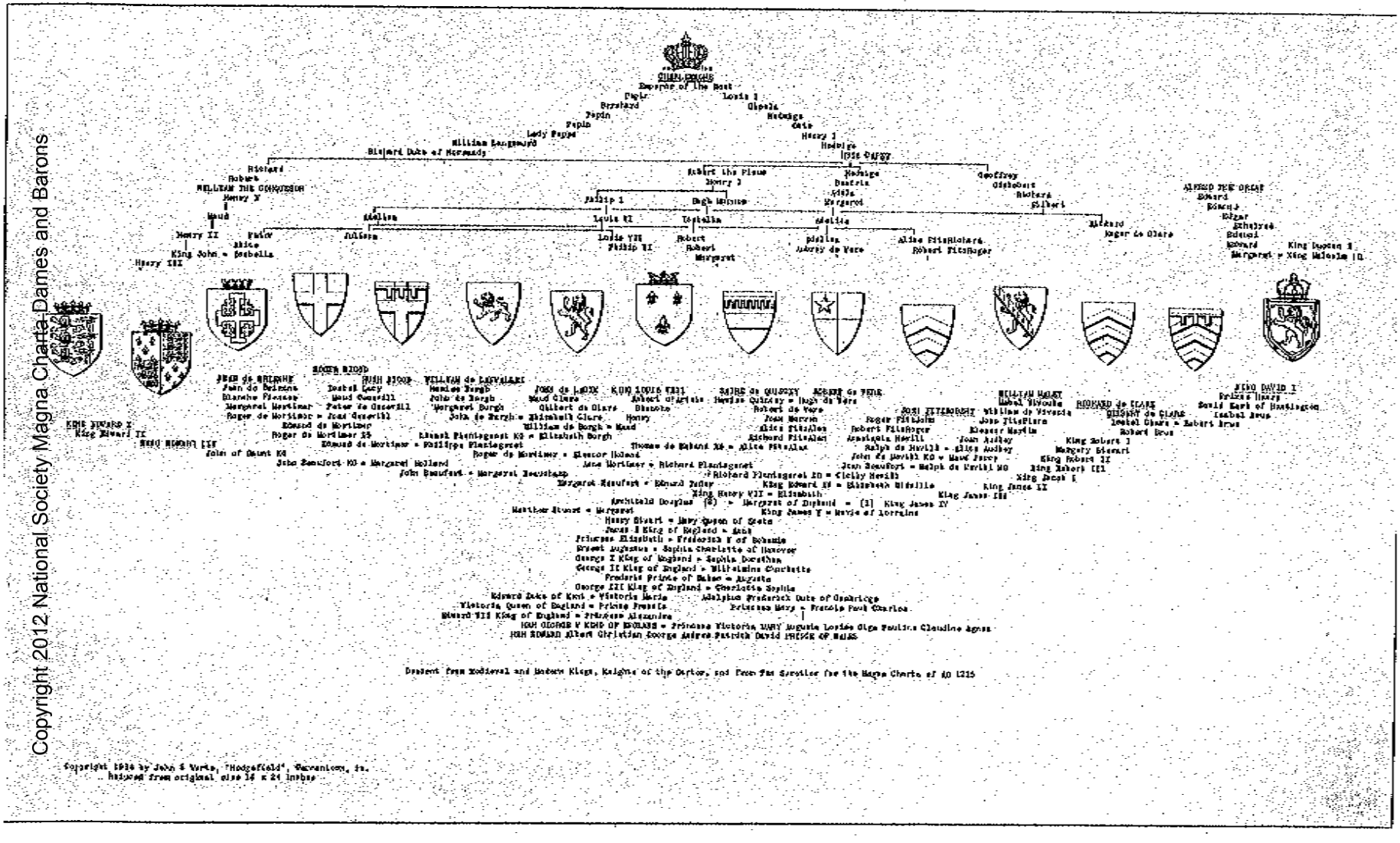
was instituted at the Capitol of the United States, in the City of Washington, on March 1st, 1909. It is a social Order, directed by a Council and composed of women who are lineal descendants of one or more of the Barons of England who in or before the year 1215 rendered actual service toward securing, and who, after many defeats, finally did secure the articles of constitutional liberty, properly called the Magna Charta, from their sovereign, John, King of England, which he ratified and delivered to them "in the meadow which is called Runnemede between Windsor and Staines," on the Thames, above London, on the 15th day of June, A. D., 1215.

THE NATIONAL SOCIETY MAGNA CHARTA DAMES is in possession of a large collection of unusual and interesting

Old English Pedigree Charts

showing the descent of the Magna Charta Barons—their great grandchildren brought down for many generations. The Society looks forward to the time when by constant addition the charts will be more nearly complete to the present day.

The Secretary will be glad to hear from persons interested in these old English families.



Prepared at the request of the Celebration Committee for the Silver Jubilee of King George and Queen Mary.
It is interesting to note the kinship of the Royal Family with the Magna Charta Dames.