A ROMAN LEGAL THEORY OF CONSENT, *QUOD OMNES TANGIT*, IN MEDIEVAL REPRESENTATION†

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Of all the elements in Roman law that played a role in the rise of representation, the most important, I think, was the principle of consent stated by Justinian, *C.* 5, 59, 5: "ut quod omnes similiter tangit, ab omnibus comprobetur"— "what touches all (equally or similarly), shall be approved by all." A familiar maxim in the thirteenth century, *quod omnes tangit*, was freely quoted both literally and in paraphrase by legists and canonists, and in the *Liber Sextus* issued by Boniface VIII it became a *regula iuris*. It was asserted by cathedral chapters and by Pope Honorius III in 1225-27 as a justification for the representation of the chapters in provincial councils. Matthew Paris stated it about 1240 as the basis of the right of archdeacons to be consulted before the higher prelates of England could grant a subsidy to the king. Edward I quoted it when ordering the Archbishop of Canterbury to summon representatives of the clergy to the famous Parliament of 1295. *Quod omnes tangit* was clearly the basis of Philip IV's summons for the Estates General of 1302, when the quarrel with Boniface VIII was called a serious business touching (*contingentia*) both king and kingdom.

The maxim has, in fact, been interpreted in as many ways as there are experts on representation in the Middle Ages. As the early decretalists said, quoting Terence and Horace, "Nam quot capita, tot sententiel" To the famous William Stubbs, *quod omnes tangit* seemed to be a constitutional principle in 1295 which made the consent of representatives a limitation of the royal prerogative. To P. S. Leicht it expressed a theory of democratic consent, and quite recently an Italian scholar, Marongiu, has arrived at the same conclusion. To Maude V. Clarke and C. H. McIlwain it appeared as a new political principle, stating a real right to consent to extraordinary taxes, and was based on property rights—and George Haskins connects it with the sanctity of property rights. To Georges de Lagarde it meant, in accordance with the Roman limitation of its use to private law, that all individual vested interests and privileged

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communities ought to be heard on questions touching them—hence what is consulted is not the national community, but the divers corporations and members of the kingdom; consequently, there is no representation of the community as a whole.

Still other scholars deny any legal significance in Edward I's statement of the maxim; for example, Pasquet, Lapsley, and Pollard. To them *quod omnes tangit* either applied to the clergy, in deference to their use of a pious maxim, or was merely a rhetorical flourish employed for propaganda. "What sort of 'approbation'," a critic has recently asked, "did that bureaucratic despot (Justinian) expect or provide for, save observance and obedience after enactment? Any popular consent beforehand was simply assumed, as it is by Hitler, Stalin, and Mussolini."

These various and conflicting opinions strongly imply the failure of scholars to go to the legal sources and learn the original meaning of the maxim in Roman law and in the legists and canonists. I shall try here to present in brief the results of my own study, hoping to give a better interpretation than any of the contradictory ones mentioned.

Now, in the feudal system of king and assembly of magnates and prelates consent was already important. (What society has ever ignored consent of some kind?) The famous clause in Magna Carta, that the king must obtain the individual consent of prelates, barons and earls in order to get any extraordinary tax, was based on the feudal contract between lord and vassals, and could apply to French and Spanish Kingdoms as well. But this consent involved no true representation, for the magnates and prelates were assumed to be the community of the realm and to "represent," by reason of their position, all men beneath them. Moreover, it ultimately derived from the Roman and feudal theory that normally the prince ruled according to the law of the land that protected established rights. Abnormally, in emergencies, for the common welfare, the ruler might depart from the law; but only, in the feudal monarchy, with the consent of the great men.

If the magnates and prelates and king constituted the essential community of the realm, how is it that within fifty years of Magna Carta, representatives of the counties and of the towns were being summoned to grant subsidies in Parliament? How is it, that as early as the twelfth century, the kings of Aragon and Castile, and the emperor Frederick Barbarossa in Italy, were holding assemblies to which delegates came from the cities? It cannot be the result of the appearance of Aristotle's *Politics*, in which theorists were to find something about the consent of the people as a whole,

for this occurred in the 1260's, well after the time of the frequent summoning of representatives. Nor can it be the direct result of the Stoic-Christian belief in the fundamental equality and freedom of all men. Such a theory can, and did, flourish in authoritarian states.

The addition to assemblies of great feudal nobles of representatives of small nobles, like the knights in England, of communes, boroughs and cities, and of monasteries and cathedral chapters was in large part the result of the new popularity of *quod omnes tangit* in law and legal procedure in courts. What, then, is the meaning?

The one statement of *quod omnes tangit* in Roman Law that is familiar to everyone is that of Justinian, *C.* 5, 59, 5, 1-3. Justinian declared that if several guardians (*tutores*) with undivided *administratio* use their authority for the ward (§ 1), then "they must *all* exercise their authority, since what affects all in like fashion should be approved by all" (§ 2), ". . . necesse est omnes suam auctoritatem praestare, ut, quod omnes similiter tangit, ab omnibus comprobetur"; and the same provision was applied to *curatores* (§ 3). In the thirteenth century legists and canonists and popes seized upon Justinian's statement and interpreted and applied it to contemporary administrative authority in Church and in State. Azo to *C.* 5, 59, 5 gives merely a paraphrase, although elsewhere he refers to it in connection with the consent of members of a corporation. But in the *Glossa ordinaria* of Accursius real interpretation appears. Thus Accursius says that what touches all *similiter*, touches them *aequaliter;* but where "tacit consent" suffices, the approval of all is not required. A French legist of the fourteenth century, Jean Faure (Johannes Faber), adds that the principle applies *presentialiter;* it is otherwise if the business might touch all in the future.

From the late twelfth to the fourteenth century and beyond, this famous *lex* in the *Code* was repeatedly cited to support the principle of joint and several and common consent. First of all, it was applied to the co-administration of those who had any kind of superior authority or jurisdiction over a subordinate, over a corporation, over the common people of a district or parish or diocese or province or nation. Pope Innocent III, quoting Justinian, "iuxta imperialis sanctionis auctoritatem ab omnibus quod omnes tangit, approbari debeat," specifically applied the rule to the joint authority of bishop and archdeacon over the rural dean, who can be removed or appointed only with the common consent of his two superiors, for the dean exercises an office that is "common" to his two superiors. This decretal is well known, but not so the discussion of it by the canonists. On it the contemporary Johannes Teutonicus, who wrote

an *Apparatus* of glosses to the *Compilatio IV* in which it is found, offers no discussion, but he does refer specifically to *C.* 5, 59, 5, as well as to the *Decretum*, Dist. LXVI, C. 1 Archiepiscopus, on the ordination of an archbishop by all his suffragans. Innocent IV, in his *Apparatus* to the Decretals of Gregory IX, discussed the decretal at some length; he not only paraphrases the decretal, but says that it applies particularly to certain parts of France, where the rural deans are not priests but 'quasi ministeriales et officiales', of both the bishop and the archdeacon. But he adds a characteristically medieval opinion, that consent is not always of equal quality given by equals, but is graded according to the rank and dignity of each consenting party; in this case, the authority of the bishop is superior to that of the archdeacon when they disagree, and thus the consent of the former has greater weight.

Johannes Teutonious referred to the *Decretum* in citing Justinian's law on the consent of *co-tutores* in association with the ordination of an archbishop by his bishops; in fact the Council of Nicaea had in 325 decreed that bishops should be ordained by all the bishops of the province. If "urgent necessity" or the length of the journey prevented this, three bishops should come bearing the written consent of the absent ones. The principle of consent of the clergy and the people was also stated in the *Decretum*, as valid for elections of bishops; but by the twelfth century the consent was generally that of the cathedral canons. How they, as a corporation, should consent in the election of the bishop, will be noted below. Here it must be noted that since several persons, not constituting a corporation, were sometimes given the power to elect in Italian cities, the consent of all the interested parties in each case of election or appointment was sometimes stated in the terms of *quod omnes tangit*, fortified by additional references to the *Code* and the *Digest* on mutual consent to changes in rights called servitudes (easements).

All rights of presentment, rights of individuals and of corporations as fictive individuals, were brought under the same principle—and Bracton himself echoes the canonists on this in his discussion of consent to donations.

In the systematic adaptation of many passages in Roman Law, the civilians and canonists of the late twelfth, and thirteenth century laid down the rule that every kind of *jus*, i.e., "right" in the legal sense, was accompanied by the right of consent. Said an early thirteenth century decretist: "The consent of all is required whose *ius* may be taken away"; and he means here the consent of all who have any power or authority over the thing involved. The great

English canonist and civilian at Oxford, William of Drogheda, about 1239, referred to the *Digest* on servitudes in supporting his contention that if a proctor is appointed in the presence of a judge, the consent of the judge as well as that of the litigants is necessary.

Not only common rights in administration, authority and jurisdiction, therefore, but also common rights in property or in its use were necessarily accompanied by the common right of consent. If common and feudal contractual law embodied the same principle (it is abundantly evident in the common law as reflected by Bracton), Roman Law, particularly that on praedial and rustic servitudes, furnished at least a rationalization of it, if not a new orientation. We do not need to examine in detail the Roman praedial servitude, which is "a right or group of rights vested in some person other than the *dominus* or land subject to it"; "servitudes are rights exercisable over another's property," such as the right to draw water, burn lime, dig sand, or pasture cattle (rustic servitudes), or to make use of buildings (urban). In modern law the praedial servitude is the easement. Such a servitude, or right, of road or of water may be granted to several. But at this point the theory of the consent of all interested parties is emphasized by Ulpian in the *Digest:* "In granting a right of leading water, the consent not only of all the owners of the land, but of all entitled to water therefrom, is required!" Significantly, as early as the late twelfth century Bernard of Pavia, the canonist, referred to this in discussing the consent of members of the ecclesiastical corporation to its acts, and added a reference to the famous law of Justinian on *co-tutores* and *quod omnes tangit*. And the civilians of Bologna likewise connected *quod omnes tangit* with consent to servitudes. A later civilian adds, ad v. *In concedendo:* "Consensus omnium est requirendus quorum iuri in aliquo detrahitur"; but he merely repeats what the early thirteenth century decretist had already stated. It is no coincidence that Bracton emphasizes common consent in easements. Indeed, *quod omnes tangit* is important in other respects in Bracton, as I have shown in a study in *Traditio IV*, and do not need to repeat here.

Still another passage in Roman Law, *Code* 11, 59, 7 § 2 ("... ut id consensu omnium fiat, quod omnibus profuturum est") inspired Accursius to quote additional authorities on consent, including the law on *co-tutores*. Thus what may "interest" someone, whatever change in a contract or legal disposition that may be either injurious or profitable, must receive his consent.

In a partnership, too, mutual and equal rights involved, no doubt, mutual and equal consent to changes in the terms. One must remem-

ber, however, that in the case of higher and lower ecclesiastics sharing in the appointment of a subordinate agent (bishop and archdeacon choosing a rural dean), as in similar common interests of higher and lower administrators and judges, and in the case of the prelate and his corporate church sharing in a common piece of property or in a presentment, the jurisdictions and rights involved were frequently not equal. Consequently consent was not equally, even if it was commonly, shared. The consent of a high administrator was of superior quality and effect to that of a lower, which, however, must be obtained. Thus in the thirteenth century consent was hierarchic in administration, jurisdiction and legislation. In other words, consent was obviously harmonized with varying degrees of prerogative and *imperium*, from pope downward through the prelates to the cathedral chapters, from king downward through feudal lords, administrative and judicial agents, to local officers and corporate communities.

All this consent, however, was individual; even a corporation which, with another interested party, consented to something, did so as a "fictive" person, or at least as one *ensemble*. *Quod omnes tangit*, then, meant literally the consent of all individuals who each had legally established interests or rights in a thing that was common equally or in varying degree to all.

Now, so far, consent in *quod omnes tangit* seems to be completely individualistic in such a way that nothing could be done to change rights or contracts without the consent of every interested party. By implication, in national representation based on the principle, the king could do nothing extraordinary without unanimous consent. One dissenting voice would ruin the power of a central government to act. (Indeed, later, in Poland, the *liberum veto* did precisely that.) But in the thirteenth century the lawyers borrowed three principles that limited the extreme individualism of consent and made it possible for governments of communities to be effective even while having to get the consent of all who were touched. These three principles were, (1) the right of the majority in a corporation or other community to carry the issue in spite of a dissenting minority, (2) the association of *quod omnes tangit* with judicial procedure and due process of law, and (3) the subordination of consent, both of individuals and of a majority, to the idea of the end of society, the common good or welfare and public utility.

As for consent by majority, it is so well known that it may be summarized briefly. In the two laws it was held generally that when the members of a corporation elected an officer, a bishop, or new

member or proctor (representative), drew up statutes, or did anything that was for the corporation as a whole and interested all members in common (when, in fact, the business was for the common utility), the *maior pars* could prevail and represent the will of the whole community. But since the business touched all, all the members must be summoned to the meeting, for all must have the right to discuss and debate; and it was another principle of the two laws that no one's rights should be endangered unless he were informed and given a hearing. Two-thirds of those summoned should be present as a *quorum*, and the decision of the majority of the *quorum* was valid. (By the late thirteenth century the *maior pars* was numerical rather than *sanior*—as held by some.) *Quod omnes tangit* still applied to the situation, but it was modified by the commonsense, practical idea of the majority. Otherwise a community could hardly exist.

To illustrate, I quote Ulpian, in a *regula iuris*, D. 50, 17, 160, 1: "What is done publicly by the *maior pars*," he says, "is attributed to all." That is, all the members of a community are bound by what the majority do. Applying this principle to an Italian commune, Accursius to these words of Ulpian says: "If the people are publicly summoned by trumpet, by the ringing of bells (*per campana*), or by town crier. But if all do not come, all seem to do what those who come do, provided that two-thirds respond to the summons, and the *maior pars* of these two-thirds consent." Again, (all are presumed to consent to what) "the *maior pars* of the communal council do, for they are deputies in place of the whole city." This rule, he continues, applies to elections, contracts, and to the corporate responsibility in delicts. So the law feigns that all are responsible for what the majority does, because it is impossible for all easily to consent.

Another illustration comes from the opinion of Vincentius Hispanus, an able decretalist of the early thirteenth century. Pope Innocent III had decided that it was unlawful for the canons of a cathedral chapter to change, by a statute made by the *maior pars*, the custom of the chapter that permitted the canons to receive their rents from prebends whether in residence or on leave of absence. On this decretal Vincentius comments: "It is asked whether the act of the majority is insufficient here? For in this case what touches all should be approved of all. But note, that if anything is common to several, not as colleagues in a college or corporation, what is done by them or by the majority is invalid unless every last one consents, as in Digest, rustic servitudes, *per fundum*." But an exception to this principle of unanimity occurs when the several grant a thing in natural

use, which even one of them can do with the others unwilling and contradicting, for example, in making a bit of his portion of land into a "religious place" (a cemetery), provided that he actually buries a dead man in the place, as in Inst. 2, 1, Religiosum. But if there are several persons as a corporation, a distinction must be made. If things are to be done in case of necessity, such as elections (other canonists add alienations), what the majority does is sufficient, and no appeal against them is valid or permitted, unless the majority had acted in contempt of members who were not summoned (to a meeting of all). As for things which are not done by necessity, as when a prebend is broken up or abolished, as in this case, they cannot be done unless all consent. Yet if this unnecessary act interests the several in the chapter not as separate individuals but as members of the college or university, then again majority consent is valid. For in a society (or community), says Vincentius, we must consider not what is good for the individual members, but what is good for the society. He means, of course, that when a necessity arises that concerns the common welfare of all the members of the corporation and not their individual interests, consent must be by the majority, lest the wilful dissent of one member injure all.

But was a kingdom a corporate community in which a majority of all the members, summoned individually or collectively by representation, could express the common consent to what the king requested? It was treated as a corporation to a certain degree. Yet, so far as present studies go, it is uncertain to what extent the theory of the *maior pars* was practiced. But it seems that in England a majority of the magnates in the great council could decide how to make answer to the king. In the fourteenth century it is probable that the speaker of the commons, elected to represent the representatives, expressed the opinions of the majority. At any rate the *maior pars* of each corporation of a Nation or a Faculty in the Universities of Bologna, Paris, and Oxford carried the issue, although in the general meeting of the corporation of the University voting was by nations and faculties. For France, Spain, and the Church, adequate research has not been done to decide whether a majority of the representatives spoke for the townsmen and lower clergy as a whole.

But in a sense it does not matter. For the next limitation to the individualistic interpretation of *quod omnes tangit* would tend to eliminate the need of unanimous consent. This limitation was imposed by the rules of legal procedure. In the two laws it was stated in great detail that no man should unjustly be condemned in person or in property without being informed by a proper summons and

given an opportunity to appear in court to defend his rights. As one decretalist said: "No one shall be deprived of the benefit of the law." It was stated roughly in this fashion in the Cortes of Leon, 1188, and in Magna Carta, 1215: "No man shall be injured in person or in property without fair trial by his peers or by the law of the land in the king's courts." What is this but "due process of law"?

Actually, like so many other fine maxims retained by Justinian, one part of *quod omnes tangit* had already been explicitly stated, and in direct connection with due process of law in the courts, by Paulus, one of the great jurisconsults of the classical age (*ca.* 200). Here due process is extended to all individuals equally interested in one matter. Indeed, since Paulus connects the principle of due process with cases tried before the fiscus, i.e., the imperial treasury, *quod omnes tangit* is thus made virtually a part of public law. "An affair (*negotium*) must be judged" says Paulus, "with all present whom the case affects" (De unoquoque negotio praesentibus omnibus, quos causa contingit, iudicari oportet); "for the judgment binds only those who are present." But, continues Paulus, if the interested parties are repeatedly (*saepius*) summoned before the *fiscus* as defendants and disregard the summons, they must submit to the judgment; for it is evident that such parties do not wish to be present. In a proceeding by default, due process and consent still apply, but contumacy deprives the absent parties of the privilege of refusing to accept an adverse sentence—no appeal is permitted. The superior jurisdiction of the court is thus asserted while the right of every defendant to a hearing is assured; the consent of the latter is his presence in court; it is consent to the jurisdiction of the court. The contumacious person refuses consent, and by his absence confesses that he really has no legitimate interest to defend.

In the thirteenth century Accursius does not say much on Paulus' opinion; but what he says is to the point: by "interpretation" or fiction the contumacious party is present if the summons or citation was properly made. In fact in thirteenth century Romano-canonical procedure, whether in courts secular or ecclesiastical, citation was made according to definite rules; in general, there were either three separate summonses or one peremptory summons before the cited defendants could be called contumacious.

The royal summons to a representative assembly was indeed at least analogous to the peremptory citation; and a proper *terminus* was in effect given to the cited in order that they might have adequate time to prepare their defense or claims and secure a more favorable hearing. If such a procedure protected the interests of the defendants

in court or of the communities represented in the royal assembly, at the same time the acceptance of the summons, sent out on the principle of *quod omnes tangit* and responded to by the appointment of representatives with full powers to defend the interests of constituents and to consent to the decision of the king and his council, was an acknowledgment of the power and jurisdiction of the central government. Further, by responding to the summons, and giving to their delegates, full powers to consent, the communities had no legal right, after the assembly was held, to pretend that they had not been given due process, and hence were not bound by the will of the king in his assembly. On the other hand, the king and his local officers could legally execute the decision in the localities. In practice, however, as in France, the communities still presented legal quibblings and excuses, claimed the right of referendum, and made appeals. Hence one important source of the difficulty experienced by royal collectors of extraordinary taxes.

At any rate, in judicial procedure a definite connection was made between the summons, fair trial and *quod omnes tangit*. In the early thirteenth century the decretalists are already quoting Paulus and referring, for supporting authority, either to the famous law in the *Code*, 5, 59, 5, or to passages in the *Digest* on mutual consent to the grant of a servitude or easement. The *Glossa ordinaria* (*ca.* 1260) to the Decretals of Gregory IX emphasized the importance of the public summons of all interested parties, for if an absent person does not receive the summons (*citatio*) the sentence cannot prejudice him. The great canonist of the early fourteenth century, Johannes Andreae, sums up the early opinions, and strongly advises the plaintiff to be sure to have summoned "omnes, quos res tangit . . . , ut contra omnes obtineas, et omnibus praeiudicet sententia lata." Indeed, he says, whenever anyone claims a right (*ius*) in a thing and files his claim, all those interested in the thing must be summoned; otherwise the decision of the case cannot go against the absent parties, unless perchance they know that the case is being tried and remain silent. And again he says, when an investigation of rights is held, all "whom the affair touches" must be summoned; and if they are not summoned, or if they are ignorant of the summons, they can easily obtain judicial aid.

It was important, then, that when any business touched the rights of several persons or of many in communities, all must be summoned, informed, and given the right to represent their interests. That is why any ruler who needed to act in a way that was extraordinary, outside the normal acts permitted by the law, must

summon the members of the realm. But if all must be summoned, it did not follow that the king could do nothing if all did not respond and meet in assembly. For the two laws offered rules on default to the effect that the court (and the king presided over the assembly as the supreme judge presiding over his high court) could decide the case or business in the absence of interested parties who refused to heed the summons. The wilfully absent had no legal right later to appeal the sentence or decision. Unanimity of consent, therefore, was unnecessary. The subjection of *quod omnes tangit* to the court procedure of summoning and carrying on the business according to due process of law eliminated a serious obstacle to a successful kind of national representation.

In fact, in the fourteenth century the documents relating to Parliament show clearly how some towns failed to send representatives (usually they presented excuses for absence) but did not prevent common action by the commons and a final decision by the king. In fact, too, William of Ockham's theory of the general council was based on the two laws in this respect: He seems to have held that all Christians, laity and clergy, should be summoned, but not all need attend; those who attended represented the Church. It is not so important, then, that he failed to stress the idea of the majority. (Lagarde makes too much of this point).

The third limitation of *quod omnes tangit* was the prerogative of the ruler. In legal theory the prince must rule according to the private law that protected all rights, and hence must ask the consent of all to extraordinary measures that touched all. But he had a superior right, by his prerogative, to do what was for the common good and public welfare. The "public welfare clause" meant that for the common good, when a danger threatened the safety of the whole community, the prince could demand consent. If he could successfully prove, in his high court in assembly, that he was justified in acting for the common welfare, he had the right to compel representatives to consent. Thus if our maxim meant that the head of a community could do nothing without obtaining the consent of all affected, nonetheless the prerogative of the head was superior to the right of the members to consent, since the members must consent to what was for the common good—whether they consented by majority or by unanimity.

Such, in general, was the legal interpretation of *quod omnes tangit* in the thirteenth century. A well established rule of law, recognized in Church and in state, in Roman-law and common-law countries alike, it caused new communities of free men and their rights to be

recognized as clearly as the rights of the great. It caused representation to become that of the rights of free men who felt that their superiors did not adequately represent these rights *ex officio*. Thus the canons of cathedral chapters in the early part of the century asserted that their rights were touched by royal taxation, and that they as well as the prelates should be summoned to councils. Knights of the shire and burgesses demanded and obtained the right to represent their own interests in royal assemblies. At the same time prelates and magnates, finding that they could not legally respond for those beneath them, also asserted that the lower clergy and nobility and townsmen should be summoned. The kings, then, were compelled to summon representatives of communities to give the consent of lesser free men. They did not do this exclusively because, as some authorities have argued, they needed to persuade a larger public, by means of propaganda in great assemblies, to give taxes or assent to general legislation. They did it because the law and the new legal procedure made it compulsory for them to do so.

Nor did the kings have to summon representatives because of a rising theory of democracy. *Quod omnes tangit* expressed no idea of the democratic sovereignty of the people. The king was superior in authority by law and tradition. But since he must rule according to law and justice, he had to observe the new legal procedure. Consequently, when he wanted something not permitted by the private law, he was compelled to summon all who were touched and obtain their consent. If, however, he was acting for the public welfare, he had the right as head of the state, by public law, to decide in his high court and council that all must consent. This consent, then, was not voluntary, but procedural; consent established by legal rights but subordinate to the decision of the king and his court. In brief, *quod omnes tangit* was neither a constitutional principle of sovereignty of the people, nor a theoretical maxim. It was a principle of the fundamental medieval legal theory, that of government, by law, for the people, not government of and by the people.

In fact, *quod omnes tangit* as a legal rule did not apply to *all* the people in a kingdom. It applied only to those who had free status and enjoyed special rights or privileges and liberties. When a king wanted a subsidy, he was touching directly the rights of great barons, prelates, lesser nobles (knights of the shires), and the leading burgesses and citizens, and members of the clergy who were members of corporate communities. Therefore he summoned the great prelates and magnates as individuals, even though they lived in shires or towns; but the knights and townsmen as communities.

Serfs and humble freemen of town and country were not concerned, and thus enjoyed no right of representation, however heavily taxes might ultimately fall on them. Nonetheless, as a result of the triumph of the Romano-canonical maxim, consent was far more widespread than it had been in the feudal age. Ultimately the same principle was to be enjoyed by all men, and all men were to be recognized as free. In the thirteenth century it is the basis of the same theory as that thundered by Patrick Henry in a later age: Taxation without representation is tyranny!