



HOUSE OF LORDS

Library Note

A Brief History of the Magna Carta

This Note has not been written in preparation for a specific debate in the House of Lords, but is offered as a short guide for Members on a topic of general interest. In 2015, it will be 800 years since the Magna Carta, or 'Great Charter', is thought to have been sealed by King John on 15 June 1215. This Note will consider the background to the introduction of the Magna Carta, providing a summary of some of the factors that historians have identified as important in bringing the Charter into existence. It will look at the provisions of the original document and how these were amended in subsequent reissues; provide a brief account of the later history of the document; and consider the influence the Magna Carta has had in the 800 years since its creation.

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I. Introduction

In 2015, it will be 800 years since the Magna Carta, or ‘Great Charter’, is thought to have been sealed by King John on 15 June 1215.¹ The Charter set out 63 clauses defining the rights and responsibilities of the King, his barons and a number of other groups including the Church and the City of London. Originally the document was not described as Magna Carta, but was unnamed. It began to be known by this name some years later.²

The Charter was issued following an uprising which was led by a group of barons against King John. Its provisions are thought to have been established in negotiation between the King and these barons at Runnymede, a meadow close to the River Thames.³ The Charter has been described as performing the function of a ‘peace treaty’ between the rebel barons and the King.⁴ A number of copies were issued by the royal chancery and distributed around the country.⁵ The Charter was legally valid for a period of no more than three months, before Pope Innocent III, acting in accordance with King John’s wishes, declared the Magna Carta to be null and void.⁶ However, following King John’s death in 1216, the Magna Carta was reissued (with some amendments) under King Henry III in 1216, 1217 and 1225.⁷ Under Edward I the reissue of 1225 became law, when it was copied on to the statute roll in 1297.⁸ Three clauses of the 1225 Magna Carta still stand as part of English law.⁹ These three clauses originally formed four clauses of the 1215 Magna Carta.

The Magna Carta has been described as the longest standing English legal enactment.¹⁰ In a book published in 2014, Lord Judge, a former Lord Chief Justice, and his co-author Anthony Arlidge described the Magna Carta as “the most famous document in the common law”, which “continues to be a powerful symbol of our liberties”, suggesting that: “within its clauses are the germs of constitutional principles which resonate to this day”.¹¹ In June 2014, the Prime Minister, David Cameron, described what he saw as the legacy of the Magna Carta:

Next year, it will be the 800th anniversary of Magna Carta. Indeed, it was on this very day, 799 years ago, that the Great Charter was sealed on the banks of Runnymede in Surrey. It’s a great document in our history—what my favourite book, *Our Island Story*, describes as [the] “foundation of all our laws and liberties”. In sealing it, King John had to accept his subjects were citizens—for the first time giving them rights, protections and security. The remaining copies of that Charter may have faded, but its principles shine as brightly as ever, and they paved the way for the democracy, the equality, the respect and the laws that make Britain, Britain.¹²

Some commentators have appeared to dispute such accolades. Historian JC Holt, for example, suggests: “in 1215 Magna Carta was a failure. It was intended as a peace and it provoked war. It pretended to state customary law and it promoted disagreement and contention. It was legally

¹ David Carpenter, *Magna Carta*, 2015, p 361.

² *ibid*, p 4.

³ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 25.

⁴ British Library, ‘[Magna Carta: an Introduction](#)’, accessed 13 January 2015.

⁵ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 35.

⁶ *ibid*, p 40.

⁷ *ibid*, p 44.

⁸ *ibid*.

⁹ British Library, ‘[Magna Carta: an Introduction](#)’, accessed 13 January 2015.

¹⁰ JC Holt, *Magna Carta*, 1992, p 1.

¹¹ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 1.

¹² David Cameron, ‘[British Values](#)’, Gov.UK, 15 June 2014.

valid for no more than three months, and even within that period its terms were never properly executed".¹³ For Holt, the modern day veneration of Magna Carta is connected to the way its provisions were reinterpreted by later generations, particularly the lawyers of the seventeenth century.¹⁴ Holt describes the development of a "'myth' of Magna Carta", whereby subsequent "interpretation of it gives it qualities which the men of 1215 did not intend".¹⁵

This Note will consider the background to the introduction of the Magna Carta, providing a summary of some of the factors that historians have identified as important in bringing the Charter into existence. It will look at the provisions of the original document and how these were amended in subsequent reissues; provide a brief account of the later history of the document; and consider the influence the Magna Carta has had in the 800 years since its creation.

2. Why was the Magna Carta Created?

2.1 Wars

The Magna Carta was sealed by King John, the youngest son of Henry II Plantagenet and Eleanor of Aquitaine. John succeeded his brother, Richard I, as King of England, and was crowned on 27 May 1199.¹⁶ Henry II, who was King between 1154 and 1189, had accumulated significant territories through marriage, conquest and inheritance.¹⁷ By the end of his rule, he controlled large areas of France, from Normandy and Brittany in the north, to Anjou, Maine, Touraine, Aquitaine and Poitou, and Gascony and the Pyrenees in the south. Henry II had also conquered Ireland and made Scotland and Wales subject to his overlordship.¹⁸

Richard I was crowned in 1189; he worked, through diplomacy and military endeavours, to protect the lands gained by Henry II, defending the continental territories from attack by Philip II, the King of France (who is also known as Philip Augustus). Richard I fought in the crusades, conquering Jaffa and Cyprus. He spent only six months of his ten-year reign in England, and was known for his military prowess by contemporaries as 'Richard the Lionheart'.¹⁹ However, by the end of his reign, Normandy's defences were undermined and Scotland, led by King William, had regained its independence. In 1191, Richard I was captured on his return from the crusades; he was imprisoned by Henry VI, King of Germany and Holy Roman Emperor. Henry VI demanded a ransom of £100,000 for Richard I's release.²⁰ It has been estimated that this ransom would be equivalent to some £2 billion in contemporary money.²¹ England paid a large contribution towards the ransom, and Richard I was released in 1194. Historian David Carpenter suggests that the revenues which were needed to support Richard I's military campaigns, and the large ransom which was paid for his release, "placed the kingdom under novel pressures, which culminated under King John with the rebellion of 1215 and Magna Carta".²²

¹³ JC Holt, *Magna Carta*, 1992, p 1.

¹⁴ *ibid*, p 2.

¹⁵ *ibid*, p 9.

¹⁶ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 9.

¹⁷ *ibid*, p 8.

¹⁸ David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 191.

¹⁹ *ibid*, p 245.

²⁰ *ibid*, p 248.

²¹ Tom Geoghegan, '[Why is King John the Classic Villain?](#)', BBC News Magazine, 1 March 2011.

²² David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 245.

Soon after King John took the crown, the King of France, Philip II, renewed hostilities. In the wars which followed, King John lost a number of territories; in 1204 the French captured the castle of Gaillard at Les Andelys; this was followed by the surrender of Falaise, Caen and Rouen.²³ By the end of June 1204, the only part of the Duchy of Normandy which was still held by the English was the Channel Islands. Historian Claire Breay describes how:

The loss of Normandy gravely injured John's prestige; the patrimony of William the Conqueror, Duke of Normandy and King of England, had been broken in two. Quite apart from the severe blow to John's reputation, the loss of lands of Normandy also deprived him of the substantial revenue which they had generated for the Crown, forcing John to extract even more money from England and Ireland in order to defend England from invasion and finance his plans for reconquest.²⁴

In 1213, a French invasion threatened England; John rallied an army in Kent, but a naval victory over the French fleet at the Flemish port of Damme took place in spring 1213.²⁵ John launched an invasion of France the following year; he sailed for Poitou, and his allies, who included the Emperor Otto of Brunswick, the Count of Flanders and the Duke of Brabant, attacked from the north. In July 1214, John's allies were defeated by King Philip II at the battle of Bouvines. Claire Breay suggests that this battle "led to the irrecoverable loss of Anjou, Maine and Touraine" and ended "John's hopes of ever reconquering his Norman lands".²⁶ By the end of 1214, of the territories in France he had inherited, John retained only Poitou and Gascony. For this reason, David Carpenter argues that the battle of Bouvines "shattered John's authority and paved the way for Magna Carta".²⁷

2.2 The Feudal System

JC Holt suggests that the increased revenues required by King John to defend his territories on the continent (and to finance campaigns in Scotland, Wales and Ireland) led him to increase pressure on sources of revenue in England. This, for Holt, caused the baronial rebellion which prompted the Magna Carta:

Magna Carta was a direct product of war. It was occasioned directly by failure in war, by the loss of Normandy in 1204 and by the defeat of John's ambitious campaign in Flanders and France in 1214. If the Charter had any single predominant source, it is to be found in the manner in which the Angevin kings of England exploited their realm in an attempt to expand and defend the continental empire of which England became a part with the accession of Henry of Anjou in 1154.²⁸

The manner in which revenues were gathered by King John has been explored by Lord Judge and Anthony Arlidge. They explain that:

Since the [Norman] Conquest the Crown had funded its activities by income from its royal demesne, by the profits of justice and by the exaction of dues from its tenants in chief as part of the feudal relationship.²⁹

²³ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, pp 8 and 11.

²⁴ *ibid.*, p 11.

²⁵ *ibid.*

²⁶ *ibid.*

²⁷ David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 286.

²⁸ JC Holt, *Magna Carta*, 1992, p 24.

²⁹ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 67.

King John gained money from administrative office holders. An annual payment was made to the King by the sheriffs, known as a ‘farm’. The farm was a payment of the Crown’s rents from its lands in the counties.³⁰ The King also earned money from the justice system, including fines which were paid for crimes committed, and fees which were offered by litigants for cases in the King’s court in the hope of influencing the decision which would be made. Fines were charged in connection to the royal forests, which covered large areas of the countryside and were reserved for the King’s hunting. A tax on property known as ‘tallage’ could be levied by the Crown on tenants of land within the royal demesne.³¹ Claire Breay provides a summary of the feudal system of land tenure:

In the feudal hierarchy, all land was ultimately held ‘in fee’ from the King, in a complex web of tenancies and subtenancies which stretched down from the King’s tenants-in-chief, through a series of lesser lords, to the rural peasantry—known as the villeins—at the foot of the pyramid. Everyone in the hierarchy, from the King to the villeins, possessed rights and owed obligations, both of which were regulated by long-established custom.³²

Barons held land directly from the Crown, thus they were ‘tenants-in-chief’. Under feudal custom, barons owed ‘knight-service’ to the King, an obligation to produce knights to defend the King. In lieu of the provision of knights, barons were required to make a payment known as ‘scutage’ which was used to hire mercenaries.³³ The King was entitled to privileges, which are described by historians as ‘feudal incidents’. These included fees which heirs of tenants-in-chief were required to pay in order to claim their inheritance.³⁴ Another of these ‘feudal incidents’ was the right of wardship: when a tenant died leaving an underage heir, the King was able to sell off the wardship, allowing the buyer to exploit the heir’s estates until the heir came of age.³⁵ The King also had the right to approve the marriages of widows, heirs and heiresses of tenants-in-chief who had died; widows who wished to remarry a man of their choice or to remain single were required to pay the King for this right.³⁶

David Carpenter suggests that King John exploited all these sources of revenue more than his predecessors. He observes that “probably the years after 1207 saw the greatest level of financial exploitation since the [Norman] Conquest”.³⁷ The country had already paid a tax under Richard I, to pay for the King’s ransom, which, “at a quarter of everyone’s rents and movable property was by far the heaviest levied in medieval England”.³⁸ Carpenter estimates that, in real terms, allowing for inflation, “John’s revenue between 1207 and 1212 [...] was running at roughly 25 percent a year more than that of Henry I in 1130”.³⁹ This was achieved through charging sheriffs additional sums beyond the traditional ‘farms’ which they owed, charging “oppressive” amercements on the royal forest, charging Jewish money-lenders a huge tallage, and in 1207, charging a ‘great tax’ of 13 percent of the value of all rents and movable property. These financial measures affected all levels of society. But there were charges which were borne directly by the barons; John increased the charges he expected from baronial

³⁰ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 12.

³¹ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 69.

³² Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 13.

³³ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 7.

³⁴ *ibid*, p 38.

³⁵ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 15.

³⁶ *ibid*.

³⁷ David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 271.

³⁸ *ibid*, p 260.

³⁹ *ibid*, p 271.

widows and the charges he made for succession to inheritances. John's demand for military resources meant that he also increased the incidence of scutage. Under Henry II, eight scutages were levied in 34 years; under Richard three in ten years, whereas John levied eleven in sixteen years, and at higher rates.⁴⁰

Historian Nicholas Vincent describes the emergence of a group of barons who were opposed to King John. In 1212, rumours reached John of a plot against him, led by two barons, Robert fitz Walter and Eustace de Vescy, the first a landholder in Essex, the second a landholder in Northumberland. Both fled into exile.⁴¹ More broadly, Vincent suggests, a group of barons who were known by contemporaries as the 'Northerners' (because the group included barons who held lands in Northumberland, Yorkshire, Lincolnshire and Cumbria) began to grow more demonstrative in showing their disapproval of the actions of King John.⁴² For example, when the King embarked upon his unsuccessful campaign to regain his French lands in 1214, a number of barons refused to serve in the King's army, or to pay scutage. Vincent states: "in effect, this represented a tax strike: the first signal of the coming storm. It gathered pace after Bouvines, with several barons, including the earls of Winchester and Norfolk who had sent service to Poitou, now defecting to the malcontents".⁴³

2.3 The Church

Claire Breay points out that the reign of King John, from 1199 to 1216, "coincided almost exactly with the pontificate of Innocent III" who was elected pope in 1198 and died in 1216.⁴⁴ She suggests that: "For much of his reign, John was engaged in a prolonged dispute with Innocent III, England's spiritual overlord. The means by which John resolved this dispute were unorthodox, to say the least, but worked to his advantage in the months following his agreement with the barons at Runnymede".⁴⁵ Historian Ralph Turner describes the synchronicity of John's reign with Innocent III's pontificate as "bad luck". He refers to Innocent III as "one of the most ambitious and aggressive of the medieval popes, a pontiff who meant to enforce all his rights and responsibilities as God's viceregent on earth".⁴⁶

A disagreement between King John and Innocent III occurred over the election of a new Archbishop of Canterbury.⁴⁷ The incumbent archbishop, Hubert Walter, died in July 1205. The monks in the chapter of the cathedral were divided about who to elect. The King instructed the monks to elect John, Bishop of Norwich. The Pope favoured the theologian and cardinal Stephen Langton, and ordered the monks to elect him; they did so in 1206 and Langton was consecrated by the Pope in 1207. The King refused to accept Langton as archbishop; the Pope placed an Interdict on England in 1208, forbidding ecclesiastical offices in England which included the sacrament of marriage, the celebration of mass and burials in consecrated ground.⁴⁸ In 1209 King John was excommunicated, and in 1213 the Pope announced a sentence of deposition on

⁴⁰ *ibid*, p 272.

⁴¹ Nicholas Vincent, *Magna Carta: A Very Short Introduction*, 2012, p 50.

⁴² *ibid*, p 55.

⁴³ *ibid*, p 57.

⁴⁴ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 18.

⁴⁵ *ibid*.

⁴⁶ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 37.

⁴⁷ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 28.

⁴⁸ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 18.

John, authorising Philip II of France to wage a Holy War against England.⁴⁹ In retaliation for these spiritual penalties, John seized Church lands and revenues.⁵⁰

Lord Judge and Anthony Arlidge argue that “it is remarkable that John held out against the Pope for six years”.⁵¹ They suggest that “it was obviously not religious fervour but political realism that led John to succumb”. In 1212, John learned that the King of France, Philip II, was preparing to invade England, in alliance with the Welsh.⁵² Rumours also reached him of a baronial plot against him led by Eustace De Vescy and Robert Fitzwalter.⁵³ According to Judge and Arlidge, King John responded by performing a “complete volte-face”; he sent negotiators to Rome in November 1212, and in 1213 he not only agreed to accept Stephen Langton as archbishop, but he surrendered his kingdom to the Pope as a papal fief, promising to do homage to him and make an annual payment to Rome.⁵⁴ Langton returned to England as Archbishop and absolved John from excommunication. In 1214, John issued a charter guaranteeing the liberty of the Church and decreeing that all Church elections were to be free.⁵⁵ In March 1215, King John took the Cross, undertaking to go on crusade; this conferred upon him special protection by the Church. Nicholas Vincent suggests that, as a crusader, King John “sought to make himself immune from attack at the hands of fellow Christians, including by now not only the King of France but John’s own barons”.⁵⁶ For Claire Brey, “this desperate act of capitulation by John turned out to have been a very brave decision. Not only was he able to hold on to his throne, but one of his greatest opponents [the Pope] was immediately transformed into his staunchest supporter”; she points out that, following the formation of this new alliance, the threat of a French invasion receded. Furthermore, “the usefulness to John of his new relationship to the Pope was demonstrated most dramatically in the events which followed the granting of Magna Carta”.⁵⁷

2.4 King John as a Leader

Historian MT Clanchy describes how contemporary chroniclers painted a largely unflattering image of King John. For Clanchy, this was perhaps a natural result of the events of the final years of his reign:

The disasters of his last years shaped his obituary notices. Not even a partisan could argue that a King was successful who in 1213 was defeated by Philip Augustus, in 1215 submitted to Magna Carta, and who died in 1216 with his treasure lost and the French occupying London.⁵⁸

Clanchy observes that King John’s apparent lack of success was attributed by the 13th century chroniclers Roger of Wendover and Matthew Paris to John’s ‘evil’ nature: “Foul as it is, Hell itself is defiled by the foulness of John”, wrote Matthew Paris.⁵⁹ This view of King John was later

⁴⁹ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, pp 29–30.

⁵⁰ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 19.

⁵¹ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 30.

⁵² Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 19.

⁵³ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 30.

⁵⁴ *ibid.*

⁵⁵ *ibid.*, p 31.

⁵⁶ Nicholas Vincent, *Magna Carta: A Very Short Introduction*, 2012, p 58.

⁵⁷ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 20.

⁵⁸ MT Clanchy, *England and Its Rulers 1066–1272*, 1998, p 136.

⁵⁹ *ibid.*

echoed by the influential Victorian historians, JR Green and William Stubbs, the latter of whom described John as “the very worst of all our kings”.⁶⁰

In some respects, a poor popular image of the King still persists. Nicholas Vincent points out that there has only ever been one King of England called John.⁶¹ He describes how John was considered a “lecher”,⁶² after he divorced his first wife, Isabella of Gloucester, in order to marry Isabella of Angoulême, who was a “child bride”.⁶³ Vincent suggests that John was seen as a “murderer” following the disappearance of Arthur of Brittany.⁶⁴ Arthur was the posthumous son of John’s older brother Geoffrey, and was a rival claimant to the crown when John’s predecessor Richard I died. In 1202, Arthur joined with a number of French barons in an attempt to besiege John’s mother, Eleanor of Aquitaine, at the castle of Mirebeau, north of Poitiers. King John launched a counter attack and captured most of the rebel barons; however, Arthur of Brittany disappeared, with some alleging that he was murdered at the order of the King.⁶⁵ For Vincent, it was “crimes” such as these, alleged to have been committed by John, which “led directly to Magna Carta”.⁶⁶ Vincent argues that it was in order to curb such behaviour “that Magna Carta was first devised”.⁶⁷

David Carpenter suggests that it was widely reported that John had affairs “with the wives and daughters of his magnates”.⁶⁸ He describes how John captured Matilda, the wife of William de Braose, along with their son, in 1210. William de Braose was a baron who had fallen out of favour; John demanded a huge ransom for the release of his wife and son; when this was not paid they were starved to death in the dungeons of Windsor Castle.⁶⁹ David Carpenter argues that the adulteries and murders attributed to King John “show why hostility to John took on such a personal hue. They do not explain Magna Carta, but they were a major factor in the rebellion which led up to it”.⁷⁰

For JC Holt, however, in the debate about the origins of the Magna Carta, the focus on King John as a leader is misleading.⁷¹ He observes that King John’s reign was marked by an improvement in record keeping, and argues that this has had a distorting effect:

It is no accident that Magna Carta occurred in the reign of John for it was only then that the activity of the government was first fully recorded, and this in itself has ensured that more of the record has survived [...] There is little doubt that this has contributed to those interpretations which have laid the blame for the events of 1215 on the personality and failings of King John. Origins are never easy to trace, least of all the origins of political discontent, and the origins of the rebellion of 1215 were much older than John’s reign and lay much deeper than the shallows of his character.⁷²

⁶⁰ William Stubbs, *The Constitutional History of England in Its Origin and Development*, 1875, vol 2, p 17.

⁶¹ Nicholas Vincent, *Magna Carta: A Very Short Introduction*, 2012, p 7.

⁶² *ibid*, p 43.

⁶³ *ibid*, p 42.

⁶⁴ *ibid*, p 43.

⁶⁵ *ibid*, p 42.

⁶⁶ *ibid*, p 7.

⁶⁷ *ibid*, p 6.

⁶⁸ David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 285.

⁶⁹ *ibid*, p 280.

⁷⁰ *ibid*, p 285.

⁷¹ JC Holt, *Magna Carta*, 1992, p 36.

⁷² *ibid*.

JC Holt notes that John's father, King Henry II, originated the development of a more centralised form of government than had previously been in place.⁷³ This process was continued by Richard I and John. For JC Holt, the rebellion of 1215 and the Magna Carta were a reaction against this style of government, rather than connected to King John personally. JC Holt states:

To describe any medieval government as a system or pattern, still more one which helped to mould a country's history, is to claim much. In this case the claim is easily justified. Henry [II]'s legal measures pieced together the framework of English justice. He and his sons established methods of taxation from which the classic subsidy of medieval and Tudor England were derived [...] They ensured that every branch of the administration was subjected to central supervision through the transfer of information on interlocking records and enrolments which ensured central control by the Exchequer and the King's itinerant household offices of Chamber and Wardrobe.⁷⁴

Furthermore, Holt maintains, Henry II, Richard I and John imposed this system "throughout the whole realm".⁷⁵ He suggests that "Henry, and John more emphatically still, were the first Kings to bring the northern counties under secure control and submit them to a burden of government comparable to that on the rest of the country".⁷⁶ For Holt:

The rebellion of 1215 was directed against this system. It was aimed at limiting it, controlling it or destroying it. It was not concerned simply with the particular features of 'abuses' for which King John was personally responsible. It was concerned with the system as a whole. It placed Henry II, Richard I, John, their ministers and all their work, under examination and where necessary criticism [...] The system was attacked, not because it was abused, but because of what it was.⁷⁷

David Carpenter has addressed the difference in emphasis between his account of the evolution of Magna Carta and that of JC Holt. Holt, whom Carpenter describes as "the greatest Magna Carta historian", was, Carpenter argues, not correct to suggest that King John was acting within the bounds of law and custom as established by his predecessors.⁷⁸ Carpenter maintains that "with his arbitrary conduct and financial exactions, John was creating a new type of kingship", suggesting that "the whole political community [...] judged him a tyrant".⁷⁹

2.5 Precedents for Magna Carta

Historians have found precedents for the Magna Carta in treaties agreed by previous English Kings, charters which granted liberties to towns and cities in England, and charters granted by European leaders. Nicholas Vincent suggests that:

Far from being a unique or entirely novel set of principles, Magna Carta was merely the latest in a series of such charters issued by the Kings of England to their subjects in the years before 1154, intended to advertise the King's virtue, to promote peace, and to re-establish harmony between King and community.⁸⁰

⁷³ *ibid*, pp 43–4.

⁷⁴ *ibid*.

⁷⁵ *ibid*, p 44.

⁷⁶ *ibid*.

⁷⁷ *ibid*, p 45.

⁷⁸ David Carpenter, *Magna Carta*, 2015, p 271.

⁷⁹ *ibid*, pp 272–3.

⁸⁰ Nicholas Vincent, *Magna Carta: A Very Short Introduction*, 2012, p 22.

Vincent looks back as far as the 11th century, when he suggests that “Edward the Confessor, prior to his coronation in 1043, had sworn to uphold the laws of his predecessor King Cnut”.⁸¹ In 1100, upon his accession to the throne, Henry I issued a coronation Charter. Vincent states that “Henry I’s coronation Charter is of particular significance to the story of Magna Carta since it was used as a model by the barons of 1215 for the concessions sought from King John”.⁸² In the Charter, Vincent suggests, Henry I “pledged himself to a degree of moderation”, discussing fines, inheritance rights and the freedom of the Church. Henry promised to restore the laws of Edward the Confessor and to take away all the “bad customs” by which the kingdom of England had been unjustly oppressed.

Lord Judge and Anthony Arlidge describe how kings as far back as the 12th century had granted liberties to cities and towns in the form of charters.⁸³ The authors outline the development of municipal identity, suggesting that, “between 1150 and 1250 a hundred new towns grew up in England, though by modern standards they were very small. They bought charters from the Crown licensing them to hold fairs and eventually allowing them a measure of self-government”. Henry II granted charters to Carlisle and Lincoln in 1157 and Norwich in 1158, which guaranteed ancient liberties, while Richard I gave similar charters to Worcester and Hereford in 1189.⁸⁴ In 1131, Henry I may have granted London its first charter, and this was followed in 1135 by a Charter granted to London by Henry II. Judge and Arlidge suggest that in the 1190s leaders of the City were named, who performed the functions of a mayor, and during this period the leaders of London began to swear a communal oath.⁸⁵ When John became King, he granted the City of London three charters; he granted another in 1202; and in May 1215, shortly before the Magna Carta was agreed, John granted a charter which provided that the City should be able to choose a mayor each year. This Charter remains in force today.⁸⁶

JC Holt seeks to place Magna Carta within the European context, suggesting that “Magna Carta was far from unique, either in content or in form”.⁸⁷ In 1183, with the Treaty of Constance, Emperor Frederick Barbarossa ended a war in northern Italy by granting the towns of the Lombard League a number of liberties. In 1188, King Alfonso IX of León, in the context of a feud with Castille, provided ordinances which granted feudal privileges to landholders in León. In 1205 King Peter II of Aragon drew up a charter granting privileges to his subjects in Catalonia; this is thought not to have been promulgated, nonetheless Holt lists it as one of a number of European charters through which leaders granted concessions to their subjects. Such grants, were, suggests Holt, “the natural reaction of feudal societies to monarchical importunity”.⁸⁸

3. How the Magna Carta Happened

There is no single account of the events immediately preceding the creation of the Magna Carta on which all historians agree; certain parts of the timeline are particularly disputed. Claire Brey provides one narrative. She suggests that, in the winter of 1214, a group of barons, following the unsuccessful French campaign, demanded confirmation of the laws of Edward the Confessor

⁸¹ *ibid*, p 11.

⁸² *ibid*, p 10.

⁸³ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 79.

⁸⁴ *ibid*, p 81.

⁸⁵ *ibid*, p 82.

⁸⁶ *ibid*, p 83.

⁸⁷ JC Holt, *Magna Carta*, 1992, p 25.

⁸⁸ *ibid*, p 27.

and the coronation Charter issued by Henry I in 1100.⁸⁹ Breay comments that, by the end of 1214, the barons who did not support King John (most of whom came from northern and eastern England) outnumbered the barons who supported the King. In 1215 a group of barons petitioned the Pope as England's feudal overlord, asking for confirmation of Henry I's Charter and protesting about the scutage which they had been asked to pay in 1214. Some of the barons met at Easter 1215 at Stamford in Lincolnshire, and travelled to Northampton to meet with John on 26 April. However, the King did not arrive.

A group of barons met at Brackley, north of Oxford, on 5 May 1215 and renounced allegiance to the King; this amounted, claims Breay, to a declaration of civil war.⁹⁰ John ordered that their lands should be seized. He proposed that both sides should send arbitrators to the Pope in order to settle the dispute; the barons refused. The rebel barons tried but failed to seize the royal castle at Northampton, but entered London and captured the Tower of London on 17 May. Breay suggests this represented a "pivotal success". She states that, by 10 June 1215, a group of barons in armour had arrived to meet representatives of the King at Runnymede, which was a meadow near to the River Thames, standing between the royal castle at Windsor and the barons' camp at Staines. Claire Breay writes that the two groups negotiated and the King made concessions to the barons' demands, which were recorded in a document known as the Articles of the Barons.⁹¹ This document, which opens with the words "these are the articles which the Barons seek and the King concedes", lists 49 clauses, all of which appear in an amended form in the Magna Carta.⁹² Historians have suggested that this document was a 'draft' for the Magna Carta. It is undated but sealed by the King's seal.⁹³

One of the most disputed aspects of the narrative of the creation of the Magna Carta is how the 63 clauses of the Charter came to be finalised. The four surviving copies of the 1215 Magna Carta are dated 15 June 1215.⁹⁴ On 19 June 1215, the barons renewed their oaths of allegiance to John. For Claire Breay, 15 June 1215 may represent the date on which a draft agreement was made but was not the date on which the final text of the Magna Carta was written.⁹⁵ She states:

One of the most frequently asked questions concerning the four surviving copies of Magna Carta is, 'Which one is the original?' in fact, there is no evidence at all to suggest that a single, original Magna Carta was ceremoniously sealed at Runnymede in June 1215, nor even that such a document ever existed. Rather, it seems that scribes in the royal chancery expanded and revised the draft settlement agreed at Runnymede by 19 June, and turned it into a charter with sixty-three clauses.⁹⁶

JC Holt appears to share this assessment of the chronology; he suggests that an initial agreement was made on 15 June 1215, based on the 49 clauses of the Articles of the Barons, but argues that "the drafting of final terms took at least four days".⁹⁷ For JC Holt, "the last stage of the settlement, the firm peace of 19 June, only came after a period of intensive negotiation

⁸⁹ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 23.

⁹⁰ *ibid.*

⁹¹ *ibid.*, p 25.

⁹² Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 42.

⁹³ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 25.

⁹⁴ *ibid.*, p 27.

⁹⁵ *Ibid.*

⁹⁶ *ibid.*, p 34.

⁹⁷ JC Holt, *Magna Carta*, 1992, p 250.

and hard committee work”.⁹⁸ Holt describes how, on 19 June, the barons and King swore to observe the terms of the Charter, stating that “these oaths were the crucial act whereby the Charter was put into effect; from now on it was law”.⁹⁹ More recently, David Carpenter has advanced a different opinion. Carpenter maintains that 15 June is the “true date” on which the text of the Charter was agreed; he comments that the four original copies of Magna Carta, “all end with John’s statement that it was ‘given by our hand [Data per manum nostram] in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign’”.¹⁰⁰ Carpenter states that “the natural assumption is that 15 June 1215 is the date of Magna Carta” and suggests that it is “astonishing” that some historians disagree.

Whatever the date was on which the text was finalised, a number of copies of the 1215 Magna Carta were made by officials at the royal chancery.¹⁰¹ Copies of the Magna Carta were sent out around the country; contemporary chronicles report that recipients included bishops and sheriffs.¹⁰² It is recorded that 13 copies were distributed, but it is possible that there were more. David Carpenter states that “just how many there ultimately were is a matter of debate”.¹⁰³ He explains that if it is assumed that each county was sent a copy, along with London and the Cinque Ports (which were coastal towns in Kent and Sussex), “around 40 Charters” would have been produced. However, if the Charter was sent not to the counties but to the bishoprics, the number would have been smaller, “being something upwards of thirteen”. Four copies are known to have survived. Two of these are kept at the British Library, one is at Lincoln Cathedral and the other is at Salisbury Cathedral.

Another area of controversy in scholarship about the Magna Carta has been the role of the Archbishop of Canterbury, Stephen Langton. A document known as the ‘Unknown Charter’, which is thought to have been unknown to English historians until 1893, shows the coronation Charter of Henry I, followed by a list of demands believed to have been created by the rebel barons in the lead-up to the meeting at Runnymede.¹⁰⁴ Some historians suggest that the ‘Unknown Charter’ was presented to John at a meeting in January 1215.¹⁰⁵ The chronicler Roger of Wendover recorded that Stephen Langton in 1213 preached to a group of bishops, abbots and barons, drawing their attention to Henry I’s coronation Charter, and connecting it to the need to compel King John to rule more fairly.¹⁰⁶ Historian John Baldwin concludes that Roger of Wendover’s account may be accurate and ascribes Langton with “overall responsibility” for inspiring and shaping the Magna Carta.¹⁰⁷ David Carpenter has disputed Roger of Wendover’s suggestion that Langton introduced the barons to the coronation Charter of Henry I.¹⁰⁸ He points out that neither of the documents thought to provide drafts of the baron’s demands (the Unknown Charter and the Articles of the Barons) comment on the Church. JC Holt argues that Langton, before and during the negotiations at Runnymede, acted as a “mediator and an arbitrator”, rather than being the originator of the Charter, suggesting

⁹⁸ *ibid*, p 252.

⁹⁹ *ibid*, p 254.

¹⁰⁰ David Carpenter, *Magna Carta*, 2015, p 361.

¹⁰¹ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 34.

¹⁰² *ibid*, p 35.

¹⁰³ David Carpenter, *Magna Carta*, 2015, pp 10–11.

¹⁰⁴ *ibid*, p 17.

¹⁰⁵ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 40.

¹⁰⁶ *ibid*, p 12.

¹⁰⁷ John Baldwin, ‘Master Stephen Langton, Future Archbishop of Canterbury: The Paris Schools and Magna Carta’, *English Historical Review*, 2008.

¹⁰⁸ David Carpenter, *Magna Carta*, 2015, p 232.

that he sought to keep the peace.¹⁰⁹ The Magna Carta included a list of advisers to King John; Stephen Langton's name is first on this list.¹¹⁰

4. What the Magna Carta Says

The document issued at Runnymede was originally described by King John and other contemporaries as simply a charter. It did not earn the name Magna Carta, or 'Great Charter' until 1217; in the reign of Henry III, a new version of the Charter was reissued alongside a separate charter which related to the royal forest. Magna Carta was the description which began to be used to distinguish the Charter which originated in 1215 from the new and lesser forest Charter.¹¹¹ The Magna Carta was written in Latin. An appendix to this Note provides an English translation of the Magna Carta. David Carpenter comments that, following the Norman Conquest, Latin replaced English as "the language of record".¹¹² He points out that the "normal spoken language" of King John and the barons would have been French, adding that knights spoke either English or French, whereas "the peasantry, who formed the great bulk of the population, were exclusive English speakers". The Charter was translated into French in 1215 but was not proclaimed in English until 1300.¹¹³

The Magna Carta which was agreed in 1215 had 63 clauses. As will be discussed in the following section of this Note, the Magna Carta was reissued (with some amendments) in 1216, 1217 and 1225. The reissue of 1225 became law, when it was copied on to the statute roll in 1297.¹¹⁴ Three clauses of the 1225 Magna Carta still stand as part of English law.¹¹⁵ These three clauses originally formed four clauses of the 1215 Magna Carta. One of these clauses (clause 1 in the 1215 Charter) guarantees the liberties of the English Church; it confirms that the Church has the right to elect its own bishops and other officials.¹¹⁶ Another (clause 13 in the 1215 Charter) sets out the rights and customs of London and other cities and towns. The third clause is perhaps the most famous, originally forming clauses 39 and 40 of the 1215 Magna Carta. Lord Bingham in his book *The Rule of Law*, describes how this passage has "the power to make the blood race":

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.

To no one will we sell, to no one deny or delay right or justice.¹¹⁷

Lord Bingham, a former Lord Chief Justice, Master of the Rolls and Senior Law Lord, suggests that "these are words which should be inscribed on the stationery of the Ministry of Justice and the Home Office".¹¹⁸ However, he goes on to point out that the Magna Carta "did not embody the principles of jury trial, which was still in its infancy, or habeas corpus, which in its modern

¹⁰⁹ JC Holt, *Magna Carta*, 1992, p 281.

¹¹⁰ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 29.

¹¹¹ *ibid*, p 4.

¹¹² *ibid*, p 3.

¹¹³ *ibid*, p 4.

¹¹⁴ *ibid*.

¹¹⁵ British Library, '[Magna Carta: an Introduction](#)', accessed 13 January 2015.

¹¹⁶ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 28.

¹¹⁷ Tom Bingham, *The Rule of Law*, 2010, p 10.

¹¹⁸ *ibid*.

form had yet to be invented”.¹¹⁹ JH Baker describes the significance of clauses 39 and 40 in terms of legal history. He suggests that it is “anachronistic” to suggest that clause 39, in referring to “the lawful judgment of his equals” was speaking of trial by jury.¹²⁰ He explains that, “by the end of the twelfth century two modes of trial were used in criminal cases, the ordeal and judicial combat”. Baker explains that a decision of the Lateran Council in 1215 ended trial by ordeal.¹²¹ In 1219, the Lateran Council issued instructions to the justices that prisoners suspected of serious crimes were to be remanded to prison; English judges responded “after a period of uncertainty” by developing a system, fully regularised by the 13th century, of using a panel of local men in a system of trial by jury.¹²²

Historian Ralph Turner also cautions against the misinterpretation of clauses 12 and 14 of the Charter.¹²³ Clause 12 set out the limited circumstances in which scutage or aid could be levied without the consent of the realm (exceptions were: monies required for ransom, making an eldest son a knight, and the marriage of an eldest daughter). In other circumstances, clause 14 established that the King must summon a council, using a specific procedure, in order to gain consent for the scutage or aid. Turner explains that “it is sometimes asserted that these two chapters represent a step toward the principle of consent to taxation or the American colonists’ cry in 1776 of ‘no taxation without representation’, but such an interpretation encounters difficulties”. Turner suggests that, in medieval terms “counsel did not necessarily mean consent in today’s sense of taking a vote, a show of hands or counting ballots”. He also points out that, under the terms of the Charter, the council which was to be summoned consisted of prelates, earls and greater barons, and all those holding lands from the King. Turner states that “an assembly based on tenure, those holding lands by knight service from the King, hardly represented the whole kingdom”.

Similarly, historians have been at pains to make clear that the terms of the Charter did not apply to all citizens of England, clarifying that the medieval term ‘free man’, which may appear inclusive to modern eyes, in fact applied to a discrete group of people in the medieval context. Clause 1 of the Charter (along with granting freedom to the Church) provided that all of the following clauses applied to “all free men of our kingdom”. Several of the other clauses refer specifically to free men. David Carpenter explains that freemen might be free tenants, or they might be men who did not hold land, but worked as merchants, soldiers or craftsman.¹²⁴

Lord Judge and Anthony Arlidge consider the numbers of freemen;¹²⁵ they suggest that HC Darby’s analysis of the Domesday Book, whilst this was published over a century earlier, provides an idea of the figures; they estimate that freemen represented only a seventh of the population.

Claire Brey suggests that, whilst these sections apply to specific groups of people, two-thirds of the clauses in Magna Carta focus on “the royal abuses of feudal custom”, and thus the majority of the document applied exclusively to the concerns of the barons and knights.¹²⁶ For example, the Magna Carta’s second and third clauses defined the fees payable by heirs, in order to access their inheritance following the death of the previous landholder. Other clauses

¹¹⁹ *ibid*, p 11.

¹²⁰ JH Baker, *An Introduction to English Legal History*, 2002, p 508.

¹²¹ *ibid*, p 507.

¹²² *ibid*, p 508.

¹²³ Ralph Turner, *Magna Carta Through the Ages*, 2003, pp 74–5.

¹²⁴ David Carpenter, *Magna Carta*, 2015, p 135.

¹²⁵ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 47.

¹²⁶ Claire Brey, *Magna Carta: Manuscripts and Myths*, 2010, p 28.

focused on the royal powers of wardship, set out the rights of widows and established rules around the issue of scutage. A minority of clauses, according to Breay, dealt with the concerns of groups aside from feudal landholders: in addition to those mentioned which apply to London and the Church, and those which refer to freemen, two clauses focused on the question of debts which were owed to Jewish money-lenders, whilst another called for fish-weirs to be removed from rivers throughout England in order to improve navigation.¹²⁷

David Carpenter, however, maintains that “the Charter was far from simply a baronial document”; he points out that the restrictions on aid would have also limited the actions of the barons: “the baronial tenants-in-chief had to pass down the concessions they received to their own tenants, and were restricted in the number of ‘aids’ (that is taxes) they could take from them”.¹²⁸ He also suggests that clause 25, which meant that sheriffs no longer had to raise money above the ‘ancient farms’ of their shires, would have benefited local communities. However, Lord Bingham comments that the barons, in agitating for the Magna Carta, were acting in their own interests. Whilst the document has become symbolic of democracy in the centuries since its creation, Lord Bingham suggests that it would be “a travesty of history to regard the barons who confronted King John at Runnymede as altruistic liberals seeking to make the world a better place”.¹²⁹

For Claire Breay, “perhaps the most radical clause in Magna Carta was that which provided for the election of a commission of 25 barons to monitor the King’s compliance with the settlement and to enforce its terms”.¹³⁰ The Charter provided that these barons would be able to seize the King’s possessions and lands if he did not adhere to the conditions of the Magna Carta. The names of the 25 barons who were chosen were listed by chronicler Matthew Paris.¹³¹ Claire Breay suggests that this clause, which is sometimes known as the ‘security clause’, “confirmed the whole tenor of Magna Carta: the law was a power in its own right and the King could not set himself above it”. For David Carpenter, the provisions of Magna Carta were “intended as fundamental bars to tyranny”; he suggests that “the restrictions placed by Magna Carta on the workings of kingship were unprecedented and profound”.¹³² JC Holt gives a more qualified verdict on the significance of the Charter, suggesting that the Magna Carta “excluded extra-legal action, but it also confirmed rather than weakened the traditional rights of the Crown within the law”.¹³³

5. What Happened Afterwards

In July 1215, King John sent envoys to Innocent III, as England’s feudal overlord, seeking an annulment of the Magna Carta.¹³⁴ The Pope issued a papal bull, dated 24 August 1215, which declared the Charter null and void, stating that it was “as unlawful and unjust as it is base and shameful”.¹³⁵ This arrived in England at the end of September. The Magna Carta was legally valid for a period of no more than three months. Civil war broke out once more. Archbishop Langton refused to surrender the royal castle at Rochester and in September the castle was handed over to the rebel barons. John laid siege to the castle and recaptured it in November,

¹²⁷ *ibid*, p 32.

¹²⁸ David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 29.

¹²⁹ Tom Bingham, *The Rule of Law*, 2010, p 11.

¹³⁰ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 33.

¹³¹ Magna Carta 800th, ‘[The 25 Barons of Magna Carta](#)’, accessed 13 January 2015.

¹³² David Carpenter, *The Struggle for Mastery: Britain 1066–1284*, 2003, p 289.

¹³³ JC Holt, *Magna Carta*, 1992, p 6.

¹³⁴ MT Clanchy, *England and Its Rulers 1066–1272*, 1998, p 140.

¹³⁵ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 40.

but in the following months he faced further battles, which were concentrated in the northern and eastern counties. In the final months of 1215, a group of barons offered the English throne to Louis, son of the King of France, Philip II. Louis sent a group of knights who joined the barons in London. In May 1216, Prince Louis invaded England. Claire Breay suggests that at this point, two-thirds of the barons defected to the French side, recognising Louis as King.¹³⁶ However, the French failed to capture Dover and disputes between the invaders and the English barons arose; she suggests that English support for the French dissipated. Meanwhile, King John, whilst on the offensive in the eastern counties, contracted dysentery. He never recovered. In October 1216, John was travelling between Wisbech and Swineshead when some of the carts carrying his luggage, which are said to have been loaded with treasure, were lost in the Wash. A week later John died at Newark.¹³⁷

MT Clanchy suggests that “the event which assured the future of Magna Carta was John’s sudden death”.¹³⁸ John’s son and heir, Henry III, was only nine years old; therefore William Marshall, Earl of Pembroke, one of John’s leading advisers, was appointed as regent to govern while the King was in his minority. Marshall sought to restore peace by issuing a revised version of Magna Carta on 12 November 1216, and another revised edition on 6 November 1217.¹³⁹ In the reissue of 1217, the clauses on the royal forests were removed, and placed into a separate Charter of the Forest. Claire Breay suggests that “the reissues of 1216 and 1217 retained much of the original Charter, including the clauses relating to feudal incidents and the operation of the judicial system”.¹⁴⁰ However, they dropped or changed a number of other clauses, including the so called ‘security’ clause. In 1225, a reissue of the Charter was made under Henry III’s own Great Seal. It was granted in return for the provision of a tax demanded by the King. Henry III and the kings who succeeded him confirmed the 1225 Charter a number of times. In 1297, under King Edward I, the text of the 1225 Charter was copied on to the first ever statute roll.

In the centuries after the passage of the Magna Carta, JC Holt suggests that the document was reinterpreted by successive generations, both in the initial reissues of 1216, 1217 and 1225, and later in the statutes that were passed which built on provisions of the Charter.¹⁴¹ Holt asserts that “the drafters of the Charter did not themselves envisage this continuous process of re-interpretation. There is no evidence at all that their remedies were broadly conceived because they saw the need to cater for future generations”. What happened, he suggests, was that future generations deliberately reinterpreted the meaning of the Charter “to ensure that it conformed to new social and political conditions”.¹⁴² In this way, Holt observes, “much rich juice was ultimately squeezed from the unripened fruit of 1215”.

JC Holt maintains that the crucial period in the reinterpretation of the Charter was the 14th century. Between 1331 and 1368, during the reign of Edward III, Parliament enacted six pieces of legislation which later came to be known as the ‘six statutes’.¹⁴³ These provided “statutory interpretations” of the clauses of the Magna Carta: the statutes interpreted the phrase in clause 39 of the original Magna Carta on the ‘lawful judgement of peers’ to mean trial by jury; the phrase in the same chapter on the ‘law of the land’ was, Holt suggests, “defined in terms of yet another potent and durable phrase, ‘due process of law’, which meant procedure

¹³⁶ *ibid*, p 43.

¹³⁷ *ibid*, p 43.

¹³⁸ MT Clanchy, *England and Its Rulers 1066–1272*, 1998, p 141.

¹³⁹ Claire Breay, *Magna Carta: Manuscripts and Myths*, 2010, p 44.

¹⁴⁰ *ibid*.

¹⁴¹ JC Holt, *Magna Carta*, 1992, pp 14–15.

¹⁴² *ibid*, p 14.

¹⁴³ *ibid*, p 10.

by original writ or by an indicting jury'. Lord Judge and Anthony Arlidge argue that clause 39 is the most significant and influential provision of Magna Carta, commenting that the "underlying insistence on legal proceedings leading to lawful judgment is probably the greatest contribution of the Charter to the development of the English Constitution and liberty of the subject".¹⁴⁴ Another development of the six statutes was that, Holt explains, "the words 'no free man' were so altered that the Charter's formal terms became socially inclusive".¹⁴⁵ In the statutes of 1331 and 1352 they became 'no man', but in 1354 the statute which referred to 'due process of law' referred to 'no man of whatever estate or condition he may be'.

Lord Judge and Anthony Arlidge suggest that the Magna Carta was influential in the development of the role of Parliament.¹⁴⁶ Clauses 12 and 14 of the 1215 Charter, dealing with consent to taxation and the summoning of a council to grant that consent, were omitted from later reissues of the Charter. However, Judge and Arlidge maintain that the influence of these clauses persisted. They report that William Marshall, as regent from 1216, "frequently sought the approval of a general council and this pattern was followed after his death in 1219. Between 1216 and 1225, 25 great councils of the realm were summoned".¹⁴⁷ The authors suggest that a precedent was set which was difficult to break: in October 1225, when Henry III asked the council to grant supply, "the magnates refused to give it on the ground that they had not been summoned in accordance with the Charter".¹⁴⁸ Judge and Arlidge state that, "over the next decades the idea of an assembly that was more representative developed. In the 1230s, the term parliamentum came into use".¹⁴⁹

Ralph Turner also describes the significance of Magna Carta in the development of Parliament. He states:

The reigns of Edward I and Edward III mark key stages in the growth of Parliament as a permanent part of England's government. Magna Carta with its implied compact between the King and his subjects limiting royal authority played a part in the appearance of an assembly representing the three estates of the kingdom, lords spiritual and temporal and the commons, sharing power with the monarch. Once Parliament came to contain spokesmen for ranks below the magnates, it became the protector of the people's liberties promised in Magna Carta. Members of fourteenth-century parliaments were aware of a link between the Charter and their right to consent to new taxation, and the first petition presented to the monarch by the Commons at each new parliament was a request that the Great Charter and the Forest Charter be firmly kept.¹⁵⁰

Historians have furthermore suggested that a number of reform movements in the centuries after the creation of the Magna Carta found inspiration and support in the Charter. Two key examples may be the reform movements surrounding Simon de Montfort, and the 17th century lawyers Edward Coke and John Selden. Ralph Turner observes that, under Henry III, the group of barons led by Simon de Montfort, which introduced the 1258 Provisions of Oxford, was influenced by the Magna Carta.¹⁵¹ The Provisions of Oxford created a privy council of

¹⁴⁴ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 58.

¹⁴⁵ JC Holt, *Magna Carta*, 1992, p 10.

¹⁴⁶ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, pp 105–7.

¹⁴⁷ *ibid*, p 105.

¹⁴⁸ *ibid*, p 107.

¹⁴⁹ *ibid*, p 105.

¹⁵⁰ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 113.

¹⁵¹ *ibid*, p 96.

15 members, selected by the barons, to advise the King, and established that Parliament was to be held three times a year. Turner suggests that the “reforming barons were familiar with Magna Carta, and they held that their proposed innovations grew out of the Charter, necessitated by the King’s resistance to its constraints”. A civil war broke out in 1264.¹⁵² In 1264, the rebel barons, led by Simon de Montfort, won a victory at Lewes; de Montfort gathered knights and representatives of the boroughs to a new Parliament. Turner has described de Montfort’s constitutional reforms in this period as “the most radical attempt at redistributing power in the English kingdom before the 17th century civil war”. In 1265, de Montfort was killed by royalist forces on the battlefield at Evesham. Most of the measures enacted by the 1258 Parliament and by the government of Simon de Montfort were nullified. But with the Dictum of Kenilworth, Henry III pledged to reconfirm the Magna Carta.¹⁵³ Turner suggests that rulers as late as Henry V continued to confirm the Magna Carta, but he asserts that, from the mid-15th until the 17th century, the Charter “slipped into the shadows of high politics”.¹⁵⁴

There was a revival of interest in the Magna Carta in the 17th century. Lord Judge and Anthony Arlidge describe how the Charter was used to combat the theory of the divine right of Kings which was promulgated by King James I of England and VI of Scotland, and later by Charles I.¹⁵⁵ They suggest that “the idea that a monarch, chosen by God, should be subject to legal constraints, the very concept enshrined in Magna Carta, was the precise antithesis of what James believed his functions to be”. The authors describe how Sir Edward Coke, appointed under James I as Chief Justice of the Common Pleas, and then subsequently Chief Justice of the King’s Bench, attempted to convince James I that he was subject to the rule of law.¹⁵⁶ Sir Edward Coke, along with others such as the barrister John Selden, in the early 17th century published commentaries on the significance of the Magna Carta.¹⁵⁷ Coke was dismissed as Chief Justice and returned to the House of Commons in 1621. He was appointed Chairman of the Parliamentary Committee for Grievances; a Petition of Grievance was presented to the King and the royal response asserted that parliamentary privileges were based on royal grace and were not a right. Judge and Arlidge suggest that “Coke’s response echoes down the years”:

If my sovereign will not allow me my inheritance, I must fly to Magna Charter and entreat explanation of his Majesty. Magna Charter is called [...] The Charter of Liberty [...] when the King says he cannot allow our liberties of right, this strikes at the root. We serve here for thousands and ten thousands.¹⁵⁸

Coke was summoned before the Privy Council and committed to the Tower of London. Selden was also sent to the Tower twice for similar offences.

Charles I came to power in 1625. In challenging his attempt to rule without the consent of Parliament, Coke and others continued to appeal to the principles of Magna Carta. Charles I collected customs duties, by the royal prerogative. This continued even though Parliament had voted in 1625 that he could collect this revenue only for one year.¹⁵⁹ Charles I also tried to raise money through a forced loan in 1626, and imprisoned without trial a number of those

¹⁵² *ibid*, p 99.

¹⁵³ *ibid*, p 100.

¹⁵⁴ *ibid*, p 112.

¹⁵⁵ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 121.

¹⁵⁶ *ibid*, p 122.

¹⁵⁷ *ibid*, p 125.

¹⁵⁸ *ibid*, p 127.

¹⁵⁹ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 155.

who refused to pay it. In the case of the Five Knights, applications for habeas corpus were made by five men who had been imprisoned for refusing to pay a forced loan.¹⁶⁰ Selden argued in favour of the applicants, who were committed by royal command, on the basis of the Magna Carta and subsequent statutes passed under Edward III. In 1628, as a precondition to granting any future taxes, Parliament asked the King to agree to the Petition of Right. This asked the King to stop non-parliamentary taxation and imprisonments without trial; the King eventually gave his assent.¹⁶¹ Ralph Turner argues that the Petition of Right “marks the most significant supplement to Magna Carta’s liberties since [...] Edward III’s six statutes”. In 1629, Charles I dissolved Parliament and did not call another for eleven years. JC Holt suggests that Edward Coke expressed an anachronistic understanding of the Magna Carta in his thinking and writing.¹⁶² When, during the debate on the Petition of Right, Coke and others “argued that Magna Carta established grounds for the writ of habeas corpus”, Holt suggests that this was incorrect; habeas corpus “did in fact originate as an administrative order issued by the King’s courts”. Holt defends Coke however by suggesting that he was “misled by the Charter”. The Charter, for Holt “was adaptable. This was its greatest and most important characteristic”.¹⁶³

It is possible to find many other examples of reform movements which were influenced by the Magna Carta. Ralph Turner comments on the events of the Glorious Revolution in 1688–9, and the passage of the Bill of Rights in 1689, suggesting that “all educated persons in 1688–9 with any knowledge of English history would have seen parallels with the barons’ rebellion of 1215”.¹⁶⁴ Commentators have also suggested that the United States constitution was influenced by the Magna Carta. This influence has been summarised by Sandra Day O’Connor, a former United States Supreme Court Justice:

The first colonists brought with them to America the perception of Magna Carta as the written embodiment of fundamental law protecting the rights and liberties of all Englishmen everywhere. This view was expressed in various colonial charters, including the Virginia Charter of 1606 written in part by Sir Edward Coke [...] During the American Revolution, Magna Carta again served as a rallying point for those seeking protection against arbitrary government [...] When it came time to draft our own Constitution and Bill of Rights, the Founders adopted both certain concepts found in Magna Carta and the more general notion of a written statement of fundamental law binding upon the sovereign state.¹⁶⁵

Lord Woolf, a former Lord Chief Justice and Master of the Rolls, has commented on the popularity of the Magna Carta in the United States. He states that when the copy of the Charter which was kept in Lincoln Cathedral was transported to the United States Library of Congress for safe keeping in 1939, “no less than 14 million people queued to see it for themselves”. He also points out that the monument erected at Runnymede in 1957 to commemorate the Magna Carta was built “on the initiative of the American Bar Association”.¹⁶⁶

¹⁶⁰ Anthony Arlidge and Igor Judge, *Magna Carta Uncovered*, 2014, p 130.

¹⁶¹ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 157.

¹⁶² JC Holt, *Magna Carta*, 1992, p 13.

¹⁶³ *ibid*, p 2.

¹⁶⁴ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 169.

¹⁶⁵ Justice Sandra Day O’Connor, ‘Magna Carta and the Rule of Law’, in Randy J Holland (ed), *Magna Carta: Muse and Mentor*, 2014, pp 4–5.

¹⁶⁶ Lord Woolf, ‘[Magna Carta: A Precedent for Recent Constitutional Change](#)’, Magna Carta 800th, 15 June 2005.

In England, by the end of the 19th century, most of the clauses of the Magna Carta had been repealed. Nicholas Vincent explains:

Beginning in 1828 with a tentative repeal of clause 36 (clause 26 of the 1225 Magna Carta, on payments of writs), large chunks of Magna Carta began to be chipped away from the statute book. Seventeen of the thirty-seven clauses of the 1225 Magna Carta were repealed in 1863, chiefly relating to 'feudal' incidents. Between 1879 and 1892, a further five clauses disappeared. Clause 18 (clause 7 of the 1225 Magna Carta) was removed in 1925, and clause 26 (clause 18 of the 1225 Charter, on debts and testamentary bequests) in 1947. The clauses relating to amercements and fines owed to the King, first heard of as long ago as 1100, in Henry I's coronation Charter, enshrined in clauses 20–22 of the 1215 Magna Carta (clause 14 of the 1225 Charter) were repealed in 1996. Attempts to repeal the remaining eight clauses then stalled, partly as a result of fears that the entire substructure of English law should not be scraped entirely clean.¹⁶⁷

Ralph Turner suggests that the repeal of most of the Magna Carta during the 19th century was not evidence of a lack of reverence for the Charter, but simply demonstrated the faith that the public had in the power of the common law: "In the nineteenth century, the British assumed that although they had no written constitution, the common law and its long-accepted principles guaranteed the rule of law, limiting the government and its agents to actions in accord with lawful authority".¹⁶⁸ He points out that the 19th century campaign for electoral reform used the Magna Carta as a source of inspiration.¹⁶⁹ David Carpenter comments that, in the 20th century, the Magna Carta "was appealed to by both Mahatma Ghandi and by Nelson Mandela".¹⁷⁰ More recently, calls for a written constitution have referred to the tradition of the Magna Carta.¹⁷¹

In a lecture at the Guildhall in November 2014, Professor Linda Colley explored some theories on the development of what she described as the "cult" of Magna Carta.¹⁷² She suggests that during the course of the 17th, 18th and 19th centuries, the Magna Carta experienced an increase in "reputation and resonance". Using as evidence the number of articles which mentioned the Magna Carta in British newspapers, she states that there were 30 such articles in the first half of the 18th century, 450 articles in the second half, 4,000 articles in the first half of the 19th century, and 13,500 articles in the second half. Professor Colley offers a number of explanations for this trend; she suggests that the Magna Carta as a discrete text lent itself to distribution using printing, pointing out that it was used as a pamphlet by figures such as John Lilburne, a 17th century Leveller, and was printed in school text books in the 18th century. Another factor, she suggests, is that the Charter had the ability to appeal to many different causes and groups.

¹⁶⁷ Nicholas Vincent, *Magna Carta: A Very Short Introduction*, 2012, pp 101–2.

¹⁶⁸ Ralph Turner, *Magna Carta Through the Ages*, 2003, p 191.

¹⁶⁹ *ibid*, p 184.

¹⁷⁰ David Carpenter, *Magna Carta*, 2015, p viii.

¹⁷¹ For example, the House of Commons Political and Constitutional Reform Committee's consultation, '[Consultation on "A New Magna Carta?"](#)', 10 July 2014.

¹⁷² Professor Linda Colley, [Lecture at Guildhall on the Magna Carta](#), 25 November 2014.

Appendix: An English Translation of the 1215 Magna Carta

The British Library offers the following text of the 1215 Magna Carta, translated from Latin into English. The British Library website states that:

Clauses marked (+) are still valid under the Charter of 1225, but with a few minor amendments. Clauses marked (*) were omitted in all later reissues of the Charter. In the Charter itself the clauses are not numbered, and the text reads continuously. The translation sets out to convey the sense rather than the precise wording of the original Latin.¹⁷³

JOHN, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Count of Anjou, to his archbishops, bishops, abbots, earls, barons, justices, foresters, sheriffs, stewards, servants, and to all his officials and loyal subjects, Greeting.

KNOW THAT BEFORE GOD, for the health of our soul and those of our ancestors and heirs, to the honour of God, the exaltation of the holy Church, and the better ordering of our kingdom, at the advice of our reverend fathers Stephen, archbishop of Canterbury, primate of all England, and cardinal of the holy Roman Church, Henry archbishop of Dublin, William bishop of London, Peter bishop of Winchester, Jocelin bishop of Bath and Glastonbury, Hugh bishop of Lincoln, Walter bishop of Worcester, William bishop of Coventry, Benedict bishop of Rochester, Master Pandulf subdeacon and member of the papal household, Brother Aymeric master of the knighthood of the Temple in England, William Marshal earl of Pembroke, William earl of Salisbury, William earl of Warren, William earl of Arundel, Alan of Galloway constable of Scotland, Warin fitz Gerald, Peter fitz Herbert, Hubert de Burgh seneschal of Poitou, Hugh de Neville, Matthew fitz Herbert, Thomas Basset, Alan Basset, Philip Daubeny, Robert de Roppeley, John Marshal, John fitz Hugh, and other loyal subjects:

+ (1) FIRST, THAT WE HAVE GRANTED TO GOD, and by this present Charter have confirmed for us and our heirs in perpetuity, that the English Church shall be free, and shall have its rights undiminished, and its liberties unimpaired. That we wish this so to be observed, appears from the fact that of our own free will, before the outbreak of the present dispute between us and our barons, we granted and confirmed by Charter the freedom of the Church's elections - a right reckoned to be of the greatest necessity and importance to it - and caused this to be confirmed by Pope Innocent III. This freedom we shall observe ourselves, and desire to be observed in good faith by our heirs in perpetuity.

TO ALL FREE MEN OF OUR KINGDOM we have also granted, for us and our heirs for ever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs:

(2) If any earl, baron, or other person that holds lands directly of the Crown, for military service, shall die, and at his death his heir shall be of full age and owe a 'relief', the heir shall have his inheritance on payment of the ancient scale of 'relief'. That is to say, the heir or heirs of an earl shall pay £100 for the entire earl's barony, the heir or heirs of a knight 100s. at most for the entire knight's 'fee', and any man that owes less shall pay less, in accordance with the ancient usage of 'fees'.

¹⁷³ British Library, '[English Translation of Magna Carta](#)', accessed 13 January 2015.

(3) But if the heir of such a person is under age and a ward, when he comes of age he shall have his inheritance without 'relief' or fine.

(4) The guardian of the land of an heir who is under age shall take from it only reasonable revenues, customary dues, and feudal services. He shall do this without destruction or damage to men or property. If we have given the guardianship of the land to a sheriff, or to any person answerable to us for the revenues, and he commits destruction or damage, we will exact compensation from him, and the land shall be entrusted to two worthy and prudent men of the same 'fee', who shall be answerable to us for the revenues, or to the person to whom we have assigned them. If we have given or sold to anyone the guardianship of such land, and he causes destruction or damage, he shall lose the guardianship of it, and it shall be handed over to two worthy and prudent men of the same 'fee', who shall be similarly answerable to us.

(5) For so long as a guardian has guardianship of such land, he shall maintain the houses, parks, fish preserves, ponds, mills, and everything else pertaining to it, from the revenues of the land itself. When the heir comes of age, he shall restore the whole land to him, stocked with plough teams and such implements of husbandry as the season demands and the revenues from the land can reasonably bear.

(6) Heirs may be given in marriage, but not to someone of lower social standing. Before a marriage takes place, it shall be made known to the heir's next-of-kin.

(7) At her husband's death, a widow may have her marriage portion and inheritance at once and without trouble. She shall pay nothing for her dower, marriage portion, or any inheritance that she and her husband held jointly on the day of his death. She may remain in her husband's house for forty days after his death, and within this period her dower shall be assigned to her.

(8) No widow shall be compelled to marry, so long as she wishes to remain without a husband. But she must give security that she will not marry without royal consent, if she holds her lands of the Crown, or without the consent of whatever other lord she may hold them of. (9) Neither we nor our officials will seize any land or rent in payment of a debt, so long as the debtor has movable goods sufficient to discharge the debt. A debtor's sureties shall not be distrained upon so long as the debtor himself can discharge his debt. If, for lack of means, the debtor is unable to discharge his debt, his sureties shall be answerable for it. If they so desire, they may have the debtor's lands and rents until they have received satisfaction for the debt that they paid for him, unless the debtor can show that he has settled his obligations to them. *

(10) If anyone who has borrowed a sum of money from Jews dies before the debt has been repaid, his heir shall pay no interest on the debt for so long as he remains under age, irrespective of whom he holds his lands. If such a debt falls into the hands of the Crown, it will take nothing except the principal sum specified in the bond.

* (11) If a man dies owing money to Jews, his wife may have her dower and pay nothing towards the debt from it. If he leaves children that are under age, their needs may also be provided for on a scale appropriate to the size of his holding of lands. The debt is to be paid out of the residue, reserving the service due to his feudal lords. Debts owed to persons other than Jews are to be dealt with similarly.

* (12) No 'scutage' or 'aid' may be levied in our kingdom without its general consent, unless it is for the ransom of our person, to make our eldest son a knight, and (once) to marry our

eldest daughter. For these purposes only a reasonable 'aid' may be levied. 'Aids' from the city of London are to be treated similarly.

+ (13) The city of London shall enjoy all its ancient liberties and free customs, both by land and by water. We also will and grant that all other cities, boroughs, towns, and ports shall enjoy all their liberties and free customs.

* (14) To obtain the general consent of the realm for the assessment of an 'aid' - except in the three cases specified above - or a 'scutage', we will cause the archbishops, bishops, abbots, earls, and greater barons to be summoned individually by letter. To those who hold lands directly of us we will cause a general summons to be issued, through the sheriffs and other officials, to come together on a fixed day (of which at least forty days notice shall be given) and at a fixed place. In all letters of summons, the cause of the summons will be stated. When a summons has been issued, the business appointed for the day shall go forward in accordance with the resolution of those present, even if not all those who were summoned have appeared.

* (15) In future we will allow no one to levy an 'aid' from his free men, except to ransom his person, to make his eldest son a knight, and (once) to marry his eldest daughter. For these purposes only a reasonable 'aid' may be levied.

(16) No man shall be forced to perform more service for a knight's 'fee', or other free holding of land, than is due from it.

(17) Ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place.

(18) Inquests of novel disseisin, mort d'ancestor, and darrein presentment shall be taken only in their proper county court. We ourselves, or in our absence abroad our chief justice, will send two justices to each county four times a year, and these justices, with four knights of the county elected by the county itself, shall hold the assizes in the county court, on the day and in the place where the court meets.

(19) If any assizes cannot be taken on the day of the county court, as many knights and freeholders shall afterwards remain behind, of those who have attended the court, as will suffice for the administration of justice, having regard to the volume of business to be done.

(20) For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood. In the same way, a merchant shall be spared his merchandise, and a villein the implements of his husbandry, if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood.

(21) Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

(22) A fine imposed upon the lay property of a clerk in holy orders shall be assessed upon the same principles, without reference to the value of his ecclesiastical benefice.

(23) No town or person shall be forced to build bridges over rivers except those with an ancient obligation to do so.

(24) No sheriff, constable, coroners, or other royal officials are to hold lawsuits that should be held by the royal justices.

* (25) Every county, hundred, wapentake, and tithing shall remain at its ancient rent, without increase, except the royal demesne manors.

(26) If at the death of a man who holds a lay 'fee' of the Crown, a sheriff or royal official produces royal letters patent of summons for a debt due to the Crown, it shall be lawful for them to seize and list movable goods found in the lay 'fee' of the dead man to the value of the debt, as assessed by worthy men. Nothing shall be removed until the whole debt is paid, when the residue shall be given over to the executors to carry out the dead man's will. If no debt is due to the Crown, all the movable goods shall be regarded as the property of the dead man, except the reasonable shares of his wife and children.

* (27) If a free man dies intestate, his movable goods are to be distributed by his next-of-kin and friends, under the supervision of the Church. The rights of his debtors are to be preserved.

(28) No constable or other royal official shall take corn or other movable goods from any man without immediate payment, unless the seller voluntarily offers postponement of this.

(29) No constable may compel a knight to pay money for castle-guard if the knight is willing to undertake the guard in person, or with reasonable excuse to supply some other fit man to do it. A knight taken or sent on military service shall be excused from castle-guard for the period of this service.

(30) No sheriff, royal official, or other person shall take horses or carts for transport from any free man, without his consent.

(31) Neither we nor any royal official will take wood for our castle, or for any other purpose, without the consent of the owner.

(32) We will not keep the lands of people convicted of felony in our hand for longer than a year and a day, after which they shall be returned to the lords of the 'fees' concerned.

(33) All fish-weirs shall be removed from the Thames, the Medway, and throughout the whole of England, except on the sea coast.

(34) The writ called precipe shall not in future be issued to anyone in respect of any holding of land, if a free man could thereby be deprived of the right of trial in his own lord's court.

(35) There shall be standard measures of wine, ale, and corn (the London quarter), throughout the kingdom. There shall also be a standard width of dyed cloth, russet, and haberject, namely two ells within the selvedges. Weights are to be standardised similarly.

(36) In future nothing shall be paid or accepted for the issue of a writ of inquisition of life or limbs. It shall be given gratis, and not refused.

(37) If a man holds land of the Crown by 'fee-farm', 'socage', or 'burgage', and also holds land of someone else for knight's service, we will not have guardianship of his heir, nor of the land that belongs to the other person's 'fee', by virtue of the 'fee-farm', 'socage', or 'burgage', unless the 'fee-farm' owes knight's service. We will not have the guardianship of a man's heir, or of land

that he holds of someone else, by reason of any small property that he may hold of the Crown for a service of knives, arrows, or the like.

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

+ (39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

+ (40) To no one will we sell, to no one deny or delay right or justice.

(41) All merchants may enter or leave England unharmed and without fear, and may stay or travel within it, by land or water, for purposes of trade, free from all illegal exactions, in accordance with ancient and lawful customs. This, however, does not apply in time of war to merchants from a country that is at war with us. Any such merchants found in our country at the outbreak of war shall be detained without injury to their persons or property, until we or our chief justice have discovered how our own merchants are being treated in the country at war with us. If our own merchants are safe they shall be safe too.

* (42) In future it shall be lawful for any man to leave and return to our kingdom unharmed and without fear, by land or water, preserving his allegiance to us, except in time of war, for some short period, for the common benefit of the realm. People that have been imprisoned or outlawed in accordance with the law of the land, people from a country that is at war with us, and merchants - who shall be dealt with as stated above - are excepted from this provision.

(43) If a man holds lands of any 'escheat' such as the 'honour' of Wallingford, Nottingham, Boulogne, Lancaster, or of other 'escheats' in our hand that are baronies, at his death his heir shall give us only the 'relief' and service that he would have made to the baron, had the barony been in the baron's hand. We will hold the 'escheat' in the same manner as the baron held it.

(44) People who live outside the forest need not in future appear before the royal justices of the forest in answer to general summonses, unless they are actually involved in proceedings or are sureties for someone who has been seized for a forest offence.

* (45) We will appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.

(46) All barons who have founded abbeys, and have charters of English kings or ancient tenure as evidence of this, may have guardianship of them when there is no abbot, as is their due.

(47) All forests that have been created in our reign shall at once be disafforested. River-banks that have been enclosed in our reign shall be treated similarly.

*(48) All evil customs relating to forests and warrens, foresters, warreners, sheriffs and their servants, or river-banks and their wardens, are at once to be investigated in every county by twelve sworn knights of the county, and within forty days of their enquiry the evil customs are to be abolished completely and irrevocably. But we, or our chief justice if we are not in England, are first to be informed.

* (49) We will at once return all hostages and charters delivered up to us by Englishmen as security for peace or for loyal service.

* (50) We will remove completely from their offices the kinsmen of Gerard de Athée, and in future they shall hold no offices in England. The people in question are Engelard de Cigogné, Peter, Guy, and Andrew de Chanceaux, Guy de Cigogné, Geoffrey de Martigny and his brothers, Philip Marc and his brothers, with Geoffrey his nephew, and all their followers.

* (51) As soon as peace is restored, we will remove from the kingdom all the foreign knights, bowmen, their attendants, and the mercenaries that have come to it, to its harm, with horses and arms.

* (52) To any man whom we have deprived or dispossessed of lands, castles, liberties, or rights, without the lawful judgment of his equals, we will at once restore these. In cases of dispute the matter shall be resolved by the judgment of the twenty-five barons referred to below in the clause for securing the peace (§61). In cases, however, where a man was deprived or dispossessed of something without the lawful judgment of his equals by our father King Henry or our brother King Richard, and it remains in our hands or is held by others under our warranty, we shall have respite for the period commonly allowed to Crusaders, unless a lawsuit had been begun, or an enquiry had been made at our order, before we took the Cross as a Crusader. On our return from the Crusade, or if we abandon it, we will at once render justice in full.

* (53) We shall have similar respite in rendering justice in connexion with forests that are to be disafforested, or to remain forests, when these were first afforested by our father Henry or our brother Richard; with the guardianship of lands in another person's 'fee', when we have hitherto had this by virtue of a 'fee' held of us for knight's service by a third party; and with abbeys founded in another person's 'fee', in which the lord of the 'fee' claims to own a right. On our return from the Crusade, or if we abandon it, we will at once do full justice to complaints about these matters.

(54) No one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband.

* (55) All fines that have been given to us unjustly and against the law of the land, and all fines that we have exacted unjustly, shall be entirely remitted or the matter decided by a majority judgment of the twenty-five barons referred to below in the clause for securing the peace (§61) together with Stephen, archbishop of Canterbury, if he can be present, and such others as he wishes to bring with him. If the archbishop cannot be present, proceedings shall continue without him, provided that if any of the twenty-five barons has been involved in a similar suit himself, his judgment shall be set aside, and someone else chosen and sworn in his place, as a substitute for the single occasion, by the rest of the twenty-five.

(56) If we have deprived or dispossessed any Welshmen of land, liberties, or anything else in England or in Wales, without the lawful judgment of their equals, these are at once to be returned to them. A dispute on this point shall be determined in the Marches by the judgment of equals. English law shall apply to holdings of land in England, Welsh law to those in Wales, and the law of the Marches to those in the Marches. The Welsh shall treat us and ours in the same way.

* (57) In cases where a Welshman was deprived or dispossessed of anything, without the lawful judgment of his equals, by our father King Henry or our brother King Richard, and it remains in our hands or is held by others under our warranty, we shall have respite for the period commonly allowed to Crusaders, unless a lawsuit had been begun, or an enquiry had been made at our order, before we took the Cross as a Crusader. But on our return from the Crusade, or if we abandon it, we will at once do full justice according to the laws of Wales and the said regions.

* (58) We will at once return the son of Llywelyn, all Welsh hostages, and the charters delivered to us as security for the peace.

* (59) With regard to the return of the sisters and hostages of Alexander, King of Scotland, his liberties and his rights, we will treat him in the same way as our other barons of England, unless it appears from the charters that we hold from his father William, formerly King of Scotland, that he should be treated otherwise. This matter shall be resolved by the judgment of his equals in our court.

(60) All these customs and liberties that we have granted shall be observed in our kingdom in so far as concerns our own relations with our subjects. Let all men of our kingdom, whether clergy or laymen, observe them similarly in their relations with their own men.

* (61) SINCE WE HAVE GRANTED ALL THESE THINGS for God, for the better ordering of our kingdom, and to allay the discord that has arisen between us and our barons, and since we desire that they shall be enjoyed in their entirety, with lasting strength, for ever, we give and grant to the barons the following security: The barons shall elect twenty-five of their number to keep, and cause to be observed with all their might, the peace and liberties granted and confirmed to them by this Charter. If we, our chief justice, our officials, or any of our servants offend in any respect against any man, or transgress any of the articles of the peace or of this security, and the offence is made known to four of the said twenty-five barons, they shall come to us - or in our absence from the kingdom to the chief justice - to declare it and claim immediate redress. If we, or in our absence abroad the chief justice, make no redress within forty days, reckoning from the day on which the offence was declared to us or to him, the four barons shall refer the matter to the rest of the twenty-five barons, who may distrain upon and assail us in every way possible, with the support of the whole community of the land, by seizing our castles, lands, possessions, or anything else saving only our own person and those of the queen and our children, until they have secured such redress as they have determined upon. Having secured the redress, they may then resume their normal obedience to us. Any man who so desires may take an oath to obey the commands of the twenty-five barons for the achievement of these ends, and to join with them in assailing us to the utmost of his power. We give public and free permission to take this oath to any man who so desires, and at no time will we prohibit any man from taking it. Indeed, we will compel any of our subjects who are unwilling to take it to swear it at our command. If one of the twenty-five barons dies or leaves the country, or is prevented in any other way from discharging his duties, the rest of them shall choose another baron in his place, at their discretion, who shall be duly sworn in as they were. In the event of disagreement among the twenty-five barons on any matter referred to them for decision, the verdict of the majority present shall have the same validity as a unanimous verdict of the whole twenty-five, whether these were all present or some of those summoned were unwilling or unable to appear. The twenty-five barons shall swear to obey all the above articles faithfully, and shall cause them to be obeyed by others to the best of their power. We will not seek to procure from anyone, either by our own efforts or those of a third party, anything by which any part of these concessions or liberties might be revoked or diminished. Should such a

thing be procured, it shall be null and void and we will at no time make use of it, either ourselves or through a third party.

* (62) We have remitted and pardoned fully to all men any ill-will, hurt, or grudges that have arisen between us and our subjects, whether clergy or laymen, since the beginning of the dispute. We have in addition remitted fully, and for our own part have also pardoned, to all clergy and laymen any offences committed as a result of the said dispute between Easter in the sixteenth year of our reign (i.e. 1215) and the restoration of peace. In addition we have caused letters patent to be made for the barons, bearing witness to this security and to the concessions set out above, over the seals of Stephen archbishop of Canterbury, Henry archbishop of Dublin, the other bishops named above, and Master Pandulf.

* (63) IT IS ACCORDINGLY OUR WISH AND COMMAND that the English Church shall be free, and that men in our kingdom shall have and keep all these liberties, rights, and concessions, well and peaceably in their fullness and entirety for them and their heirs, of us and our heirs, in all things and all places for ever. Both we and the barons have sworn that all this shall be observed in good faith and without deceit. Witness the abovementioned people and many others. Given by our hand in the meadow that is called Runnymede, between Windsor and Staines, on the fifteenth day of June in the seventeenth year of our reign (i.e. 1215: the new regnal year began on 28 May).