

FEATURE ARTICLE

Invoking Magna Carta: Locating Information Objects and Meaning in the 13th to 19th Centuries

Abstract: This article by Alexander Lock and Jonathan Sims describes the context in which Magna Carta was obtained. It distinguishes different versions of the charter and signposts particular documents and publications in the history of its transmission and interpretation up to the early nineteenth century. It also identifies various texts and objects which have indicated the charter's significance for groups and individuals at particular junctures. These include information carrying objects which might support research on Magna Carta within the context of the circulation and reception of legal meaning. A major focus of the article is a chronological account of the charter's invocation from the thirteenth century to the early nineteenth century.

Keywords: legal history; legal sources; Magna Carta

INTRODUCTION

In the eight hundred years since it was sealed in June 1215, Magna Carta has been used as an essential legal instrument and seen as a symbol of liberty that has been invoked by monarchs, politicians, prisoners, lawyers, pamphleteers, rebels, and statesmen. Although it was largely the seventeenth century lawyers who elevated Magna Carta as the preeminent document in defence of political and individual liberty, from the moment it was sealed in 1215 the Great Charter has always been a key legal and political document. Magna Carta – the Great Charter – has been cited and used by those involved in high politics, the Church and elite legal circles since the thirteenth century.

In the years approaching the eighth centenary, Magna Carta has been used to galvanise debate about constitutional arrangements, both about the codification of the constitution, and about the role of courts in interpreting and giving effect to it. The charter's revitalisation in common law courts in recent decades may in part be seen meaningfully against a backdrop of arguments which, for varied purposes, seek both to clarify and obscure the differences between Common Law and European Convention rights and the role of the Human Rights Act.

This article aims to provide an account of the charter, its articulations in different versions and editions, and its invocations in historical context up to the early nineteenth century. In this way the article provides a view of the charter's significance at particular points in time, highlighting on the way various information sources, texts and other information media.

1215

In June 2015 it is 800 years since King John, in the seventeenth and penultimate year of his reign, agreed to a series of concessions previously drawn up in a document known today as the *Articles of the Barons*. The Articles, authenticated with the Great Seal, were the draft terms of a peace treaty, a settlement to a political struggle agreed at Runnymede on the 15 June. This struggle saw a group of barons, whose extensive landholdings were secured from the king in return for military service or a substitute fee, rise in armed rebellion over the king's, excessive exploitation of his rights as the ultimate landholder in feudal England. Formal reconciliation is recorded as being obtained on the 19 June. By the 24 June the first copies of a charter of liberties had been drawn up from the Articles. This was the charter which later became known as Magna Carta – the Great Charter. Four copies are known to survive today.

The Runnymede charter of 1215 was the only version of Magna Carta issued by John, and it survived in force for only a matter of weeks until being annulled by a bull issued in August by Pope Innocent III, John's feudal overlord in both spiritual and temporal matters since April 1214.¹ Although revised and reissued in 1216, 1217 and 1225 and enacted in 1297 when it was entered on the Statute Roll, the 1215 Runnymede charter, extracted under duress following the barons' occupation of London in May 1215, failed to stave off civil war.

In the days that followed the agreement on the 15 June and firm peace on 19 June copies of the charter were written up by chancery scribes. While it is

thought that many more copies were circulated, sent out to bishops, sheriffs and other officials throughout the country, Cheney suggests that thirteen copies were distributed between 24 June and 24 July for proclamation in county courts, and deposited for safe keeping in cathedral's and abbeys.² Of the four surviving exemplifications of the 1215 charter one is preserved in Lincoln Cathedral, one in Salisbury Cathedral and two at the British Library. One of the two copies acquired by the British Museum in 1753 as part of the Cotton collection, had originally been preserved at Canterbury Cathedral.³

The Runnymede charter of 1215 was written on parchment, in quill pen and ink made from iron and oak gall, in continuous but heavily abbreviated Latin prose. This space saving practice was typical of charters of the time and considers the cost of acquiring, stretching, scraping and curing the sheep skin in order to make a smooth writing surface. The numeration of the text into sixty three clauses did not occur until later. Like the Articles of the Barons, Magna Carta was authenticated with the Great Seal. However, the only charter of the four surviving 1215 exemplifications to remain attached to its seal was badly damaged in a fire at Ashburnham House, Westminster in 1731.⁴

1216 TO 1297

The next fourteen months saw the collapse of the peace, England invaded by Prince Louis of France, the death of John and the regent William Marshall struggling to regain the support of the barons on behalf of John's young son Henry III. In search of baronial allegiance the charter was thus reissued in revised form in 1216⁵ and 1217⁶ during Henry's minority. Finally Magna Carta – the Great Charter – which had acquired this epithet to distinguish it from the much smaller Forest Charter also issued in 1217⁷, was reissued once more in 1225.⁸ Issued under the seal of Henry III the text of the 1225 charter, was inspected, recited and confirmed again during the reign of Henry III⁹ before being recited in an inspeximus charter of 1297 and enacted as statute in the same year, the twenty fifth of the reign of Edward I.¹⁰

The 1225 charter is significant not just because of its future survival in statute but because it was freely granted in exchange for a tax from the whole kingdom, as opposed to the 1215 charter obtained through coercion. The text was recorded in the Red Book of the Exchequer at Westminster¹¹, and two of the surviving distributed copies were preserved in Durham Cathedral and Lacock Abbey. The latter, indorsed *Ex deposito milita Wilts*, suggesting that the knights of that county had deposited the charter at Lacock for safekeeping, was donated to the British Museum in 1945.¹²

While showing diagrammatically the destination of clauses surviving from one issue to the next, Richard Cassidy illustrates the loss of twenty two of the 1215

clauses from the 1216 reissue and a further five clauses omitted from the 1217 reissue. Separately he demonstrates the changes in the Latin text from one version to the next.¹³ The clauses which survive until 1225 are also clearly marked, together with those omitted from all post 1215 reissues, in an English translation on the British Library website (see footnote 17).

REPEAL AND RECEPTION

The deletion of chapter twenty six of Magna Carta by the Offences Against the Person Act 1828 saw the first of a series of repeals which, over the course of the next century and a half, culminating with the Statute Law (Repeals) Act 1969, left only three chapters on the statute book from among the thirty seven clauses enacted in 1297. By far the biggest dent was made by the Statute Law Revision Acts of 1863 (1872 for Ireland). While the details of repealing statutes can be found in revised texts in Westlaw UK, Lexis and elsewhere Cassidy indicates the year at which each chapter was repealed.

All but three of Magna Carta's clauses, which remain in force today as chapters one, nine and twenty nine of the 1297 statute (25 Edw. I), were repealed between 1828 and 1969, the majority of its chapters being repealed in the late nineteenth century. More, and in some cases all of the 1297 statute, arguably remains in force through its colonial transplants into Antipodean laws however.

Of the three chapters still at large in England and Wales, one and nine of 1297 relating to the liberties of the Church and of Cities and Ports (respectively clauses 1 and 13 of 1215), contain no reference to what the liberties were. The words of chapter twenty nine of the 1297 statute (clauses 39 and 40 of 1215) state,

(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 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.

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

The different situation in the Antipodes, is explained by Clark: all states with Imperial Acts legislation, twentieth century legislation deciding "which statutes to include as part of received Imperial statute law", explicitly retain c.29 of the 1297 statute. These are Victoria, New South Wales, Queensland, the Australian Capital Territory and New Zealand.

In contrast to this Western Australia, South Australia, the Northern Territory and Tasmania, rely on Reception Statutes to determine which Imperial legislation was in force on a specific date. Thus only those sections of Magna Carta in force on various dates between 25 July 1828 and 28 December 1836 are in force. This means

that, at least theoretically, all chapters but chapter twenty six are still in force today.¹⁴

THE SCOPE OF THE 1215 CHARTER

While clauses other than thirty nine and forty also deal with legal matters there is little or no other reference to broad principles of rights or justice. The bulk of the charter deals in very particular detail with the “regulation of feudal customs and the administration of justice.”¹⁵ Over a third of the terms addressed the specific concerns of the barons. The scope of the charter has been grouped by Richard Cassidy into a wide range of issues relating for example to the church, family and property, taxes and service owed to the crown, the administration of justice, local government, towns and trade, the forest, and other issues including the expulsion of mercenaries.¹⁶

The following paragraphs give an impression of additional provisions relating to the justice system, of clauses whose words resonate with modern concepts about the development of law and constitutional arrangements, or whose superficial sense, when taken out of historical context, might encourage interpretation and assessment by modern values. Although this impression is based on an English translation which “sets out to convey the sense rather than the precise wording of the original Latin”,¹⁷ caution is advised with regard to assumptions about either their modern or medieval significance.

The charter of 1215 includes clauses stating that “ordinary law suits should not follow the royal court around but shall be held in a fixed place” (clause 17), that quarterly assizes were to be held in county courts at a particular place and day (18), that proportionality of fines relative to the seriousness of the offence should be exercised in such a way as to avoid deprivation of the means of livelihood including the villein’s implements of husbandry (20, 21), that fines should be imposed only on the oaths of reputable neighbours (20), and that earls and barons should be fined by their equals (21).

Justiciable disputes should be divided appropriately between royal justices and other officials (24), a free man’s right to trial in his own lord’s court should be protected in respect of land holdings where a writ of *precipe* might have obstructed this right (34), and “no official shall place a man on trial upon his own unsupported statement without producing credible witnesses to the truth of it” (38).

Only “men who know the law of the realm and are minded to keep it well” were to be “appointed as justices, constables, sheriffs or other officials”. Retroactive provision for those dispossessed of properties, liberties or rights without lawful judgment of his equals is also provided (52).

Towards the end of the charter is a clause proposing that as the king extends the liberties to his subjects, so should “all the men of the kingdom, whether clergy or laymen, observe them similarly in their relations with their own men” (60). The security clause (61) provides for a committee of twenty five barons charged to ensure observance of the terms of the peace, and requires

“support of the whole community of the land”. The charter also requires that a general summons is to be issued, with personal summons going out to senior ecclesiastics and barons, in order that on a fixed day and at a fixed place the “general consent of the realm” may be obtained “for the assessment of an ‘aid’”.

The last paragraph of clause sixty one states that “anything by which any part of these concessions or liberties might be revoked or diminished” “shall be null and void”, and, echoing the term of perpetuity for all “free men” introduced at the end of clause one, the last clause of the charter states that “men of our kingdom shall have and keep these liberties, rights and concessions ... forever” (63). While “no widow shall be compelled to marry, so long as she wishes to remain without a husband” (8), “no one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband” (54).

THE MEDIEVAL SIGNIFICANCE AND CONTEXT OF MAGNA CARTA’S PRODUCTION

Much of the argument about the meaning of Magna Carta has concentrated on distortion or manipulation. This often focuses on the critical role in the history of the construction of Magna Carta’s significance played by Sir Edward Coke, the seventeenth century politician, judge and Chief Justice of Common Pleas and later King’s Bench.

Modern historical analysis of the medieval intent and meaning has emphasised the selfish interests of the barons, aristocratic landowners, (John’s tenants in chief) who extended terms of the charter to their own tenants, freemen, in order to secure the terms of the settlement. The terms related mainly to the reasonable execution of the monarch’s rights in feudal land law.

The late, distinguished professor of medieval history, J.C. Holt points to a seventeenth century criticism of Coke’s school which proffered an unadulterated view on the charter’s significance:

“The far greatest part of Magna Carta, concerned Tenents in military service only, and the Liberties, which our Ancient Historians tell were mightily contended for, if seriously considered, were mainly the liberties of Holy Church, by which, in most things, she pretended to be free from Subjection to a Temporal Prince; ...”¹⁸

The extent to which Magna Carta can seriously be regarded as articulating or trying to enforce universal parity before the law is of course very limited. Free men in medieval society are commonly regarded to have made up a small percentage of the population. However, modern scholars offer significantly diverging views on the number of freemen in the early and late C13th century, and on the percentage of society to whom Magna Carta’s concessions were made. Inspection of

similar contemporary charters issued elsewhere in Europe is reported to show that Magna Carta offers a comparatively high degree of legal parity.¹⁹ Furthermore some historians have countered suggestions that the charter was a selfish document proffering that within its unprecedented scope Magna Carta recognised that galvanising support for the peace depended on the community of the whole realm and that in Magna Carta there was “something for everyone”.²⁰

While Lord Bingham expressed that Magna Carta, “was important because it represented and expressed a clear rejection of unbridled, unaccountable royal power, an assertion that even the supreme power in the state must be subject to certain overriding rules”²¹ this is not to say that the charter was the origin of the assertion. Lord Sumption, extra-judicially in 2015, cites John of Salisbury’s *Polycraticus*, partly written in Canterbury by this Paris scholar,²² as evidence of a common view, held to be at large before Magna Carta, that the king was expected to be constrained by or to govern with the law.²³

Poole places the production of Magna Carta in the post conquest social, religious, administrative and economic contexts of a political crisis in which baronial loyalties were divided between England and France.²⁴ The legal system in England was in transition from a feudal system to one of centralised administration of justice. Aided in part by the appointment of officials to record the pleas of the crown, this new centralised system is said to have diverted judicial business away from the feudal local courts to the king’s courts, providing a basis for slowly developing the common law. The Normans, Poole suggests, transplanted no law code, but emphasised continuity with the past, claiming to rule by the so called laws of Edward the Confessor. He refers to a compilation produced by a private lawyer in a serious attempt to articulate the law as it stood in the early twelfth century as a “rambling” “jumble” of Anglo Saxon dooms, customs and continental sources which placed Henry I’s coronation charter at the top.²⁵

By the Angevin period, marked changes to the administration of justice – credited by Poole to the administrative capacity of Henry I and II, and achieved through royal instructions to ministers and judges rather than enactments – saw king’s justices sent to the shires and counties in a new, centralised legal system based on juries and writs. The major part of the treatise *Tractatus de legibus et consuetudinibus regni Anglie* thought to date from between 1187 and 1189 and attributed to Ranulf Glanvill, justiciar to Henry II provides evidence of these royal writs used in actions that came under the jurisdiction of the Exchequer and other royal courts.

This was an era of post conquest political society in which a king’s or archbishop’s death or the monarch’s absence to fight on foreign soil could contribute to conflict over contested authority and power, high levels of crime and risk of invasion. Oaths, sworn by monarchs to uphold the law, honour the liberties granted by their predecessors, and remedy injustices of previous reigns, and the practice of inscribing and publicising these promises

in charters had become an established part of securing allegiances necessary for peaceful rule.

“Many of the clauses in the charters of liberties from Henry I’s coronation charter to Magna Carta and those to which the barons attached the greatest importance were simply promises that ...rights incidental to feudal tenures should be exercised with proper discretion.”²⁶

In fact evidence, including the so called Unknown Charter, suggests that just such a charter provided a model for Langton and the Runnymede barons. This charter, thought to have been rediscovered in Paris in 1863, is said to have entered the preparatory framework of Runnymede possibly as early as July 1213 (but is dated 1200–1299), and begins as a copy of Henry I’s coronation charter, but is followed by a series additional clauses beginning ...

“King John concedes that he will arrest no man without judgment nor accept any payment for justice nor commit any unjust act.”²⁷

Centred in the Exchequer, and supported by a sophisticated bureaucracy and emerging, meritocratic civil service, the administration of justice and finance were inextricably linked. Succeeded as Arch Bishop of Canterbury following his death in 1205 by Stephen Langton only after a struggle between the crown and the church, Hubert Walter, justiciar from 1193, was appointed Chancellor in 1198.²⁸ Langton has been credited with a highly influential role in the mediation of the dispute that led to the production of Magna Carta in 1215. Drawing from the *Curia Regis* Rolls, Poole adds

“Richard I’s change of seal in 1198 and his requirement that charters should be confirmed and resealed was nothing more than a method of extorting money, so too was John’s instruction to the justices of the bench that they should disregard charters of his ancestors unless they had received his confirmation. More money had to be paid for the additional security of having the charter enrolled either on the Pipe Roll or the Charter Roll.”²⁹

He continues “It is unquestionable that the burden of taxation was very largely increased under King John.”³⁰

Following the seizure of London by the Barons in May 1215, a draft settlement known as the Articles of the Barons, was drawn up. If the order of listing reflects the importance invested in the particular clauses at the time, or perhaps relates to the order in which particular concessions were granted then it is perhaps pertinent to contrast the premier position in the unknown charter of the clauses “No free man shall be seized...” and “To none will we sell...” with that in the Articles (clauses 29 and 30) and the 1215 charter where they are famously numbered

(39 and 40). Someone had these at the top of their list. As David Carpenter comments, Magna Carta is structured into two overall sections. “The first is divided into 48 paragraphs (marked with breaks in the left-hand margin), setting out the individual clauses which the barons had sought and the King had conceded.” A second section drafts the security clause found at the end of Magna Carta 1215, providing the first evidence for the committee of twenty five and indicating intentions for bishops to issue charters to prevent John seeking papal annulment.

Sealed to authenticate consent, “It was from this jumble of provisions that the royal Chancery prepared the final settlement known as Magna Carta”. The Articles survive as a document “because the document was taken from the field of Runnymede, almost certainly by Langton, and preserved in the archiepiscopal archive at Lambeth Palace. From there it was looted in the 1640s, finding its way, via various hands, to the British Library”.³¹

The texts of existing and new scholarly editions, translations and images of manuscript sources of all known English legal codes, edicts, and treatises produced up to the time of Magna Carta 1215, including Glanvill, are being published in a major project *Early English Laws*.³²

CONTEXT, SIGNIFICANCE, INTERPRETATION AND DISTORTION

A view on the distortion of Magna Carta has been voiced recently, from the triangular perspective of Lord Sumption, medieval historian, barrister and the most recent appointment to the Supreme Court.³³ He places in the spotlight various claims made about the charter by nineteenth century legal historian Maitland, by Margaret Thatcher and by the Prime Minister David Cameron. While also countering myths that habeas corpus and trial by jury originated with Magna Carta, he discredits such claims about Magna Carta being the nearest thing to an unrepealable fundamental statute, the foundation of all our laws and liberties, the origin of representative government, or about the entrenchment of its principles in international law, as “high minded tosh” and the “worst kind of ahistorical Whiggism”, “distortion of history to serve an essentially modern political agenda” and the justification of modern values.

This kind of caution about the use of modern values to determine the significance of the charter is worth bearing in mind when trying to understand the meaning of the clause preventing conviction on the basis of a woman’s evidence (1215 clause 54). This, according to a recently broadcast discussion between historians, should be seen in context of evidence suggesting that as women were exempt from trial by battle there was a high risk that they could be offered bribes to give false evidence.³⁴

Sumption reserves special treatment for Coke. In eight lines of narrative addressed to the assembled Friends of British Library, Coke, whom Sumption paints as a “bilious” and “rebarbative” character of “prodigious learning”, “chief sinner” in the story of the charter’s manipulation, falls out

with King James I over royal interference in the courts, is dismissed in November 1616, spends the rest of his life as a determined opponent to the Stuarts, transforming Magna Carta “from a somewhat technical catalogue of feudal regulations, into the foundation document of the English constitution, a status which it has enjoyed ever since among the large community of commentators who have never actually read it.”³⁵

While Holt supports much of the criticism of Coke, he questions the assumption that “the exact contemporary sense of Magna Carta can be established as a canon whereby Coke and all other “false” interpreters can be judged.³⁶ “Distortion was even inherent in Magna Carta itself”.³⁷ Coke is described as closer to medieval interpreters and the love of precedent than Whig interpreters whose appetite for natural law theories “underpinned their emphasis on individual liberty”.³⁸ While Hobbes, Locke and theories of natural law, based on natural rights and reason, Holt suggested, marked the end for the fundamental, common law interpretation of Magna Carta based on precedent, and the charter becoming the political property of the radicals, the rise of utilitarianism saw the end of the charter’s political career.³⁹

Lord Bingham, whose Guardian obituary appeared exactly nine years after the 9/11 attacks on the World Trade Center and described him as the “greatest judge of his era, [who] argued that judicial independence is essential to the defence of human rights” offers a further view on the charter’s significance. However the historical, human rights and political context are also worth noting.

Bingham was well aware of the problems of Magna Carta’s interpretation. He alerts readers to McKechnie’s statement: “much has been read into [clause 40 of 1215] that would astonish its framers”, and states 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”. Never the less, in a highly accessible and political prize winning work which, published after his retirement, asserts the substance of the concept *the rule of law*, he confidently asserts about Magna Carta that “There, clearly recognizable, was the rule of law in embryo.”⁴⁰

However, in the Belmarsh Detainees Case it is Lord Hoffman who makes use of the storehouse of history, while Lord Bingham’s leading judgment is described by Thomas Poole as the very model of the new internationalism.⁴¹ Set against a backdrop of long standing antipathy towards constitutional rights derived from entrenched documents placed above the ordinary law, constitutional change, shifting levels of judicial deference to parliament and a new common law constitutionalism, Poole identified an emerging, strategic judicial rhetoric of appeal to the past as a source of constitutive values and counter-argument. Looking in detail at the Belmarsh judgment the article provides valuable context for questioning the modern judicial significance of Magna Carta. Poole identifies and challenges a spurious “rights brought home” narrative, and the myth of congruence between rights

guaranteed by the European Convention and those accrued inductively from common law decisions.⁴²

Famous for his translation and detailed and historically contextualised commentary on Magna Carta, which arguably contributed significantly to breaking the hegemony of the so called Whig histories of constitutional development, McKechnie does not shy from articulating the charter's significance for the development of the constitution in context of its manipulation.⁴³ What began, he asserts, as "an affirmation of the validity of feudal law and custom against the arbitrary caprice of John" became, via an "affirmation of seventeenth century national law against the arbitrary stretches of the prerogative by Stewart Kings", a "bridge between the older monarchy limited by the restraints of medieval feudalism and the modern constitutional monarchy limited by a national law enforced by Parliament" (p.19) In an address intended to have been delivered on its seventh centenary (p16) he wrote that, "even mistaken interpretations of Magna Carta have contributed to the advance of sound principles of government". He later continues,

"if the inaccurate eulogies of Coke and Hampden have obscured the bearing of many chapters, and diffused false notions as to the development of English law, the service these very errors have rendered to the cause of constitutional progress is measureless." (1917, p.18)

McKechnie also spoke to needs of his time, seeking lessons in Magna Carta for the men of 1915 a "time of unparalleled stress and anxiety".⁴⁴

However, significant changes to the way Magna Carta was interpreted had already emerged by the fourteenth century. Edward III's statute of 1354, in context of the so called Six Statutes enacted between 1331 and 1369, substantially expanded the scope of chapter 29 (1297). Additionally, Turner asserts that it is at this point in history that the charter's promise of "what was coming to be called the *due process of law*" was being precisely spelled out.⁴⁵ After confirming Magna Carta the third item of the 1354 statute states,

"That no man of what estate or condition that he be, shall be put out of land or tenement, nor condemned taken, nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law".

INVOKING MAGNA CARTA: SIGNIFICANCE FROM THE FOURTEENTH CENTURY

The early significance of Magna Carta is demonstrated by the fact that for two hundred years the clauses of the Great Charter were periodically confirmed by every monarch from Henry III in 1216 to Henry V in 1417.⁴⁶ Indeed, it was confirmed at least as much as forty four

times in ninety five years between the reigns of Edward III and Henry V alone. It was ordered to be read out twice a year in county courts from 1265 and from 1297 was directed to be read twice yearly in England's cathedrals.⁴⁷

From the early fourteenth century the Great Charter was recognised as a fundamental document for members of the first Parliaments, maintaining as it did, the principle that consent from a "common counsel" was a prerequisite to the levying of taxes. As such the rights enshrined in Magna Carta were seen as sacrosanct to the governance of the country and the first petition presented to the monarch by the Commons of each new Parliament requested that the Great Charter and Charter of the Forests be assiduously observed.⁴⁸ Magna Carta was widely recognised and respected amongst the political elites. The regular royal confirmations of Magna Carta served to heighten its importance and instilled the idea amongst the political classes of England that here was a unique document, above simple statute, that embodied fundamental and perpetual law; a notion that was maintained by late medieval lawyers.⁴⁹ For the lawyers of the late thirteenth-, and early fourteenth-century, Magna Carta was similarly understood as the premier statute of the realm, which was symbolically placed at the top of their bespoke manuscript compilations of ancient statutes, *antiqua statuta*, from which they learnt the law.⁵⁰ The topic of the Great Charter also, unsurprisingly, made up an important part in their legal education and training. Lectures on the clauses of Magna Carta in the Inns of Court became common from the fifteenth century on with records suggesting that all students covered its provisions at least once during the course of their studies.⁵¹

Though lawyers were studying its provisions, Magna Carta was to slip into the background of political affairs in the fifteenth century. Certainly, it was not entirely forgotten, but the recorded instances of its invocation are few and far between. In 1442 a petition in Parliament successfully used Magna Carta to ask that noblewomen be guaranteed trial by their peers equal to that enjoyed by their husbands (the first time the omission of women from clause 39 was broached and remedied) and in the early 1470s it was raised by Edward IV's Parliament to object to the restriction of river traffic by weirs and mills.⁵² But, by-and-large, fifteenth-century invocations of Magna Carta remained confined to a few isolated incidents. The violence and instability which were marked features of the Wars of the Roses (1455-1487), afforded little public appetite for ideas of baronial rebellion, whilst a simultaneous desire for peace and order under a strong royal government outweighed any preoccupation with Magna Carta and its liberties.⁵³

Magna Carta only re-entered the legal and political arena in the first years of Henry VIII's reign where it played a key role in debates surrounding the English Reformation. That it had come to the forefront in these discussions is unsurprising. The early sixteenth century saw a proliferation of trained lawyers, schooled at the London Inns of Court, attracted by the prospect of

employment in an increasingly litigious society. Where once these students would have studied manuscript notes mostly derived orally through speeches or lectures, from 1500 onward these resources were augmented by a proliferation of printed legal textbooks, abridgements of laws and collections of statutes. To some extent these published collections reproduced the older tradition of bespoke manuscript compilations of law and, as with their earlier compilations, each began with Magna Carta. The volumes charted the historical basis for legislation and as Magna Carta headed these documents the charter became regarded as a foundational statute of the realm.⁵⁴ Furthermore, with the advent of printing these compilations became more standardised, and more easily reproduced and disseminated. Gradually, Magna Carta – the premier statute – escaped the confines of the Inns of Court and came to the attention of a wider reading public.

The first time the full Latin text of Magna Carta was published was in 1508 by the official printer to the king Richard Pynson (c.1440-1529/30) under the title *Magna Carta cum aliis Antiquis Statutis*. Following the tradition of the early manuscript compilations and subsequent legal textbooks the volume commenced with Magna Carta proceeded by some 200 pages of different statutes in Latin and law French. It was soon followed in 1534 by the publication by George Ferrers (c.1510–1579) of the first ever printed English translation of Magna Carta in *The Boke of Magna Carta: With divers Other Statutes*.⁵⁵ With the publication of these texts it is no coincidence that appeals to the Great Charter steadily increased from the early sixteenth century. Magna Carta was invoked both in Parliament and in the courts of law to protect due process from royal interference, especially the summoning of men without charge by subpoenas under the privy seal.⁵⁶ Around the same time Magna Carta's clause I confirming the liberties of the English Church proved equally useful to opponents of Henry VIII's religious reforms and it was invoked in this regard by the Archbishop of Canterbury William Warham (1450?-1532) in 1532, by Sir Thomas More (1478-1535) at his trial in 1535, and by participants in the Pilgrimage of Grace in 1536. So potent were these appeals to Magna Carta by opponents to the English Reformation that Henry's chief minister, Thomas Cromwell (c.1485-1540), made it a priority to examine the "Auncyent Cronycle of magna Carta and how *libera sit* Cam into the Statute".⁵⁷

Nevertheless, the role Magna Carta played in the sixteenth century should not be overstated. Lawyers were certainly becoming more aware of its potential, but there was little appetite for challenging the authority of the Crown and Magna Carta's first clause afforded Protestant apologists little assistance. Demonstrative of this attitude is the anonymous Elizabethan play *The Troublesome Raigne of John King of England* (1591) and William Shakespeare's history play – written in the mid-1590s – *The Life and Death of King John* (1623) which both surprisingly failed to make any mention of Magna Carta, but rather reiterated the Tudor view that rebellion was unacceptably

disruptive and that a strong monarch was essential for stability. Although gradually growing in importance, Tudor engagement with Magna Carta can be understood to have been narrow and certainly did not nurture or represent a fundamental tension between monarchy and people. It was broadly ignored in popular culture whilst the published collections of statutes simply reaffirmed the historical continuity of the nation's laws.⁵⁸ Indeed, the very fact that these published editions of ancient statutes were printed by the King's printers demonstrates what little conceptual threat they posed.⁵⁹

It was only in the early seventeenth century under the Stuart monarchs and with the commensurate rise to prominence of the common law lawyer, judge and MP Sir Edward Coke (1552–1634), that Magna Carta became a central document in Parliament's fierce opposition to royal prerogative. Through his published works, his arguments in the courts of law, and from his seat in Parliament, Coke persistently invoked Magna Carta to assert the supremacy and independence of the common law against the increasing encroachments of Stuart absolutism. He represented Magna Carta, not as a new law, but as a medieval declaration – confirmed by every monarch since Henry III – that reasserted the fundamental, unalterable, "ancient" laws and customs of England that went back to time immemorial. As such Magna Carta presented Coke and his allies with a powerful instrument to bind the Stuart monarchs who threatened the independence of Parliament and the courts of law and what Coke believed to be the people's 'ancient' rights.⁶⁰

Throughout an impressive legal and parliamentary career Coke produced some thirteen volumes of law *Reports* (1600-1659), a four volume legal commentary known as the *Institutes of the Lawes of England* (1628-1644) as well as a number of other smaller legal treatises; all of which expatiated upon Magna Carta in some form or other. These works, and especially his *Reports* first published in 1600, created a platform upon which the common law could be perceived and organised and became central textbooks to understanding the law well into the early nineteenth century. These volumes transformed the constitutional role of the Great Charter for centuries to come, seeing it as confirming and reasserting the so-called "ancient constitution", which saw good government as a compact between Monarch, Parliament and people.⁶¹

Coke's interpretation of Magna Carta was quickly taken up by Parliament which was competing with the Crown for independence and power. In the aftermath of the Five Knights' Case in 1627 – where five gentlemen were imprisoned arbitrarily for not paying a forced loan exacted by Charles I – Parliament attempted to have Magna Carta formally reconfirmed by the King. Though Charles refused to allow this, he instead assented to the Petition of Right (1628), which drafted by Coke, drew explicitly on Magna Carta to restate the "ancient" rights of the subject. By assenting to it the King was forced to recognise – albeit temporarily – that his subjects and Parliament had certain "ancient" rights that Magna Carta outlined, and which he

now assented to in the Petition of Right, that meant that the King's subjects were free and could refuse illegal demands from the state without risk of imprisonment.⁶² The early seventeenth century, then, was an important turning point in the history of Magna Carta. Through the Petition of Right, via Coke's interpretation, it had become the bulwark of England's 'ancient liberties', the birthright of all freeborn Englishmen and an essential feature of the unwritten constitution and good government.

For publicising such views Coke took great personal and professional risk and he was ultimately removed from legal office in 1616 and imprisoned in the Tower of London in 1621-1622. After the triumph of the Petition of Right in 1628, Coke prepared for publication the second part of his *Institutes of the Lawes of England* (1642) which contained a comprehensive account of the role Magna Carta played in the history of England's ancient and modern liberty. His plans to bring this work to the press, however, went unrealised until after his death. Charles I, anxious that Coke was "held too great an oracle amongst the people" who were easily "misled by anything...that he either speaks or writes" had Coke's house and chambers searched and his papers confiscated on 1 September 1634, two days before his death.⁶³

Coke's papers remained confiscated until June 1642, when Parliament, aware of their propaganda potential, forced their release and publication. Published just as the nation collapsed into civil war, Coke's interpretation of Magna Carta and English liberty contained within them became a powerful resource for all sides fighting in the conflict where it was raised by pamphleteers, radicals, politicians, churchmen, and soldiers to defend their actions.⁶⁴ Several ensigns carried into battle by Parliament's forces had Magna Carta emblazoned on them, whilst their commander-in-chief Thomas Fairfax upon seeing the Great Charter kept in the Tower of London declared that "this is that which we have fought for, and by God's help we must maintain".⁶⁵ When Charles I was put on trial in 1649 in the last years of the Civil Wars, his prosecutors cited Magna Carta, claiming that the King's contempt for the court was but a cynical attempt to delay justice contrary to "the good words in the great old Charter of England" which stated in clause 40 that the monarch must not 'deny or delay right or justice'.⁶⁶

Royalists also used Magna Carta to support their cause. The Royalist Archbishop of Canterbury, William Laud (1573-1645), used Magna Carta in 1644 to challenge his prosecution and assert the liberties of the English Church before being executed in 1645 whilst the Royalist officer John Denham used the landscape around Runnymede in his poem "Cooper's Hill" (1642) to convey the importance of a strong monarch to stable government.⁶⁷ Following the execution of the King and conclusion of the Civil Wars, Magna Carta remained a closely contested document throughout the years of the Commonwealth. Many who had opposed the King, now perceived that Parliament under Oliver Cromwell (1599-1658), could act as tyrannically as any monarchy. Former

Parliamentarians, such as the pamphleteer Clement Walker (d. 1651) or the Leveller John Lilburne (1615?-1657), published tracts criticising the new government, often invoking Magna Carta as a symbol of England's "ancient" liberties that were being undermined by the new 'tyrant' Cromwell.⁶⁸ For publicising such views both men were arrested on charges of treason. An astute propagandist, John Lilburne repeatedly portrayed his personal grievances as representative of wider popular discontent about Parliament's encroachments on the rights of the subject and at his trial used both Magna Carta and the works of Sir Edward Coke to reinforce these claims.⁶⁹

The seventeenth-century reinvention of Magna Carta, perhaps unsurprisingly, coincided with the emigration of its ideals to much of the New World through the early pioneers of Empire. Wishing to take their hard won liberties with them, the foundational charters of many American colonies (Massachusetts, Maryland, Maine, Connecticut and Rhode Island) followed the lead of the first Royal Charter granted to the colony of Virginia in 1606 which, drafted by Sir Edward Coke, obliquely extended the protection of Magna Carta by insisting that: "The persons which shall dwell within the colonies shall have all the liberties as if they had been abiding and born within this our realm of England."⁷⁰ Early collections of laws made by John Winthrop (1588-1649) and Nathaniel Ward (1578-1652) for Massachusetts in 1641 explicitly aimed for a "resemblance to a Magna Carta" and when colonists questioned how closely those laws resembled the Great Charter in 1646 it was deemed of such importance as to require close comparison in the form of the "Declaration and Parallels".⁷¹ The Quaker proprietor of Pennsylvania, William Penn (1644-1718), drew heavily on the ideals and language of Magna Carta when he drew up his own colonies laws and constitution in the 1690s. The recognition of Magna Carta in these documents did not stem from Penn's legal training alone, but derived from first-hand experience of the protection it offered against judicial corruption. Placed on trial in England in 1670 for religious preaching, Penn was successfully acquitted after an appeal was upheld which confirmed that the judge subverted Magna Carta by demanding that Penn's jury find him guilty under threat of fine and imprisonment.⁷² It is not surprising, given this background, that Penn has been credited with publishing the first American translation of Magna Carta the introduction of which eulogised the Charter describing how clause 39 "Deserves to be written in Letters of Gold".⁷³ The transmission of Magna Carta to the American colonies by men like Coke and Penn was representative of the authority the Charter had in seventeenth-century England and it was one that would eventually manifest itself most forcefully in the foundation documents of the United States: the Declaration of Independence (1776) and the American Bill of Rights (1791).

Throughout the eighteenth century Magna Carta was increasingly invoked throughout Great Britain and its growing Empire. But in contrast with its seventeenth

century uses, Magna Carta was little engaged with as a legal instrument and was raised more as a symbol of liberty and justice. Of all its invocations in the period, however, Magna Carta became a symbol most keenly associated with agitation for parliamentary reform. Following Coke's interpretation in the seventeenth century, the Great Charter had come to represent a central pillar that supported the unwritten (and to a large extent imaginary) "ancient" constitution. Any infringement (or represented infringement) of Magna Carta was an infringement of the people's ancient rights and constitution – all of which had to be defended. Yet, the best way to support this constitution was not agreed on by groups with differing political perspectives. Loyalist propagandists claimed that only a strong monarch and elite Parliament could protect the 'ancient' constitution and principles of 1215 whilst their radical opponents argued that the undemocratic power of the monarchy and Parliament violated the people's "ancient" rights declared in Magna Carta and were in need of reform. Yet, regardless of ideology, all sides represented Magna Carta in their propaganda and shared the same iconography: the legitimate political actors defended the Charter from desecration whilst the illegitimate lost or destroyed it.⁷⁴

It was the mid-eighteenth-century politician and newspaper editor John Wilkes (1725–1797) who most successfully reasserted the document as a powerful symbol of liberty and justice. Following his arrest in 1763 for publishing a newspaper that libelled King George III and his government, Wilkes shamelessly exploited the rich political symbolism of Magna Carta to achieve widespread, and often violent, public support. As a newspaper editor Wilkes was a skilled propagandist who used the image of the Great Charter in the press and popular prints as a shorthand slogan for the people's "ancient" liberties that he believed he was defending against the growing encroachments of government. He appeared with the Magna Carta in newspapers, in cartoons and even in serious portraits. Such depictions of Wilkes allied with Magna Carta were a great success.⁷⁵ Enterprising businessmen, too, recognised the great popularity of the image of Wilkes with Magna Carta and profited from it by producing porcelain figurines, teapots and jugs depicting the Charter with its champion John Wilkes.⁷⁶ The popularity of Wilkes and the extent to which he was represented with Magna Carta helped reinforce the document as a simple shorthand slogan (or ideograph) for freedom and justice against tyranny which was adopted by many in their oppositional propaganda against George III's government – not least in the thirteen north American colonies where Wilkes' association with Magna Carta in opposition to the crown was widely celebrated.

In a period dominated by revolutions and agitation for parliamentary reform, it is unsurprising that depictions of Magna Carta, as a symbol of liberty, proliferated in late eighteenth- and early nineteenth-century Britain. Inspired by Wilkes and his set, it was exploited as a symbol by the politician Charles James Fox (1749–1806) and his Whig

supporters in grand monuments; celebrated in metal tokens by the political reformers of the London Corresponding Society at their trials for high treason in 1794; and frequently invoked in colourful prints challenging the Suspension of Habeas Corpus Act in 1817 and other repressive measures imposed by a government frightened of the threat of Jacobin Revolution at home.⁷⁷

The radical politician Sir Francis Burdett (1770–1844) was perhaps the most successful at exploiting the iconography of Magna Carta in the early nineteenth century and in doing so he adopted many of the same techniques practiced by Wilkes. But unlike Wilkes, Burdett seems to have had a sincere attachment to the seventeenth-century idea that Magna Carta represented a reassertion of England's 'ancient' constitution and legal rights.⁷⁸ Throughout his career Burdett was an advocate of parliamentary reform, believing that the "ancient" rights of the citizen were being undermined by a corrupt and unrepresentative Parliament in need of change. For expressing such views Burdett's popularity had steadily grown throughout his career, but it also made him a target of more conservative MPs in Parliament. In 1810 Burdett was incarcerated in Tower of London for publicly criticising the imprisonment by the House of Commons of another London radical John Gale Jones (1769–1838) who had publicly discussed closed Parliamentary proceedings on the Walcheren Campaign.⁷⁹ Upon his imprisonment, Burdett – just as with Wilkes fifty years earlier – allied his cause with Magna Carta associating himself with it in the press, popular prints, portraits, and on porcelain.⁸⁰ All the time, his association with Magna Carta implied that his imprisonment was contrary to the 'ancient' rights and constitution of Englishmen that were being ignored by an unrepresentative tyrannical Parliament.

Led by the likes of Wilkes and Burdett, Magna Carta became a powerful symbol very closely associated with parliamentary reform and it was invoked by reformers well into the late nineteenth century. Indeed, so powerful were these appeals to Magna Carta in reformist propaganda that it created a strong connection between the iconography of the Great Charter and parliamentary reform in the popular imagination. So strong was it that when the first Parliamentary Reform Act was passed in 1832 it was widely represented to the public as a new Magna Carta for the people. Early published editions of the Act gave it the title of 'The Great Charter of 1832' and popular ceramics representing the Lord Chancellor, Henry Brougham (1778–1868), holding the Act unhesitatingly pronounced it a "Second Magna Charta".⁸¹ Other MPs involved in passing the legislation equally enjoyed drawing the comparison; the MP, and descendent of Sir Edward Coke, Thomas Coke (1754–1842) commissioned a relief celebrating the Act depicting him and parliamentary colleagues dressed as knights forcing King John to seal the Great Charter.⁸²

Yet, the Great Reform Act was but the first in a series of legislative reforms that paved the way to universal suffrage in 1928 and in the agitation for these later reforms Magna Carta continued to be used as a symbol of the public's "ancient" and legitimate political rights.

Most prominent in this respect was its use by the Chartists who between 1838 and 1858 agitated for democratic reforms. Chartism was a mass working class movement that took its name from the People's Charter, which drafted in 1838 contained six points of Parliamentary reform. The choice of the word 'Charter' was significant in this context and consciously drew on decades of reform propaganda and the powerful symbolism of Magna Carta as the foundation of English liberties. For them the Great Charter of 1215 constituted the basis of English liberties that had been lost over time, and which their People's Charter would re-establish for the working man.⁸³ Though the People's Charter ultimately went unrealised, it ensured Magna Carta remained an important symbol in the struggle for political rights during the nineteenth century and in the decades that followed invocations of the Great Charter continued apace from the eccentric Magna Carta Association of the 1870s through to the Suffragettes in the early twentieth century.⁸⁴

CONCLUSION

This article has attempted to show the circumstances in which Magna Carta was obtained, paying attention to its social and political context as well as its various articulations and editions. The article has also contributed to an

understanding of the charter's significance at particular points in history, by examining its invocation and citation by different individuals and groups.

We have also identified various texts and objects which have indicated the charter's significance for groups and individuals at particular junctures. These include information carrying objects which might support research on Magna Carta within the context of the circulation and reception of legal meaning. In addition to the usual texts these objects include ensigns of Parliamentary forces in the military theatre; for Wilkes - press and prints, porcelain figurines, teapots and jugs; for Fox and the Whigs - the proposed Runnymede monument, metal tokens, and colourful prints, and for Burdett - the press, popular prints, portraits, and porcelain. Many of these are amenable to positioning and interpretation in cultural and domestic spaces, and potentially provide opportunities to contextualise the processes and objects involved with making sense of the way Magna Carta is used today.

Examples of many of the objects and texts mentioned in the article, where not already indicated, are exhibited at the British Library until 1 September 2015. They may also be seen on the website at: <http://www.bl.uk/events/magna-carta--law-liberty-legacy> or in the catalogue:

Magna Carta: Law, Liberty, Legacy, edited by Claire Breyer and Julian Harrison (London: The British Library, 2015).

Footnotes

¹ The papal bull annulling Magna Carta; (Bulla Innocentii Papae III. pro rege Johanne, contra barones. (In membr.) 1216. 151.) British Library: Cotton MS Cleopatra E I, ff. 155–156; <http://www.bl.uk/collection-items/the-papal-bull-annulling-magna-carta> - See more at: <http://www.bl.uk/collection-items/the-papal-bull-annulling-magna-carta#sthash.d3ckkV6PdpuF>

² C.R. Cheney, 'The Eve of Magna Carta', *Bulletin of the John Rylands Library*, 38, 2 (1956), pp. 311–341. Lecture delivered in the John Rylands Library, Wednesday 11 May, 1955). Cheney provides intimate discussion of the evidence; it is also perhaps significant to note Cheney's assertion that Magna Carta did not appear in the Chancery Roll.

³ Magna Carta, 1215. British Library: Cotton MS Augustus ii.106; <http://www.bl.uk/collection-items/magna-carta-1215>

⁴ Magna Carta, burnt copy with the seal attached. British Library: Cotton Charter XIII 31A; <http://www.bl.uk/collection-items/burnt-copy-of-magna-carta-with-the-seal-attached>

⁵ Archives Nationales (France): MS J655 Angleterre sans date no. 11; <http://www.bl.uk/collection-items/magna-carta-1216>

⁶ Bodleian: Ch. Oxon. Osney 142c; Magna Carta with the seal of Cardinal Guala, 1217 <http://www.bl.uk/collection-items/magna-carta-with-the-seal-of-cardinal-guala-1217>

⁷ Charta de Foresta; Westminster, 11 Febr., 9 Hen. III. [1225]. With great seal. British Library: Additional Charter 24712 <http://www.bl.uk/collection-items/the-forest-charter-of-1225>

⁸ Magna Carta, 1225; British Library: Additional MS 46144 <http://www.bl.uk/collection-items/magna-carta-1225#sthash.VdIYtRBw.dpuf>

⁹ I Statutes of the Realm xc 1235-1377: Table of the Charters

¹⁰ The Magna Carta http://www.archives.gov/exhibits/featured_documents/magna_carta/index.html

¹¹ I Statutes of the Realm xc 1235-1377: Table of the Charters

¹² Magna Carta 1225; British Library: Additional MS 46144 <http://www.bl.uk/collection-items/magna-carta-1225#sthash.VdIYtRBw.dpuf>

¹³ Richard Cassidy, 'The evolution of the charters from the Unknown Charter to 1225', and 'Versions of Magna Carta'. <http://magnacarta800th.com/papers/versions-of-the-magna-carta/> (13 October 2011)

¹⁴ David Clark, 'The Icon of Liberty: The Status and Role of Magna Carta in Australian and New Zealand Law', *Melbourne University Law Review*, 24, 3 (2000), pp. 869–870

¹⁵ Magna Carta: an introduction <http://www.bl.uk/treasures/magnacarta/basics/basics.html>

¹⁶ Richard Cassidy, 'The evolution of the charters from the Unknown Charter to 1225'. <http://magnacarta800th.com/papers/versions-of-the-magna-carta/> (13 October 2011)

- ¹⁷ English translation of Magna Carta <http://www.bl.uk/magna-carta/articles/magna-carta-english-translation>
- ¹⁸ J.C. Holt, *Magna Carta* (Cambridge: Cambridge University Press, 1992), p. 5
- ¹⁹ For example the *Golden Bull, Hungary 1222* mentioned in T. Bingham, *The Rule of Law* (Harmondsworth: Penguin, 2011), p. 11; Charters of the thirteenth century which reportedly made promises to uphold justice and established custom. Examples include, in France, the Statute of Pamiers, 1212, (Archives Nationales, France MS AEI 1207; <http://www.bl.uk/collection-items/mc-the-statute-of-pamiers>); King Magnus the Law-Mender's Landslov 1275, Norway. This re-codification of earlier provincial codes reportedly defines the powers of government, protects the sanctity of man's person, and expressly forbid trial without due process of law. (Ref. UNESCO Courier 1st October 1949 (Vol.2 No.9, publication 492)
- ²⁰ BBC Radio 4: In Our Time: Broadcast 7 May 2009 21:30: Melvyn Bragg and guests Nicholas Vincent, David Carpenter and Michael Clanchy discuss the Magna Carta.
- ²¹ T. Bingham, *The Rule of Law* (Harmondsworth: Penguin, 2011), p. 12
- ²² Kevin Guilfooy, 'John of Salisbury, in *The Stanford Encyclopedia of Philosophy*, ed. by Edward N. Zalta (2015), <http://plato.stanford.edu/archives/spr2015/entries/john-salisbury/>
- ²³ J. Sumption, 2015 *Magna Carta then and now. Address to the Friends of the British Library*. (pp.3-5) Lord <https://www.supreme-court.uk/docs/speech-150309.pdf> Sumption cites John of Salisbury's Polycraticus as the best articulation of this commonly held view of medieval kingship.
- ²⁴ A.L. Poole, *From Doomsday to Magna Carta 108-1216* (Oxford: Oxford University Press, 1955)
- ²⁵ *Ibid.* p. 386
- ²⁶ *Ibid.* p. 20
- ²⁷ Coronation charter of Henry I. Lambeth Palace: MS 1212 <http://www.bl.uk/collection-items/the-unknown-charter>, see also <http://www.bl.uk/collection-items/coronation-charter-of-henry-i>
- ²⁸ Langton had also taught at the University in Paris.
- ²⁹ Poole, *From Doomsday*, p. 421
- ³⁰ *Ibid.* p. 422
- ³¹ The Articles of the Barons: BL Additional MS 4838 + seal <http://www.bl.uk/collection-items/the-articles-of-the-barons>
- ³² Early English Laws (IHR / Kings College London / AHRC) <http://www.earlyenglishlaws.ac.uk/>
- ³³ Sumption, *Magna Carta: Then and Now*.
- ³⁴ BBC Radio 4: In Our Time: Broadcast 7 May 2009 21:30 As above
- ³⁵ Sumption, *Magna Carta: Then and Now*, pp. 14-15
- ³⁶ Holt, *Magna Carta*, pp. 5-6. As above The authoritative Early English Laws project offers hope that establishing the contemporary legal sense of Magna Carta is less of a "will-o'-the wisp" ambition than when Holt wrote in 1992. (p.6).
- ³⁷ *Ibid.* p. 20
- ³⁸ *Ibid.* pp. 8-9
- ³⁹ *Ibid.* pp. 16-17
- ⁴⁰ Bingham, *The Rule of Law*, p. 12
- ⁴¹ A & Ors v. Secretary of State for the Home Department [2004] UKHL 56
- ⁴² Thomas Poole, 'Harnessing the Power of the Past? Lord Hoffman and the Belmarsh Detainees Case' *Journal of Law and Society*, 32, 4 (2005), pp. 534-561
- ⁴³ W.S. McKechnie, *Magna Carta: A Commentary on the Great Charter of King John* (London: James Maclehose, 1905)
- ⁴⁴ W.S. McKechnie, 'Magna Carta, 1215-1915: An Address Delivered on its Seventh Centenary, to the Royal Historical Society and the Magna Carta Committee', in *Magna Carta Commemoration Essays*, ed. by H.E. Malden (London: Royal Historical Society, 1917), p. 22. Note none of the addresses were made on the appointed day.
- ⁴⁵ Ralph Turner, *Magna Carta through the Ages* (Harlow: Longman, 2003), p. 123
- ⁴⁶ *Ibid.* p. 112
- ⁴⁷ Jeffrey H. Denton, *Robert Winchelsey and the Crown 1294-1313: A Study in the Defence of Ecclesiastical Liberty* (Cambridge: Cambridge University Press, 1980), p. 167.
- ⁴⁸ Turner, *Magna Carta*, p. 113.
- ⁴⁹ Anthony Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester: Manchester University Press, 2001), p. 254.
- ⁵⁰ Justin Champion & Alexander Lock, 'English Liberties', in Claire Brey and Julian Harrison, ed., *Magna Carta: Law, Liberty, Legacy* (London: British Library, 2015), p. 107.
- ⁵¹ J.H. Baker, 'Personal Liberty under the Common Law of England, 1200-1600', in *The Origins of Modern Freedom in the West*, ed. by Richard W. Davis (Stanford, CA: Stanford University Press, 1995), p. 182; Faith Thompson, *Magna Carta: Its Role in the Making of the English Constitution* (London: University of Minnesota Press, 1948), pp. 190-195; Christopher W. Brooks, *Lawyers, Litigation and English Society Since 1450* (London: Hambledon Press, 1998), p. 217.
- ⁵² Bertram Wolfe, *Henry VI* (London: Yale University Press, 2001), p. 128; Thompson, *Magna Carta*, pp. 26-27.
- ⁵³ Turner, *Magna Carta*, p. 112.

- ⁵⁴ Champion & Lock, 'English Liberties', p. 107.
- ⁵⁵ George Ferrers, *The Boke of Magna Carta* (London, 1534); Champion & Lock, 'English Liberties', pp. 112-114.
- ⁵⁶ Paul Cavill, 'Debate and Dissent in Henry VII's Parliaments', *Parliamentary History*, 25 (2006), pp. 169-170, 173-174.
- ⁵⁷ The British Library, Cotton MS Titus Bl, f. 430r., Thomas Cromwell, 'Remembrances', c. 1535; Champion & Lock, 'English Liberties', pp. 115-116; Christopher W. Brooks, *Lawyers, Litigation and English Society Since 1450* (London: Hambledon Press, 1998), p. 218.
- ⁵⁸ Brooks, *Lawyers, Litigation and English Society*, p. 217; Paul Halliday, *Habeas Corpus: From England to Empire* (Cambridge, MA: Harvard University Press, 2010), p. 144.
- ⁵⁹ Champion & Lock, 'English Liberties', pp. 108, 112-114.
- ⁶⁰ Anne Pallister, *Magna Carta: The Heritage of Liberty* (Oxford: Oxford University Press, 1971), pp. 46-48.
- ⁶¹ See Thompson, *Magna Carta*, pp. 354-374.
- ⁶² Champion & Lock, 'English Liberties', p. 125.
- ⁶³ National Archives, State Papers, SP16/183, 'Henry Earl of Holland to Dudley Carleton, Viscount Dorchester, Secretary of State', 24 January 1631.
- ⁶⁴ Champion & Lock, 'English Liberties', pp. 128-129.
- ⁶⁵ British Library, Add. MS 5247, f. 47r., 'Drawings of regimental banners', undated; Alan R. Young, ed., *The English Emblem Tradition*, 3, *Emblematic Flag Devices of the English Civil Wars 1642-166-* (London: University of Toronto Press, 1995), pp. 167, 234-235; Peter Linebaugh, *The Magna Carta Manifesto* (London: University of California Press, 2008), p. 81.
- ⁶⁶ *King Charls His Tryal: Or a Perfect Narrative of the Whole Proceedings of the High Court of Justice in the Tryal of the King in Westminster* (London, 1649), p. 29.
- ⁶⁷ Pallister, *Magna Carta*, pp. 8-9; Theodore H. Banks, 'Sir John Denham's "Cooper's Hill"', *The Modern Language Review*, vol. 21, no. 3 (1926), pp. 269-277.
- ⁶⁸ Champion & Lock, 'English Liberties', pp. 129, 131.
- ⁶⁹ Pallister, *Magna Carta*, pp. 16-25.
- ⁷⁰ The National Archives, C 66/1709, 'The First Charter of Virginia', 10 April 1606; also available online at http://avalon.law.yale.edu/17th_century/va01.asp (accessed 23/4/2015).
- ⁷¹ 'A Declaration of the General Court holden at Boston 4 (9) 1646', in *A Collection of Original Papers Relative to the History of the Colony of Massachusetts-Bay* (Boston, MA, 1769), pp. 200-203.
- ⁷² A.E. Dick Howard, *The Road from Runnymede: Magna Carta and Constitutionalism in America* (Charlottesville, VA: University Press of Virginia, 1968), pp. 78-98.
- ⁷³ William Penn, *The Excellent Priviledge of Liberty and Property* (Philadelphia, PA, 1687).
- ⁷⁴ Alexander Lock & Justin Champion, 'Radicalism and Reform', in Claire Brey and Julian Harrison, ed., *Magna Carta: Law, Liberty, Legacy* (London: British Library, 2015), pp. 161-162.
- ⁷⁵ Pallister, *Magna Carta*, pp. 59-63.
- ⁷⁶ Lock & Champion, 'Radicalism and Reform', pp. 172-173.
- ⁷⁷ *Ibid.*, pp. 176-181.
- ⁷⁸ Pallister, *Magna Carta*, pp. 67-71.
- ⁷⁹ Marc Baer, 'Burdett, Sir Francis, fifth baronet (1770-1844)', *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004), online edn.
- ⁸⁰ Dorothy M. George, *English Political Caricature 1793-1832: A Study of Opinion and Propaganda*, 2 vols (Oxford: Clarendon Press, 1959), vol. 2, pp. 125-127.
- ⁸¹ Lock & Champion, 'Radicalism and Reform', pp. 165, 185.
- ⁸² N.B. Penny, 'The Whig Cult of Fox in Early Nineteenth-Century Sculpture' Past and Present, vol. 70 (1976), p. 104.
- ⁸³ Malcolm Chase, *Chartism: A New History* (Manchester: Manchester University Press, 2007), p. 8.
- ⁸⁴ Rohan McWilliam, 'Radicalism and Popular Culture: The Tichborne Case and Politics of "Fair Play", 1867-1886', in *Currents of Radicalism: Popular Radicalism, Organised Labour and Party Politics in Britain 1850-1914*, ed. by Eugenio F. Biagini & Alastair J. Reid (Cambridge: Cambridge University Press, 1991), pp. 44-64.

Biographies

Alexander Lock is Curator of Modern Historical Manuscripts at the British Library and was lead researcher on the post-medieval sections of the British Library's highly acclaimed exhibition, *Magna Carta: Law, Liberty, Legacy* (13 March–1 September 2015).

Jonathan Sims is a Research Engagement Content Specialist at the British Library. He has contributed a number of articles to LIM in recent issues.