

Jot & Tittle Sarum

A personal selection of Salisbury Cathedral, Museum and local history.

EDITORS: Mark and Tim Brandon

EMAIL: jandthistory@gmail.com **WEBPAGE:** jot-and-tittle.com

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EDITORIAL

I am always amazed that despite having read extensively about Magna Carta, there is still so much to be discovered. The twin themes underpinning MC are Faith and Governance. In 2014, in preparation for the 800th anniversary of MC, a conference was convened in the Temple, London, of luminaries from the worlds of Law and Religion entitled *Magna Carta, Religion and the Rule of Law*.

Cambridge University Press published a book with the same title in 2015 edited by Robin Griffith-Jones and Mark Hill. Mark is a QC and teaches at Cardiff University as well as being Extraordinary Professor at the University of Pretoria and Visiting Professor at King's College. Robin is the Reverend and Valiant master of the Temple Church and Senior Lecturer at King's College. Don't you just love English titles.



The list of contributors is impressive from Lord Judge and Lord Dyson to Sir Rabinder Singh and Lord Jonathan Sacks (was Chief Rabbi). Other contributors represent European, American and Islamic law. With all these leading lights law and religion are very much intertwined and have been since Biblical times. The talks take you from Catholic Medieval times up to today's multicultural world.

Now I can't précis all 400 pages but I can give you some of the points raised which shed a new light for me on the Magna Carta story. I will also not print it out in one go to avoid mental constipation.

BACKGROUND

The venue of the Temple Church is of significance. It is the burial place of William Marshall (above, who became a Templar on his deathbed), one of the key figures behind the charter, and it was also a neutral venue in the time of King John where he met the barons, issued charters and conducted royal business.

The elements to bear in mind that contributed to the situation in 1215 are as follows:

Henry I gave a traditional coronation oath which formed a precedence as far as the barons' liberties were concerned.

The dreadful civil war between Stephen and Matilda (1139 - 1153) was very much in the back of people's minds.

The Crusades were a part of this period and John took an oath to go on one, probably to give him extra protection under canon law. The loyalties and ideals of the crusade were prevalent.

The *Constitutions of Clarendon* in which Henry II in 1164 hoodwinked Becket into believing that the proposed limitations on clerical power represented well-established customs of England.

In 1212 the barons had invited the son of the French king, later Louis VIII, to become King of England. The pope intervened when John submitted to him and that invasion was called off.

Innocent III (1198 - 1216) was no ordinary pope. At his consecration he quoted Jeremiah *I have set thee over nations* and also asserted that he was *less than God but greater than man, judge of all men and judged by none*. To get his way he wielded two weapons, excommunication and interdict. To bring John to heel he tried the first but John retaliated by purloining the Archbishop's income. The second meant that for six years church services, including marriage, stopped and burials were not allowed in consecrated ground.

William Marshall eventually persuaded John to bow the knee to the pope. In fact John even went so far as to accept the pope as his feudal lord. This meant that the rebel barons were defying not just the king but the pope as well. According to Lord Judge, there was in feudal law a *Ceremony of Diffidatio* which allowed the barons to defy their lord without it amounting to a breach of fealty or treason - if justified and after proper notice had been given. If you were to lose any subsequent battle, your justification rather disappeared, partly because of victor's justice, and partly because to the medieval mind your endeavours had not been blessed by the Almighty. The barons used this tactic on 5th May 1215.

The Archbishop In the spat with the pope, John had declared Langton *an enemy of the Crown* and so he fled to France. Here he taught at the university in Paris (the most important theologically in Europe) and came under the influence of Peter the Chanter especially where the intertwining of theology and justice was concerned. Langton set out his conception of the liberty of the church in 1207, largely based on Becket. On his return in 1213 it was confirmed that the English Church would be allowed its ancient liberties. Langton was also influenced by the *Covenant of Deuteronomy*. This was a key factor in MC as it was understood that acceptance of its freedoms was a quid pro quo for royal taxation. Rabbi Lord Sacks believes that the covenantal character of society is still alive today.

It is unclear whether we should regard Stephen Langton as the spokesman for the barons and/or the mediator between the king and the barons. As an academic theologian he did not plan to become Archbishop but was chosen for the job by a former student that had become pope. Before this, he did join the papal curia and was made a Cardinal. The statue (right) is at Canterbury Cathedral.



Langton often refers to the Church of England; it would be more correct to use the phrase Church in England. However the former was seized on at the break with Rome as the *ecclesia anglicana* of MC and a reason why the English Church should be self-governing. Although nominally under the pope, communication took so long that Innocent's instructions were often out of date by the time they arrived which left practical decision making to the Archbishop and the Papal Legates Pandulf Verraccio and Cardinal Guala Bicchieri.

The Law. Principles of polity, justice and due process had for centuries been drawn from scripture. Throughout Europe Law was visualised as split into three levels: Natural Law (*ius naturale*), Law of Nations (*ius gentium*) and Civil Law (*ius civile*) - as well of course as Divine Law. As an example of how this worked, Nature held that parents should care for children so in National Law it could become fathers providing enough support so that their children could survive and establish their own families. Then the Civil Law might add the obligation to providing a dowry for unmarried daughters. The three levels worked together and judges had to decide which was most important in a particular case. This does explain in part why MC has both high ideals and mundane concerns in the one document.

In late medieval times the Inns of Court included MC on its syllabus but did not regard it as a bill of rights nor a scheme of government. Although the 1215 version was directed solely at free men by the fourteenth century it applied to all men *whatever their estate or condition*.

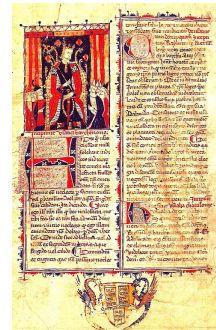
The Unknown Charter. John held a council in London in January 1215 to discuss potential reforms, and sponsored discussions in Oxford between his agents and the rebels during the spring. Both sides appealed to Pope Innocent III for assistance in the dispute. During the negotiations, the rebellious barons produced an initial document, which historians have termed *the Unknown Charter of Liberties*, which drew on Henry I's Charter of Liberties for much of its language; seven articles from that document later appeared in the Articles of the Barons and the subsequent MC. In the *Trésor des Chartres* at the Archives Nationales in Paris a copy of Henry's Coronation Charter has survived (below, Stephen's coronation charter from Exeter Cathedral). Appended to it is another charter headed *and the following articles are conceded by King John*. This informal document is the *Unknown Charter*. Of its 14 articles, 5 relate directly to the Coronation Charter which is probably why they are attached. We do not know why it is in France but it could be related to the proposed invasion by Prince Louis in 1216-17. Elias of Dereham and Stephen Langton's brother (Simon, Archdeacon of Canterbury) were both in France as agents of the Archbishop.

Roger of Wendover is one of the primary sources for the Magna Carta story. He was a monk at St Albans and was perhaps more of a story teller than a chronicler so his evidence cannot always be trusted. Roger's work is known to us through one thirteenth-century manuscript in the Bodleian Library, a mutilated 14th-century (Cotton) copy in the British Library, and the edition prepared by Matthew



Paris which forms the first part of that writer's *Chronica Majora*. Right: Roger's account of the battle of Lincoln.

The European perspective: talking to foreign visitors to MC, they are often quite unaware that they had their own national documents and that MC was *far from unique, either in content or in form*. The unique quality of MC is the uses to which it was subsequently put. Here are some examples. *Liber Augustalis* (constitutions of Melfi) issued in 1231 by Emperor Frederick II for the Kingdom of Sicily. *Sachsenspiegel* (Saxon mirror) edited by Eike von Repgow between 1225 and 1235. *Usatges of Barcelona*, Catalonia 1173 (near right). *Customs of the Beauvaisis* by Philippe de Beaumanoir *Siete Partidas*, by Alfonso X of Castile (far right). *Laws of King Magnus Ladulås* of Sweden. Last three are from the thirteenth century.



A HAPPY CHRISTMAS TO YOU ALL

Text

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Medieval
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Salisbury



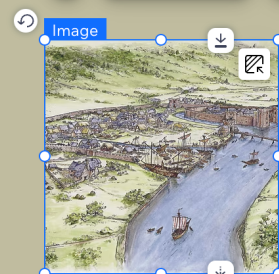
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