



JUDICIARY OF
ENGLAND AND WALES

THE RIGHT HONOURABLE THE LORD CHIEF JUSTICE

Magna Carta

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

On 15 June 1215 two sides in a forgotten English Civil War met at Runnymede by the banks of the Thames to see if they could, at long last, negotiate a peace. A document was prepared, but it was never signed. It was simply sealed. Although it is dated 15 June, its terms were probably not concluded until 19 June. No one called it the Great Charter, or Magna Carta. It was just another Charter.

As a peace keeping settlement its prospects were negligible. It was no more destined for success than the Munich agreement of 1938 which was supposed to bring “peace in our time”. * Like hundreds of Charters before it, it was destined for oblivion. Do we remember the Charter of Henry I? Do we remember the Charter of King Stephen? What is more within a few weeks it was declared null and void by Pope Innocent III, who, King of England or not, had been acknowledged by John as his feudal lord. (Can I be naughty, and wonder what the Euro sceptics would have made of that?) Pope Innocent abolished the Charter itself. All the obligations and safeguards contained in it were declared invalid for all future times. The rebel barons were excommunicated, a condition which our secular age cannot begin to comprehend, but which would have penetrated even the thickest of baron’s skulls as a lock on the door to eternal salvation. King John had not the slightest intention of abiding by any of it. The Pope killed it off. That was meant to be that.

And yet this document, or more accurately, the ideas symbolised by this document have become deep rooted in our way of life. They have travelled to what in 1215 were unknown worlds. They have had a direct influence, and continue to resonate in countries far, far away from these shores. The United States of America and Canada, Australia and New Zealand, were undiscovered lands, but Magna Carta is a document which is common to them and it is common to us. Through it the Common Law has penetrated the world. The ideas derived from it have underpinned all the great declarations of human rights. It is a universal document, continuing to have a universal impact.

*An observation of Tony Arlidge QC

There are many myths about Magna Carta. Magna Carta did not give us the right to trial by jury, but in the concept of trial by one's peers, one's equals, it provided the foundation for trial by jury. Magna Carta did not offer statements about personal liberty or fair trials, but in the promise that justice would not be delayed or denied, it underpinned the right of the individual not to be kept in custody indefinitely without trial, and carried the consequence that a hearing or trial would always be required. Magna Carta did not create parliamentary sovereignty, but it underlined that the subject's allegiance did not constitute an absolute and unconditional obedience to the King. And this implied that the King himself was subject to the law, and that if he failed to abide by that understanding, he was not entitled to claim an obligation of loyalty. Magna Carta was the banner with which the divine right of Kings was contested in 17th century England, when the foundations for our democracy were laid. The Pilgrim Fathers took it with them to the new colony in North America. This was the banner carried into battle by the then colonists in what was to become the United States of America, protesting in the 18th century when parliament sought to impose taxation without representation. On these foundations that great democracy was built.

To this day all our rulers are subject to the law: Presidents and Prime Ministers, who ever we are, we all are. What has all that to do with this beautiful Norman church? The short answer is that many of the key moments in the two years leading up to the sealing of the Charter took place here, here in what was then a very new building, consecrated in 1185. In 1213 the King had two London headquarters, to the east, the Tower, and to the west, the Temple. It was from here that in 1213 he went to the old St Paul's Cathedral to confirm that the Pope was his feudal lord. It was from here in November 1214 that he guaranteed the freedom of the English church, which became the very first clause in the Charter a few months later.

It was here in January 1215 that the barons met with the King. Please try and imagine it. By now deadly, equally treacherous enemies, tramping up and down, up and down, trying to do a deal, each side trying to secure what it saw as its rights. And the crisis of 7000 French troops here in England, and the City about to open its gates to them. It was indeed a time of national emergency. Is it any wonder that the Master of the Temple was rather frightened? But history was being made in that tramping up and down, the march of history not just of this country, but of the world. And from the Temple in May, yet another Charter issued which guaranteed the City of London the right freely to elect its own Lord Mayor, a concession born out of the King's weakness, and offered unreservedly. And so on to Runnymede, and after Runnymede and the nullification of the Charter what then?

And, I am sorry to have taken so long to get here: one of the ultimate saviours of the great Charter is buried here.

William Marshal, Earl of Pembroke, is not a name anyone can conjure with today. Yet he is one of our major heroic historic figures. In the Charter his name is the first mentioned of the non-clerical men noted in the Charter as advising the King. And indeed he did. He was a rare creature, trusted for his integrity by the Barons as well as the King. Fortunately for history King John died in 1216, leaving a small boy as his heir. William Marshal was elected Regent. Within a short time he had reissued new versions of the Charter. He did this in 1216 and 1217. And then, 70 years old or so, he returned to the field of battle and drove the French out of England. And just before he died shortly afterwards, he became a Templar.

Gradually, but very quickly bearing in mind there were no newspapers or television or telephones or emails or Twitter or Facebook, the requirements of the King for tax were negotiated in Parliament by his confirmation of the great Charter and the Charter became embedded in the consciousness of people. Over the next couple of hundred years these confirmations followed on numerous occasions. And yet as early as 1226 we have the records of a case in which a group of knights from Lincolnshire criticised the High Sheriff for the way in which he was administering justice behaving, “contrary to their liberty which they ought to hold by the Charter of the Lord King”. In other words this was a direct appeal to the Charter as the guardian of law and liberty, and gradually, whatever its actual terms might have been, becoming an iconic symbol of cherished freedoms.

William Marshal is buried in this church. In May 1219, at his funeral the Archbishop of Canterbury described him as “the greatest knight that ever lived”. We are proud to call this church the cradle of the Common Law. As you leave you will find his effigy. Pause to acknowledge the debt which we all, and many generations all over the world, owe to him for infusing life into what otherwise would have been just one more piece of vellum.

We are in a church. A medieval man with a deep faith, we know that Marshall died hoping to find eternal salvation. If any one of you here with a faith of his or her own offer a short prayer for the repose of his immortal soul, he would have appreciated it.