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Law and Politics of Magna Carta

Lecture:

Law and Politics of Magna Carta

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Plantagenet Society of Australia. 18 September 2004.

1 King John is best known to history as the King from whom the barons of England compelled the Magna Carta, which he caused to be sealed at Runnymede on 15 June 1215. Although there were times and events in his life when he displayed considerable ability and achieved stunning successes, his career overall was a series of failures and reverses, rebellions and misfortunes which his occasional feats of brilliance did not avert. He lived in interesting times, when the maintenance of the royal authority required endless vigilance, endless journeys and endless expenditure, and depended on personal bonds of loyalty which were always fragile and were broken repeatedly. The territories for which he was responsible were very widely extended, and did not have any centrally organised structure of government other than himself in person. Their extent is illustrated by the plans now displayed. The map shows King John's central problem: his lands were so extensive that, in the conditions of his time, control could not be achieved: distance and time defeated communication of information and orders, movement of food and forces, and the claims of loyalty.

2 John was born at Oxford on Christmas Eve 1166, the eighth (known) child of Henry II and Eleanor of Aquitaine and the fourth of the sons who became adults. Henry governed Normandy in his own right as duke and also ruled an extensive empire in what in modern days is south-western France, the Duchy of Aquitaine of which his wife Eleanor was duchess. She was 11 years his senior and he had married her within a few months of her being divorced or put aside by the King of France to whom she had borne several children. Relationships and shifts of power within the Plantagenet family were chaotic during the last decades of Henry II's life. He kept Eleanor in captivity for many years, it seems so that he could maintain his personal control over her territories, the loyalty of which was given to him only on her behalf; and there were conflicts with his sons, the young Henry whom he appointed to be an under-king, and died young, then with his remaining sons Richard, Geoffrey and John, who in shifting alliances were from time to time all in rebellion against him.

3 His favoured son, young Henry, at times in rebellion yet his favourite, died of dysentery in 1183. His third son Geoffrey, who ruled Brittany on behalf of his wife Constance, was killed in a tournament in 1185, leaving a posthumous son Arthur. Late in Henry II's life Richard and John the survivors were in rebellion against him, and the disappointment this caused was said to have brought Henry II's life to an end. By more modern ideas, when Henry II died his heirs were first Richard, then Arthur, then John; but inheritance law was not then settled, succession to the Crown was politics not law, and Arthur was only four and lived in Brittany.

4 John's first big adventure and failure were in Ireland. Nicholas Breakspear, Pope Adrian IV the only English Pope, assumed to give Ireland to Henry II, sending him a Papal Commission or Bull *Laudabiliter* (meaning praiseworthy) authorising him to conquer Ireland. Henry had much else to conquer, and Norman adventurers set about conquering Ireland themselves, only nominally with Henry's authority. Henry made one expedition to Ireland but could not establish real control over the Norman barons and the Irish kings, who pursued their own conflicts. In 1185 when John was 18 he was given the title Lord of Ireland (*Dominus*) which then meant King-designate but not yet crowned, and he was sent to Ireland with a court, an army and supplies of money to establish himself as Lord in reality. He had no success, and stayed only a few months; he misspent the money he was furnished with and showed unreadiness to pay troops or to use money with political wisdom; and his accompanying young courtiers had no grasp for politics, and took to laughing at bearded Irish chieftains who came in to give homage. John's Irish expedition was ineffectual militarily and politically, and although he continued all his life to use the title Lord of Ireland, and to maintain a nominal position as such, issuing titles, making grants of land which had to be fought for if the grant were to mean anything, appointing officers of government, not always with any effect, as the Norman invaders and the Irish kings pursued their own conflicts and alliances. They exploited rebellions and troubles elsewhere, and at times allied themselves against John when that course seemed to offer advantage. When John was himself in rebellion against his brother King Richard, Normans and Irish took the opportunity to ally themselves and claim to support Richard. John made another expedition into Ireland many years later, for some months in 1212, this time with personal royal authority and resources, and

with better soldiery; he had much greater success on this occasion in imposing the reality of authority, but this meant little after his departure.

5 When Richard succeeded as King in 1189 his most urgent project was to assemble money and talent so as to go on Crusade in the Holy Land, which was then in crisis. About the end of the first century of the Crusades most of the Holy Land had been overrun by Saracens, who had conquered Jerusalem and what is now Jordan, reducing the Crusaders to ports on the coast and larger holdings north in what are now Lebanon and Syria. Richard spent several years on Crusade. He took some of his father's best administrators with him and appointed others to govern England, but did not give his brother John any formal place in the government. He conferred great benefits on his brother, including the one he valued most, the County of Mortain in Normandy, and very wide estates, titles and castles in England. Richard's first plan was to require John to remain out of England for three years while Richard was on Crusade, but he did not keep to this, and left John free to remain in England as he wished, so that he became a focus of ambition and power to rival the ministers whom Richard had left in charge. Richard did not designate John to be his heir, and there was a touch of blasphemy about claiming to be the King's heir or letting others treat one as such. John became a figure in the politics of England although not appointed by Richard to any political authority, and had some part and influence when conflicts broke out among Richard's ministers. He was also maintaining a government of his own in Ireland at a distance.

6 Richard during his return from the Crusade was captured and held to ransom, eventually by the German Emperor, little other than Imperial banditry. While Richard's English ministers were given the task, with other dominions, of raising 100,000 pounds as his ransom, John took to intrigue and rebellion with the French King Philip Augustus who was seeking his own advantage in various ways. Philip hoped that Richard would remain indefinitely in captivity leaving Philip free to seize his lands in France, and planned at times to pay the ransom himself and buy Richard's custody from the Emperor. John intrigued with him in this, and became a rebel against Richard's government, whose many difficulties included raising a sum of money which was well over three times the annual revenue of England, then about 30,000 pounds. The first instalment was sent to the Emperor, who then released Richard on promises to pay the rest and to subject England to the Holy Roman Empire, none of which were kept; and it seems possible that the Emperor saw advantages in releasing the energetic Richard in order to make trouble for the King of France. Richard arrived back in England unexpectedly, suddenly reassumed Royal power as he was most welcome to do, set about confronting all the rebels, and engaged John in conflict in Normandy. After a few months John abjectly sought his favour again and was granted it, with observations that he was but a child, he then being 27 years of age. From then on he was a figure in Richard's government and a member of his Court, exercising some civil powers and from time to time taking part in Richard's endless and endlessly complicated military affairs on the continent, where Richard spent almost all of his time. Richard was the ruler of the Duchy of Aquitaine, still then owned by the Queen Dowager Eleanor, who although by this time well over 70 years of age was very energetic in her own interests, undertaking travels and diplomatic missions herself, to the extent even, as she approached 80, of making a winter journey into Spain on some diplomatic business about a royal bride for the French Royal Family. Richard's conflicts both with King Philip and with other powers in France never ended until his death; he attempted to impose dominance even over Toulouse as far as the Mediterranean coast.

7 This left England and Wales largely in the hands of ministers who had been schooled in the relatively methodical government of King Henry. Kings who are always absent pursuing wars overseas may generate chaos at home, but that was not Henry II's bequest to the nation; he left behind what was in medieval terms growing efficiency and method in government. Although many in the highest offices were churchmen, many were neither clergy nor nobles, and a class of literate professional administrators, judges and lawyers was growing up. It is wrong to think of public office as solely in the hands of noblemen and churchmen. Of particular interest to me is the judicial system, given system and vigour by Henry II's reforms, which gave the King's Court and its judges much more to do than they had earlier had. A recognisable and continuing body of judges came into existence in Henry's time, not simply persons appointed to hear and determine particular cases in the place of the King himself, but holding continuous office. As well as a central core of judges who followed the King as part of his household, or when the King was absent his Justiciar, in their endless perambulations around England, from about 1180 onwards another group of judges, not altogether distinct from the first, remained at Westminster to hear cases sent there. The more important cases tended to be heard and determined where the King was, but the convenient institution began to grow up that other judges, having less authority in some undefined way, remained in a fixed place, usually at Westminster, and heard pleas in which the King was not a party. Eventually these groups would develop into the Court of King's Bench and the Court of Common Pleas, and with another court which grew out of the Treasury or Exchequer, these were the three courts which over centuries formed English Common Law. During the last five years of Richard's reign John had some part in this civil administration. It seems that he

was competent, and if his career had taken a different form he might have been a minor figure in history as a competent administrator in the English administration of a long-lived King Richard. However things did not go that way, Richard was killed in a siege in 1199 and John rapidly established himself as the King of England. He also became the male representative and in effect the duke of his mother's extensive duchy.

8 During his reign John had recurring troubles from the Scots. The Scots' King William threatened to advance his claim to be Earl of Northumberland, and offered fealty to John if he had it; but also offered the same bargain to those in charge of 14 year old Arthur, a possible alternative English King. The Scottish King was compromised by fear of losing lands which he and his family owned within England, including Tynedale and Huntington, and had unresolved problems with Norway and with Norsemen to the north of his kingdom in Shetland and Orkney. He spent years in manoeuvre and negotiation with King John until in 1209 John made preparations to invade Scotland and the Kings reached some agreement at Norham Castle. The terms of the agreement are not fully known but they included elaborate arrangements about marriages which did not take place, payments which were not made, hostages who were surrendered by the Scots and concessions for Scottish merchants to trade in England; and there seems to have been some arrangement about the Berwick Bridge which had been washed away a few years earlier. King William, who was old, gave little trouble after this treaty. His successor Alexander II had the benefit of some arrangements in cl.59 of Magna Carta directed at compelling King John to resolve outstanding causes of conflict. This did not work, and after Magna Carta Alexander took land in Northumberland, Cumberland and Westmoreland which this clause seems to have been intended to concede to him, captured Carlisle and received in response a savage and brilliant 10-day invasion and campaign by King John in January 1216, the last year of his life. Later in the year Alexander took advantage of the invasion by the French Prince Louis. In October 1216 when he died, King John was travelling northwards, perhaps to deal with Alexander again.

9 King John engaged in continual conflict in Wales, usually at relatively low intensity, endlessly seeking to divide the Welsh chieftains. Wales was not part of England, and conflict was conducted there with even greater savagery than conflict in England. Marcher Lords, Norman rulers of parts of the borderlands, were given extensive delegations of regal powers. Pembroke in the southwest of Wales was a Norman or (from the modern viewpoint) English stronghold, as the village names on its map still show. Little by little John acquired the upper hand in Wales, but from 1211 onwards his position deteriorated. He always had too many claims on his attention elsewhere to bring an overwhelmingly heavy hand to bear on Wales. At one point, when confronted with a rebellion, he indicated his determination by hanging 28 Welsh hostages on the one day, but then his attention was called away by greater troubles elsewhere. The Welsh Prince Llywelyn established an ascendancy in Wales, supported by all the leading Welsh princes, and by 1215 John's almost overwhelming troubles included an alliance between the Welsh princes and the English barons, an unheard-of circumstance, and the capture of Shrewsbury by the Welsh.

10 All the troubles I have narrated however are minor compared with John's troubles on the Continent.

11 When Richard died, John as Count of Mortain was a guest of his nephew and rival Arthur of Brittany. However John immediately made for Chinon, site of the Angevin Treasury, established control of that, and gained the support of William the Marshall, an elder statesman of long service to Henry II and Richard and a man widely admired. Some of the nobles of the Angevin lands in France adhered to Arthur at the instance of his mother Constance of Brittany, but John was well received in Normandy, acclaimed and invested as Duke, and was accepted as King in England through the efforts of William the Marshall, the Archbishop of Canterbury who was John's half brother as an illegitimate son of King Henry, and the Justiciar Geoffrey FitzPeter, who persuaded the barons to swear fealty to John. John assembled a Norman army and he, with Richard's mercenaries sent up from the south by Queen Dowager Eleanor, established control of Anjou and Maine; then he could return to Normandy, leaving Constance and Arthur in control of Brittany. John proceeded to England late in May 1199, was crowned two days later at Westminster Abbey, and within three weeks returned to Normandy and embarked of the reconquest of the midlands of the Angevin Empire, Maine, Anjou and Touraine. John had the advantage of Richard's mercenary army, commanded by a mercenary Mercardier; he was confronted by the Bretons, and also by the French King Philip. In a campaign of some months John displayed a capacity for rapid action and bold generalship, overbore Constance, Arthur and the Bretons, and in May 1200 was accepted by the French as the successor of Richard – the Treaty of Le Goulet. There were still some discontents at his accession but overall John achieved great success in establishing his position as King.

12 At this time the Norman barons of England, four or five generations after the conquest were coming to see themselves as and actually to be distinct from the Normans of Normandy, and very distinct from

other French. The phenomenon of ownership of lands both in England and on the continent, with the need to pay homage in different directions, while still present, was beginning to fade through the influence of wars and of inheritance in an age of conflict. Military organisation had changed; calling out landowners to perform the military service owed on their fiefs was becoming less and less effective, as succeeding generations saw themselves as landowners, not as soldiers who owned land, and they jealously limited the time and zeal they were prepared to give to their military service. It made more sense to King and knights for the King to call for payment of scutage, shield money, as a substitute for calling on the knights to turn out for actual military service. A knight would give military service unstintingly if the Scots or the Welsh or some other enemy were nearby, and military service was called for to defend among other things his own property; but a call across the sea to fight in France produced a very different response, especially as the obligation was limited to service of 40 days, most of which would be used in the journey to and from the scene of conflict. From Henry II's time onward kings depended increasingly on mercenary soldiers, whose loyalty was not complicated by land ownership or a wish to return to reap crops. This in turn increased the royal dependency on revenue.

13 Although from our point of view looking backwards 12th Century England seems very disordered, in its own terms it was a time of economic progress, increasing areas of cultivated and improved land, growing population, improvements in agriculture, establishment and growth of towns and ports, foundations of monasteries and construction of cathedrals. Normans became (relatively) more settled, less military and more interested in rights and legalities. King John is credited with founding, or perhaps chartering Liverpool and building Dublin Castle, and re-establishing the Navy. London Bridge was rebuilt, by an engineer monk, in a long project that extended into King John's reign: probably the first bridge there since Roman times.

14 At the end of the 12th Century there was a strong burst of inflation, the source of which is obscure, but possibly related to some new supply of silver from mining on the Continent. Whatever the source was, inflation ran strongly during the first five years of John's reign when he needed armies and mercenaries to establish himself. During this five years his English revenues continued much as they had been, but the pressures on him to raise money, joining with unfortunate aspects of his character, enabled and required him greatly to increase the royal revenues, by processes of oppression and extortion as well as by full exploitation of the opportunities of his royal office. From 1204 onwards, when he lost Normandy and its revenue, his revenue from England rose rapidly, and multiplied several times over.

15 The Writ of Right and other reforms of King Henry, which protected those who held land of subordinate feudal lords by removing their lawsuits into the King's Court, gave no corresponding protection to the King's own tenants, who still had to deal with their own feudal lord directly. It was easier for the King and his judges to produce an objectively just decision over a few acres of meadow in which the King had no interest than over the forfeiture of a Barony which would pass into the hands of the King himself.

16 There were profits to be gained from the administration of justice, profits to be gained from withholding and then extending the royal favour, quarrels to be pursued or invented with nobles, rebellions and treasons to be punished by forfeiture. There was money to be earned by selling writs directed to the judges, telling them to get on with hearing a case, or not to hear a case, or to give effect to the King's favour towards a litigant. John greatly increased the royal revenues, to the point where his ability in that direction was marvelled at by his contemporaries. With revenue he gained power; the means to gain loyalty and employ those loyal to him, in soldiering and the wardship of castles. He was ruthless in compelling loyalty by holding hostages, far more so out of England than in England, but ruthless within England. He destroyed some baronial families who rebelled or fell out of his favour, seizing all their property and leaving their women and children to die of starvation in prison. Some of his measures of exploitation are reflected in provisions of the Charter which attempt to prevent them.

17 From 1204 onwards disasters built one on another on John. Eleanor died and he became Duke of Aquitaine in his own right. However he did not enforce any real control, and the counts and barons of Aquitaine, nominally his subjects, did very much as they wished. He was never truly at peace in his territory in France under the arrangements made in 1200 by the Treaty of Le Goulet. When his nephew Arthur fell into his hands, Arthur disappeared. Chronicles tell different stories about what happened to Arthur, including a claim that King John personally murdered him; but that he disappeared, and with him the possibility of a rival claimant to the heirship of England and the Angevin territories, is undoubted. This enhanced John's reputation for ruthless cruelty; but not uniformly so, as he received an endorsement from Pope Innocent III for destroying Arthur; the Pope pointed out that Arthur had sworn fealty to John and was in rebellion, and in feudal terms had forfeited his life. John did not retain the loyalty of the counts and barons of Normandy; in 1204, in a rapid series of incursions by the French

supported in part by Norman nobles, his authority collapsed, while King John displayed strange inaction. He also in the course of one or two years lost his position in Anjou, Maine and Touraine which had been the central and ancestral territories of his family.

18 From time to time John attempted to recover parts of his territories; he never made any headway in Normandy, he sometimes displayed great energy and considerable generalship in the territories to the south but could never restore his position, and although he remained Duke of Aquitaine, he gained little advantage by it. There were some sad events in which he sought to assemble armies and received no support in England, and nobody of importance answered his summonses; there was an occasion when he assembled a fleet and army and his nerve failed and he did nothing with them. He built a navy of some force, and on one occasion achieved an enormous success over the French with it, but no long-term advantage flowed from this. Late in his career an alliance with the Emperor and the Court of Flanders suffered an appalling reverse in a battle at Bouvines in Flanders, the final eclipse of any hope he may have had of recovering Normandy. He also had a long and obscure conflict with the church which led to England being under Interdict for some years, creating for him a reputation as heretic and faithless man, very adverse to him out of England, although doing him less harm in England, where some bishops and many clergy adhered to him.

19 King John has suffered much from the monks who compiled chronicles. Those who were objective and fair could not say a great deal well of him. Those who were hostile recorded many tales which it is hard to believe. One recorded that during the Interdict he sent envoys to the Emir of Morocco and offered to convert to Islam. The St Albans chronicler Matthew Paris, writing over 20 years after the supposed event, says that envoys found the Emir reading St Paul's epistles in Greek: and the story gets even less credible from there on. It is reported that King John was irreligious and never took communion, that he swore "by God's feet," and that he sent a message to a Bishop to shorten the sermon as he wanted his dinner. He was short-five feet five inches. He was suspicious and untrusting, and could be very vengeful. He was the fourth brother who had come to the throne by chance after three more favoured brothers died young, and he had a long history of failures. He lost wide territories and large revenues, and many were disloyal to him. In the course of his career he quarrelled, it seems, with almost everyone who mattered, and he could and did destroy people whose conduct, or whose existence did not suit his purposes. It is surprising that he received loyalty, yet there were many who gave it to him.

20 The King had power to determine how much was due to him in many transactions. He, or his officers, did bargain to settle for money his entitlement to feudal services which were not literally rendered. He assessed reliefs, which were payments on inheritance, and other payments at turns of events in the feudal order of entitlements and duties: payments to be appointed guardian of wards, payments to be designated to marry a widow or an heiress, payments by widows and heiresses to be left unmarried: payments for Writs and fees at stages in lawsuits: payments in return for appointments to public offices; payments to be allowed to refuse them: payments, when in disfavour, for the return of the King's favour. The King decided when he was to call out his knights for military service, when they were pay scutage in lieu, and when the Cinq Ports were to provide ships. There were no legal controls over how much was charged, or over how often. John knew all the opportunities which the Royal power gave him, and used them. He enforced his rights with vigour, and employed unscrupulous people to carry out enforcement by seizure of goods, lands and persons.

21 In his time King John's ability to collect and accumulate money was astonishing to his contemporaries. As he understood the law and the means of administration well, and as he was profoundly suspicious and deeply ruthless, he was able to exploit opportunities to raise revenue by pursuing conflicts with barons, exacting forfeitures, and levying huge fines for the return of his favour. He pursued all opportunities for exacting large reliefs, payments for allowing heirs to take up inheritances from their deceased fathers, brothers or ancestors. Many lawsuits ended with the Judges' decision that a party was "in mercy," leaving it to the King to come to terms with the party in mercy for the purchase of his mercy, in other words, to assess the fine. The King also received fees for granting procedural concessions in the conduct of law suits, for example, in a law suit over title to land, allowing the demandant, now the plaintiff, to have the case tried by an assize, the predecessor of a jury, although at law this was a right only of the defendant.

22 While John had many enemies both among the laity and among the clergy, including the monks, he also had many allies who were loyal to him, who showed him great fidelity in keeping and defending castles and strong points, and monasteries which kept money and treasure safe for him at widely dispersed places. The King and his government were forever travelling and seldom stayed in the one place for more than a few months, and he was capable of moving very rapidly according to the standards of his own times, and of appearing in strength and equipped with funds where he was not

expected.

23 King John engaged in a long conflict with the Church which was, at least nominally, about the control of the Pope over appointments to the highest offices, Archbishops and Bishops. His Chancellor Hubert Walter, Archbishop of Canterbury died in July 1205; he had long been a mainstay in administration and the judiciary as well as in the church. John was unable to control the election by the cathedral clergy of the successor Archbishop; they accepted Cardinal Stephen Langton to England, nominated by the Pope and consecrated by the Pope in 1207, but John refused to admit Langton and drove the cathedral monks out of Canterbury. This led to a series of reverses, and to the Interdict which, at least nominally and to the extent to which the English clergy complied, forbade most religious ceremonies. Then it led to excommunication and, with continuing war with Philip Augustus King of France, to the threat of an invasion. In 1213 King John reversed his policy, accepted Stephen Langton as Archbishop, agreed to make recompense to the Church and, at least in form, became a feudal vassal for England and Ireland of the Pope, with an obligation to pay an annual tribute. With great expense and humiliation John returned to the fold, and his excommunication ended in July 1213. Few of the magnates of England accepted the reality of John's apparently parting with ownership of England to the Pope, and the arrangement had little influence after his death. However at the time it secured him a new and powerful ally in the Church, particularly the more distant Church, Pope Innocent III, embodiment of the Church Triumphant. In 1215 in the months before Magna Carta, he even professed to take the Cross, to promise to go on Crusade, although he never departed from England for that purpose.

24 For several years during John's conflict with the church he did not maintain the justices who for 20 years or so had conducted judicial business at Westminster. His justices remained with him, or in his absence with his Justiciar, and business in the King's Court had to be taken to wherever the royal household happened to be. The inconvenience of this is reflected in one of the clauses in Magna Carta.

25 John inherited a wide empire; then enemies closed in on John. In spite of his great exertions in 1212 he continued only nominally to be Lord of Ireland. His fighting and troubles in Wales never really ended, and the possibility of conflict with the Scots was usually present, although it could usually but not always be contained diplomatically. The French threatened to invade in 1213, but earlier in the following year John's navy achieved an entire victory over the French fleet at Damme in Flanders. He resumed campaigning in France, again with some shows of brilliance and success, but overall he was unable to improve his position, which became irretrievable in July 1214 when his allies were completely defeated by the King of France at Bouvines in Flanders, a rare instance in that age of a full battle in the field. Fighting more typically took the form of seizure of castles, towns and strong points, and endless manoeuvre in the field, rarely concluding in open battle. John was left with the Channel Islands, the County of Poitou and with Gascony in the duchy of Aquitaine; his influence there was not great and they were not a source of strength to him. It was well over two centuries before the English lost control of Gascony.

26 Baron, in Latin Baro, means "a man" and refers to the lord's man, or the King's man, in the feudal relationship of lord and man in which the King or feudal lord received fealty homage and services, most typically service as a knight, and the baron received land. The King's men, his barons, were the tenants in chief who held land directly from the King. Some held much land and many manors: these were nobility, Earls and Barons, in Latin Proceres. There were also lesser barons, who held smaller fiefs, and were not politically prominent. This was not a large community: under the Conqueror there were about 180 of them, and by King John's time there were probably many more. These and the leading churchmen were the political community: no-one else had any real voice in public business. Internal English politics revolved around the interests of this group of landholders.

27 From late in 1214 onwards English magnates and barons exerted themselves with demands for concessions from King John, claiming to have back the old laws of Edward the Confessor and Henry I. Following the logic of John's submission to the Pope, they took to petitioning the Pope to intervene in the government of England. His sheriffs and officers continued to enforce the scutage he had levied in May for the war in France. He levied many scutages, it seems 11, much more frequently than earlier kings. John returned to England in October 1214. The war was lost, few had paid scutage and even fewer had responded by giving actual service. About the time of his return there was a meeting of Earls and Barons at Bury St Edmunds, ostensibly on a pilgrimage, in fact to hold a political meeting in the Church of the Saint. They then confronted the King with a demand for renewal of a charter of Henry I, probably his Coronation Charter, which would not have secured much for them: so their demand was largely symbolic. The leaders were Barons from Yorkshire and further north and the Barons were sometimes referred to as the Northern Rebels, although there were many others. Northern lords had

shown the firmest resistance to the government and to the tax-gathering of John's Justiciar in his absence. The true demand was for John to submit to control. Before Christmas he put them off to Epiphany. At Epiphany he said he would answer them after Easter. In the spring parties willing to fight against the King, and those willing to fight for him, decided where they stood: and so did a larger group not willing to fight at all.

28 Early in March and before Easter John announced that he had professed himself as a Crusader. This put him under the protection of the Church for a moratorium against claims for three years, and increased the difficulty of opposing him. The Pope urged peace, and peace terms. Nothing definite happened at the meeting at Northampton on the Sunday after Easter. On 3 May the Rebel Barons met at Brackley near Oxford, renounced their homage and fealty, and attacked the castle at Northampton, held for the King: the attack was not successful. There were military movements throughout May, the most significant being that the Rebel Barons occupied the Tower of London and controlled the City. There was not much fighting, and friends and foes began to identify themselves, as did those who proposed to sit at home. John and his government began negotiations at once. Archbishop Langton promoted peace and agreement, although he cannot have been an enthusiastic supporter of King John. The King took his position in strength at Windsor. Although he was not very active militarily, he did give a clear indication of what was at stake by granting out the lands of some who had renounced allegiance to new feudal tenants, who of course could take up their new lands only if the King won. Quite often the feudal tenant stayed at home and showed no disloyalty while his heir or younger sons who had no land yet which they could forfeit adhered to the Rebel Barons.

29 Although a majority of barons acted against the King, and are referred to in later ages as Rebel Barons, there remained a core of loyalists who were powerful, most strikingly William Marshal Earl of Pembroke and Ranulf de Blundeville Earl of Chester. Looking backwards from the modern age, these should be called constitutionalists, unwilling to disrupt the established order, rather than inspired by personal loyalty to King John. John seized and fortified castles and equipped himself with mercenaries. At all times he seems to have had available to him many people with military experience who were prepared to give him loyal service and to be guardians of castles and strong points. Manoeuvre rather than open war continued, with proposals for arbitration by the Pope, and seizures of castles. The Tower of London, and the City of London became and remained a centre of hostility to King John.

30 In some negotiations which are not clearly recorded a conference emerged at Runnymede, beginning on 10 June 1215, and negotiations continued for some days between the Barons whom history designates as rebels, and another party representing King John. Runnymede, then as now an open field, was chosen because it was half way between the King at Windsor and the Barons at Staines. The Barons prepared a document called the Articles of the Barons, a draft recognizably the origin of Magna Carta. It seems that King John put his seal on the Articles of the Barons on 15 June, but this did not become Magna Carta; agreements made verbally were written down over the next few days and embodied in Magna Carta, arranged into clauses or articles by the clerks in the Royal Chancery, sealed and back-dated to the day of agreement. Copies of this document were circulated to sheriffs, the Cinq Ports and other authorities around England, and the Barons renewed their allegiance on 19 June. The familiar scene of King John sitting at a table in a meadow and sealing Magna Carta on 15 June does not exactly represent what happened, and it took some centuries for the Charter to enter into English folklore as a major turn in English history. It is not mentioned in Shakespeare's play "King John," although when the play was popular in Victorian times the Runnymede Scene was often added, as new Shakespeare which the Bard forgot.

31 Sealing the Charter proved to be an early event in the conflict between King and Barons: most of the fighting came after the Charter, and it continued when he died, and after.

32 King John may well have foreseen that, as happened, Pope Innocent III denounced the Charter as soon as he heard of it, and by the end of September when the Pope's decision became known it was quite clear that King John was not prepared to give effect to the agreement he had made in June. A real civil war ensued. A pivotal event was that Archbishop Langton refused to give up control of Rochester Castle to King John, who successfully besieged and captured it; this engrossed his attention for several months, but observers throughout England, near and distant, saw his energy and success, and while his enemies continued to be his enemies, there were many loyal to him and many strong points throughout the country on which he could rely, for security for himself, his followers and his treasure. Barons opposed to him began to ally themselves with the French Prince Louis, who, not altogether in accordance with his father's authority, began to intervene in English affairs. Prince Louis eventually came to England in 1216, set up a royal government and for about a year claimed to be and acted as if he was King Louis of England, with his capital at London and with some power and influence at other places.

33 In December 1215 and January 1216 King John, in his 50th year, carried out a military campaign which took him from the south of England to the Scottish borders and back, with an astonishing display of rapidity of movement of armed force and a number of successes, overcoming barons, castles and towns opposed to him and dispersing hostile forces at many places the length of the country. He left St Albans on 19 December 1215, marched north, pursued the King of Scots who had advanced to Cambridge, confronted him near Newcastle and pursued him north, reached Berwick on 14 January 1216, spent 9 or 10 days invading Scotland, marched south by way of Newcastle, Durham, Barnard Castle, Scarborough, York, Pontefract, Lincoln, Bedford, and was again at St Albans at the end of February and continued his campaign in East Anglia. This traversed most of the territory where rebel Barons predominated, but did not touch their stronghold at London and did not end their rebellion. They joined with the French in plans for invasion: the French arrived and established themselves in London. Civil war between King John, many of his barons and the rival government of the French Prince Louis continued through 1216, in a situation where, although there were rebels in many places, there were also many places where King John could find strength and resources.

34 In September 1216 King John embarked on another campaign of rapid movement. Rebels held the southeast and much of the east of England, but many castles and towns were held for King John, notably Dover and Windsor. John set out from the Cotswolds, down the Thames Valley to disturb but not relieve the siege at Windsor, then through the eastern counties and to Lincoln, then to Lynn in Norfolk, a major seaport. This movement relieved Lincoln which had been under siege. At Lynn he organized shipping to support a march northward, probably again to pursue the Northern Barons and the Scots. Lynn has since that time called itself King's Lynn, the association being that he contracted dysentery there by overindulging in peaches and cider (October seems late in the season for peaches). He set off in poor health, campaigning northward again by way of Wisbech, and north to Lincolnshire, to the castle at Newark held for him by the Bishop of Lincoln, and there he died on 18 October 1216. Death overtook him in the midst of one of his displays of energy and success, rapid movement and dispersal of opposition. In the course of his journey at least some or perhaps much of his baggage and of the treasure which he took with him on his campaign was lost in a quicksand. There is no good record of exactly what was lost, or where: it may have been a vast treasure, it may have been a few pack animals. Some items of importance such as the Empress Matilda's imperial regalia disappear from records at about this time, and it could well be that he lost something quite valuable. Whatever he lost, it is certain that adventurers in the 19th and 20th centuries spent far more than it was worth looking for it, without success; the geography of the Wash has changed greatly over the centuries, and what was then a river crossing or quicksand may now be hard dry land. He cannot have lost all his treasure, because the chroniclers record, possibly with exaggeration, that when he died his personal servants stole what was left.

35 His death completely changed the politics of rebellion; barons who were ready to rebel against John had a completely different balance of advantages when dealing with the new government organized by William the Marshall Earl of Pembroke in the name of and on behalf of John's nine-year-old son Henry III. The attractions of a French king began to fade. The French themselves did not conduct themselves with great energy in exerting Prince Louis' cause. They drank all the wine in London, and complained about the ale. William the Marshall and other barons were able to establish a government in the name of the infant, and in 1217 Louis came to terms with them, abandoned his invasion and returned to France.

36 The Charter contains a list of the advisers at whose instance the King entered into it. They include the Archbishop of Canterbury and seven other English bishops, Pandulf, a sub-deacon who in some way represented the Pope and may be thought of as a diplomat, the Master of the Temple, William Marshall Earl of Pembroke and three other Earls, and eleven others who appear to be barons or officials of the government in England and France. Two other advisers were the Archbishop of Dublin and the Constable of Scotland, whose presence probably reflected an alliance or commonality of interest between Northern Lords and the Scottish King; one clause conferred benefits on the Scottish King. The Charter named 25 barons who were given the power to enforce it even against the King, if necessary by seizing his property; this is a different group to the advisers. Although King John's Charter soon lost effect, a very similar but not identical Charter was issued by the boy King's government soon after King John died, and there were further reissues, with modifications, on a number of occasions throughout the 13th Century.

37 The Clauses of the Charter reflected the sources of discontent in English politics at that time. The discontents of barons and tenants in chief, important landholders, and of the English church received the most attention. The discontents of towns and the merchants received some attention, but the interests of the great majority of the population were hardly affected at all. The document was not a Charter of Liberties or a statement of basic constitutional rights, as it came to seem in later Centuries. It did not restore the old laws of Edward the Confessor and Henry I. It accepted the change and evolution

which had happened. It worked its way through many contemporary grievances, mostly about excesses of power by King John, and corrected them one by one.

38 The first clause confirmed the independence of the English Church, and restated part of King John's earlier submission to the rights of the English church (not to the rights of the Pope. The Barons, and the King's advisers, were not exerting themselves in the interests of the Pope.) Clauses 2 to 8 protected the interests of landowners against excesses of the King's power in a number of situations relating to succession and payment of relief, wardship of infants and the duties of guardians, the marriage of heirs and widows, and the freedom of widows not to remarry. Clause 9 protected land from enforcement of judgments for debts, so that movable goods had to be sold first. This protection, which continued until the 19th Century, tended to protect the interests of heirs: it made it less likely that an inheritance will have disappeared to pay the debts of an improvident forebear. Clause 11 controlled recovery of interest and debts to Jews, who were the only lawful money lenders, and who were specially under the King's protection and control. Clause 12 was of very long-term importance; it was to the effect that aid and scutage, which were taxes, could not be levied in the kingdom without the kingdom's general consent (with 3 established exceptions). This was the forerunner, some centuries later, of parliamentary control over taxation. Clause 14 stated how the general consent of the kingdom to new taxation was to be obtained, in a process which sounds somewhat like the process of summoning a parliament. However parliament was still some decades away, and only levying aid and scutage were contemplated, not legislation generally. Clause 13 guaranteed the rights of the City of London and other corporations. There were controls in Clauses 15 and 16 on enforcement of feudal rights by persons other than the King. Clause 17 continued in effect until the 19th century: "Ordinary law suits shall not follow the Royal Court, but shall be held in a fixed place." This gave rise to a clearly distinct Court of Common Pleas, which did not hear cases in which the King was a party, and remained fixed at Westminster, where it stayed until 1875. There were many other provisions regulating conduct of the courts, and requiring the King to send out assize judges to each county 4 times a year, and a clause requiring fines to be reasonable, and the fines of Earls and barons to be assessed by their peers. Many other clauses established rights of clergy, towns and counties in their dealings with the Crown. The power of the Church to control the distribution of the goods of intestates was confirmed. There were provisions about the environment in Clause 33 which required the removal of fish weirs, which had begun to appear on rivers in earlier decades. There were to be standard weights and measures (Clause 35); and persons were not to be placed in trial without producing credible witnesses (Clause 38).

39 Clauses 39 and 40 have had long resonances in English law.

40 Clause 39: "No free man shall be captured or imprisoned or disseized or outlawed or exiled or in any way destroyed, nor will we go against him or send against him except by the lawful judgment of his peers or by the law of the land."

41 Clause 40: "To no one will we sell, to no one will we deny or delay right or justice."

42 These guarantees, if they had been enforced, represented the reversal of much oppression which King John had practiced. There were provisions for free movement of merchants and others, except in wartime. Clause 45 required that appointments of justices, constables, sheriffs and bailiffs were only to be men who knew the law of the realm and well desired to keep it. There were many provisions about Forest law, which was an area of resented royal privilege. From Clause 49 on, the current political violence begins to exert itself. The King was at once to return hostages and documents which he held as security for peace or loyal service. He was to remove all foreign knights, attendants and their horses and arms from England, and in particular, he was to remove 8 named Frenchmen who were kinsmen of one Gerard de Athée, in some cases with their brothers; not all these people are known to history, but they were well enough known to the barons to be specially mentioned, and they were to lose their Royal offices permanently. Gerard had already died after long service doing some of John's dirtiest work, but his relatives were still causing trouble.

43 A number of powers to restore or overcome wrongs committed by King John or his predecessors were conferred on a committee of 25 barons. Clauses 56, 57 and 58 were directed to redressing injuries which had been inflicted on Welshmen; the sons of Llywlyn who were held as hostages and his Charters were to be returned, and injustices were to be reversed. In some way these clauses reflect an alliance between the Welsh Princes and the Rebel Barons or some of them. Clause 59 in a similar way provides for restoration of the sisters and hostages given by Alexander the King of Scotland, and an undertaking to deal justly with him. This reflects an alliance of some kind between the King of Scotland and some Northern Lords, and the presence among those named as advisers to King John of Allan Galloway, the Constable of Scotland. There are a number of other minor provisions, and a general

pardon, reconciliation and assurance of future respect for rights. Clause 61 dealt with the functions of the committee of 25 which was to supervise King John from then on, and dealt very fully with their powers, which enabled them to override the King himself; they were given the right to "... distrain upon him in every way possible, with the support of the whole community of the land, by seizing castles, lands, possessions or anything else except his person and the persons of his Queen and their children, until they have secured such redress as they have determined upon." If the Charter had really taken effect, King John was in effect deposed or reduced to insignificance in any manner which this Committee decided they should do. In medieval terms, he might as well not be King at all, and there could be no surprise that he found his way out of the obligation within a few months.

44 The Charter shows that the Barons liked the growth of regularity, legality and a system of justice which was not an instrument of Royal power. Over some centuries the law developed as they wished. Real independence of the Courts, and real control over Royal power were not achieved until 1689, almost five centuries on: but the Charter was a step on the way.