



NEWSLETTER 22

July 2015

SPECIAL EDITION - REPORT ON THE 2015 CONFERENCE

"LAW AND ORDER IN EARLY MEDIEVAL ENGLAND - THE ROAD TO MAGNA CARTA"

This newsletter contains articles based on the talks by our four main speakers at the conference.

The Anglo-Norman Aristocracy 1066-1215 [link](#)

Daniel Power

Professor in Medieval History, University of Swansea

King John and William Marshal [link](#)

Elizabeth Chadwick

Award-winning author of historical fiction

The Magna Carta Project [link](#)

David Carpenter

Professor of Medieval History, Kings College, London

Women and the Law in the Age of Magna Carta [link](#)

Matthew Stevens

Senior Lecturer, University of Swansea



From left to right: Derwin Bennett ('The Royal Executioner'), Prof. David Carpenter, Dr Paul Dryburgh (President), Dr Ian Mortimer (President), Elizabeth Chadwick, Dr Matthew Stevens, Prof. Daniel Power & Jason O'Keefe (Chairman)

THE ANGLO-NORMAN ARISTOCRACY 1066-1215

This article is based on the lecture given by Professor Daniel Power and has been seen and amended by him.



Magna Carta did not suddenly appear out of nowhere in 1215. Certainly it was precipitated by the evils of king John's reign, but it had a long period of gestation and to understand its background we need to consider 150 years of the history of both England and France. Until the Norman invasion in 1066, England and France were separate countries, but after 1066 it is important to think in terms of a single Anglo-Norman realm, initially comprising Normandy and England but gradually extending its influence north into Scotland and its borders, west into parts of Wales and Ireland and south and west in France itself.

The Normans built castles, churches and monasteries across England and established lordships and baronies, dispossessing the previous owners. There was also an ecclesiastical conquest, lands in England being given to monasteries in France, the evidence still remaining in names like Tooting Bec and Newton Longville.

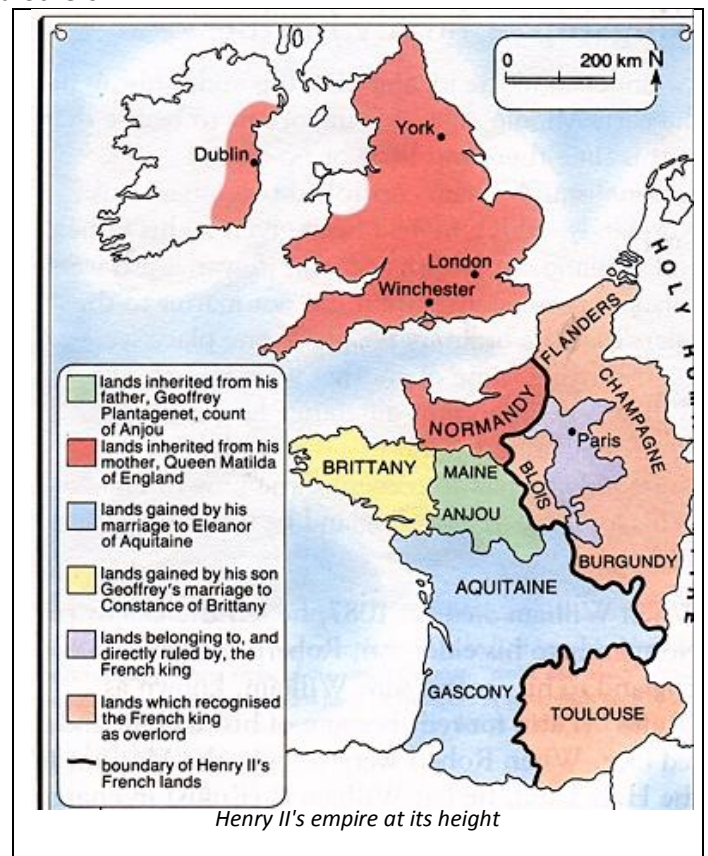
In South Wales and the Marches large swathes of land were taken and held by powerful Marcher lords including the Braose family. The advance of the Normans into Scotland was more peaceful as they came at the invitation of the King of the Scots. Others came too, in the wake of the Normans, including Flemish weavers some of whom settled in parts of England, South Wales, Ireland and southern Scotland.

Having estates in both Normandy and England presented a challenge to Norman families and it became common for the eldest son of the family to be given the ancestral lands in Normandy while the second son was given responsibility for the family's lands in England. This idea was repeated within the British Isles when English-based Norman lords held estates in both England and Scotland. Frequently, the older son would inherit the English estates while a younger son was awarded the Scottish possessions. Of course, the Normans in England continued to speak French and family ties remained strong between the French and English branches. Over time, however, many English lords chose to be buried in England and the Anglo-Norman dialect became increasingly distinct from French.

William the Conqueror left his lands in Normandy to his eldest son Robert Curthose, while his English lands were granted to his second surviving son, William Rufus. This presented a serious problem for families with lands on both sides of the channel as there was no love lost between the brothers.

Serving one master would automatically antagonise the other, so the Norman aristocracy preferred to have a single ruler for the whole Anglo-Norman realm. Understandably some wanted Robert and some William.

Although Robert made an attempt to get control of England as well as Normandy he was not successful. Instead it was William Rufus and later his younger brother, king Henry I, who dispossessed Robert and exercised unified control over all the Norman lands. The Anglo-Norman Realm reached its apogee during the reign of Henry I's grandson, king Henry II. He ruled a virtual empire extending from the Scottish border to the Pyrenees: from his father, Geoffrey Plantagenet, he inherited Anjou and Maine; from his mother Queen Matilda he gained Normandy, England and parts of Wales; from his wife Eleanor of Aquitaine the vast areas of Aquitaine and Gascony and from his son's marriage, the whole of Brittany. He later took over the regions of Ireland that some of his Anglo-Norman subjects had invaded. The lands directly ruled by the French (Capetian) king centred on Paris and were quite small, though the rest of France and Flanders recognised him as overlord.



Henry II's son Richard I spent only six months of his ten years as king in England. At times he had to work hard to deal with rebellions in parts of his French possessions, but he was largely successful in keeping them together. It was left to his brother, king John, to lose much of his father's lands in France including Normandy. Richard I nominated John as his successor and he was readily accepted in England and Normandy. He was ten years younger than Richard and another brother, Geoffrey, had been born after Richard and before John. Geoffrey had died in his twenties, but he had fathered a son, Arthur. The local barons in Anjou, Maine and Touraine wanted the 12-year old Prince Arthur as their lord. Within a year or so, however, John had overcome their resistance and was ruler of all the Angevin lands.

Things then began to go seriously wrong for John. It started when he had his marriage to Isabella, Countess of Gloucester annulled so that he could marry Isabella, Countess of Angoulême. On the face of it this seemed a sensible marriage, bringing together the northern and southern parts of his realm. Unfortunately, Isabella was already betrothed to Hugh de Lusignan. Hugh appealed to king Philip II of France and in 1202, when John continued to ignore him, Philip declared all John's continental estates forfeit. John moved quickly and managed to capture the Lusignans and also Count Arthur whom he imprisoned. Arthur eventually disappeared from view, never to be seen again. But with Philip moving against him, things began to go against John. He eventually lost all his castles in Normandy and Anjou and his hold on his other French possessions was much weakened. Roger Mortimer of Wigmore (d1214) led a raid on Dieppe in 1205 but was captured and eventually ransomed.



Chateau-Gaillard. The fall of this castle after a six month siege was a significant stage in the loss of Normandy by king John

The loss of Normandy presented great problems for Norman lords with estates on both sides of the Channel. It became almost impossible to have the French king as overlord for one's lands in Normandy and his enemy, king John, as overlord for one's lands in England. Most of these lords just had to decide which were the most important to them and give up their other possessions. William Marshall, Earl of Pembroke, was one of the few who managed to successfully retain their lands in both countries, together with some widows and churchmen.

John's main aim now became the recovery of his lands in France. Aware of the need for adequate preparation and funding he used every means at his disposal to amass a huge fortune. He raised vast sums by imposing levies and fines, often of a quite arbitrary nature, making himself increasingly unpopular in the process.

The lands in England of those lords who had chosen to remain with their estates in Normandy were now in legal limbo. John was able to seize them and add to his coffers by granting them, provisionally, to English lords. Dilwyn near Leominster, for instance, had four or five successive owners under the crown, raising very useful capital for the king and forcing its owners to stay loyal to John and his successor Henry III, because of the conditional nature of the grant. Henry de Ferrers forfeited his manors of Oakham when he decided to stay in Normandy. His sister Isabel de Ferrers had married Roger Mortimer (d1214) and in 1207 she was eventually granted this manor on payment of a sizeable fee. Isabel had also acquired the Ferrers manors of Lechlade and Longborough (Gloucs.) at the death of her other brother Hugh in 1204. The Mortimers held these manors provisionally from the Crown for nearly 50 years until Isabel's death when they were taken from them in the time of her grandson, the next Roger Mortimer (d1282). The loss of the valuable manor of Lechlade was one of the main reasons for Roger joining the other disaffected barons negotiating with king Henry III in the 1250s.

It took ten years of planning and money-raising before John was ready to sail for France in 1214 to reclaim his ancestral lands. In July of that year his army was forced to retreat from Anjou. His Flemish and Imperial allies were defeated by the French at the Battle of Bouvines and John returned to England with his tail between his legs, impoverished and humiliated. The failure of John's invasion proved the last straw for the English barons who had suffered great indignities and privation for many years as John built up his huge war chest. Had he been victorious, it might have seemed worth it, but nothing had been achieved. Moreover, John's defeats on the Continent led to a stream of refugees coming to England which further angered the barons. They now openly rebelled and captured London, forcing John to agree to the terms of Magna Carta.



French and Imperial knights clashing at the Battle of Bouvines

In the weeks after Runnymede, John made some efforts to comply with its terms. He restored many confiscated lands to their owners and sent foreign mercenaries home to their own countries. When Pope Innocent III condemned the charter, however, many of the barons openly rebelled. They looked to France for help and offered the crown of England to Louis, son of king Philip of France. In 1216 Louis invaded and entered London unopposed.

With the death of John in 1216, one of the reasons for rebellion disappeared. The new Pope, Honorius III, supported the new young king Henry III and the papal legate excommunicated Louis for invading England. The Regency Council, headed by William Marshal, issued a shortened form of Magna Carta in an attempt to win back the rebels to the royalist side. With loyal support from William Marshal and Hubert de Burgh, as well as John's leading French soldiers, the invaders were finally defeated in 1217 at Lincoln and in a sea battle off Sandwich. Magna Carta was re-issued in a full revised form in 1217 and Henry III confirmed it in 1225 in order to secure taxation for new campaigns in France. In 1244, king Henry and king Louis of France banned people from holding lands in both countries. [Return](#)

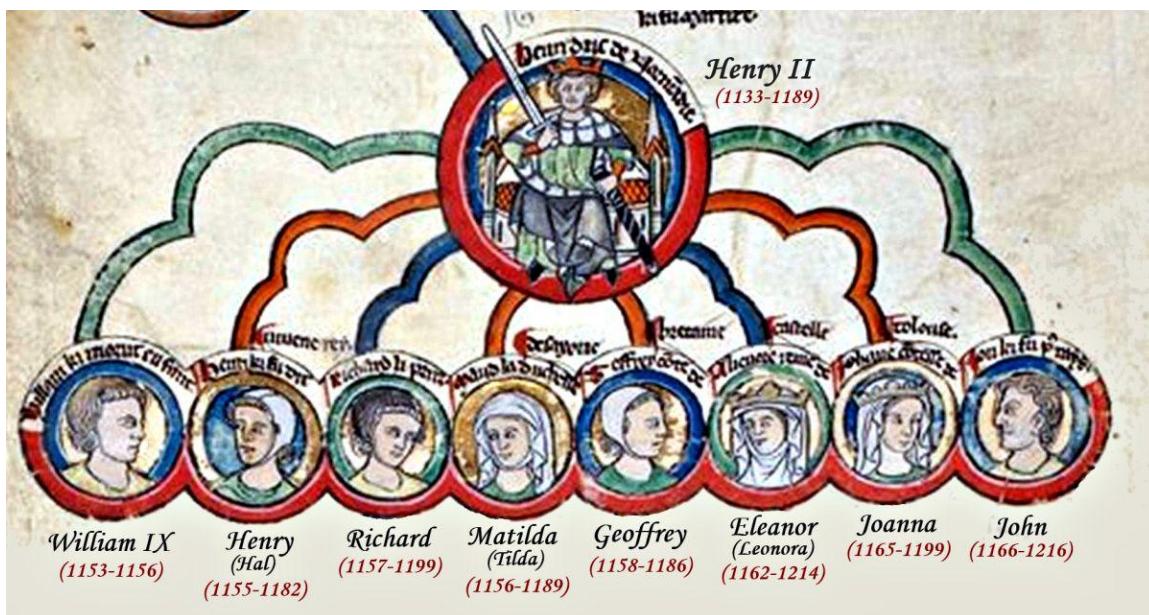
KING JOHN AND WILLIAM MARSHAL

This article is based on the lecture given by Elizabeth Chadwick and has been seen and amended by her.



Throughout his long life William Marshal displayed utter loyalty to the kings he served: Henry II, Richard I, John and Henry III. Despite this unswerving commitment, he strongly disliked John and expressed the hope that his son, Henry III, would not be like him. At the time of John's birth in 1166, William was about 20. In 1168 he entered the service of his uncle Patrick, 1st Earl of Salisbury. While escorting their queen, Eleanor of Aquitaine, between castles in France, they were set upon by the Lusignan brothers. Queen Eleanor escaped but Patrick was killed and William was captured after being injured. He was subsequently ransomed by the queen and entered her service. He remained devoted to her till her death in 1204.

King Henry II had four legitimate sons who survived infancy. The eldest, Henry, was crowned and anointed king in 1170 during his father's lifetime, a practice adopted by the French kings, and was thereafter known as "The Young King". William Marshal entered his service in 1170 and was with him during the period when he rebelled against his father, along with the queen and her younger son Geoffrey. In 1182 he was accused of having an affair with the Young King's wife, Margaret of France, and left his court. The Young King died in 1183, contracting dysentery while campaigning against his father in France.



A late 13th century illustration of the children of king Henry II

William Marshal was then away on crusade for two years and, on his return, he entered the service of the old king, Henry II. At that time he got to know John quite well. During the rebellion of Richard the Lionheart against his father in 1189, William was covering the retreat of the king in France when he came face-to-face with Richard in a skirmish. William unhorsed him and could have easily killed him, but killed his horse instead. Henry II died alone in Chinon, later in 1189 and the new king Richard I, recognising William's loyalty, took him into his service. Henry had offered William the hand of Isabel de Clare, Countess of Pembroke in her own right; Richard confirmed the arrangement and

the wedding took place in 1189. Isabel was a very wealthy heiress, so William was immediately transformed from a landless knight to one of the richest men in the kingdom. At that time he was only Earl of Pembroke *jure uxoris* - by right of his wife.

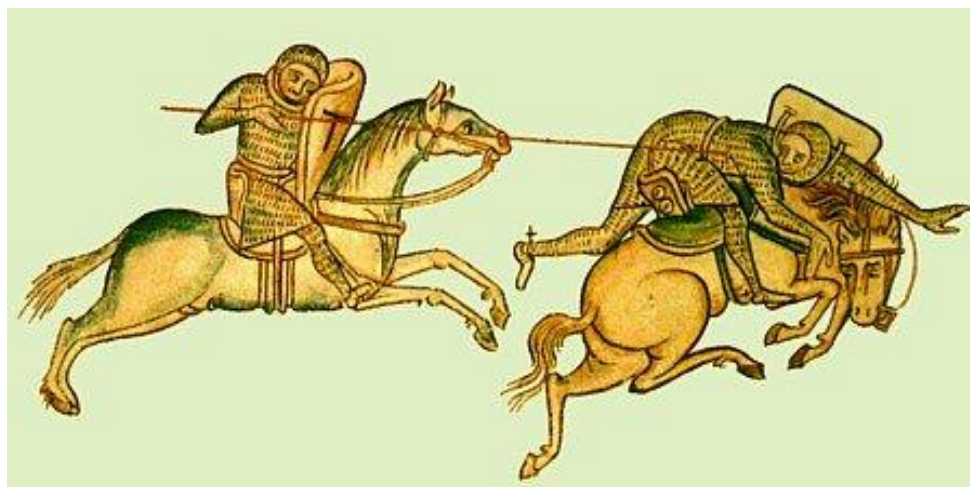
Richard I was to spend only 6-9 months in England out of his ten years on the throne. When he went on the Third Crusade he appointed William Longchamp as Lord Justiciar to look after England in his absence, with support from William Marshal and others. While Richard was away on crusade, his younger brother John began to flex his muscles. The Regents remained loyal to Richard, however, and John was kept in his place. Unfortunately Longchamp started to throw his weight around; he became very unpopular with the other barons and was eventually banished from England.

Soon after Longchamp's departure, Richard was captured on his way home from the crusade. John declared that he was dead and did all he could to keep him incarcerated. The country descended into open warfare between groups loyal to Richard and others supporting John. Despite these enormous difficulties, William Marshal managed to steer a careful course.

He may ultimately have served himself but he displayed an integrity that was recognised by all sides. He remained loyal to Richard despite his own brother, John Marshal, supporting John; John Marshal was killed by loyal forces while defending Marlborough for Prince John.

Eventually the enormous ransom of 150,000 marks was paid and king Richard returned to England in 1194. John fled to Normandy and William went to France with Richard to be reconciled with him. Although John was now 27, Richard put his behaviour down to his youth and the influence of evil counsellors. From that time on, John supported Richard until the king's death in 1199.

William was known as a warrior and in his youth he greatly enjoyed tournaments. In 1197, at the age of 50 he drew criticism from Richard who apparently called him foolhardy for climbing a siege ladder when he should have been taking more care of himself.



William Marshal unseats a terrified-looking opponent at a tournament

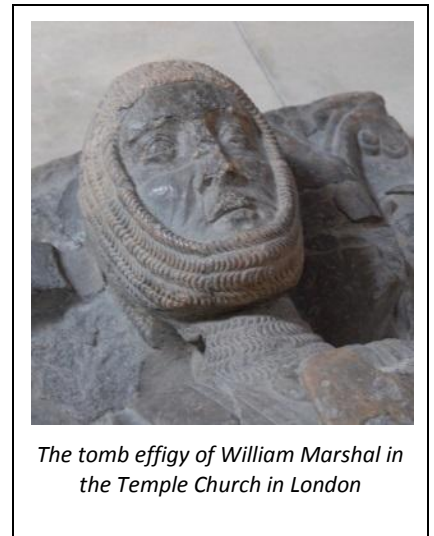
On the death of Richard I in 1199, there arose the question of who should succeed him. Richard had named John, but John had a nephew, Arthur, the son of his deceased older brother, Geoffrey. William supported John and was rewarded by now being awarded the Earldom of Pembroke in his own right. Unfortunately the honeymoon was not to last and William saw at first hand the kind of man John really was. He lacked leadership qualities and became increasingly dictatorial, vicious and arbitrary in his dealings. He was cruel to his prisoners and having captured Prince Arthur he made him disappear completely. William de Braose was a great supporter of John and was with him in Normandy. According to the annals of Margam Abbey (of which the Braose family were patrons) William de Braose refused to take responsibility for Arthur and in 1203 John killed the boy with his own hands. The subsequent fall of William de Braose is indicative of the king's arbitrary and inconsistent nature.

When John lost his lands in Normandy, following a successful campaign by king Philip of France, William Marshal was sent to negotiate a settlement with Philip. He was not successful in this but he did manage to make a deal with the French king whereby he kept his own lands in France as well as those in England. Was this disloyalty or just prudence? When John assembled a large army at Portchester ready to re-conquer Normandy, William declined to go on the grounds that he would be forced to fight against his liege lord in France. This double-loyalty was used against him by his rivals in England including the Justiciar, Hubert de Burgh. He was accused of treason by Ralph d'Ardenes,

but none of the key barons was prepared to stick his neck out and confirm this. Nevertheless they were able to sow the seeds of doubt into the king's mind and this was to lead to a cooling of relations between William and John. The fact that he demanded that William give up his 15 year old son as a hostage is proof that he no longer completely trusted him.

For some time, William had been unsuccessfully trying to obtain leave to go to Ireland where there were problems on his wife's estates. Unhappy with the deterioration in his relationship with the king, he now renewed his request and was given permission in February 1207. Unfortunately king John was suspicious about what William was up to and demanded that he also surrender his second son as a guarantee of his good behaviour. William and Isabel were not at all happy at losing their boys in this way, especially when John warned William that he'd take the younger boy with him to France. Both boys were to rebel against John in years to come.

John ordered William back to London; he continued baiting and taunting him but never actually moved against him. With more trouble brewing in Ireland, William returned and, in 1210, John followed with a large army to put an end to rebellious behaviour by Anglo-Norman lords including the Braoses, Lacys and, in his mind at least, the Marshals. William showed loyalty and retreated from the fray.



The tomb effigy of William Marshal in the Temple Church in London

By 1212 John realised that he needed William's help and promised the return of his sons. Back in 1208, Pope Innocent III had placed England under an interdict after John refused to accept the Pope's nominee, Stephen Langton, as the new Archbishop of Canterbury. Innocent even encouraged king Philip of France to invade England and depose John. With tensions escalating between the king and his barons, many saw the deposition of John as a way out of their problems. William Marshal now stood firmly alongside the king. It is not known to what extent William influenced John but, in 1213 he did an about-turn, accepted Stephen Langton as Archbishop of Canterbury and even offered to make England a vassal state of the papacy. This changed the situation immediately with king Philip going from "good guy" to "bad guy" overnight.

Again it is not known to what extent William Marshal was involved in drawing up Magna Carta, or persuading John and the barons to sign it. He was probably the diplomatic lead, someone seen as neutral and trusted by both sides. Of course, John had no intention of taking much notice of Magna Carta. William clearly detested him, but the king named him in his will, asking him to look after the country when he was gone. In his 70s he was to become Regent during the minority of young king Henry III and he was responsible for the 1217 re-issue of Magna Carta. His diplomatic skills and sense of self-preservation are reminiscent of Nelson Mandela in our own time. [Return](#)



Elizabeth Chadwick laying flowers on the tomb of William Marshal in the Temple Church

THE MAGNA CARTA PROJECT

This article is based on the lecture given by Professor David Carpenter and has been checked and amended by him. David's new book "Magna Carta" is described as 'a landmark in Magna Carta studies' - Penguin Classics (£10.99)



Introduction

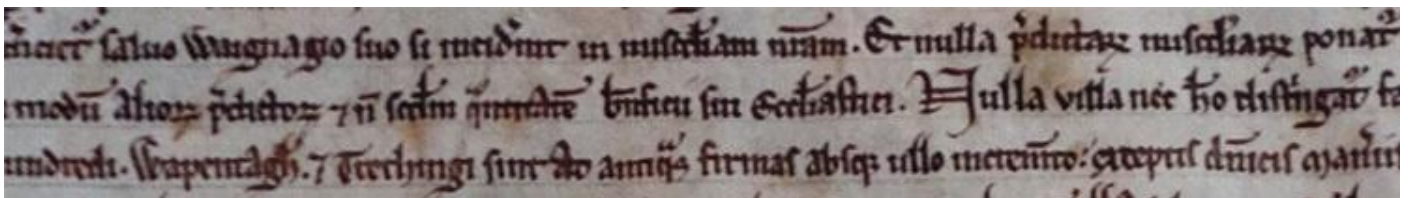
The statement of human rights enshrined within the 63 chapters of the Magna Carta of 1215 has been the progenitor of many later documents including the US Bill of Rights. When on trial for his life in 1964, Nelson Mandela appealed to Magna Carta as a document venerated by democrats throughout the world.

Some chapters are quite specific, dealing with issues relevant at the time but of only historical interest to us now, such as Chapter 33:

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

Other chapters, however, are of wide, general, application and focus on the rights of the individual to fairness and justice. Chapters 39 and 40 state that:

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



Part of the 1215 Salisbury copy of Magna Carta

Causes of Magna Carta

Huge costs were involved in attempting to maintain control of English possessions in France during the reign of king John. Following the loss of Normandy in 1204, the king built up a huge war chest as part of his preparations for what he hoped would be a successful campaign to regain control. His preoccupation with raising money led to him tax his subjects mercilessly and to the denial of individual justice whenever it suited him. He imprisoned people without trial and introduced a range of arbitrary and highly unfair new charges. At times he made people pay up merely so that they should remain in his 'good books'.

This kind of treatment by a king of his people would have been irksome at any time in history. But John's guilt was compounded by the fact that there was nothing to show for the money. A poor leader, his campaigns in France proved unsuccessful. King John has been described by more than one historian as a 'shit' and finally the barons' patience ran out.

The Nature of the Charter

Firstly it asserts the principle that the Ruler is subject to the law of the land.

Rather than establishing the concept of equality for all, however, it reinforces the divisions in society.

- The Liberties in the Charter were granted only to free men - so not to unfree peasants: the villeins and serfs who formed the great bulk of the population.
- Chapter 39 accordingly only protected free men. While in Chapter 40 the king promised justice to everyone, it was the law itself which subjected the unfree, in many areas, to the will of their lords.
- Women are certainly not seen as the equals of men. Clause 54 states that
No one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband.

Magna Carta states that, except in certain cases, taxes should not be levied without the common consent of the kingdom. The assembly which was to give that consent was essentially a House of Lords without any addition of a House of Commons.

However, the charter is not just concerned with the relationship between the king and the barons. There are chapters dealing with a wide range of other subjects including London, the church, local government, the common law and the free passage of merchants overseas, among many others.

New Discoveries

Scotland

In 1200 king William I of Scotland paid homage to king John, presumably just for the lands and rights he had in England. For the next few years John largely ignored Scotland and the Scottish king's claims to Northumberland, Cumberland and Westmorland. By 1209, however, Scottish incursions could no longer be tolerated and in July John marched north with a large army. The aging king William capitulated and eventually agreed to the Treaty of Norham.

The details of this treaty have been much debated by historians, but Professor Carpenter has recently discovered a copy of a letter from king John in a cartulary of the Benedictine abbey of St Augustine in Canterbury probably dating from the 1320s. In this letter John makes it clear that he sees himself as the feudal overlord of Scotland and will expect William's son, on the death of his father, to do homage to John for Scotland, in the same way as William himself did homage to King Henry II at York in 1175, following the Treaty of Falaise.

The Treaty of Falaise was cancelled in 1189, however, when king Richard I effectively sold Southern Scotland back to the Scots, to help finance his Crusade to the Holy Land. The revolt which produced Magna Carta meant that John was in no position to impose his will on Scotland and Chapter 59 of Magna Carta underlines, or implies, that Scotland is accepted to be a free country.

The Church's Role

It was normal for charters coming from the king to be copied by chancery scribes before distribution. This could be a painfully slow business and such charters might well never see the light of day if the king was unenthusiastic about them. Recent research has shown fairly conclusively, however, that while two of the four original 1215 copies of Magna Carta were probably created by chancery scribes, those at Lincoln and Salisbury were produced by scribes linked to those cathedrals. Not only is the handwriting different, but the documents themselves look different, conforming to a different style. The Church saw Magna Carta as preserving their liberties against incursions by the Crown. Knowing that John would publish the charter reluctantly, they stepped in to ensure that it got the widest distribution. It is significant that 13 subsequent copies went to bishops and not to the county sheriffs who, as government officials, were directly attacked in the charter.

The Fate of the 1215 Magna Carta

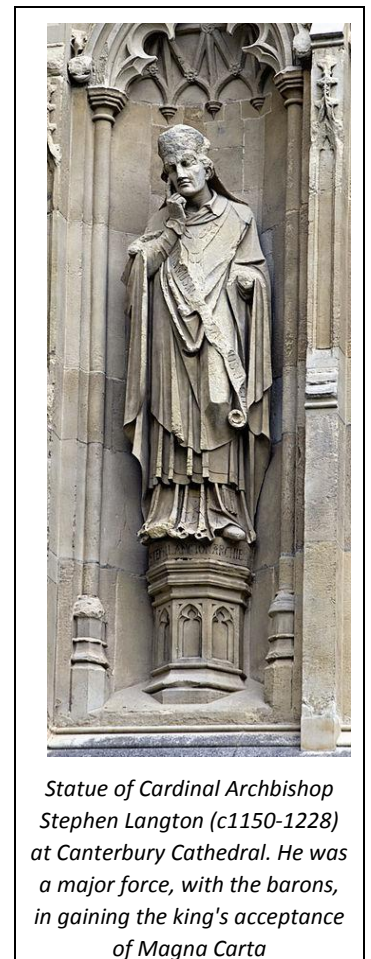
Magna Carta was not just known through its official versions. Many unofficial copies were made often embodying draft material produced at Runnymede. These are to be found in various statute books and cartularies.

After agreeing to Magna Carta in June 1215, King John largely ignored it and got the Pope to annul it in August of the same year. Highly frustrated, a group of English barons rebelled and asked the French king for support. By November 1215 Louis, son of the king of France and putative future ruler of England, was supporting the rebels. But Louis had no interest in Magna Carta and with the barons realising that it was unenforceable, the charter was dead in the water.

Following John's death in 1216, however, a new version of Magna Carta was issued in 1217, in the name of the young king Henry III and it was published again in 1225.

1225 and after

Archbishop Stephen Langton had put the charter on a firm footing and the 1225 issue of Magna Carta has a long list of witnesses including Hugh Mortimer of Wigmore. There was intense interest in the detail of the charter with many copies being made and then copies of copies. Did Magna Carta make any real difference to the ordinary people in the 13th century? - not really. The king broke some of the terms of the charter at times and there is no real mechanism for enforcing it. Some clauses were obeyed, however, even in the 13th century. It was no longer possible for the king to extract money from people on an arbitrary basis and it seems certain that from that time the monarch needed to obtain consent before raising taxes. Magna Carta was arguably a watershed between lawless and lawful rule. It certainly helped prepare the way for the tax-based parliamentary state. [Return](#)



WOMEN AND THE LAW IN THE AGE OF MAGNA CARTA

This article includes most of the text of Dr Stevens' fascinating lecture. Some aspects of his talk are excluded in the interest of space. These include parts that deal with the position of women in Wales. The full text of Dr Stevens' talk can be seen on the website. [Click here](#)



Magna Carta contains at least three key clauses regarding women which would, in time, affect the position of all women in England and Wales. But when the document itself was sealed in 1215, only a slender minority of free and relatively wealthy women would have felt its benefits.

This essay will outline, in broad brush strokes:

1. the legal framework within which medieval women of different social stations, or classes, lived their lives
2. the clauses of Magna Carta most directly affecting women and what they meant for the lucky few who benefited from them in the early thirteenth century

Women and the Law before Magna Carta

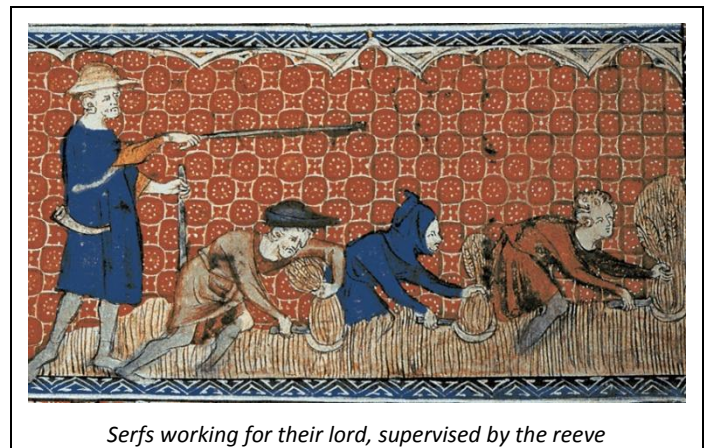
Slavery

The Domesday Book of 1086 shows us that slaves then made up as much as 10 per cent of the population of England. These enslaved men and women had, for all intents and purposes, no rights whatsoever. Slavery is thought to have largely disappeared over the following century, but within King John's own lifetime slavery, and particularly the buying of women slaves for sexual exploitation, remained a part of the cultural landscape of the British Isles.

Unfree Peasant Women

During the 1100s, slavery gave way to the improved status of unfree peasant, or *serf*. When John came to the throne as many as 80 per cent of the English people were living as unfree peasants on manors. These people held their lands from the lord of the manor in exchange for service. Their lives, and particularly the lives of their women, were closely regulated under the local law of the manor on which they lived. Neither unfree men nor women could leave the manor without permission, and failure to do the labour required of them could result in corporal punishment in the village stocks.

While men could act as minor officials on the manor, women could not. While men had access to a manor court to resolve disputes with neighbours, women were legally in the keeping of a father, brother or husband, and normally required male representation to bring a lawsuit before the court. And yet, when a woman was fined by the court for misbehaviour or violence, she appeared alone before an all male jury, to answer for her actions. Most unfree peasant girls are thought to have married by about 18 years of age, at which point a woman's husband became her legal guardian. Only in widowhood did a woman gain the right to act, in law, on her own behalf.



Serfs working for their lord, supervised by the reeve

Free Peasant Women

It is only the free peasant women, of families who had avoided serfdom over the centuries, together with their genteel and aristocratic betters, who enjoyed the fullest access women could gain to the so-called 'common law' of England. Only this 20% of the female population would stand to benefit from Magna Carta and even they had extremely curtailed legal rights. They could inherit land, but only in the absence of any living brothers. Adult, unmarried women might sometimes bring lawsuits on their own behalf, but most would have been contracted in marriage before reaching adulthood. As widows, these women might enjoy legal autonomy, and relative equality with men before the courts. But 'relative equality' only means, for example, that although widows might initiate lawsuits, they were not normally allowed to act as witnesses, unless concerning violence done to themselves, or their husbands, to which marks on their own bodies or clothes could bear witness.

Married Women & Coverture

Both before, and for centuries after, the reign of King John, married women in medieval England, at all levels of society, lived their lives under the legal condition of 'coverture', literally meaning 'covered woman'. A woman's affairs were legally represented by her husband in virtually all things. So long-lived would the law of coverture be that in 1776 the famous English lawyer Sir William Blackstone could explain in his textbook *Commentaries on the Laws of England* that from time immemorial:

By marriage, the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything



The Dower House, Stoke Park, Bristol - originally built in 1553 and used as a dower house by the Dukes of Beaufort of nearby Badminton

When a free woman married in medieval England she often received a marriage portion, or gift, from her family of birth. Additionally, under English law, she received the right to a designated 'dower'. A dower was a measure of one third of the land her husband possessed, to be kept by the wife should she outlive her husband into widowhood. This land was intended to support a woman financially in her widowhood. But under the rules of coverture a married woman had no control over her marriage portion or dower, while her husband lived. An unscrupulous husband might even sell off his wife's dower lands against her will and throughout the marriage a wife could not make any binding contract or even purchase goods without the express consent of her husband.

For many free women, and especially aristocratic women who often married a considerably older man while still an adolescent, their essential passport to legal and social independence was widowhood. But, as Magna Carta reminds us, being a relatively wealthy widow, or especially a wealthy young heiress, in the reign of King John was fraught with dangers.

Magna Carta and Women

Magna Carta was created overwhelmingly for the benefit of a relatively narrow cadre of land-owning men, who felt their rights abused. The word 'women' appears but once, 'widow' but twice and 'wife' but twice. However, when the charter uses the term *homo* (man), it is almost certainly intended to mean a free person of whatever gender. That said, Magna Carta was not much concerned specifically with the rights of women, except in a small but important number of instances. As women spent most of their lives married, and under the coverture of a husband, the position of unmarried girls and widowed women were the main points which drew the minds of King John's barons to feminine affairs.

Magna Carta and Unmarried Girls

Feudal England operated on the principle that the king gave men lands in exchange for military services and taxes, and those men in turn gave some of their land to free men below them in exchange for service and taxes, and so forth. The richer men, towards bottom of this chain, owned the manors on which unfree peasants lived and worked.

When a free landholder died in medieval England, leaving a child behind, be it boy or girl, the care of the child and most of the deceased person's lands were put in the control of the next person up the hierarchy, from whom the deceased held the land. This person could sell the right to the guardianship of the deceased's lands and the purchaser could then pocket the profits. Likewise, the king, or lord could sell the right to be guardian of the dead man's child, including the privilege to oversee who the child might marry. Moreover, this might all take place while the deceased's widow was alive, but denied guardianship of her own son or daughter.

Of course, a widow might herself purchase the guardianship of her own child, as Philippa, the wife of Roger Mortimer, 2nd Earl of the March, was to do during the Reign of Edward III. This was probably fairly common for minor wardships far down the social hierarchy, but only 15 per cent of fines paid directly to King Richard and King John for the purchase of wardships were paid by widows. If a widow did not purchase the right to be her child's guardian, and refused to hand over the child to the appointed guardian who bought this privilege, the purchaser could sue the child's mother before the king's court for delivery of the child.



Roger Mortimer 2nd Earl of March. After his death in 1360 his widow purchased the wardship of his son and heir Edmund

In theory, the rights of wardship existed to prevent a child heir, or widow, from the unscrupulous attentions of grasping relatives and the like, particularly those who might want to force the child into an arranged marriage helpful to themselves. In practice, those same unscrupulous parties often simply purchased the right to legally take control of the land and child. Once he reached the age of 21 a boy would be free of wardship and might do as he liked, though he may have been coerced into marriage in the meantime. But a girl, having no brother and set to inherit, was another matter because, once married, her husband would have full control of all the lands and estates to which she was heiress, under the custom of coverture. As a consequence, young heiresses were valued commodities. Their hand in marriage might be discreetly, or not so discreetly, sold off the highest bidder or, not infrequently, they would be married to the guardian himself.



A common occurrence - the marriage of a young woman to a much older man

The crown too was happy to exploit this custom. During the months King Richard spent in England raising funds for the Third Crusade, in 1189-1190, guardianships of noble heiresses were sold to the highest bidder to finance his expedition to the Holy Land.

Where Magna Carta intervened in this system was to stop the practice of heirs being coerced into marriages to persons of a lower social rank. As Chapter 6 of Magna Carta puts it, 'heirs are to be married without disparagement'. The practice of wardship would continue till the end of the Middle Ages, but at least there was now legal oversight as to whom the guardians of young women might arrange for those heiresses to marry. This may sound like a very small victory indeed, but it would prove a long term curb on the worst excesses of a system which had seen young women all but, in the words of the Church Council of 1102, 'sold like a brute beasts' to the highest bidder, who might then use the girl's estate to lever himself up the social scale.

Magna Carta and Widows

During a woman's married years she was subject to the control of her husband and Magna Carta has nothing to say of her. But when a woman was widowed, Magna Carta assured her strong protections.

Chapter 7 states clearly:

A widow, after the death of her husband, immediately, and without difficulty, is to have her full marriage portion and inheritance, nor shall she give anything for her dower, or for her marriage portion, or her inheritance... [and]...she is to remain in the house of her husband for forty days after his death, within which time her dower is to be assigned to her.

As mentioned earlier, from the day an English woman married, she had a right to a one third share of her husband's land on his death, called her dower. Likewise, on the day of her marriage her own birth family usually gave her some more land and goods, called her 'marriage portion'. And, lastly, a woman could inherit land from her father, if she had no living brothers. But the custom of coverture meant that a woman's husband had control of all of his wife's land during their marriage, and might well have chosen to sell some of it. Upon the husband's death, a widow, far from having the 'immediate' delivery of her marriage portion and any inheritance, as often as not found herself at the start of a long and fraught journey toward claiming these lands, which might take years. The settling of a widow's dower could be an even bigger problem, as the first hurdle was the identification of exactly *which* one third of her late husband's lands should comprise her dower. She, and any adult children, might well have very different ideas about what lands ought to be her dower, as might, should the children still be minors, an incoming guardian of the land, awarded wardship by the deceased husband's lord or the king. As well as problems of the identification of the dower lands, it is possible that some of them might have been sold off by the husband during marriage and would probably require litigation against the purchaser in order to claw them back.

Given the complexity of the situation, the statement of Chapter 7 of Magna Carta that women ought to have these things in full '*immediately, and without difficulty*' was entirely aspirational. But the rest of this chapter is more practically-minded. The statement that a widow ought to stay in her husband's house for forty days 'within which time her dower is to be assigned' was designed to prevent an unscrupulous adult heir, or incoming guardian who had purchased the wardship of the land, from immediately turfing out the widow from the estate's main residence. And the *assignment* of the dower in this time was similarly a practical and achievable goal, even if actually attaining possession of the dower lands might well require years of litigation.

Among all the things that Chapter 7 aspires to achieve, perhaps its most important statement is that no widow is to 'give anything for her dower, or for her marriage portion, or her inheritance'. A serious abuse had arisen by 1215, whereby widows were routinely coerced into paying entry payments, which we might fairly call ransoms or bribes, to have entry into their lands. King John was not above such things, but the problem of the payments demanded to grease the wheels went far down the landholding hierarchy. Poor free peasant women struggled against such fines until well after the issue of Magna Carta in order to receive their dower.

The very next chapter of Magna Carta, Chapter 8, is perhaps of even greater importance. It says that no widow is to be forced to marry while she wishes to live without a husband. In King John's reign alone, between 1199 and 1215, about 150 wealthy widows had chosen to pay for the privilege of remaining unmarried. One aristocratic widow paid a staggering £1,000 for the right to avoid matrimony. Magna Carta gave this right freely to all women as a matter of course, in what one historian has dubbed 'one of the first great stages in the emancipation of women.'

At a time when many young women, especially from wealthy families, married older and warlike men, and became young widows, the ability to remain a widow, in full control of one's own legal affairs for the greater part of one's life, was a revelation. Add to this the secured enjoyment of a reasonable dower, and within a generation of Magna Carta you get the creation of a class of female landholders who have been called the 'formidable widows' of medieval England. Prominently among these was Isabel Mortimer, daughter of Roger Mortimer (d1282). Though she married three times, she spent long periods as a widow, holding key responsibilities under the king. In 1280 she was even appointed to the custody of her late husband's castle of Oswestry, a post she still held in 1282, on the front line as it were, during Edward II's Welsh war against prince Llywelyn ap Gruffydd.



Other References to Women

Magna Carta mentions women in two other chapters. The more important of these is Chapter 54, which limits the power of women. Previously any person accused in any woman's appeal for justice could be arrested until the trial. This chapter limited this to a wife's appeal against her husband's murderer.

The second of the less important chapters of Magna Carta relating to women is Chapter 11, which stated that 'if anyone dies, and owes a debt to the Jews, his wife is to have her dower, and is to pay nothing of the debt'. This chapter reflects anxieties regarding the Jewish community which acted as money lenders both to major landholders and to the crown. Landholders often offered estates as collateral, and then defaulted on loans. As a result Jewish moneylenders sometimes held estates for a long time to recoup loans, and this could potentially comprise part of a woman's dower. But this clause too would eventually be made redundant when the entire Jewish community were expelled from England by the royal edict of Edward I in 1290. [Return](#)