

# ACKNOWLEDGEMENTS

Sotheby's Books and Manuscripts Department is enormously grateful to Nicholas Vincent, Professor of Medieval History at the University of East Anglia in Norwich and Director of the British Academy's Angevin Acta Project, for his extraordinary contribution to this catalogue. Working under severe time constraints, Professor Vincent produced a treatise that adds significantly to previous work on Magna Carta in the thirteenth-century, including the first accurate census of all surviving manuscripts.

The author of half a dozen books and scores of scholarly articles, Professor Vincent's works tend more to the biographical than the bibliographical. Sotheby's was fortunate, therefore, to have approached him about this project while he was preparing an edition of the charters of the Plantagenet kings and queens from Henry II to King John. His tireless enthusiasm, deep learning, quick pen, and good humor made the Magna Carta catalogue possible.

In addition, we extend our heartfelt thanks to Hugh Doherty, Professor Vincent's assistant. Mr. Doherty is a doctoral student at Christ Church, Oxford, and principal research assistant to the Charters of Henry I project in the Oxford University Faculty of Modern History.

## IMPORTANT NOTICE

- ▼ *Special Notice to Purchasers in Sale 8461.* Notwithstanding paragraph 10 of the Conditions of Sale, and in accordance with Section 1116(a) of the New York State Tax Law, we are not obligated to collect New York State or local sales tax on the total purchase price of the lot sold by us at this sale and delivered to purchasers in New York State. Deliveries outside New York State may be subject to the sale or compensating use tax of another state. Where a duty of collection of such taxes is imposed on us by law, we will require payment thereof by the purchaser.

# THE MAGNA CARTA

## INTRODUCTION

**Magna Carta is the most famous document in history.** Together with the Declaration of Independence it is perhaps the only document that everyone in the English-speaking world can claim to have heard of, if not to have read. The Declaration of Independence was printed on paper in relatively large numbers just over two hundred years ago. Magna Carta, by contrast, is not only nearly four times older, but handwritten in medieval Latin on a fragile membrane of parchment whose very survival is in itself little less than miraculous. No original Magna Carta has ever before been sold at auction, and it is quite possible that none ever will be again. Although fundamental to the emergence of North American liberties and law, Magna Carta itself has been jealously guarded in English public collections, and has only rarely crossed the Atlantic. No original other than this remains in private hands, not even in the hands of the English royal family.

From the constitutional principles embodied in Magna Carta emerged the concept of the liberty of the individual citizen, a proper and permanent challenge to the feudal tyranny of England's medieval kings, and the very origins of the common law. To view, let alone to handle or to possess it is to discover history itself condensed into a single parchment sheet. The document is today nothing less than a piece of world heritage. In its origins, however, like the Declaration of Independence, it was nothing less than a public proclamation of a new political order, in this instance of negotiations conducted between the barons and King John of England nearly eight hundred years ago. As a public proclamation, during the first century of its existence it was regularly engrossed onto single sheets of parchment and sealed with the royal seal for distribution to the thirty or so English shire courts where it was read and proclaimed. Given its antiquity, however, and given the momentous events which have since marked the history of England - the Protestant Reformation of the sixteenth century which swept away many of the greater ecclesiastical archives, or the Civil War of the seventeenth century which threatened to bring destruction to the archives of the King - it is hardly surprising that only a small handful of original Magna Cartas are still extant, all of them, save this one, now in institutional collections.

In all, seventeen such originals are known to survive before the year 1300, and only a further six from the later, fourteenth-century issue. Of all the surviving originals, the charter here offered for sale is the only one in private hands, the only one outside a public or institutional collection, and one of only two not still preserved in an English library or national archive. It comes from the fundamentally significant issue of 1297: the very first issue to be officially enrolled as a statute. In 1297, through its enrollment, Magna Carta for the first time acquired full recognition as part of English law. The present charter, once the property of the Brudenell family, earls of Cardigan, came to America in 1983 and for the past twenty years has been publicly exhibited in the National Archives in Washington.

As a document, Magna Carta has to be set within both its historical and its archival context. How did this document—literally “the Great Charter”—come into existence, and how did the particular original of the charter, now offered for sale, come to be issued and thereafter to survive the accidents of time? Magna Carta itself has inspired an entire scholarly industry, with many dozens of books and academic articles devoted to its history and meaning. Rather surprisingly, much less work has been done on the charter's text, writing, and physical appearance. Yet the story of the charter's writing and issue only further enhances the significance of this particular original now offered for sale. In particular, during the course of the research undertaken for the present sale, numerous new stories have emerged. For the first time, the seal attached to the charter has been properly identified, and this particular Magna Carta has been identified as one of only five originals from before 1300 that still carry a royal seal. It has also been placed in the context of the first full and accu-

rate census of Magna Carta manuscripts, which has led to the discovery of new originals in English institutional collections and the demotion of purported originals now found to be nothing of the sort. Once again, the significance of this particular Magna Carta has been further highlighted. It is, for example, one of only a small handful whose destination is clearly marked. It comes from an issue, that of 1297, which for the first time accompanied demands that there be no taxation without representation: a momentous challenge to royal authority and the origin of much that is of significance in later history, not least in the history of the American Revolution. The precise circumstances of the charter's issue, to the county of Buckinghamshire, and the precise identity of the chancery official responsible for drawing it up are here for the first time established. The means by which it passed from medieval Buckinghamshire into the hands of the Brudenell family, lords Cardigan, of Deene Park, can be elucidated. Moreover, the close association between Magna Carta and America has been explored, thanks to the release and the first proper study of British government records dating to the 1940s and beyond, which show not only that such great figures in British history as Sir Winston Churchill dreamed that one day a Magna Carta might be permanently deposited in a North American collection, but that, thanks to the present auction, such a dream may be about to come true.

## DESCRIPTION OF THE DOCUMENT

The Magna Carta of 12 October 1297, issued in the name of King Edward I of England as an *inspeximus* by letters patent of a charter of the ninth year of Henry III, written in medieval Latin on parchment (now repaired and in places rebacked). (Approx. 14 X 16 X 1 in.; 370 X 420 + 32 mm.), with margins of  $\frac{2}{5}$  [left], 1 [top] and  $\frac{3}{5}$  in. [right]; 10 [left], 28 [top] and 15 mm [right]). The writing on ruled lines, with faint ruled vertical plumb lines for the margins. The capital *E* of the King's name *Edwardus* decorated and extending down two lines of text. Written throughout in a neat chancery-style hand, in 68 lines of text, the final line extended with a note of warranty *Scowe* (the name of the chancery official, John of Stowe) infilling the line to the right hand margin. Sealed *sur double queue* (on a fold at the foot of the document), using a parchment tag ( $\frac{6}{7}$  in.; 22 mm wide) through a single slit at the foot. On the tag, an impression of the small seal of Edward I, used as the seal of absence by the regency council in England whilst the King was in Flanders 1297-8: natural wax, the central portion of the seal, broken and repaired, various details legible including the letters EDW....., and the small lion or leopard between the King's legs on the obverse side, the King seated in majesty on a bench-like throne, carrying two rods or sceptres, one of which remains topped with a fleur-de-lys device. The reverse of the seal, and the dorse of the document not visible in the present display cabinet, but fully recorded in detailed photographs. The endorsements: *Magna Carta* (s.xvi/xvii); *25 E(dward) I* (s.xvii) to the left on the dorse: *Magna Carta 25 Ed(ward) I* repeated on the right of the dorse; *1296* (?s.xvii); a nineteenth-century stamp mark of the Brudenell family motto *En Grace Affie* ("On grace depend") with the call number *A.viii.6* written in pen at the centre and repeated in pencil at the foot of the dorse. On the outside of the fold, to the left of the seal tag, the word *Buk'*, denoting that this was the exemplar of the charter sent into Buckinghamshire. On the fold to the right of the seal tag, the words *tradatur Rogero Hodelyn de Neuport*, "is to be given to Roger Hodelyn (or Odelin) of Newport" (c.1297): a unique detail, recording the proclamation of the charter within the county (see below p. 39). In generally good to excellent condition, legible throughout save for a very few characters, but with some rubbing, dampstaining and soiling. Two small and two slightly larger passages of damp damage obliterating letters along former folds on the left hand side of the document. A long vertical passage of dampstaining to the right of the document reaching down to the fold, but without obliterating the text. Various smaller patches where the lettering has been rubbed or stained. A cross marked in the right hand margin (?s.xvii) next to the line of text recording the ruling that there be a single measure of grain throughout the realm. Provenance: since 1983 the property of the Perot Foundation, until recently exhibited in the National Archives in Washington, D.C. Prior to 1983, certainly since the nineteenth century, probably since the seventeenth century, and perhaps since the fourteenth century, the property of the Brudenell family of Amersham Buckinghamshire and later of Deene Park, Northamptonshire.

**Estimate: \$20,000,000–30,000,000**

## THE BRUDENELLS OF DEENE AND THEIR MAGNA CARTA

The Magna Carta here offered for sale came to the USA in 1983 from the collections of the Brudenell family of Deene Park in Northamptonshire: a family famed in more recent history for producing the 7th Earl of Cardigan (1797-1868), hero or villain, depending upon one's point of view, of the Charge of the Light Brigade (1854). How the Brudenells came into possession of Magna Carta remains something of a mystery. The charter itself is the exemplar addressed to Buckinghamshire, and the Brudenells certainly had strong Buckinghamshire connections. The founder of the family's fortunes, William Brudenell, of Aynhoe in Northamptonshire, married a Buckinghamshire heiress, Agnes Atgrove, in the reign of Edward III, before 1352, and with his marriage acquired the manor of Raans in the Buckinghamshire parish of Amersham. Thereafter, members of the family are found serving in capacities in which they might well have come into contact with the county's archives and hence with Magna Carta. For example, in 1403, William Brudenell's son Edmund served as a commissioner of array in Buckinghamshire 'for defence against the king's enemies who have lately invaded the realm and burnt it in diverse parts'. A commissioner of the peace since 1385, Edmund represented the county in Parliament as a knight of the shire in 1404 and again in 1406. In 1402 he had purchased the manor of Newbury in the parish of Stoke Mandeville, although his principal residence remained the manor house at Raans, on Amersham Common, rebuilt in the reign of Henry VIII. Of Edmund's heirs and successors, Sir Robert Brudenell, Chief Justice of the Common Pleas (d.1531) was active in county affairs after 1500 and in 1521 assisted at the trial of the Duke of Buckingham. It was in Robert's time, nonetheless, that the principal focus of the family's landholdings shifted from Buckinghamshire further northwards to the English Midlands and thence, eventually, to Deene Park in Northamptonshire, acquired by Robert in the reign of Henry VIII.

It may be that Magna Carta was already in the possession of the Brudenells by this time. Certainly, Robert Brudenell's son Sir Thomas (c.1497-1549) was a keen amateur historian and a friend of the King's antiquary John Leland who in 1533 was welcomed to Deene Park on his great tour of English antiquities. During his visit, Thomas Brudenell's records and manuscripts were produced, and Leland made extracts "out of a roll that Mr Brudenell showed me", proving King Henry VII's descent from the Welsh princes. He also inspected other pedigrees which Thomas laid before him, and in their discussions Thomas quoted from 'an old record of the King's' that he had transcribed, suggesting that Thomas had pursued researches in the royal archives in London. If Magna Carta did not come to the Brudenells from their Buckinghamshire estates, then perhaps it came via Thomas, the Tudor antiquary, and from the records not of the county of Buckinghamshire but of the crown in London.

Another possibility should also be considered. There was a later Sir Thomas Brudenell (1578-1663) also noted for his antiquarian interest: the grandson of the first Sir Thomas, this later namesake was a Catholic, a royalist supporter during the Civil War, promoted in 1628 as the First Lord Brudenell of Stonton, imprisoned in the Tower of London from 1645 to 1648 for his royalist sympathies, promised an earldom by King Charles I, and eventually promoted by Charles II as the 1st Earl of Cardigan in 1661. The younger Thomas Brudenell may well have been the source by which Magna Carta came into family possession. At the age of twenty-one, in 1599, Thomas compiled a volume of "Creations and Arms of the Nobility of England from William I to Elizabeth" (still extant). Many other volumes containing pedigrees with coats of arms beautifully decorated in color were executed by Thomas himself or at his command, and are still to be found in the library at Deene. As the principal chronicler of the family reports,

"(Thomas) visited the churches where his ancestors were buried and copied the inscriptions on their tombs, going to Amersham, St Albans, and Diddington for this purpose. The experience he gained in reading ancient documents relating to his property in his own muniment room he very soon turned to a far more congenial use, spending countless hours in the Tower of London, (the) Chapter House at Westminster, the Temple Church, and other repositories in London where the public records were then kept. All is evident from the copies, which Thomas made with his own hand, of public records then kept in those repositories. He visited, too, the College of Arms and the private library of Sir Robert Cotton"

Cotton (1571-1631), himself the possessor of no less than two original Magna Cartas, both now in the British Library, was claimed as a cousin by the Brudenells, and appears to have given Thomas every encouragement in his researches. Moreover,

“Thomas knew well from his own charters and court rolls that not all the manuscript treasures of the historian were concentrated in London, and he seized every opportunity to ransack the muniment rooms of county houses. His friends were kind to him and he had freedom of entry from the Earl of Rutland at Belvoir Castle, from Lord Dunbar at Burton Constable, from Lord Exeter at Burghley House, and from several others. He corresponded with William Burton the historian of Leicestershire, and was himself inspired to attempt a history of his own county (Northamptonshire). He put together a few pages on the villages in the hundred of Corby, but persecution or more probably the Civil War, put a stop to the enterprise.”

A friend and cousin of of such luminaries of the seventeenth-century historical scene as Cotton, Sir William Dugdale and Roger Dodsworth, Thomas Brudenell was precisely the sort of person who would have been keenest to acquire medieval antiquities such as Magna Carta and who would have been most competent not only to track it down but to appreciate its significance. That the charter was already at Deene Park by the early seventeenth century is suggested by the endorsements that are still visible today. On the back of the Magna Carta, in a confident hand which appears to date from c.1600 is written “*Magna Carta*”: a correct identification indeed, but also, perhaps, a proud boast that Sir Thomas Brudenell of Deene, the 1st Earl of Cardigan, was one of the few antiquaries in England who could now lay claim to possess his own copy of a charter of enormous significance, already regarded as an object of surpassing rarity.

For the family, the principal source remains Joan Wake, *The Brudenells of Deene* (first published London 1953, second edn 1954).

## **MAGNA CARTA: THE ROAD TO RUNNYMEDE**

By 1600 or so, the Brudenells of Deene had come into possession of Magna Carta. Their document, however, was by then already more than three hundred years old. How had it come into being? Today, the words “Magna Carta” are generally assumed to apply to a text of some 2500 Latin words, setting out what many would agree to be fundamental liberties from which spring the foundations not only of the British but of the American constitution. As law, Magna Carta does indeed have a long and distinguished history. Unlike the assizes and laws of the twelfth-century kings of England which were never systematically collected or preserved, Magna Carta from 1215 onwards formed the very earliest “legislation” that was invariably placed at the head of unofficial collections of laws and statutes. From 1297—the date of the present Magna Carta—onwards it was officially enrolled on the King’s own Statute Roll. Magna Carta itself, however, began not as a legal enactment arrived at after sober and detailed discussion of constitutional principles but as the record of tense and dramatic negotiations between one English King, King John (1199-1216), and that large constituency of barons, bishops and freemen who had been provoked into defiance and rebellion by the King’s misgovernment. As such, Magna Carta, in its earliest form, is to be read as a peace treaty rather than as a legal enactment, and as the written record of an upsurge of protest against an entire tradition of royal government of which King John was only the latest, though in many ways the most despised of representatives.

As the son of the first of the Plantagenet kings of England, Henry II (1154-1189) and the younger brother of the crusading hero Richard I ‘The Lionheart’ (1189-1199), King John succeeded to lands and titles that had only recently been assembled and which, in theory, granted him rule not only over England but over Ireland, parts of southern Scotland and of an “empire” that in France stretched from the English Channel to the most southerly parts of Gascony and the Pyrenees: the greatest collection of estates in France that had been assembled under one single ruler since the fall of the dynasty of Charlemagne before the year 1000. This vast inheritance John immediately proceeded to squander.

In 1200, he divorced his first wife in order to marry a southern French heiress, Isabella of Angoulême, who was perhaps no more than eight years old at the time and whose marriage to John was immediately consummated as a means of stamping Plantagenet authority over south-west France. The outcome was a rebellion by Isabella's former fiancé, soon joined by others of John's enemies in France, most notably John's nephew, the fifteen year-old Arthur of Brittany. Arthur and his supporters were taken prisoner by John in 1202, but thereafter Arthur himself simply disappeared: blinded, mutilated and murdered, so it was rumoured, either at John's own hands or at John's direct command. Arthur's friends now appealed to their ultimate overlord, the Capetian King Philip Augustus of France, resulting in a campaign of conquest in which, within a space of only two years, Philip seized control of Normandy, Anjou and of the entire Plantagenet "empire" north of the river Loire. John's French lands were cut in half, and John himself was forced to retreat in abject defeat to England. For the next ten years, his principal concern lay in the reconquest of the French lands lost in 1203-4.

To mount an invasion of northern France, John assembled a vast war chest—more treasure than even his vastly wealthy father, Henry II, had accumulated—and placed England itself under heavy taxation and in constant preparation for war. In the process, he not only quarreled with the English barons and bishops, dismayed to find a King who had once resided chiefly in France now established permanently and voraciously on their very doorstep, but in his attempts to manage ecclesiastical patronage, provoked a dispute with the Pope over appointment to the archbishopric of Canterbury which itself resulted in the imposition of a sentence of Interdict upon the English Church. In effect, the Pope commanded that the Church close its doors, refuse the sacraments, even of burial in consecrated ground, and place the King and his court under personal sentence of excommunication.

Worse still, the King proved himself both duplicitous and cruel, not only in dealing with his enemies but with those who had once considered themselves his friends. He cast lecherous eyes (and some said far more) upon the daughters and wives of even his greatest barons. He harried those of his courtiers who dared criticize his behavior, utterly ruining William of Braose who had once been amongst the King's closest friends, and whose wife and son the King is said deliberately to have starved to death in Windsor Castle. Although, in 1213, John tried to make his peace with the Church, in the following year, his attempts to launch a massive and massively expensive campaign of reconquest in northern France backfired disastrously. A northern army, paid for by the King, was utterly routed by Philip of France at the battle of Bouvines in July 1214. Further south, in Poitou, John himself was forced to abandon his own campaign and once again fled back to England, his vast fortune all spent, his planned reconquest transformed into yet further humiliating defeat, and many of his leading barons, already reluctant to serve in Poitou, now openly threatening rebellion.

## **MAGNA CARTA 1215**

On 15 June 1215 at Runnymede—a meadow half way between Windsor and Staines close to the river Thames—King John gave his assent to a charter of liberties devised as the result of discussions between King and barons. He had been forced into the negotiations by the seizure of London in May 1215 at the hands of a coalition between the city's men and the rebel barons. In theory, the charter to which he agreed at Runnymede was merely the latest in a series of such charters of liberties granted by successive kings of England, from Henry I in 1100 through to Henry II in 1154, generally issued at the time of their coronation and intended to guarantee the liberties and privileges of their subjects. Indeed it was the coronation charter of King Henry I, and its supposed rediscovery by the archbishop of Canterbury, Stephen Langton, that is said to have served as one of the principal spurs to the baronial demand for a new charter in 1215.

In practice, although the Runnymede charter of 1215 drew upon such ancient principles, and was influenced also by precedents set by the King in earlier grants of privileges to towns and county communities, the terms which it set out were wholly unprecedented. Various of its clauses dealt with the same basic issues as the Henry I coronation charter: the rights of widows, heirs and wards. However, whereas the Henry I char-

ter had no more than fourteen clauses, that of 1215 was now supplied with sixty-three, and of these, several went far beyond any restrictions that had previously been placed upon the exercise of raw, royal power, elucidating general legal principles rather than dealing with narrow technicalities. In particular, the 1215 charter attacked the King's most personal powers of patronage, by demanding (in clauses 50-51) the exile from England of a group of foreign courtiers and constables who King John had brought over with him from France. It also attacked the very foundations of royal sovereignty, by suggesting (in clause 61, the so-called "sanctions" clause) that, should the King attempt to evade any of its terms, a committee of twenty-five barons be empowered to seize the King's estates and in effect to wage war upon the King until amends were made. How, it might be asked, could the King in one and the same document both claim to act as a sovereign authority, granting liberties and privileges, and at the same time state that neither he nor his successors might take away the privileges thus conferred by royal charter? How could the King be bound to observe the terms of his own award? The answer here was for the charter to be phrased as a grant by King John not to his fellow men but to God Almighty. As the very first clause reads: "In the first place we have granted to God and by this our present charter have confirmed for ourselves and our heirs in perpetuity .... and we have also granted to all the free men of our realm for ourselves and our heirs for ever all the liberties written below".

Viewed in this context, Magna Carta 1215 represented the most radical programme of restrictions that had ever been imposed by written settlement upon a reigning king. It was also practically unenforceable. King John had no intention whatsoever of holding to its terms. God's vicar on earth, Pope Innocent III, could not himself countenance an award that proposed to institutionalize rebellion as a constitutional instrument, and which threatened to place limitations upon the God-given authority exercised by all sovereigns, from popes to kings. As early as August 1215, barely eight weeks after its proclamation, the charter was pronounced annulled and anathemized by the pope. This should have ended the peace settlement supposedly embodied in Magna Carta. Magna Carta itself, however, survived.

The Great Charter survived, albeit it in a heavily modified form, as a result of events in 1216, the year after the settlement at Runnymede. Although in the summer of 1215 perhaps as many as forty individual exemplifications of Magna Carta had been sent out into the English counties—only four of which survive—the charter itself was a dead letter almost as soon as it was issued. Far from establishing peace it merely forced the King to redouble his commitment to war. By late summer, the settlement itself had been abandoned. King John was preparing to march against the barons, and the barons themselves were preparing to invite Louis, son of the French king Philip Augustus, to cross to London and to claim the throne of England as their nominated successor to King John. There followed a year of civil war, fought out across most parts of England. In October 1216, however, following a disastrous crossing of the river estuary known as the Wash, in which much of his baggage and perhaps a considerable quantity of his treasure was lost, King John fell ill at Newark in Lincolnshire, where he sickened and died. He left no heir save for a nine year-old boy, Henry III, who was now crowned King at the hands of a papal legate and with the approval of a small rump of supporters left from the court of his father, King John. The coronation took place at Gloucester, in the greatest haste, clearly for fear that if the royalists did not move swiftly, then Louis of France would be crowned King of England in the rightful coronation church, Westminster Abbey, then under rebel baronial control. To advertise the desire of the new royal regime to rule differently from King John, and to demonstrate the determination of the new King's counsellors to abandon the late King's more arbitrary and controversial measures, the guardians of Henry III now revived the great charter of June 1215, reissuing it at Bristol in November 1216, not now as an assault upon royal privilege but as a manifesto of future good government by the King. Amazingly, over the next twelve months, the royalist regime not only survived but proceeded to inflict a series of military defeats upon the rebels and Louis of France, most notably in a great battle at Lincoln in May 1217, followed by naval engagement off the coast of Kent, at Sandwich, in which reinforcements sent to Louis from France were dispatched to the bottom of the English Channel. As a result, it was the rebels rather than the royalists who were forced to sue for peace. In token of royal magnanimity and of the boy King's determination to rule in peace and harmony after so long a period of civil war, Magna Carta was once again reissued, in November 1217.

In this way, having for all intents and purposes been strangled at birth in the summer of 1215, Magna Carta lived on. In both November 1216 and November 1217 it was reissued with considerable modifications, and in particular without various of the clauses of the 1215 charter that had posed the greatest threat to royal sovereignty: the insistence that the barons control the King's patronage of foreigners, for example, and above all the sanctions clause which had effectively licensed the barons to make war on the King should the King not implement the barons' wishes. Not all of King Henry III's courtiers were enthusiastic supporters of Magna Carta: the forester, William Brewer, for example, suggested that the charter were best consigned to oblivion, and the immensely powerful bishop of Winchester, Peter des Roches, was to spend much of the next twenty years attempting to restore royal government to the arbitrary sovereign powers that it had boasted under King John. Nevertheless, in the country at large, Magna Carta had already, by 1220, begun to acquire an almost totemic status as a touchstone of communal liberties and privileges, guaranteeing the King's free subjects against any revival of royal tyranny. In 1225, desperate to trade off a reissue of Magna Carta in return for a grant of taxation from his subjects sufficient to pay for war in both France and England, Henry III once again confirmed the charter, sending exemplifications into each of the counties of England. It was this fourth, 1225 issue of the charter that was to become the standard legal instrument hereafter. Magna Carta had now been transformed from a failed peace settlement into a permanent legislative enactment, jealously protected by those whose rights it was believed to guarantee.

Pressure from the county communities, from the knights of the shire and from those whose careers were passed largely outside the confines of the royal court led to yet further reissues throughout the next seventy years. In 1234, for example, after a period in which Peter des Roches had seemed to restore royal government to many of the arbitrary devices of King John, Henry III guaranteed to uphold Magna Carta as a means of signalling his breach with the controversial policies of his minister. Three years later, in 1237, the King made similar promises, this time themselves distributed in charter form and county by county, in return for a grant of taxation from the laity intended to pay for him to campaign in France. All told, between 1225 and Henry III's death in 1272, the King promised on nearly a dozen occasions to uphold the terms both of Magna Carta and of a similar document, known as the Forest Charter, first enacted in 1217 and intended to curb arbitrary methods of government within those vast tracts of land, extending into most English counties, known as the royal forests, in which the ordinary law of the land did not run. Only in 1225 and again in 1265, when the 1225 charter was reissued at the height of the regime of Simon de Montfort, effectively with the King under close baronial guard, do we have certain evidence that the text of Magna Carta itself was sent into the counties under the King's own seal. For the most part, the King's commitment to uphold Magna Carta involved not the physical distribution of full texts, but the issue of letters promising renewal and respect for the charter's terms. Nonetheless, by the 1260s, so many such promises had been extorted from the King that it was virtually inconceivable that Henry III or his successors could in any way seek to annul Magna Carta. The charter itself was perhaps already less well known as a legal document than as a totem of good government. Already, it was the spirit rather than the letter of Magna Carta that enjoyed the greater fame.

## THE CRISIS OF 1297

Edward I, who came to the throne of England in 1272, was a very different king to his father, Henry III. A brilliant military commander, successful crusader and man of action, already in the prime of life at the time of his accession to the throne, Edward immediately stamped his authority upon his new realm. A series of campaigns in Wales established an English domination there that was to persist for centuries, and which was symbolized by the King's construction of a network of castles, none more impressive than Caernarvon whose walls were deliberately modeled upon those of the imperial city of Constantinople.

In Scotland, at least initially, the King was able to intrude his own claims to the now vacant Scottish throne. In France, again initially, Gascony was defended against the French kings, and a series of "bastides" or new towns constructed as centres of Plantagenet royal authority. The cost of these enterprises necessitated financial innovations: the introduction of customs duties newly imposed upon the wealthy English wool



trade; grants of taxation voted by a grateful English realm, and loans from foreign bankers, in particular from the Riccardi family of Lucca, secured against future customs and tax revenues. Parliament, and the parliamentary commons which had begun as an experiment of the 1260s and as a forum for opposition to the crown, was now deliberately exploited as a safety valve by which the knights, burgesses and county communities could express their grievances against the most exploitative of the crown's enterprises whilst at the same time complacently continuing to approve those taxes and customs through which Edward financed his more glorious achievements. The result, in the thirty years after 1270, was a massive expansion in the machinery of state, brought about in direct response to warfare and the measures required to finance and supply the new professional armies with which Edward I's conquests were won.

By the mid 1290s, nonetheless, this machinery was already showing signs of strain. When rebellions in both Wales and Scotland, the latter led by the celebrated William Wallace (of "Braveheart" fame) coincided with attempts by the French King, Philip IV, to seize control of Gascony, the King's financial arrangements became stretched beyond breaking point. Unable to maintain the flow of credit to the crown, in 1294 the Riccardi of Lucca were bankrupted. No longer able to borrow against future customs and tax receipts, the King turned to the exploitation of his feudal rights, to seize goods, to impound exports, to take forced loans from his subjects and, above all, to take heavier and heavier 'prises': the customary right to purchase, at preferential rates, supplies deemed necessary for the court and the King's military expeditions. To avert the French threat to Gascony, Edward entered into alliances with the count of Flanders and many of the greater men of Holland and the Rhineland. Vast sums were pledged or paid in subsidies to these Flemish or German allies. The intention was that Edward would lead an army to Flanders, to link up with his new northern allies, while another English army operated from Gascony, to catch Philip of France in a two-pronged attack. Here revisiting the plans of King John that had so disastrously backfired in 1214, Edward embarked upon a campaign doomed to almost equal lack of success.

Early in 1297, he imposed new and harsher taxes, including a new levy on wool exports described pejoratively as a "maltolt" or "bad tax". The clergy, who had already been instructed by the Pope, Boniface VIII, to resist all taxation imposed by lay rulers, refused the King's demands for subsidy, and as a result saw their estates impounded and their movable goods, grain and horses confiscated by the crown. The earls of Norfolk and Hereford, respectively the hereditary Marshal and Constable of the King's army, refused to serve in Gascony, claiming that their obligation was to accompany the King in person, not to serve overseas in the King's absence. By the time that the King's own destination, Flanders, had been announced in July, there was an air of open resistance to the crown's demands, and by the time that the King himself sailed, in August, leaving behind a regency council to govern England under the titular authority of his eldest son, the thirteen year old Prince Edward, written demands were already circulating, the so-called *Remonstrances*, that the King reform his government and tone down his demands. Within a matter of weeks, another written petition of grievances, the so-called *De Tallagio*, was effectively demanding that taxation could only be imposed with the consent of the community and in the interest of the community of the realm, not of the King's private ambitions. The *De Tallagio* was presented, deliberately, as a series of additions to the text of Magna Carta and the Forest Charter, which, it was demanded, the King should now both reissue and enforce.

Having summoned a Parliament to meet in early October, the regency council was swiftly brought to terms, spurred on here by the announcement of a major defeat in Scotland. William Wallace, exploiting the King's absence in Flanders, had inflicted defeat upon Edward I's armies at the Battle of Stirling Bridge on 11 September. Almost exactly a month later, on 10 October, the council issued a pledge of future reform, the so-called *Confirmatio Cartarum*, written in French, allowing for the reissue and regular reading of Magna Carta and the Forest Charter, and specifically conceding the idea that there should be no taxation granted without communal assent: in essence the origin of the idea of no taxation without representation, a rallying cry not just in 1297 but for generations that were as yet unborn. Two days later, the council issued letters patent, in Latin, in which the texts of both the 1225 Magna Carta and the 1225 Forest Charter were fully recited: probably the first time that full texts of the charters had been dispatched county by county since the constitutional upheavals of 1265, although Edward I had in theory confirmed the spirit if not the letter of the charters shortly after his accession to the throne, in 1276.

Enormous importance attaches to the 1297 reissue of Magna Carta, since it was in 1297, for the very first time, that an official copy of the charter was enrolled by the chancery, copied into the earliest of the chancery's Statute Rolls (London, Public Record Office C74/1) to serve, in theory at least, as an official enactment of the text. Eighty-two years after Magna Carta was first issued by King John, John's grandson, Edward I ensured that Magna Carta became enshrined within the written law of England.

The constitutional crisis of 1297 did not end with the reissue of the charters on 12 October. The King himself, still absent in Flanders, continued to resist the demand for reform, despite the fact that his own campaign had been fatally undermined, even before his disembarkation in Flanders by a defeat inflicted upon his allies in the Battle of Veurne. The only real fighting that distinguished Edward's 1297 campaign was not between the English and the French, but between rival factions within the English expeditionary force, and in particular between the men of the rival ports of Norfolk and Kent. On 5 November, having been forced to seek a truce with the French, Edward reluctantly accepted the terms of the *Confirmatio Cartarum*, now reissued under his Great Seal from the King's encampment at Ghent. Even this did not entirely settle the matter. Resistance to lay taxation from the archbishop of Canterbury, Robert Winchelsey, rumbled on into the new year, and, despite promising, in accordance with the terms of the 1225 Forest Charter, that all land newly brought under forest law since the time of Henry II (d.1189) would have bounds established and, if necessary be removed from the jurisdiction of forest law, the King's continuing refusal to implement this promised reform led to further calls for a reissue of the 1225 charters, answered in March 1300 when both the Forest Charter and Magna Carta were once again reissued. The 1300 reissue was to be the last full exemplification of Magna Carta, dispatched county by county and sent under the King's authority and seal. Thereafter, the text of the charter, although regularly read at the opening of each session of Parliament and although established as the very foundation of English legal consciousness, was propagated in the form of books of statutes and enrolled legislation. Magna Carta had progressed from peace treaty via statute to become the very emblem of good government and the chief guarantee of the legal rights of subjects in their dealings with the crown.

J.G. Edwards, 'Confirmatio Cartarum' and Baronial Grievances in 1297', *English Historical Review*, lviii (1943), 147-71, 273-300; H. Rothwell, 'The Confirmation of the Charters, 1297', *English Historical Review*, lx (1945), 16-35, 177-91, 300-15; H. Rothwell, 'Edward I and the Struggle for the Charters, 1297-1305', *Studies in Medieval History Presented to Frederick Maurice Powicke*, ed. R.W. Hunt and others (Oxford 1948), 319-32; J.H. Denton, 'A Worcester Text of the Remonstrances of 1297', *Speculum*, liii (1978), 511-21; *Documents Illustrating the Crisis of 1297-98 in England*, ed. M. Prestwich, Camden Society 4th series xxiv (1980); Susan Reynolds, 'Magna Carta 1297 and the Legal Use of Literacy', *Bulletin of the Institute of Historical Research*, lxii (1989) 233-44.

## TEXT AND TRANSLATION

### THIS IS THE FIRST FULL TRANSCRIPTION AND TRANSLATION OF MAGNA CARTA 1297 EVER TO BE PRINTED

The 1297 Magna Carta has been printed in modern times only once, from the London original, in *Statutes of the Realm* published by the English Record Commissioners in 1810. However, *Statutes* was printed in so-called "record type", without the proper expansion of medieval abbreviations in the Latin, so that it could be said that there is no existing modern edition of the 1297 charter, apart from the present catalogue. Moreover, the punctuation of the *Statutes of the Realm*, version suggests either that the modern transcriber was adhering over-rigidly to the London Corporation original used as his base manuscript, or that the sense of much of the charter entirely escaped him.

The text of the 1297 charter is of more than passing interest since, as has been pointed out, the version of the 1225 Magna Carta inspected here was either deliberately altered from that surviving in any of the known originals of the 1225 charter, or, more plausibly, taken not from an original but from a thirteenth-century copy, perhaps from an unofficial book of statutes or a legal collection. This is signaled above all in clause 2, where the distinction in the relief of £100 for an earl and 100 marks (one mark = two thirds of a pound sterling) for a baron marks a significant departure from the terms of Magna Carta set out in successive originals since 1215, in which no such distinctions between earldoms and baronies was allowed and in which £100 was the relief payable by all who held in barony, whether or not they were themselves barons or earls. It is possible

that the 1297 text drew here on an alternative tradition, already embodied in an early thirteenth-century legal manuscript which V.H. Galbraith suggested represented a tradition within such legal collections imported from a draft version of the 1215 Magna Carta but excised from the 1215 charter as officially issued. Another possibility would be that the distinction between barons and earls had no official sanction, but derived merely from baronial wishful thinking.

The majority of variants (here signalled in bold type) between the text below and the London original of the 1297 charter printed in *Statutes of the Realm* are relatively minor, and involve differences in spelling or word order. There is, however, one significant variant below, in clause 33 relating to the patronage of abbeys and churches, where the appearance of the feminine pronoun *que* in the text, as opposed to the London charter's masculine *qui*, alters the sense of the passage, almost certainly incorrectly, to imply that it is the abbeys, rather than the patrons of such abbeys, whose royal charters relating to advowson or ancient tenure and possession are to be upheld. The numbering of the clauses below follows that of Bishop Stubbs and thence of the modern authorities. The English translation is a fairly free one, newly made for this catalogue. The few characters no longer legible in the original charter are supplied on the following pages in italics within brackets <>.

Susan Reynolds, 'Magna Carta 1297 and the Legal Use of Literacy', *Bulletin of the Institute of Historical Research*, lxii (1989) 233-44; V.H. Galbraith, 'A Draft of Magna Carta (1215)', *Proceedings of the British Academy*, liii (1967), 345-60.

## TEXT

Edwardus Dei gratia rex Angl(ie), dominus Hibern(ie) et dux Aquit(annie) omnibus ad quos presentes littere pervenerint salutem. Inspeximus magnam cartam domini H(enrici) quondam regis Angl(ie) patris nostri de libertatibus Angl(ie) in hec verba:

Henr(icus) Dei gratia rex Angl(ie), dominus Hibern(ie), dux Normann(ie), Aquit(annie) et comes Andeg(avie) archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baron(ibus), vicecomitibus, prepositis, ministris et omnibus ballivis et fidelibus suis presentem cartam inspecturis salutem. Sciatis quod nos intuitu Dei et pro salute anime nostre et animarum antecessorum et successorum nostrorum, ad exaltacionem sancte ecclesie et emendacionem regni nostri, spontanea et bona voluntate nostra dedimus et concessimus archiepiscopis, episcopis, abbatibus, prioribus, comitibus, baronibus et omnibus de regno nostro has libertates subscriptas tenend(as) in regno nostro Angl(ie) imperpetuum.

(1) In primis concessimus Deo et hac presenti carta nostra confirmavimus pro nobis et heredibus nostris imperpetuum quod ecclesia Anglicana libera sit et habeat omnia iura sua integra et libertates suas illesas. Concessimus etiam et dedimus omnibus liberis hominibus regni nostri pro nobis et heredibus nostris imperpetuum has libertates subscriptas habendas et tenendas eis et heredibus suis de nobis et heredibus nostris imperpetuum.

(2) Si quis comitum vel baronum nostrorum sive aliorum tenencium de nobis in capite per servicium militare mortuus fuerit, et cum decesserit heres eius plene etatis fuerit et relevium debeat, habeat hereditatem suam per antiquum relevium, scilicet heres vel heredes comitis de comitatu integro per centum libras, heres vel heredes baronis de baronia integra per centum marcas, heres vel heredes militis de feodo militis integro per centum solidos ad plus, et qui minus debuerit minus det, secundum antiquam consuetudinem feodorum.

(3) Si a<utem> heres alicuius talium infra etatem fuerit, dominus eius non habeat custodiam eius nec terre sue antequam homagium eius ceperit, et postquam talis heres fuerit in custodia, cum ad etatem pervenerit, scilicet viginti et unius anni, habeat hereditatem suam sine relevio et sine fine, ita tamen quod si ipse dum infra etatem fuerit fiat m<iles nichil>ominus terra remaneat in custodia dominorum suorum usque ad terminum predictum.

(4) Custos terre huiusmodi heredis qui infra etatem fuerit non capiat de terra heredis nisi rationabiles exitus et rationabiles consuetudines et rationabilia servicia, et hoc sine destructione et vasto hominum et rerum. Et **si commiserimus** custodiam alicuius talis terre vic(ecomiti) vel alicui alii qui de exitibus terre illius nobis debeat respondere, et ille de custodia destructionem vel vastum fecerit, nos ab eo capiemus emendam, et terra committatur duobus legalibus et discretis hominibus de feodo illo qui de exitibus terre illius nobis

respondeant vel illi cui illos assignaverimus. Et si dederimus vel vendiderimus alicui custodiam alicuius talis terre et ille inde destructionem fecerit vel vastum, amittat illam custodiam et tradatur duobus legalibus et discretis hominibus de feodo illo qui similiter nobis respondeant sicut predictum est.

(5) Custos autem, quamdiu custodiam terre huiusmodi habuerit, sustentet domos, parcos, vivaria, stagna, molendina et cetera ad terram illam pertinentia de exitibus terre eiusdem, et reddat heredi cum ad plenam etatem pervenerit terram suam totam instauratam de carucis et de omnibus aliis rebus adminus sicut illam recepit. Hec omnia observentur de custodiis archiepiscopatum, episcopatum, abbaciarum, prioratum, ecclesiarum et dignitatum vacancium que ad nos pertinent, excepto quod custodie huiusmodi vendi non debent.

(6) Heredes maritentur absque **disparagacione**.

(7) Vidua post mortem mariti sui statim et sine difficultate aliqua habeat maritagium suum et hereditatem suam, nec aliquid det pro dote sua nec pro maritagio suo vel pro hereditate sua quam hereditatem maritus suus et ipsa tenuerunt die obitus ipsius mariti sui, et maneat in capitali mesuagio mariti sui per quadraginta dies post obitum sui mariti, infra quos dies assignetur ei dos sua nisi prius fuerit ei assignata vel nisi domus illa sit castrum, et si de castro recesserit, domus ei competens statim provideatur in qua possit honeste morari quousque dos sua ei assignetur secundum quod predictum est, et habeat rationabile estoverium suum interim de communi. Assignetur autem ei pro dote sua tercia pars totius terre mariti sui que sua fuit in vita sua, nisi de minori fuerit dotata ad hostium ecclesie. Nulla vidua dstringatur ad se maritand(am) dum voluerit vivere sine marito, ita tamen quod securitatem faciat quod se non maritabit sine assensu nostro si de nobis tenuerit vel sine assensu domini sui si de alio tenuerit.

(8) Nos vero vel ballivi nostri non seisiemus terram aliquam vel redditum pro debito aliquo quamdiu catalla debitoris presenciam sufficiunt ad debitum reddend(um) et ipse debitor paratus sit inde satisfacere, nec plegii ipsius debitoris dstringantur quamdiu ipse capital(is) debitor sufficiat ad solutionem ipsius debiti. Et si capitalis debitor defecerit in solucione debiti, non habens unde reddat, aut reddere nolit cum possit, plegii de debito respondeant, et si voluerint habeant terras et redditus debitoris quousque sit eis satisfactum de debito quod ante pro eo solverunt, nisi capitalis debitor monstraverit se inde esse quietum versus eosdem pleg(ios).

(9) Civitas London' habeat omnes libertates suas antiquas et consuetudines suas. Preterea volumus et concedimus quod omnes civitates alie et burgi et ville et barones de Quinque Portibus et omnes portus habeant omnes libertates et liberas consuetudines suas.

(10) Nullus dstringatur ad faciend(um) maius servicium de feodo militis nec de alio libero ten(emento) quam inde debetur.

(11) Communia placita non sequantur curiam nostram set teneantur in aliquo **loco certo**.

(12) Recogniciones de nova disseisina et de morte antecessoris non capiantur nisi in suis comitatibus et hoc modo. Nos vel, si extra regnum fuerimus, capital(is) iustic(iarius) noster mitemus iustic(iarios) nostros per unumquemque comitatum semel in anno, qui cum militibus comitatum capiant in comitatibus assis(as) predictas, et illa que in illo adventu suo in com(itatu) per iustic(iarios) nostros predictos ad dictas assis(as) capiendas missos terminari non possunt, per eosdem terminentur alibi in itinere suo, et ea que per eosdem propter difficultatem aliquorum articulorum terminari non possunt, referantur ad iustic(iarios) nostros de Banco et ibi terminentur.

(13) Assise de ultima presentacione semper capiantur coram iustic(iariis) de Banco et ibi terminentur.

(14) Liber homo non amercietur pro parvo delicto nisi secundum modum ipsius delicti et pro magno delicto secundum magnitudinem delicti, salvo contenemento suo, et mercator eodem modo salva mercandisa sua, et villanus alterius quam noster eodem modo amercietur salvo waynagio suo si inciderit in misericordiam nostram. Et nulla predictarum misericordiarum ponatur nisi per sacramentum proborum et leg(alium) hominum de visn(eto). Comites et barones non amercientur nisi per pares suos et non nisi secundum modum delicti. Nulla ecclesiastica persona amercietur secundum quantitatem beneficii sui ecclesiastici set

secundum laicum ten(ementum) suum et secundum quantitatem delicti.

(15) Nec villa nec homo dstringatur facere pontes ad riparias nisi qui ab antiquo et de iure facere debent.

(16) Nulle riparie defendantur decetero nisi ille que fuerunt in defenso tempore H(enrici) regis avi nostri per eadem loca et eosdem terminos sicut esse consueverunt tempore suo.

(17) Nullus vicecomes, constabularius, coronator vel alii ballivi nostri teneant placita corone nostre.

(18) Si aliquis tenens de nobis laicum feodum moriatur et vic(ecomes) vel ballivus noster ostendat litteras nostras patentes de summonicione nostra de debito quod defunctus nobis debuit, liceat vic(ecomiti) vel ballivo nostro attachiare et imbreviare omnia bona et catalla defuncti inventa in laico feodo ad valenciam illius debiti per visum leg(alium) hominum, ita tamen quod nichil inde amoveatur donec persolvatur nobis debitum quod clarum fuerit, et residuum relinquatur executoribus ad faciend(um) testamentum defuncti, et si nichil nobis debeatur ab ipso, omnia catalla cedant defuncto, salvis uxori eius et pueris ipsius rationabilibus partibus suis.

(19) Nullus constabularius vel eius ballivus capiat blada vel alia catalla alicuius qui non sit de villa ubi castrum situm est, nisi statim reddat denarios inde aut respectum inde habere possit de voluntate venditoris. Si autem de ipsa villa fuerit, infra quadraginta dies precium reddat.

(20) Nullus constabularius dstringat aliquem militem ad dand(um) denar(ios) pro custodia castri si eam facere voluerit in propria persona sua vel per alium probum hominem faciat si ipse eam facere non possit propter rationabilem causam. Et si nos adduxerimus vel miserimus eum in exercitum, sit quietus de custodia secundum quantitatem temporis quo per nos fuerit in exercitu, de feodo pro quo fecit servicium in exercitu.

(21) Nullus vicecomes vel ballivus noster vel aliquis alius capiat equos vel caretas alicuius pro cariagio faciendo nisi reddat liberacionem antiquitus statutam, scilicet pro una caretta ad duos equos decem denarios per diem, et pro caretta ad tres equos quatuordecim denar(ios) per diem. Nulla caretta dominica alicuius ecclesiastice persone vel militis vel alicuius domine per ballivos nostros capiatur nec nos nec ballivi nostri nec alii capiemus boscum alienum ad castra vel ad alia agenda nostra nisi per voluntatem illius cuius boscus ille fuerit.

(22) Nos non tenebimus terras illorum qui convicti fuerint de feloniam nisi per unum annum et unum diem, et tunc reddantur terre ille dominis feodorum.

(23) Omnes kidelli deponantur decetero penitus per Thamisiam et Medeweyam et per totam Angl(iam) nisi per costeram maris.

(24) Breve quod vocatur precipe decetero non fiat alicui de aliquo libero ten(emento) unde liber homo perdat cur(iam) suam.

(25) Una mensura vini sit per totum regnum nostrum et una mensura cervisie et una mensura bladi, scilicet quarterium London(iensem), et una latitudo pannorum tinctorum, russetorum et haub<ergettorum, sc>ilicet due ulne infra listas. De ponderibus vero sit sicut de mensuris.

(26) Nichil decetero detur pro brevi inquisitionis ab eo qui inquisitionem petit de v<ita vel de membris>, set gratis concedatur et non negetur.

(27) Si aliqui teneant de <nobis per feodi firme>am vel per socagium vel burgagium et de alio teneant terram per servicium militare, nos non habebimus custodiam heredis nec terre sue que est de feod<o alterius occasione illius>s feodi firme vel socagii vel burgagii nec habebimus custodiam <illius> feodi firme vel socagii vel burgagii nisi ipsa feodi firma debeat servicium militare. Nos non habebimus custodiam heredis vel alicuius terre quam tenet de aliquo alio per servicium militare occasione alicuius parve seriantie quam tenet de nobis per servicium reddendi nobis cultellos vel sagittas vel huiusmodi.

(28) Nullus ballivus decetero ponat aliquem ad legem manifestam nec ad iuramentum simplici loquela sua sine testibus fidelibus ad hoc inductis.

(29) Nullus liber homo capiatur vel imprisonatur aut disseisatur de liberto ten(emento) suo vel libertatibus vel liberis consuetud(inibus) suis aut utlagetur aut exulet aut aliquo modo destruat nec super eum ibimus

nec super eum mittemus nisi per legale iudicium parium suorum vel per legem terre. Nulli vendemus, nulli negabimus aut differemus rectum vel iusticiam.

(30) Omnes mercatores, nisi publice antea prohibiti fuerint, habeant salvum et securum conductum exire de Angl(ia) et venire in Angl(ia) et morari et ire per Angl(iam) tam per terram quam per aquam ad emend(um) et vendend(um) sine omnibus tollis malis per antiquas et rectas consuetudines preterquam in tempore guerre, et si sint de terra contra nos guerrina et tales inveniantur in terra nostra in principio guerre, attachientur sine dampno corporum vel rerum donec sciatur a nobis vel a capitali iustic(iario) nostro quomodo mercatores terre nostre tractentur qui tunc **invenientur** in terra illa contra nos guerrina, et si nostri salvi sint ibi, alii salvi sint in terra nostra.

(31) Si quis tenuerit de aliqua eschaeta sicut de honore **Walingford'**, Bolon', Notingh', Lancastr' vel aliis eschaetis que sunt in manu nostra et sint baronie et obierit, heres eius non det aliud relevium nec faciat nobis aliud servicium quam faceret baroni si illa esset in manu baronis, et nos eodem modo eam tenebimus quo baro eam tenuit, nec nos occasione talis baronie vel eschaete habebimus aliquam eschaetam vel custodiam aliquorum nostrorum hominum nisi de nobis alibi tenuerit in capite ille qui tenuit baroniam vel eschaetam.

(32) Nullus liber homo det decetero amplius alicui vel vendat de terra sua quam ut de residuo terre sue **sufficienter possit** fieri domino feodi servicium ei debitum quod pertinet ad feodum illud.

(33) Omnes patroni abbaciarum **que** habent cartas regum Angl(ie) de advocacione vel antiquam tenuram vel possessionem habeant earum custodiam cum vacaverint sicut habere debent et sicut superius declaratum est.

(34) Nullus capiatur aut imprisonetur propter appellum femine de morte alterius quam viri sui.

(35) Nullus comitatus decetero teneatur nisi de mense in mensem, et ubi maior terminus esse solebat, maior sit, nec aliquis vic(ecomes) vel ballivus suus faciat **turnum** suum per hundredum nisi bis in anno et non nisi in loco debito et consueto, videlicet semel post Pasch(a) et iterum post festum sancti Michaelis, et visus de franco plegio tunc fiat ad illum terminum sancti Michaelis sine occasione, ita scilicet quod quilibet habeat libertates suas quas habuit vel habere consuevit tempore H(enrici) regis avi nostri vel quas postea perquisivit. Fiat autem visus de franco plegio sic, videlicet quod pax nostra teneatur et quod theotinga teneatur integra sicut esse consuevit, et quod vic(ecomes) non querat occasiones, et quod contentus sit de eo quod vic(ecomes) habere consuevit de visu suo faciendo tempore H(enrici) regis avi nostri.

(36) Nec liceat decetero alicui dare terram suam domui religiose ita quod illam resumat de eadem domo tenendam, nec liceat alicui domui religiose terram alicuius sic accipere quod tradat eam illi a quo eam recepit tenendam. Si quis autem decetero terram suam alicui domui religiose sic dederit et super hoc convincatur, donum suum penitus cassetur et terra illa domino illius feodi incuratur.

(37) Scutagium decetero capiatur sicut capi consuevit tempore H(enrici) regis avi nostri, et salve sint archiepiscopis, episcopis, abbatibus, prioribus, Templar(iis), **Hospitlar(iis)**, comitibus, baronibus et omnibus aliis tam ecclesiasticis personis quam secularibus omnes libertates et libere consuetudines quas prius habuerunt.

Omnes autem consuetudines et libertates predictas quas concessimus in regno nostro tenendas quantum ad nos pertinet erga nostros, omnes de regno nostro tam clerici quam laici observent quantum ad se pertinet erga suos.

Pro hac autem donacione et concessione libertatum istarum et aliarum contentarum in carta nostra de libertatibus foreste, archiepiscopi, episcopi, abbates, priores, comites, barones, milites, libere tenentes et omnes de regno nostro dederunt nobis quintamdecimam partem omnium mobilium suorum. Concessimus etiam eisdem pro nobis et heredibus nostris quod nec nos nec heredes nostri aliquid perquiremus per quod libertates in hac carta contente infringantur vel infirmentur, et si ab aliquo contra hoc aliquid perquisitum fuerit, nichil valeat et pro nullo habeatur. Hiis testibus: domino S(tephano) Cantuar(iensi) archiepiscopo, E(ustachio) London(iensi) episcopo, I(ocelino) Bathon(ensi), P(etro) Wynton(iensi), H(ugone) **Lincoln(iensi)**, R(icardo)

Sar(esberiensis), W. **Roffen(s)**, W(illelmo) Wygorn(iensis), I(ohanne) Elyen(s), H(ugone) **Hereford(ens)**, R(anulfo) Cycestr(ens), W(illelmo) Exon(iensis) episcopis, abbate Sancti Edmundi, abbate Sancti Albani, abbate de Bello, abbate Sancti Augustini Cantuar(iensis), abbate de Evesham, abbate de Westm(onasterio), abbate de Burgo Sancti Petri, abbate de Redyng(ens), abbate de Abindon(ens), abbate de Malmesbury, abbate de **Wynchecumbe**, abbate de Hida, abbate de **Certes(eye)**, abbate de Shireburn', abbate de Cerne, abbate de Abbotesbury, abbate de Middelton', abbate de Seleby, abbate de Cyrencestr', H(uberto) de Burgo **iustic(iario)**, H. comite Cestr' et Linc', W(illelmo) comite Sar', W(illelmo) comite Warenn', G. de Clare comite **Gloucest(ens)** et **Hertford(ens)**, W(illelmo) de **Ferar'** comite Derb', W(illelmo) de **Mandevill'** comite Essex', H(ugone) le Bygod comite Norff', W(illelmo) comite Albemarl', H(umfrido) comite **Hereford(ens)**, I(ohanne) constabular(io) Cestr', R(oberto) de Ros, R(oberto) filio Walteri, R(oberto) de Veteriponte, W(illelmo) de Bruer', R(icardo) de **Munfichet**, P(etro) filio **Hereberti**, W(illelmo) de Aubeny, **G. Gresly**, **F. de Breus'**, I(ohanne) de Monemue, I(ohanne) filio Alani, H(ugone) de Mortuomari, W(illelmo) de Bello Campo. W(illelmo) de Sancto Iohanne, P(etro) de Malo Lacu, Briano de Insula, Th(oma) de Multon, R(icardo) de Argentein', G(alfrido) de Nevill', W(illelmo) Mauduyt, I(ohanne) de **Baalun** et aliis. Dat' apud Westm(onasterium) xi<sup>o</sup>. die Febr(uarii) anno regni nostri nono.

Nos autem donaciones et concessionones predictas ratas habentes et gratas eas pro nobis et heredibus nostris concedimus et confirmamus easque tenore presencium innovamus, volentes et concedentes pro nobis et heredibus nostris quod carta predicta in omnibus et singulis suis articulis imperpetuum firmiter et inviolabiliter observetur etiam si aliqui articuli in eadem carta contenti hucusque forsitan non fuerint observati. In cuius rei testimonium has litteras nostras **fieri** fecimus patentes. Teste Edwardo filio nostro apud Westm(onasterium) duodecimo die Octobr(is) anno regni nostri vicesimo quinto. **Scowe**.

## TRANSLATION

Edward by the grace of God King of England, lord of Ireland and duke of Aquitaine sends greetings to all to whom the present letters come. We have inspected the great charter of the lord Henry, late King of England, our father, concerning the liberties of England in these words:

Henry by the grace of God King of England, lord of Ireland, duke of Normandy and Aquitaine and count of Anjou sends greetings to his archbishops, bishops, abbots, priors, earls, barons, sheriffs, reeves, ministers and all his bailiffs and faithful men inspecting the present charter. Know that we, at the prompting of God and for the health of our soul and the souls of our ancestors and successors, for the glory of holy Church and the improvement of our realm, freely and out of our good will have given and granted to the archbishops, bishops, abbots, priors, earls, barons and all of our realm these liberties written below to hold in our realm of England in perpetuity.

(1) In the first place we grant to God and confirm by this our present charter for ourselves and our heirs in perpetuity that the English Church is to be free and to have all its rights fully and its liberties entirely. We furthermore grant and give to all the freemen of our realm for ourselves and our heirs in perpetuity the liberties written below to have and to hold to them and their heirs from us and our heirs in perpetuity.

(2) If any of our earls or barons, or anyone else holding from us in chief by military service should die, and should his heir be of full age and owe relief, the heir is to have his inheritance for the ancient relief, namely the heir or heirs of an earl for a whole county £100, the heir or heirs of a baron for a whole barony 100 marks, the heir or heirs of a knight for a whole knight's fee 100 shillings at most, and he who owes less will give less, according to the ancient custom of (knights') fees.

(3) If, however, the heir of such a person is under age, his lord is not to have custody of him and his land until he has taken homage from the heir, and after such an heir has been in custody, when he comes of age, namely at twenty-one years old, he is to have his inheritance without relief and without fine, saving that if, while under age, he is made a knight, his land will nonetheless remain in the custody of his lords until the aforesaid term.

(4) The keeper of the land of such an heir who is under age is only to take reasonable receipts from the heir's land and reasonable customs and reasonable services, and this without destruction or waste of men or things. And if we assign custody of any such land to a sheriff or to anyone else who should answer to us for the issues, and such a person should commit destruction or waste, we will take recompense from him and the land will be assigned to two law-worthy and discreet men of that fee who will answer to us or to the person to whom we assign such land for the land's issues. And if we give or sell to anyone custody of any such land and that person commits destruction or waste, he is to lose custody and the land is to be assigned to two law-worthy and discreet men of that fee who similarly will answer to us as is aforesaid.

(5) The keeper, for as long as he has the custody of the land of such (an heir), is to maintain the houses, parks, fishponds, ponds, mills and other things pertaining to that land from the issues of the same land, and he will restore to the heir, when the heir comes to full age, all his land stocked with ploughs and all other things in at least the same condition as when he received it. All these things are to be observed in the custodies of archbishoprics, bishoprics, abbeys, priories, churches and vacant offices which pertain to us, save that such custodies ought not to be sold.

(6) Heirs are to be married without disparagement.

(7) A widow, after the death of her husband, is immediately and without any difficulty to have her marriage portion and her inheritance, nor is she to pay anything for her dower or her marriage portion or for her inheritance which her husband and she held on the day of her husband's death, and she shall remain in the chief dwelling place of her husband for forty days after her husband's death, within which time dower will be assigned her if it has not already been assigned, unless that house is a castle, and if it is a castle which she leaves, then a suitable house will immediately be provided for her in which she may properly dwell until her dower is assigned to her in accordance with what is aforesaid, and in the meantime she is to have her reasonable necessities (*estoverium*) from the common property. As dower she will be assigned the third part of all the lands of her husband which were his during his lifetime, save when she was dowered with less at the church door. No widow shall be distrained to marry so long as she wishes to live without a husband, provided that she gives surety that she will not marry without our assent if she holds of us, or without the assent of her lord, if she holds of another.

(8) Neither we nor our bailiffs will seize any land or rent for any debt, as long as the existing chattels of the debtor suffice for the payment of the debt and as long as the debtor is ready to pay the debt, nor will the debtor's guarantors be distrained for so long as the principal debtor is able to pay the debt; and should the principal debtor default in his payment of the debt, not having the means to repay it, or should he refuse to pay it despite being able to do so, the guarantors will answer for the debt and, if they wish, they are to have the lands and rents of the debtor until they are repaid the debt that previously they paid on behalf of the debtor, unless the principal debtor can show that he is quit in respect to these guarantors.

(9) The city of London is to have all its ancient liberties and customs. Moreover we wish and grant that all other cities and boroughs and vills and the barons of the Cinque Ports and all ports are to have all their liberties and free customs.

(10) No-one is to be distrained to do more service for a knight's fee or for any other free tenement than is due from it.

(11) Common pleas are not to follow our court but are to be held in a certain fixed place.

(12) Recognisances of novel *disseisin* and of mort d'ancestor are not to be taken save in their particular counties and in the following way. We or, should we be outside the realm, our chief justiciar, will send our justices once a year to each county, so that, together with the knights of the counties, that may take the aforesaid assizes in the counties; and those assizes which cannot be completed in that visitation of the county by our aforesaid justices assigned to take the said assizes are to be completed elsewhere by the justices in their visitation; and those which cannot be completed by them on account of the difficulty of various articles (of law) are to be referred to our justices of the Bench and completed there.



- (13) Assizes of darrein presentment are always to be taken before our justices of the Bench and are to be completed there.
- (14) A freeman is not to be amerced for a small offence save in accordance with the manner of the offence, and for a major offence according to its magnitude, saving his sufficiency (*salvo contenmento suo*), and a merchant likewise, saving his merchandise, and any villain other than one of our own is to be amerced in the same way, saving his necessity (*salvo waynagio*) should he fall into our mercy, and none of the aforesaid ameracements is to be imposed save by the oath of honest and law-worthy men of the neighbourhood. Earls and barons are not to be amerced save by their peers and only in accordance with the manner of their offence.
- (15) No town or free man is to be distrained to make bridges or bank works save for those that ought to do so of old and by right.
- (16) No bank works of any sort are to be kept up save for those that were in defense in the time of King H(enry II) our grandfather and in the same places and on the same terms as was customary in his time.
- (17) No sheriff, constable, coroner or any other of our bailiffs is to hold pleas of our crown.
- (18) If anyone holding a lay fee from us should die, and our sheriff or bailiff shows our letters patent containing our summons for a debt that the dead man owed us, our sheriff or bailiff is permitted to attach and enroll all the goods and chattels of the dead man found in lay fee, to the value of the said debt, by view of law-worthy men, so that nothing is to be removed thence until the debt that remains is paid to us, and the remainder is to be released to the executors to discharge the will of the dead man, and if nothing is owed to us from such a person, all the chattels are to pass to the (use of) the dead man, saving to the dead man's wife and children their reasonable portion.
- (19) No constable or his bailiff is to take corn or other chattels from anyone who is not themselves of a vill where a castle is built, unless the constable or his bailiff immediately offers money in payment or obtains a respite by the wish of the seller. If the person whose corn or chattels are taken is of such a vill, then the constable or his bailiff is to pay the purchase price within forty days.
- (20) No constable is to distrain any knight to give money for castle guard if the knight is willing to do such guard in person or by proxy of any other honest man, should the knight be prevented from doing so by just cause. And if we take or send such a knight into the army, he is to be quit of (castle) guard in accordance with the length of time we have him in the army for the fee for which he has done service in the army.
- (21) No sheriff or bailiff of ours or of anyone else is to take anyone's horses or carts to make carriage, unless he renders the payment customarily due, namely for a two-horse cart ten pence per day, and for a three-horse cart fourteen pence per day. No demesne cart belonging to any churchman or knight or any other lady (*sic*) is to be taken by our bailiffs, nor will we or our bailiffs or anyone else take someone else's timber for a castle or any other of our business save by the will of him to whom the timber belongs.
- (22) We shall not hold the lands of those convicted of felony save for a year and a day, whereafter such land is to be restored to the lords of the fees.
- (23) All fish weirs (*kidelli*) on the Thames and the Medway and throughout England are to be entirely dismantled, save on the sea coast.
- (24) The writ called 'praecipe' is not to be issued to anyone in respect to any free tenement in such a way that a free man might lose his court.
- (25) There is to be a single measure for wine throughout our realm, and a single measure for ale, and a single measure for corn, that is to say the London quarter, and a single breadth for dyed cloth, russets, and haberjects, that is to say two yards within the lists. And it shall be the same for weights as for measures.
- (26) Henceforth there is to be nothing given for a writ of inquest from the person seeking an inquest of life or limb, but such a writ is to be given freely and is not to be denied.
- (27) If any persons hold from us at fee farm or in socage or burgage, and hold land from another by knight service, we are not, by virtue of such a fee farm or socage or burgage, to have custody of the heir or their

land which pertains to another's fee, nor are we to have custody of such a fee farm or socage or burgage unless this fee farm owes knight service. We are not to have the custody of an heir or of any land which is held from another by knight service on the pretext of some small serjeanty held from us by service of rendering us knives or arrows or suchlike things.

(28) No bailiff is henceforth to put any man on his open law or on oath simply by virtue of his spoken word, without reliable witnesses being produced for the same.

(29) No freeman is to be taken or imprisoned or disseised of his free tenement or of his liberties or free customs, or outlawed or exiled or in any way ruined, nor will we go against such a man or send against him save by lawful judgement of his peers or by the law of the land. To no-one will we sell or deny or delay right or justice.

(30) All merchants, unless they have been previously and publicly forbidden, are to have safe and secure conduct in leaving and coming to England and in staying and going through England both by land and by water to buy and to sell, without any evil exactions, according to the ancient and right customs, save in time of war, and if they should be from a land at war against us and be found in our land at the beginning of the war, they are to be attached without damage to their bodies or goods until it is established by us or our chief justiciar in what way the merchants of our land are treated who at such a time are found in the land that is at war with us, and if our merchants are safe there, the other merchants are to be safe in our land.

(31) If anyone dies holding of any escheat such as the honour of Wallingford, Boulogne, Nottingham, Lancaster or of other escheats which are in our hands and which are baronies, his heir is not to give any other relief or render any other service to us that would not have been rendered to the baron if the barony were still held by a baron, and we shall hold such things in the same way as the baron held them, nor, on account of such a barony or escheat, are we to have the escheat or custody of any of our men unless the man who held the barony or the escheat held elsewhere from us in chief.

(32) No free man is henceforth to give or sell any more of his land to anyone, unless the residue of his land is sufficient to render due service to the lord of the fee as pertains to that fee.

(33) All patrons of abbeys which have charters of the kings of England over advowson or ancient tenure or possession are to have the custody of such abbeys when they fall vacant just as they ought to have and as is declared above.

(34) No-one is to be taken or imprisoned on the appeal of woman for the death of anyone save for the death of that woman's husband.

(35) No county court is to be held save from month to month, and where the greater term used to be held, so will it be in future, nor will any sheriff or his bailiff make his tourn through the hundred save for twice a year and only in the place that is due and customary, namely once after Easter and again after Michaelmas, and the view of frankpledge is to be taken at the Michaelmas term without exception, in such a way that every man is to have his liberties which he had or used to have in the time of King H(enry II) my grandfather or which he has acquired since. The view of frankpledge is to be taken so that our peace be held and so that the tithing is to be held entire as it used to be, and so that the sheriff does not seek exceptions but remains content with that which the sheriff used to have in taking the view in the time of King H(enry) our grandfather.

(36) Nor is it permitted to anyone to give his land to a religious house in such a way that he receives it back from such a house to hold, nor is it permitted to any religious house to accept the land of anyone in such way that the land is restored to the person from whom it was received to hold. If anyone henceforth gives his land in such a way to any religious house and is convicted of the same, the gift is to be entirely quashed and such land is to revert to the lord of that fee.

(37) Scutage furthermore is to be taken as it used to be in the time of King H(enry) our grandfather, and all liberties and free customs shall be preserved to archbishops, bishops, abbots, priors, Templars, Hospitallers, earls, barons and all others, both ecclesiastical and secular persons, just as they formerly had.

All these aforesaid customs and liberties which we have granted to be held in our realm in so far as pertains to us are to be observed by all of our realm, both clergy and laity, in so far as pertains to them in respect to their own men. For this gift and grant of these liberties and of others contained in our charter over the liberties of the forest, the archbishops, bishops, abbots, priors, earls, barons, knights, fee holders and all of our realm have given us a fifteenth part of all their movable goods. Moreover we grant to them for us and our heirs that neither we nor our heirs will seek anything by which the liberties contained in this charter might be infringed or damaged, and should anything be obtained from anyone against this, it is to count for nothing and to be held as nothing. With these witnesses: the lord S(tephen) archbishop of Canterbury, E(ustace) bishop of London, J(ocelin) bishop of Bath, P(eter) bishop of Winchester, H(ugh) bishop of Lincoln, R(ichard) bishop of Salisbury, W. bishop of Rochester, W(illiam) bishop of Worcester, J(ohn) bishop of Ely, H(ugh) bishop of Hereford, R(alph) bishop of Chichester, W(illiam) bishop of Exeter, the abbot of (Bury) St Edmunds, the abbot of St Albans, the abbot of Battle, the abbot of St Augustine's Canterbury, the abbot of Evesham, the abbot of Westminster, the abbot of Peterborough, the abbot of Reading, the abbot of Abingdon, the abbot of Malmesbury, the abbot of Winchcombe, the abbot of Hyde (Winchester), the abbot of Chertsey, the abbot of Sherborne, the abbot of Cerne, the abbot of Abbotsbury, the abbot of Milton (Abbas), the abbot of Selby, the abbot of Cirencester, H(ubert) de Burgh the justiciar, H. earl of Chester and Lincoln, W(illiam) earl of Salisbury, W(illiam) earl Warenne, G. de Clare earl of Gloucester and Hertford, W(illiam) de Ferrers earl of Derby, W(illiam) de Mandeville earl of Essex, H(ugh) Bigod earl of Norfolk, W(illiam) earl Aumale, H(umphrey) earl of Hereford, J(ohn) constable of Chester, R(obert) de Ros, R(obert) fitz Walter, R(obert) de Vieuxpont, W(illiam) Brewer, R(ichard) de Montfiquet, P(eter) fitz Herbert, W(illiam) de Aubigné, G. Gresley, F. de Braose, J(ohn) of Monmouth, J(ohn) fitz Alan, H(ugh) de Mortemer, W(illiam) de Beauchamp, W(illiam) de St John, P(eter) de Maulay, Brian de Lisle, Th(omas) of Moulton, R(ichard) de Argentan, G(eoffrey) de Neville, W(illiam) Mauduit, J(ohn) de Baalon and others. Given at Westminster on the eleventh day of February in the ninth year of our reign.

We, holding these aforesaid gifts and grants to be right and welcome, concede and confirm them for ourselves and our heirs and by the terms of the present (letters) renew them, wishing and granting for ourselves and our heirs that the aforesaid charter is to be firmly and inviolably observed in all and each of its articles in perpetuity, including any articles contained in the same charter which by chance have not to date been observed. In testimony of which we have had made these our letters patent. Witnessed by Edward our son, at Westminster on the twelfth day of October in the twenty-fifth year of our reign. (Chancery warranty by John of) Stowe.

## GLOSSARY

**advowson** the right of patronage of a church, monastery or other ecclesiastical benefice

**amerced/ameracements** fined/fines

**assize** a legal action

**attach** to seize property by legal judgment

**barony** an estate held by a baron, generally directly from the King without there being any intermediary lord

**Bench** the panel of royal judges sitting at Westminster by whom most common pleas were to be determined

**burgage** a form of land tenure, associated with towns and with the payment of an annual rent

**castle guard** the obligation to undertake unpaid military service in defence of a castle

**chief** (i.e. holding in chief) land held by a baron or knight directly from the King

**commons pleas** the general run of legal actions involving property

**darrein presentment** a legal action intended to prove title to the patronage of a church or other religious benefice

**demesne** the estate, land or property directly managed by a landholder or lord

**disparagement** marriages contracted to the shame of the female partner, by the 1250s being interpreted as marriages contracted against a woman's wishes with a foreigner

**disseised/disseisin** land or property that has been seized/the process of such seizure

**distrain** to seize the chattels and possessions of someone to force that person to pay rents or meet other obligations

**distrain** the process undertaken by those who seek to distrain

**dower** land assigned to a wife for her use after her husband's death

**enroll** to list or copy in documentary form

**escheat** an estate that has returned to its principal lord for lack of any heir to its tenants

**fee** land or an estate held from a lord, generally in return for military service

**felony** serious crime, for the most part involving violence

**frankpledge** see view of frankpledge

**fish weirs** weirs on a river in which fish can be trapped, generally feared to slow down the flow of a river and hence to threaten the river with silting up

**haberject** a type of cloth

**hundred** the principal unit of administration and local government into which most counties were divided

**justiciar** the King's principal viceroy and legal agent

**letters patent** the King's sealed letters generally sent to be publicly displayed or proclaimed

**lists** a unit for the measurement of cloth

**marriage portion** land assigned for the use and upkeep of a wife during her husband's lifetime

**Michaelmas** the feast of St. Michael (29 September)

**mort d'ancestor** a legal action intended to recover property to which a person is entitled by inheritance from deceased ancestors

**novel disseisin** a legal action intended to recover property recently seized by another party

**praecipe** a written royal command instructing the King's officers to remove an action from a lord's court into the court of the King

**recognisance(s)** bond(s) or oath(s) by which a person undertakes to pursue a legal action

**relief** a payment due to his lord when an heir came to inherit his lands

**russet** a type of cloth (generally dyed reddish brown)

**scutage** a tax payable by those who were unable to discharge their military service in person, literally 'shield money'

**serjeanty** a form of land tenure involving personal service other than military service, for example by serving as a baker or cook for a set period of days each year

**socage** a form of land tenure involving the payment of a rent

**tourn** a court, generally held by a sheriff, intended to raise income from fines

**view of frankpledge** the regular investigation of that system whereby all grown men were divided into groups for mutual protection and to serve as guarantors for the maintenance of the peace

**vill** an urban settlement

**writ** a royal letter for the most part initiating or controlling a legal action

## THE DISSEMINATION AND PROCLAMATION OF THE 1297 CHARTER

The loss or deliberate suppression of the most important of the chancery rolls—the so-called Charter Roll—for the entire period between August 1297 and February 1298, and the fact that the surviving Close and Patent Rolls, after August 1297, record the business of the regency council in England rather than the commands and mandates issued by the King in Flanders, makes any reconstruction of the physical process by which Magna Carta and the Forest Charter were reissued extremely speculative. Nonetheless, we have various physical evidences, including the chancery warrants on the surviving originals themselves, to suggest the following.

Having, on 15 September 1297, commanded that each shire send two representatives to the King's parliament in London, to treat over the reissue of the charters in the week beginning 6 October and to receive physical possession of the charters so reissued (*Calendar of Close Rolls 1296-1302*, 129), on 10 October 1297, two days before the official date of issue supplied to each of the originals of the 1297 Magna Carta and the 1297 Forest Charter, the regency council, at London, issued instructions in French, the so-called *Confirmatio Cartarum*, commanding the drawing up of sealed originals of the charters which were to be sent to cathedral churches throughout the realm so that they might be read to the people (*volens que celes chartes desuz nostre sel seient enveyez as eglises cathedrales parmi nostre reaume*: London, Public Record Office E175/1 no.11). Proclamation by this means was still being referred to almost a month later, on 5 November, when writing from Ghent, the King reissued the *Confirmatio Cartarum* under his own Great Seal and once again commanded proclamation in cathedral churches (BL ms. Cotton Charter vii.9). Meanwhile, however, the regency council, as early as 12 October 1297, the same day as the official date of issue for the exemplification of the charters, had authorized a writ to the sheriff of London (known only from the exemplar still attached to the London 1297 Magna Carta) requiring that he publish the charter without delay in the city of London (*cartam predictam in civitate predicta sine dilatione pupplicari*). The King himself, from Ghent on 5 November, required that the charters be proclaimed via his justices, the sheriffs of each county, all his other ministers, and in all cities throughout his land (*volums qe meismes celes chartres desouz nostre seal soient envieez a noz iustices, ausi bien de la forest, sicume as autres, e a touz les vicountes des counteez e a toutz nos autres ministres e a toutes noz cyteez parmy la terre*). The delay here between the regency council's orders of 10-12 October, and the King's instructions of 5 November, issued from Ghent, almost certainly reflects the King's reluctance to accept the full terms of the settlement to which the regency council had agreed a month earlier. Nonetheless, apparently in the same week that saw the King's final acceptance, the regency council issued a further mandate to the sheriff of Buckinghamshire, who was ordered to cause both the reissued Magna Carta and the reissued Forest Charter to be proclaimed 'throughout his bailiwick in whatever places he shall see fit' (*Calendar of Close Rolls 1296-1302*, 137: an undated order but copied onto the back of a membrane of the Close Roll whose other side records letters of 5-13 November: London, Public Record Office C54/114 m.2d). There is a remarkable coincidence here, that both this order for proclamation and the surviving original of the 1297 Magna Carta here offered for sale should refer to one and the same county of Buckinghamshire. What must also be apparent is that, if instructions for the proclamation of the charters were still being issued in November 1297, then the process of reissue was a longer one than the date to the surviving originals might suggest. All four of the 1297 originals of Magna Carta, together with the unique original of the 1297 Forest Charter carry a date *apud Westmon' duodecimo die Octobr(is) anno regni nostri vicesimo quinto* ("at Westminster, 12 October 1297"). Yet, as in 1215 and for all successive issues, the physical process of copying out the charter in multiple exemplars clearly occupied more than a single day. The date of 12 October 1297 on Magna Carta is thus to be taken as the date on which the council, governing England in the absence of the King, assented to the confirmation of the charter and issued its warrant for the drawing up of multiple exemplars under the royal seal then in use. The actual process of copying out and sealing these various originals clearly extended throughout October, and perhaps into November 1297.

The word "Buk", written on the front of the fold to the left of the seal, undoubtedly identifies this Magna Carta as an original, perhaps as the sole original, dispatched to the county of Buckinghamshire. Similar notes appear on two of the three other surviving originals of the 1297 Magna Carta, the first directed to and still

preserved in the archives of the Corporation of London, originally directed to London (*London'*), and on the Canberra Magna Carta, as well as the British Library 1297 Forest Charter, both of them directed to Surrey (*Surr'*). More interestingly, to the right of the seal of the Magna Carta, again on the fold, we find the note *Tradatur Rogero Hodelyn de Newport*, literally "Is to be given to Roger Hodelyn (or Odelin) of Newport." This note seems to differ from those that appear at the foot of the 1297 London Magna Carta, marked *R. de Stard' examinavit* (perhaps referring to the King's clerk Robert of Scarborough), the 1297 British Library Magna Carta marked *exam(inatur)*, the 1300 Faversham Magna Carta, marked *examinat(ur) per magistrum Edmundum de London'* (referring to another King's clerk, Master Edmund of London), or the 1300 Durham Magna Carta and Forest Charter both marked to the effect that they had been warranted by the King's chancellor, John de Langton. Instead it supplies a unique detail, perhaps recording the physical delivery of the charter rather than the warranty or chancery supervision of the text. No such person as Roger Hodelyn appears in the records of central government at this time, leading to the suspicion that Roger is to be identified perhaps as a representative of the community of the shire of Buckinghamshire, or more likely as a bailiff or dependent officer of the sheriff of Buckinghamshire with particular responsibility for the manor of Newport Pagnell. Certainly, Roger appears in local litigation in 1295, entering a claim to land at Newport Pagnell which had been disputed in the King's court between two minor local families (*A Calendar of the Feet of Fines for Buckinghamshire 1259-1307*, ed. A. Travers (1989), 73 no.462). Newport had long been a centre of royal administration within the county, and the place at which the King's travelling law courts, the general eyre, convened whenever the King's justices visited this part of Buckinghamshire.

## THE SCRIPT AND THE SCRIBE

Given the close identity in the style of writing adopted by the scribes of Edward I's chancery, and given that not only are the scribes to Edward I's chancery unnamed, but that for any single year of the reign we have several hundreds of surviving original letters, for the most part chancery writs, all of them written in near-identical hands, the chances of identifying the individual scribe responsible for writing the Magna Carta are remote in the extreme. Nonetheless, there is one further feature to the original charter which hints at the possibility that it was considered, even at the time of its issue, as a more than usually finely-executed piece of writing. The Magna Carta opens with an elaborate capital E for the King's name *Edwardus*. Such capital letters mark the beginning of a new feature of documents produced by the royal chancery: the charging of fees for ever more elaborate capital letters, which within a century were to extend to the most beautifully decorated of ruler portraits, historical scenes or abstract fantasies. That fees were charged for such capital letters, even as early as the reign of Edward I can be surmised from the fact that large numbers of royal charters survive with no capital E but with a space left blank, extending down one, two or even as many as five lines of text, clearly awaiting the drawing of a capital letter which the beneficiary of the document must, in certain instances, have decided was not worth the fee (for examples here, see London, Public Record Office DL10/167-8, 180, 187, 195). When the initial E is decorated in charters or letters patent of Edward I, the decoration is for the most part a restrained geometric patterning in pen and ink. Occasionally, nonetheless, we encounter more elaborate decorative schemes: vine leaves and grapes, for example, on letters of 1303 (DL10/202) or a flourish of leaves and foliage to a letter of 1304 (DL10/209). Taken together with the coloured wax of the seal impression, the often vividly coloured silk cords to which the seal was applied, the fine quality of both the parchment and the penmanship used for royal charters, and on occasion the use of elaborately coloured or woven silk seal-bags to serve as outer protection to the great seal, what we have here is a deliberate aspect of royal propaganda: a display of refinement and luxury intended to symbolize and reinforce royal status and royal power. The more elaborate of the chancery's productions, including the 1297 Magna Carta, served not as mere disposable ephemera, but as magnificent and majestic objects in their own right, carrying a particular image of royal power into each and every corner of the realm.

The name "*Scow*" or "*Stowe*" (the letters *c* and *t* being practically interchangeable at this time) appears at the very end of the text of the Magna Carta, as do other such names in a similar position in the final lines to a small minority of the surviving original letters and charters of King Edward I. A similar warranty note appears on the sole surviving exemplar of the 1297 Forest Charter, warranted by *lern'*, presumably by H(ugh) of Yarmouth whose name elsewhere occurs as warrantor to royal writs and charters from at least 1289

(London, Public Record Office C254/19 no.80) and who in September 1297 played a dramatic role in the unfolding constitutional crisis, publicly proclaiming his appointment as King's proctor to deal with the question of clerical taxation, and doing so in Canterbury Cathedral as the recalcitrant Archbishop of Canterbury, Robert Winchelsey, was in the midst of preaching to the people (London, Public Record Office E159/70 m.117d).

The assumption must be that the "Stowe" of the 1297 Magna Carta supplies either the name of the scribe—a very junior officer—who wrote the document, or, more plausibly, that of the chancery office responsible for issuing it, and hence, probably, for ensuring that it was properly and accurately written. He may or may not be the same as the John of Stowe, clerk, in 1299 presented by the King to the Suffolk church of Pettaugh (*Calendar of Patent Rolls 1296-1302*, 399, 406), perhaps the same man who in April 1309 resigned the neighboring church of Debach, also in Suffolk (*Calendar of Patent Rolls 1307-1313*, 110). As named warrantor in chancery he appears in large numbers of chancery writs, letters and charters issued between April 1290 and June 1310 (London, Public Record Office C254/19 nos.149, 155, to C254/39 nos.131, 333), his duties here covering the last 17 years of the reign of Edward I and the first three of the late king's son, Edward II. Can we establish what precise role he played in the issue of the 1297 charter, as scribe or as supervising official?

Charters and writs with the same notes of warranty frequently appear to be written by the same scribe. This, however, does not prove that the warrantor's name is the name of the scribe, since the same chancery officer might well be served by the same scribe or team of scribes over a period of time. Fortunately in the case of "Scowe" or "Stowe" we have other examples of his warranty with which to compare the surviving Magna Carta. In particular we have an original charter of 5 June 1291, dated at Norham during Edward I's Scots campaign, with the name *I. de Stowe*, presumably John of Stowe placed at the end of the text, tight up against the right hand margin (London, Public Record Office DL10/180). This charter is all the more interesting because it is most elaborately sealed, with Edward I's great seal in green wax on blue, red and yellow cords which even today retain much of their vivid color. Moreover, it represents the second state of a charter, originally granting Edmund of Lancaster, the King's brother, the right to an annual fair at Pickering on the three days around the feast of the Nativity of the Virgin Mary and right to free warren for the manor of Melbourne, but subsequently revised in the version warranted by John of Stowe to alter the date of the fair at Pickering to the feast of the Holy Cross and so as to include an additional fair at Easingwold around the feast of the Virgin's Nativity. Both forms of the charter were entered in succession on the official chancery enrollment, the Charter Roll for the year 19 Edward I (London, Public Record Office C53/77 m.10, whence *Calendar of Charter Rolls 1257-1300*, 389), with the earlier form of the charter being cancelled under a note that it had been superseded by the later form. Nonetheless, original versions of both forms survive amongst the Duchy of Lancaster deeds, the second form warranted by John of Stowe (DL10/180), the first form (DL10/179) warranted by the chancery official Hugh of Yarmouth (Iern'), the same man who in 1297 was to be responsible for warranting the Magna Carta and Forest Charter sent to Surrey. For present purposes, what is significant here is that the 1291 charter warranted by Stowe is written in a hand that appears to be distinct from that of the 1297 Magna Carta also warranted by Stowe. In other words, we have a further indication here that the names that appear as warranty are indeed those of fairly senior chancery officials rather than being the names of the relatively humble scribes who physically traced out the lettering of the charter.

Other warrantors specified in original letters of Edward I of the 1280s and 90s include men named *London'* (Public Record Office DL10/201-2), *Barton'* (DL10/192, 204), *Drax* (DL10/184), *Irestede* (DL10/160, 162-3, 165-7, 169) and perhaps as many as a dozen more. Of these, it is worth noticing that various of the letters and charters warranted by *Irestede*, all issued in 1275 (DL10/160, 165, 167), are remarkably close in their writing to a charter of 1291 warranted by John of Stowe (DL10/180). Once again, the conclusion to be drawn here, besides the fact that the scribes of the royal chancery were deliberately trained to adopt standard hands and stylistic devices that make them virtually impossible to tell apart from another, is that the warranty notes do not supply the names of scribes but the names of those more senior figures within chancery responsible for supervising the scribes.



## THE SEAL

The seal attached to the 1297 Magna Carta is not the Great Seal of England in use under Edward I, nor is it, as was until recently supposed, a seal of Edward's father, King Henry III (1216-1272). Instead it is a seal of absence, probably first engraved when Edward I was in Gascony after May 1286 and used thereafter by the regency government left behind in England, headed by Edmund earl of Cornwall, to seal documents in the King's absence until Edward I's return to England in August 1289. Such seals of absence had been a regular feature of royal administration since the Twelfth Century, and had long enabled English government to continue functioning while the King and the Great Seal were itinerating the King's lands in France. Through to the 1250s, the seal normally employed in England during the King's absence, as during the absence of Richard I on Crusade after 1190, was the so-called Exchequer seal: a smaller version of the Great Seal, generally kept at the Exchequer. In 1253, and again in 1263, however, King Henry III had left both the Great Seal and the Exchequer Seal in England when he travelled to Gascony, and himself, overseas, employed a small seal (*sigillum parvum* or *sigillum minus*). On these two occasions, different small seals were employed. An impression of the seal used by Henry III in Gascony in 1253 (British Library Harley Charter 43.C.39) shows an equestrian figure on one side, much like that on the Great Seal, but on the other a shield of arms, which in turn was the device employed on Henry III's Exchequer seal of which only fragmentary impressions survive (e.g. Westminster Abbey Muniments 6888 and 9003). The seal used by Henry III in France in 1263-4, of which we have two surviving impressions, is much closer in design to the Great Seal, being distinguishable chiefly because of its slightly smaller size and the fact that the King is shown on the majesty side carrying wands or scepters rather than an orb or a sword. It was this seal, sometimes described as the 'Third Seal' of Henry III, but better described as a small seal used in association with the Second Great Seal after 1259, that served as the model for the small seal of Edward I employed in sealing the 1297 Magna Carta. It is quite likely that the small seal of Henry III in use in the 1260s was itself modelled upon an earlier small seal used by Henry III before 1259. An engraving of a pre-1259 seal of Henry III exists, taken from an unidentified source, showing a majesty side with scepters or wands rather than orb and sword, and the King with title as Duke of Normandy, otherwise abandoned in 1259. To date, no certain impression of this pre-1259 small seal has been found on any surviving document. Nonetheless, the use of wands or scepters on the small seal, rather than sword and orb, may carry us back to an even earlier date, to the pre-1066 seal of Edward the Confessor, and hence may suggest that the small seals of Henry III and Edward I were merely the latest in a longstanding tradition of such seals, the evidence for which has otherwise been lost.

Edward I's own small seal was perhaps first used in 1279 whilst the King was in Gascony and was certainly employed by the regency government in England, during the King's absence between 1286 and 1289. It was this same seal that was subsequently brought back into use in England when Edward I departed again, this time for Flanders, in the summer of 1297. We know the precise details here, thanks to an entry on the Patent Roll which records that on Thursday 22 August 1297, while the King's ship, the cog "Edward", lay off Winchelsea with the King on board, the chancellor, John de Langton delivered up custody of the Great Seal for the King to take with him to Flanders. At about sunset on the following Tuesday, 27 August, after the King had crossed, the King's son, the future Edward II, being then in the castle at Tonbridge, delivered to John de Langton "the seal which was wont to be used in England whilst the King was in Gascony", John de Langton first using it to seal letters on the following day, 28 August. Six months later, on 14 March 1298, when the King returned from Flanders to Sandwich, a reverse exchange of seals was effected, so that John de Langton regained custody of the Great Seal, and the seal of absence was put in a bag, sealed with the chancellor's seal and sent to the treasury for safekeeping. The seal matrix itself was kept for several years after Edward I's death and was not destroyed until 4 June 1320.

The fragmentary seal impression still attached to the 1297 Magna Carta, in natural wax, can be compared to a near perfect impression of the same seal still attached to the London Corporation 1297 Magna Carta and to a fragment, similar to that on our charter, attached to a unique surviving original of the reissue of the Forest Charter made on 12 October 1297 (British Library, Additional Charter 53712), again in natural wax. It is undoubtedly the same seal impression that survives in near-perfect condition on another document issued

during the King's absence, dated 28 January 1298 (British Library, Additional Charter 34949), licensing a grant in mortmain to the Augustinian friars at Shrewsbury:

Double sided seal impression in green wax on pink and green cords through 3 holes *sur double queue*. Almost perfect impression, 3<sup>1</sup>/<sub>8</sub> in.; 80mm diameter.

On the majesty side, the King seated on a simple, bench-like throne, without elaborate carving or back, carrying wands or scepters in either hand, with a lion cub or small lion gardant on the lowest step of the throne, between the King's feet. Legend: EDWARDUS DEI GRATIA [REX] ANGLIE DOMINI[NUS] HYBERNIE. The wand in the King's right hand is decorated near the top with a flower or star and above this a cross breaking the word HYBER/NIE. The wand in the King's left hand terminates in a flower or star under the first D of ED/WARDUS. On the equestrian side, a mounted warrior carrying sword and shield, the shield charged with a leopard or lion. Legend: EDWARDUS DEI GRATIA [REX] ANGLIE DOMINUS HYBERNIE DUX AQUITANNIE +. The horse's hooves do not break the border, but the sword in the King's right hand touches the first N of AQUITANNIE

The present Magna Carta is sealed *sur double queue* (by folding the bottom of the document to reinforce the strength of the parchment and hence to permit it to bear the weight of a heavy wax seal), on a parchment tag passing through a single slit cut into the two thicknesses of parchment. In this respect it differs slightly from other exemplifications of the 1297 Magna Carta, and from the unique example of the 1297 Forest Charter, most of which, where their sealing details can be recovered, are sealed on pink and green cords passed through three or more holes punched into the foot. The use of parchment tags was nonetheless a ubiquitous feature of chancery practice and, in this instance, may have helped preserve what remains of a seal impression that in originals sealed on cords could be more easily broken or lost. The seal itself has been conserved by being encased in resin to what should have been its original dimensions.

*Calendar of Patent Rolls 1292-1301* (London 1895), 306, 335; T.F. Tout, *Charters in the Administrative History of Mediaeval England*, 6 vols (Manchester 1920-33), i, 148-9, 292-4, 303-7, ii, 62-4, 68-9; P. Chaplais, *English Royal Documents King John – Henry VI 1199-1461* (Oxford 1971), 57 no.4a; W. de Gray Birch, in *Proceedings of the Society of Antiquaries of London*, 2nd series xii (1887-9), 426-9 (with line engravings of the Edward I seal of absence); A. Wyon, *The Great Seals of England* (London 1887), 23-4, plate vii nos.45-6; P. Chaplais, *Piers Gaveston* (1994), 34-42.

# PART II

## THE ARCHIVAL AND DOCUMENTARY EVIDENCES FOR MAGNA CARTA

Given Magna Carta's significance to political, legal and constitutional history, one would suppose that historians would long ago have collected every detail that there was to know about the charter and, in particular, about each of the surviving "original" versions issued in the charter's first hundred years. In fact, what follows represents the first full census of these manuscripts attempted since 1810, and the first full diplomatic description of the originals ever committed to print. As will be apparent, the charter here described is the sole original thirteenth-century Magna Carta which remains outside a major institutional collection, and, in company with the original purchased in 1953 by the National Government of Australia from the governors of Bruton School, is the only such document located or likely ever to be located outside an English cathedral, collegiate or public collection.

Before listing the manuscripts, a brief explanation is required of the often confusing terminology that scholars use when writing of charters, "originals," "engrossments" and "copies." The word "charter" is sometimes used in a generic sense to describe all manner of documents - letters, grants and legal instruments originally drafted in the middle ages on single sheets of parchment. More correctly it denotes the particularly solemn form of such documents recording a grant in perpetuity by which the grantor of the charter bequeaths or transfers rights in perpetuity to a second party or parties, most often involving the conveyance of land, other forms of property or rights, such as freedom from customs duties or taxes. Of such gifts in perpetuity, the most solemn of all were those granted by kings or other sovereign powers, and among such royal charters "Magna Carta" stands supreme: the most significant, as well as amongst the very largest and longest such document ever to have been issued by a medieval king. It was precisely because it was such a large and impressive document, literally "Great," that it first became known as the "big charter" (*magna carta*): a term used as early as 1225, as a means of distinguishing Magna Carta from the associated charter granting liberties to those dwelling within the King's forests, the so called Forest Charter of King Henry III.

As is well known, the terms of Magna Carta itself were first made public at Runnymede in June 1215, following heated negotiations between King John and the rebel barons. What was negotiated at Runnymede was in essence a peace treaty between King and barons, in which the King offered various highly significant and controversial concessions to his subjects in return for a restoration of public order and obedience. Clearly, the terms of this agreement had to be communicated to the country at large, and it is at this point that we first encounter the solemn issue of Magna Carta in documentary form, written on parchment, we assume by scribes attached to the King's chancery, and sent out in multiple examples to each of the counties of England. At Runnymede itself, we must assume that some sort of document was placed before the King for his approval. In the period immediately after the Norman Conquest of 1066 it had been accepted that kings might authenticate their writings by writing something, technically described as a "sign manual" - generally the symbol of the cross - at the end of a document. Between the early twelfth century, when the sign manual fell out of favour, and the fourteenth century when the concept of the written signature re-emerged as an accepted form of legal authentication, the King's formal approval of a document was publicly displayed by an act of assent, perhaps by the King's placing his hand on a document or passing it under the hem of his gown, whereafter the document would begin that process by which it was formally engrossed in chancery and thence sent to an official named the "spigurnel" for the application to it, in beeswax, of an impression of the King's great seal. Our knowledge of the precise details here is less than perfect since, although we possess an extraordinary guide to the day to day activities of the King's financial office, the so-called *Dialogue of the Exchequer* written by Henry II's treasurer in the 1170s, we have no equivalent source for the royal chancery earlier than the fifteenth century. Nonetheless, what we know suggests that although there must once have been a prototype of Magna Carta to which King John gave his assent, what has survived is not this prototype but the various engrossments or original charters that were then

copied on to single sheets of parchment, sealed with the King's great seal, and dispatched into the country to be read in the county courts and other local assemblies.

We have evidence that at least forty such charters, henceforth to be described as "originals" or "original engrossments" were dispatched to publicize the terms of the 1215 Magna Carta, and we must suppose that an equivalent number, indeed by 1297 perhaps many more engrossments of the full text of the charter were thereafter issued for each of the solemn reissues, in 1216, 1217, 1225, 1265, 1297, 1300 and perhaps on other occasions for which our evidence is lacking. If so, then there must have been at least 300 such original engrossments issued during the course of the thirteenth century. Even if every engrossment dispatched was copied from the same basic exemplar, and allowing for the fact that Magna Carta is, for its period, an exceptionally long text, running to more than two and a half thousand words, each one of which had to be composed and traced by hand in the formal and heavily abbreviated Latin letters employed in the royal chancery, it must be apparent that each surviving engrossment will contain subtle variations, miscopyings or minor transpositions of words.

Rather like a Rodin bronze, or the various strikes of a Rembrandt print, there will be distinctions, sometimes important distinctions, between each surviving example, each of which deserves to rank as an "original" of equal significance to its peers. Even such vitally important matters, therefore, as the quest for an accurate and definitive text of the charter must depend upon a painstaking and subtle comparison of the wording recorded in each surviving "original". In the case of the 1297 Magna Carta, this is all the more significant, since the text of the 1297 charter, although in theory a reissue of the text first arrived at in 1225, was itself taken not from a perfect original of the 1225 charter but from a later copy into which numerous variant readings had been introduced, some of them distinctly controversial.

Of the forty or more originals known to have been dispatched in the summer of 1215, only four have survived to the present day, in at least two cases in a state that is very far from perfect. Even as early as 1215, there were significant differences, not only in wording but in format and appearance between the four surviving documents. The original of the 1215 Magna Carta now at Salisbury Cathedral, for example, was written by a scribe whose handwriting differs significantly from that of the other three originals, perhaps because this particular scribe was not a regular employee of the royal chancery, familiar with the appearance and writing of "chancery hand"; but a freelance or outsider, perhaps drafted into chancery in the exceptional circumstances of June and July 1215 when the production of several dozen original engrossments of Magna Carta involved the chancery in a quite exceptional amount of work above and beyond the routine. Both of the originals of the 1215 charter now in the British Library are followed on the parchment sheet by a list of corrections and additions, either because these inserted words were added to the terms of the agreement only after the surviving originals had been engrossed or, more plausibly, because chancery officials, realizing the speed with which the scribes were forced to work, determined to check carefully through the written text to spot words and phrases that had been imperfectly engrossed.

Having begun as a peace treaty between King and barons—a peace treaty which signally failed to achieve its intended ends - after the death of King John in 1216, Magna Carta was revived by the counsellors of John's nine-year old son, Henry III, who wished to advertise to the realm at large their intention that the new king should govern in accordance with good custom and the wishes of a broader constituency of subjects than was represented by the members of the court alone. As a result, at Bristol, in October 1216, Magna Carta was reissued in the name of King Henry III, with various of the more obnoxious or controversial clauses of the charter of 1215 taken out, and various new elements introduced. In particular, the so-called "sanctions clause" of the 1215 charter and the clauses calling for the dismissal from royal service and exile of various named foreign constables, were silently removed. Further reissues occurred, with yet further tinkering to the text of the charter, in 1217, following the final royalist victory in the war that had lasted since 1215, and in 1225, at much the same time that Henry, now grown to manhood, began to assume personal control of government. Thereafter, it was the 1225 text which came to be accepted as the definitive form of the charter and which was reissued on several further occasions during the reign of Henry III, some of which, as in 1265, undoubtedly involved the dispatch to every county of full copies of the charter itself. For the issues of 1216, 1217, 1225, original engrossments survive. For others, for example, the reissue of 1265, we have no surviving originals but depend upon mere copies or associated letters.

Following the accession of Edward I, by which time the reissue of, and the King's agreement to abide by the terms of Magna Carta was an accepted part of the English legal scene, we must assume that the charter continued to be regularly issued and read in the county courts. There is no evidence, however, until 1297, that this continued promulgation of the charter involved the whole-scale reissue of complete texts. By the 1270s, it was perhaps judged that there were sufficient originals of the 1225 charter in circulation to serve the needs of each locality. In practice, the lack of such originals may have led to growing confusion over the precise terms of the charter. As early as the 1230s, the chroniclers of St. Albans abbey had experienced difficulty in distinguishing between the various issues of 1215, 1217 and 1225. By the 1290s, the charter's terms may have been widely known not so much by means of the originals of the issue of 1225 or its reissue in 1265, but through the circulation of distinctly unofficial copies, from one of which the 1297 reissue was to be taken. Including the Magna Carta here catalogued, we have four surviving engrossments from the reissue of 1297. A further five (or six, if we count a peculiar and previously unrecognized engrossment under the seal of the abbot of Oseney rather than under the King's Great Seal) survive from the final reissue of 1300. Of these two issues, in 1297 and 1300, it is the 1297 issue, represented by the present charter, that is of greatest significance. Not only was it accompanied by dramatic historical events, almost equivalent in importance to the events of 1215 from which the charter itself had first emerged, but it was the first issue which was enrolled in an official chancery copy: a version of it being copied into the so-called Statute Roll.

For each of the successive reissues since 1215, we must assume that several dozen engrossments were originally dispatched to the English counties, of which our survivors represent only a very small proportion. All told, of the perhaps 300-400 original engrossments that were drawn up in chancery during the thirteenth century through to 1297, we have only 17 surviving examples.

There are two principal reasons why so many of the original engrossments have been lost. Firstly, as each successive engrossment was issued, so, in theory, the text of earlier issues became redundant. Thus, the 1216 issue was not only made in time of war but was superceded within twelve months, explaining, perhaps, why only one single engrossment of the 1216 charter still survives. Secondly, Magna Carta was written on so large a sheet of parchment in comparison to other royal charters that not only was it physically inconvenient to store or preserve, but represented to future generations a valuable store of scrap parchment. Rats love parchment, which is, after all, no more than dried animal skin. What was not destroyed by rats or damp, man himself was all too ready to recycle. From the time of the Reformation onwards, until at least the nineteenth century, we have depressingly many stories of entire archives of medieval parchment documents being cannibalized, to supply scrap writing materials, wrappings, book covers, wadding for artillery practice or even to be cut up and recycled as the heads of toy drums. What is perhaps most remarkable here is not that so few of the originals of Magna Carta survive, but so many: each of them of unique significance, not only for the wider history of law and society but for the particular time and circumstances in which they were issued.

In certain cases, our engrossments survived because the archives in which they were stored were particularly well kept, and prided themselves upon keeping virtually every document that was consigned to them. This "magpie" syndrome would apply in the cases of the monks of Durham Cathedral Priory, and the deans and chapters of Lincoln, Salisbury and Hereford. In other instances, for example, the archives of the Mayor and Corporation of London, engrossments of Magna Carta may have been preserved for their near-totemic status as guarantors of communal liberty. For the most part, survival was more a matter of simple luck, and in particular of the fortunes that befell vast numbers of private and monastic archives in the aftermath of the Protestant Reformation of the sixteenth century. In one rare instance—the archives of the Duchy of Lancaster, now in the Public Record Office—a surviving private baronial archive retained originals of Magna Carta, of both the 1225 and 1297 issues. But the Duchy of Lancaster archive is unique and has always been extremely closely linked to the well kept archives of the English crown. For the rest, save when a medieval ecclesiastical archive passed into the keeping of a post-Reformation religious corporation, as at Lincoln, Salisbury or Westminster Abbey, or when a municipal archive survived the traumas of the sixteenth and seventeenth century, as at London or Faversham, the chances of any copies of Magna Carta surviving into modern times were remote in the extreme.

As early as the 1630s, the great manuscript collector Sir Robert Cotton was clearly searching for originals of the charter, not merely because he appreciated the charter's importance but because he realized that originals were extremely scarce. Stray originals such as the 1297 Magna Carta now in Canberra, or the 1297 Forest Charter now in the British Library, were preserved when, occasionally, a monastic archive passed more or less intact into the hands of a post-Reformation landowner. This also explains how the 1225 charter once stored at Lacock Abbey was preserved by the Talbot family who after the 1530s turned the abbey into their private house, and was thence gifted to the British Library as recently as 1945. As suggested above, the present Magna Carta may have come to the Brudenell family through their association with public office in Buckinghamshire, through their acquisition of estates belonging to a monastery in which the charter had previously been stored, or through the antiquarian enthusiasms of one or other of the Thomas Brudenells active between the 1530s and the 1660s. What is particularly worth noting here is that, however the family obtained Magna Carta, the Brudenells, together with the Talbots of Lacock and the anonymous landowner who originally possessed the Bruton Magna Carta later sold to Australia, were one of only two or at most three families of lay landowners in England that could claim to possess an original Magna Carta.

## THE CENSUS OF MAGNA CARTA MANUSCRIPTS

What follows represents the first list of originals of Magna Carta published since the entirely unreliable and outdated list in *Statutes of the Realm* in 1810, and the first proper census of such manuscripts ever attempted. Including the issue of 1297, there are today seventeen known original exemplars of Magna Carta issued in the Thirteenth Century. Grouped according to their outward appearance, these fall into a number of diverse categories, demonstrating, incidentally, that the royal chancery had no fixed format for the issue of Magna Carta. Eleven of the surviving originals are longer than they are wide (nos. i, iv, vi, viii-xiv, xvii), three are wider than they are long (nos. ii, vii, xv) and three are more or less square (nos. iii, v, xvi). Roughly half of these seventeen originals, including the Magna Carta catalogued here, were sealed on parchment tags (nos. i, ?ii, v-ix, xiv), the rest certainly or probably on cords of coloured silk (nos. iii, iv, x-xiii, xv-xvii). Seal impressions survive on only a minority of the known originals, and of these two (nos. i, xii) are so badly damaged that their colour and form can no longer be identified. Given that the Cotton charter, which was the only one of the four 1215 originals to preserve the Great Seal of King John, was irreparably damaged in the Cotton fire of 1731 and that all of the surviving originals of the issues of 1216 and 1217 were sealed under the seals of the governors of the then new King Henry III, William Marshal and the papal legate Guala (nos. v-ix), in total, only five of our seventeen originals carry intact impressions of a royal seal, two of these being green wax impressions of the first Great Seal of Henry III attached to originals of the 1225 issue (nos. x-xi), the others being impressions of Edward I's small seal of absence attached in green wax to the London charter of 1297 and in natural wax, in fragmentary state but still identifiable, to the 1297 Charter now in Canberra and to the Magna Carta here offered for sale.

For the issues of Magna Carta from 1215 to 1297, the seventeen surviving originals are as follows:

### **First Issue of 15 June 1215.** There are four surviving engrossments:

- i. London, British Library ms. Cotton Charter xiii.31a. Burned and now almost entirely illegible. Approx. 12 X 19<sup>2</sup>/<sub>3</sub> in.; 310 X 505 mm, mounted on a (modern) piece of parchment approx. 14<sup>1</sup>/<sub>6</sub> X 21<sup>3</sup>/<sub>5</sub> in.; 363 X 554 mm. On permanent public display. Written in a neat chancery-style hand, 86 lines. Revisions recorded as having been written at the foot, which in the Lincoln and Salisbury originals are incorporated within the main body of the text. Originally sealed *sur double queue*, single slit and tag, seal impression melted by fire to a shapeless blob of wax. Acquired by Sir Edward Dering from records at Dover castle, and hence presumed to be the original directed either to the county of Kent or more likely to the Cinque Ports. Sent by Dering to Sir Robert Cotton in 1630. Despite damage during the Cotton fire of 23 October 1731, still legible thereafter, as evidenced by a fine facsimile engraving made in 1733

by John Pine showing most of the writing intact, and from a copy made by David Casley 18 December 1731 (now BL ms. Cotton Roll xiii.31b. Said to have been written in the same hand as no. ii below, but on uncertain testimony. Probably rendered illegible by shrinkage following the decision to dampen and then remount the charter already damaged by fire, during restoration probably carried out after 1800 and before 1842. Entered the British Museum together with the remainder of the Cotton library in 1753.

- ii. London, British Library ms. Cotton Augustus ii.106. On permanent public display and therefore inaccessible for measurement. Good condition. Approx.  $20\frac{1}{4}$  X  $13\frac{1}{2}$  in.; 514 X 343 mm. Neat chancery-style hand, 52 lines. Revisions written at the foot, slightly fewer in number than in no.i above, which in the Lincoln and Salisbury originals are incorporated within the main body of the text. Perhaps originally sealed *sur double queue*, on a parchment tag through a single slit. Fold now cut away, tag and seal impression missing, with two further slits to the right of the central slit which originally carried the tag and seal, the two additional slits once interpreted as indications that the charter had been physically attacked by King John using a knife in visible evidence of his fury against the barons. More plausibly interpreted as marks left by Cotton's bookbinder when the charter was cropped for binding. Dorse inaccessible, but said to carry the following endorsements: *magna carta Anglie per regem Iohannem (s.xiv/xv)*; *.....cista xx (?s.xv)*; *venerabili et digno viro Roberto Cotton militi hoc antiquum presentat scriptum Humphredus Wyems primo Ianuarii 1628 (s.xvii)*. Provenance unknown.
- iii. Lincoln Cathedral Archives (A1/1/45). On permanent public display, most recently in Lincoln Castle. Good condition, though the text itself somewhat faded. Approx.  $17\frac{3}{5}$  X  $17\frac{5}{7}$  +  $2\frac{1}{7}$  in.; 451 X 454 + 55 mm, with margins of approx.  $\frac{3}{7}$  [left],  $\frac{5}{7}$  [top] and  $\frac{3}{7}$  in. [right]; 11 [left], 18 [top], and 11 mm [right]. The *I* of *Iohannes* in a fairly flamboyant majiscule, occupying one line, but with decorative descender stretching down four lines in the margin, restrained majiscule lettering in the first line, the five words on the final line (*quintodecimo die Iunii regni nostri septimodecimo*) widely spaced so that the final stroke reaches the right hand margin. Slight damp damage along the horizontal and vertical folds of the document. Sections of the text are very faded, but mostly legible. Extensively repaired, with the addition of parchment to the fourth horizontal fold (from the top) on the back of the document. A neat chancery-style hand, 54 lines. Sealed *sur double queue* on cords through three holes placed in a triangular formation on the fold, cords and seal impression missing. Endorsed: *Lincolnia (s. xiii in)*; *Lincolnia (s. xiii in)*; *Concordia int(er) regem Ioh(ann)em et barones (s. xiii ex)*; *per concessionem lib(er)tat(um) ecclesie et regni Angl(ie) (s. xiii ex)*; *I. j. XXX visa (s. xiv)*. Marked on the fold: *Transcribed October 1806 T. E. Tomlins W. Illingworth Subcommissioners . . . (s. xix, recording the inspection which resulted in a facsimile being printed in Statutes of the Realm)*. Apparently the exemplar of the charter delivered to Lincolnshire and ever since preserved in the cathedral archives. An engraved facsimile appears in *Statutes of the Realm*.
- iv. Salisbury Cathedral Archives (Press IV, C2: Royal Charters/39). Good condition, save for the foot. On permanent public display, most recently in the Chapter House of Salisbury Cathedral, the dimensions here taken from photographs of the front and back in London, Public Record Office ms. PRO22/25, made in 1946 when the charter was repaired in London (cf. PRO1/708). Approx.  $13\frac{9}{10}$  X  $15\frac{9}{10}$  +  $\frac{11}{10}$  in.; 354 X 405 + 30 mm, with margins of approx.  $\frac{2}{5}$  [left],  $\frac{1}{5}$  [top] and  $\frac{3}{10}$  [right hand side] in.; 10 [left], 4 [top] and 7 mm [right hand side]. Written in a neat business hand, closer in some ways to a book hand than to the business hand of the royal chancery. Small capital *I* for the King's name *Iohannes*, restrained majiscule lettering to the opening line, not infilled in the final line, 76 lines. Apparently sealed *sur double queue* on cords through two holes, cords torn away leaving considerable damage to the foot, the fold then trimmed away, seal impression missing. Endorsed: *....<divers>orio primi inclusorii ascendendo (s.xiv, apparently an indication of its archival location)*; (*magna, s.xvii*) *Carta reg(is) Iohannis de libertat(ibus) dupplicata ecclesie Anglicane et omnium legiorum regis (s.xiv/xv)*; various post-medieval endorsements, including *anno domini 1215 (s.xvi/xvii, a hand very similar to that of the antiquary and herald Robert Glover)*. Assumed to be the exemplar of the charter delivered to Wiltshire and thence stored in the cathedral archives.

## Issue of November 1216. There is a unique engrossment

- v. Durham, University Library Special Collections Durham Cathedral Muniments 1.2.Reg.3. In near perfect condition. Approx.  $16\frac{1}{2} \times 15\frac{9}{10} + 1\frac{3}{5}$  in.;  $420 \times 404 + 41$  mm, with margins of approx.  $\frac{2}{5}$  [left],  $\frac{4}{5}$  [top] and  $\frac{3}{10}$  in. [right]; 11 [left], 21 [top] and 7 mm [right]. The capital *H* of *Henricus* capitalized with further decorative work in the margin extending from the ascender of the *H* to the level of the fifth line. Restrained majiscule lettering in the first line; infilling of the final line, so that the final pen stroke extends from the *o* of the final word *primo* to the end of the text on the right hand margin with fairly flamboyant majiscule lettering for *primo* and restrained majiscule lettering for *regni* and *nostri*. Three damp patches in the lower half of the document leading to fading but not the loss of lettering; one small hole in the middle of the sixteenth line, with loss of letters. A neat chancery-style hand, 49 lines. Sealed *sur double queue*, with two thin parchment tags (left tag:  $\frac{1}{2}$  in.; 12 mm. wide, right tag:  $\frac{1}{2}$  in.; 13 mm. wide) through two single slits; seal impressions missing. Endorsed *Magna Carta Henr(ici) regis III* (s. xiv in); *Carta regis Henrici regis de libertatibus concessis hominibus regni suis* (s. xv); *Transcribed Sept. 1806 T. E. Tomlins. W. Illingworth* (s. xix in).

## Issue of November 1217. There are four engrossments as follows

- vi. Oxford, Bodleian Library ms. Ch. Osney 142b. Good condition. Approx.  $14\frac{8}{9} \times 19\frac{3}{10} + 1\frac{2}{5}$  in.;  $378 \times 490 + 35$  mm, with margins of approx.  $\frac{2}{3}$  [left],  $\frac{2}{5}$  [top] and  $\frac{2}{3}$  in. [right]; 17 [left], 10 [top] and 17 mm [right]. The capital *H* of *Henricus* left blank, no infilling of the final line, restrained majiscule lettering for the first line. Three large holes down the middle of the left-hand side of the document as a result of rodent damage whilst folded in the past. A neat chancery-style hand, 66 lines. Sealed *sur double queue*, two thin parchment tags ( $\frac{3}{10}$  in.; 8 mm wide) through two single slits; caste of the seal of William Marshal the elder, detached, now stored in a separate box, green wax, small round equestrian, legend illegible, the original having apparently been lost, apparently taken from the right hand tag. Left hand seal apparently lost entirely. Endorsed: *magna cart(a) r(egis) H(enrici) iiiii. ti de libert(atibus) totius regni dup(plicatur)* (s.xiv ex); *li* (s.xvi); *13* (s.xvii); various other post-medieval endorsements. Almost certainly one of two exemplars stored at Osney Abbey in Oxfordshire, perhaps both originals first sent to the county of Oxfordshire.
- vii. Oxford, Bodleian Library ms. Ch. Osney 142c. Good condition. Approx.  $16 \times 11\frac{3}{5} + 1\frac{3}{10}$  in.;  $410 \times 296 + 32$  mm, with margins of approx.  $\frac{2}{5}$  [left],  $\frac{1}{5}$  [top] and  $\frac{2}{5}$  in. [right]; 10 [left], 5 [top] and 10 mm [right]. Opens *Henricus*, with an undecorated *H* restricted to a single line, restrained majiscule lettering for the first line, infilled at the end so that the final words *alliis multis* are hard against the right hand margin. Some damp damage leading to fading but not the loss of lettering. Neat chancery-style hand, 43 lines. Sealed *sur double queue*, two thin parchment tags ( $\frac{3}{10}$  in.; 8 mm wide) through two single slits, left hand seal cut away and now stored separately: the seal of the legate Guala, oval, dark green wax, a figure in pontificals, legend: SIGILLUM .....SCI.....CARD, stored together with a modern caste of the same. Right hand seal apparently missing entirely. Endorsed: *Magna carta reg(is) Henr(ici)* (3 – added s.xvi over an erasure) *de libertate totius regni* (s.xiii/xiv); *dup(plicatur)* (s.xiv ex); *li* (s.xvi); *14* (s.xvii). Almost certainly another exemplar stored at Osney Abbey in Oxfordshire, perhaps originally sent to the county of Oxford. The rectangular format, with the charter being wider than it is long, is a peculiar feature.
- viii. Oxford, Bodleian Library ms. Ch. Gloucs. 8. In near perfect condition. Approx.  $16\frac{3}{5} \times 19\frac{3}{10} + 1\frac{1}{2}$  in.;  $422 \times 490 + 40$  mm, with margins of approx.  $\frac{3}{5}$  [left],  $\frac{3}{5}$  [top] and  $\frac{1}{2}$  in. [right]; 15 [left], 15 [top] and 12 mm [right]. Opens *Henricus* with decorated capital *H* over one line in the same hand as the remainder of the charter, fairly flamboyant majiscule lettering in the first line, not infilled at the end so that the final line ends three-quarters of the way across the text block. Neat chancery-style hand, 56 lines. Sealed *sur double queue*, two thin parchment tags ( $\frac{3}{10}$  in.; 8 mm) through two single slits; left hand seal of the legate Guala, apparently removed and then replaced back to front, white wax, entirely defaced; right hand, small round equestrian seal of William Marshal the elder in green wax, legend illegible. Endorsed: *Magna carta caps' xiii. a de laic' te* (s.xiii, apparently an archival marking from St. Peter's Gloucester); *registratur* (s.xiv/xv, another regular Gloucester archival marking); *cart(a) H(enrici) reg(is) de*



*libertatibus magne carte H(enrici) reg(is) aui nostri* (s.xiv/xv); various post-medieval endorsements. Apparently the exemplar stored at St. Peter's Gloucester, perhaps originally sent for proclamation in the county of Gloucestershire. Belonged to Richard Furney (1694-1753), archdeacon of Surrey and native of Gloucester, schoolmaster at Gloucester Cathedral (1719-24) and a collector of local antiquities.

- ix. Hereford Cathedral Archives charter no.1516. In near perfect condition. Approx. 12 X 18<sup>1</sup>/<sub>2</sub> + <sup>9</sup>/<sub>10</sub> in.; 305 X 470 + 23 mm, with margins of approx. <sup>7</sup>/<sub>20</sub> [left], <sup>2</sup>/<sub>5</sub> [top] and <sup>1</sup>/<sub>5</sub> in.; 9 [left], 11 [top], and 5 mm [right]. A neat chancery-style hand, with a decorated capital *H* for *Henricus* restricted to a single line, restrained majiscule lettering for the first line, no infilling of the final line, 64 lines in all. Two minor tears on the right-hand side and a deeper tear in the bottom right-hand corner. Originally sealed *sur double queue*, with two slits on the left and right of the foot, (2<sup>2</sup>/<sub>5</sub> in.; 60 mm apart). Tags and seal impressions missing. Endorsed: *consuetudines et libertates regnum Anglie edicto per rege(m) et parlamentu(m)* (s. xiv ex); *Copia magne carte* (s. xv med.); brief post-medieval endorsement. No indication of provenance, but apparently the version originally sent either to Herefordshire or to Gloucestershire (with which the priory of St. Guthlac at Hereford enjoyed close relations).

### Issue of 11 February 1225. There are four engrossments

- x. Durham, University Library Special Collections Durham Cathedral Muniments 1.2.Reg.2. Good condition. Approx. 14<sup>1</sup>/<sub>2</sub> X 21<sup>1</sup>/<sub>2</sub> + <sup>3</sup>/<sub>5</sub> in.; 369 X 545 + 41 mm, with margins of approx. <sup>2</sup>/<sub>3</sub> [left], 1<sup>1</sup>/<sub>4</sub> [top] and <sup>5</sup>/<sub>9</sub> in.; 17 [left], 32 [top] and 14 mm [right]. Capitalized *H* to *Henricus* with the lettering of both *Henricus* and *Dei* in fairly flamboyant majiscule, the remaining lettering of the first line in restrained majiscule, not infilled at the end. Extensive damp damage to the right-hand side of the document, obscuring a section of the text in the bottom right-hand corner; several holes in the document elsewhere, possibly the result of rodent damage. Neat chancery-style hand, 65 lines. Sealed *sur double queue* on pink cords with seal impression of the first Great Seal of King Henry in green wax, in near perfect condition. Endorsed *Magna carta H(enrici) regis tercii de libertatibus totius regni* (s. xiii/xiv); *Carta magna Henr(ici) regis III de libertatibus totius . . .* (s. xiii/xiv); *Tertia prime regalium*; *I 2e II H(enrici) regalium* (s. xiii/xiv); various postmedieval endorsements. Engraved facsimile in *Statutes of the Realm*.
- xi. London, British Library ms. Additional 46144 (previously Lacock Abbey, Talbot Family, gifted to the British Museum in 1945 by Miss Mathilda Theresa Talbot). On permanent public display in the British Library. Approx. 19<sup>7</sup>/<sub>10</sub> X 11<sup>4</sup>/<sub>5</sub> + <sup>4</sup>/<sub>5</sub> in.; 500 X 300 + 20 mm, with margins of <sup>4</sup>/<sub>5</sub> [left], <sup>4</sup>/<sub>5</sub> [top] and <sup>4</sup>/<sub>5</sub> in. [right]; 20 [left], 20 [top] and 20 mm [right]. Neat chancery-style hand, capital *H* to *Henricus*, with restrained majiscule lettering in the first line, 67 lines in all, not infilled at the end. Sealed *sur double queue* on green cords, seal impression of the first Great Seal of Henry III in green wax, chipped and imperfect inside a white silk seal bag. Endorsed: *Hen(rici) reg(is) fil(ii) loh(annis) reg(is) de libertatibus et quibusdam consuetudinibus per Angliam constitutis* (s.xiii med); *ex deposito militu(m) Wiltisir'* (s.xiii). From the latter endorsement, the document is assumed to have been deposited at Lacock Abbey for safe custody by the knights or the county community of Wiltshire, perhaps in the time of Ela, Countess of Salisbury, who had founded the abbey in 1232 and thereafter served as its abbess 1239-1257, whose husband William Longuespée, Earl of Salisbury, had been sheriff of Wiltshire when the charter was issued, and who had herself succeeded him in this office 1227-1228 and 1231-1236. In 1759, recorded in the possession of John Talbot of Lacock, to whom it had presumably descended from Sir William Sharrington, purchaser of the abbey's site in 1540. From John Talbot it passed by descent to the donor, Miss Talbot.
- xii. London, Public Record Office DL10/71. Severely damaged, with significant portions of the text missing and with considerable modern repairs. Approx. 11<sup>3</sup>/<sub>5</sub> X 21 + 1<sup>2</sup>/<sub>5</sub> in.; 295 X 535 + 35 mm, with margins of <sup>3</sup>/<sub>10</sub> [left], <sup>7</sup>/<sub>10</sub> [top] and <sup>1</sup>/<sub>5</sub> in. [right]; 8 [left], 18 [top] and 5 mm [right]. Written in a chancery-style hand verging towards book hand, restrained majiscule lettering to opening line, including the *H* of *Henricus*, 74 lines in all, not infilled at the end. Three large portions of damp damage with significant loss of text, rebaked and repaired. Sealed *sur double queue* on pink, green/blue cords through three

holes, blob of modern plastic encasing fragments of a seal impression now hidden. Mounted in a display box, dorse inaccessible. Provenance unknown, although its presence amongst the Duchy of Lancaster deeds might suggest association with one of the counties in which the Duchy lands were chiefly situated, perhaps Leicestershire, Nottinghamshire/Derbyshire or Lancashire.

- xiii. Oxford, Bodleian Library Ch. London 1. Not previously admitted to be an original, but undoubtedly such. Good condition, save for the foot. Approx.  $11\frac{7}{10} \times 18\frac{3}{5}$  in.; 298 X 472 mm, originally  $11\frac{7}{10} \times 17\frac{3}{10} + 1\frac{1}{4}$  in.; 298 X 440 + 32 mm, with margins of approx.  $\frac{5}{9}$  [left],  $\frac{4}{5}$  [top] and  $\frac{1}{2}$  in. [right]; 14 [left], 20 [top] and 12 mm [right]. Opens *H(enricus) Dei gratia rex*, without decoration, restrained majiscule lettering in the opening line, not infilled at the end. Some water damage to face, with one large patch and one smaller patch of lettering badly faded, the foot and all evidence of sealing trimmed away. Neat chancery-style hand, 72 lines. Apparently originally sealed *sur double queue*, fold and seal entirely cut away, with the bottom of the document torn and more recently repaired. Endorsed: *carta regia de diuersis libertatibus totius Anglie magnatibus <conce>ssis* (s.xiii in-med); *Henr(icus) iii.us* (s.xiii med); *n.ii* (s.xvi, perhaps an archival mark); various post-medieval endorsements, including 63 (s.xvii/xviii). Today stored as a London charter, but with no evidence of provenance. Similarity between the endorsements and those of the 1217 charters from Oseney above might even suggest that this was originally a charter sent to Oxfordshire rather than London.

**Issue of 14 March 1265.** On 14 March 1265, at the time that Simon de Montfort governed England with King Henry III as a virtual prisoner, Magna Carta was confirmed by letters patent of Henry III referring to the dispatch of "charters and ordinances" under the King's seal, apparently sent into every county as a permanent record (*Documents of the Baronial Movement of Reform and Rebellion 1258-67*, ed. R.E. Trehearne and I.J. Sanders (Oxford 1973), 312-13 no.42). There is no surviving engrossment of this exemplification, but later copies, in the form of charters of *inspeximus*, dated 14 March 1265, apparently taken from lost engrossments originally sent to the counties of Middlesex and Somerset/Dorset are preserved in the London Guildhall collection of laws, now London BL ms. Cotton Claudius D ii (Statutes etc) fo.128v (138v, 125v) (addressed to Middlesex, with full witness list but reciting only the opening words of the 1225 Magna Carta, s.xiv, also in Cambridge, Corpus Christi College mss. 70, 258), and cf. BL ms. Harley 489 fos.4r-8v (in similar terms, but addressed to Somerset and Dorset and dated 13 March 1265).

**Issue of 1297.** There are four engrossments

- xiv. The Charter (previously belonging to the Brudenell Family) described above. Assumed on the basis of the writing on the fold to be the exemplar of the charter dispatched for proclamation in Buckinghamshire.
- xv. London, Metropolitan Archives, Corporation of London charter 21. In near-perfect condition. Approx.  $21 \times 19 + 1\frac{1}{5}$  in.; 538 X 482 + 30 mm, with margins of  $1\frac{1}{10}$  [left],  $\frac{12}{5}$  [top] and  $1\frac{1}{5}$  in. [right]; 28 [left], 35 [top] and 30 mm [right]. A neat chancery-style hand, with the *E* of *Edwardus* decorated, extending down two lines. All told 62 lines, not infilled at the end. Sealed *sur double queue* on pink cords through three holes, large part of seal impression of Edward I's small seal of absence in dark green wax. Endorsed: *magna carta r(egis) H(enrici) de libertatibus Angl(ie) confirmata per dominum r(egem) E(dwardum) patrem regis nunc* (s.xiv in); *in reg(istro) cum littera B* (s.xiv); *carta r(egis) E(dwardi) fil(ii) H(enrici) de confirmatione* (s.xv); *carta magna de libertatibus Angl(ie) exam(inata) .....nem indeque confirmari* (s.xv/xvi). On the left of the fold, to the left of the seal cords, *R. de Stard' examinavit* (s.xiv); on the right of the fold, to the right of the seal cords *London'* (apparently a contemporary address, s.xiii ex). The word *nota* written in the margin on the left next to the clause relating to the liberties of the city of London, and in the margin on the right next to the clause relating to the standard measure of London. Sewn into the fold is an original writ, sealed *sur simple queue*, tongue and seal impression missing, by which the regency council acting in the name of Edward I, 12 October 1297, commands the sheriff(s) of London to publish Magna Carta and the Forest Charter. Engraved facsimile in *Statutes of the Realm*.

- xvi. Canberra, Parliament House, on permanent public display inside a display case, dorse inaccessible. Good condition. Approx. 16 X 16 + 1 in.; 416 X 418 + 31 mm, with margins (size unavailable) to left, right and top. A neat chancery-style hand, with the *E* of *Edwardus* decorated, extending down two lines, in the same hand and format as the 1297 Forest Charter listed below. 69 lines, infilled at the end with the name of the chancery scribe *lern'* (Hugh of Yarmouth). Sealed *sur double queue* on green and pink cords through 3 holes, central portion of seal impression of Edward I's small seal of absence in natural wax. Dorse inaccessible. Damp damage and staining to the left hand side and more seriously to the centre, along old folds, some letters now illegible. On the fold, to the left of the seal, *com(itatus) Surr'*, and to the right of the seal *exam(inatur)*, in the same hand and format as on the 1297 Forest Charter, also surviving from the Surrey engrossment. Clearly the exemplar of the 1297 Magna Carta intended for the county of Surrey. For the circumstances in which this Surrey document found its way into the archives of Bruton School in Somerset, having perhaps been stored together with the 1297 Surrey Forest Charter in the Middle Ages in the archives of Easebourne Priory in Sussex, see below.
- xvii. London, Public Record Office DL10/197. Good condition, save for three holes in the text, the largest mid-way down on the left hand side, the result of friction when folded, leading to the loss of half a dozen words. Approx. 17<sup>1</sup>/<sub>2</sub> X 22<sup>1</sup>/<sub>10</sub> + 17<sup>1</sup>/<sub>10</sub> in.; 445 X 562 + 43 mm, with margins of 1<sup>1</sup>/<sub>5</sub> [left], 2 [top] and 1 in. [right]; 30 [left], 50 [top] and 27 mm [right]. A neat chancery-style hand, with the *E* of *Edwardus* decorated, extending down three lines. All told 76 lines, not infilled at the end. Now flattened out and rebaked with modern parchment. Originally sealed *sur double queue*, probably on cords through three holes, central portion of fold with cords and seal impression now lost. Endorsed: *magna carta de libertatibus Angl(ie)* (s.xiii/xiv); 7 (s.xvii); 45 (s.xvii/xviii). No indication of provenance, and no writing on the outside of the fold. Association with the Duchy of Lancaster deeds might imply provenance from one or other of the counties in which the dukes were chiefly propertied: perhaps Leicestershire, Nottinghamshire, Derbyshire or Lancashire.

This, the 1297 version of the charter, was the first, so far as is known, that was officially enrolled in chancery, a contemporary copy being entered in the Statute Roll of Edward I: London, Public Record Office C74/1.

## RELATED TEXTS

This concludes the census of original engrossments of Magna Carta through to 1297. There are also a number of documents whose history is so closely linked to that of Magna Carta that, although not themselves engrossments of the charter, they deserve to be considered as integral elements of the charter's story.

These include, in chronological order

**A bifolium of copies of earlier royal charters of liberties**, issued in the names of kings Henry I, Stephen and Henry II, preserved both in their original Latin and in early thirteenth-century Norman-French translations. There can be no certainty here, but it is highly probable that this short dossier formed part of the portfolio of documents carried into negotiations between king and barons prior to the meeting at Runnymede. One possibility is that it was drafted and intended for the use of Stephen Langton, Archbishop of Canterbury, who is said to have been the first person to draw the barons' attention to the significance and the potential uses of Henry I's coronation charter as a precedent in their negotiations with the King, perhaps as early as 1213 or 1214. Parts of the document are reproduced, in poor photographic facsimile, in the second edition of Holt's *Magna Carta*. To date, there is no proper edition, in particular of the Norman-French translations.

London, British Library ms. Harley 458, parchment bifolium, s.xiii in, each folio approx 7<sup>3</sup>/<sub>10</sub> X 11<sup>3</sup>/<sub>5</sub> in.; 185 X 295 mm, between 39 and 41 lines per page, ownership signatures of *Brianus Merecroft* (s.xv/xvi) and *per-tinet Petro Le Neve al(lia)s Norroy 1704*.

**The Articles of the Barons.** Apparently a draft set of proposals put by the barons to the King and thence preserved by one of the parties in attendance at Runnymede and sealed by the King either during or at the end of negotiations to mark his acceptance of the settlement. Several times printed, with an engraved facsimile in *Statutes of the Realm*.

London, British Library ms. Additional 4838. On permanent public display and therefore inaccessible to measurement. Written in a somewhat untidily arranged chancery-style hand, 89 lines. When presented to the British Museum by Philip Earl Stanhope in May 1769, still preserved a natural wax seal attached on a parchment tag, now stored separately. Sealed *sur double queue*, single slit for a tag and seal impression now stored apart. Endorsed: *articuli magne carte libertatum sub sigillo regis Iohannis* (s.xiii med); *Iohannes xxx* (s.xiii med). This latter is a Lambeth Palace press mark, proving that the articles were originally stored in the archive of the archbishops of Canterbury, whence removed by Archbishop Laud and thence, after Laud's execution via a circuitous route to Gilbert Burnet, Bishop of Salisbury (d.1715).

**The "Unknown" Charter**, now in the French National Archives. This consists of a series of clauses, apparently recording negotiations between King and barons, written at the foot of and in the same neat early thirteenth-century hand as a single-sheet copy of the coronation charter of King Henry I (1100-1135). The document is still referred to as the "Unknown" charter, even though it was published at least twice in the Nineteenth Century and was subjected to detailed historical analysis thanks to the efforts of the French historian, Charles Bémont. There is no certain evidence of the means by which this document entered the French royal archives, subsequently known as the *Trèsor des chartes*, but, once again, the archbishop of Canterbury or his brother, Master Simon Langton, has been suggested as a possible conduit: a man close to the negotiations of 1215 and subsequently attached to the service of the future Louis VIII, son of the French king Philip Augustus. Set against this, there is the fact that the version of Henry I's coronation charter recited on the same single sheet above the text of the "Unknown" charter is not, apparently the Canterbury or Lambeth version of Henry I's coronation charter that would have been readily available to Archbishop Langton, but more closely related to versions in circulation elsewhere in England from the so-called "Quadripartitus" family of manuscripts. The portion of this document known as the "Unknown charter" has been printed on several occasions. There is a partial photographic facsimile in Holt's *Magna Carta*.

Paris, Archives nationales ms. J655 Angleterre sans date no.31bis. In near perfect condition. Approx. 10<sup>1</sup>/<sub>2</sub> X 10 in.; 268 X 256 mm, with margins of <sup>3</sup>/<sub>10</sub> [left], <sup>2</sup>/<sub>5</sub> [top], <sup>2</sup>/<sub>25</sub> [right] and <sup>2</sup>/<sub>5</sub> in. [foot]; 7 [left], 10 [top], 2 [right] and 72 mm [foot]. Written on a single, irregularly shaped sheet of parchment (with one large hole, around which the scribe has arranged his writing), in a clear, almost certainly English business hand not infilled at the end, very similar to that of BL ms. Harley 458 above. Various corrections and excisions, the first in line 1 where *consilio baron(um) regni nostri Anglie* has been marked to show the omission of *nostri*. Clearly never intended for sealing. The coronation charter of Henry I written in 18 lines, the memorandum of John's concessions in a further 10 lines, the transition marked with the words *Hec est carta regis Henrici per quam barones querunt libertates et hec et sequentiam concedit rex Iohannes*. Endorsed: *promittit rex Anglie H(enricus) tenere contenta in ista cedula suis boronis (sic.) et episcopis et aliis* (s.xiv); various post-medieval endorsements.

**A bizarre single-sheet copy of the 1215 Magna Carta**, now in the Bodleian Library. Written on both sides of a long thin parchment schedule, tapering from left to right at the foot, with holes at the top as if originally intended to hang up on display. Written in an English book of the first half of the Thirteenth Century, but endorsed in such a way to demonstrate that by the Eighteenth Century it was in Italy. One explanation here might involve the papacy, another the papal legate Guala, via whom a copy of the 1215 charter could have found its way across the Alps. Gifted in 1926 from the collection of the eminent historian of Italy J.E. Hodgkin, but, save for a partial and private printing in Hodgkin, *Rariora* (London 1902), i, 26, never properly noticed or collated in the literature on the 1215 Magna Carta.

Oxford, Bodleian Library ms. Lat. hist. a.1 (P). 4<sup>4</sup>/<sub>5</sub> X 25 in.; 122 X 635 mm, with writing down the entire face and ending two thirds of the way down the dorse. Some water damage to the text at the front and back, and some holes, but the text itself legible throughout. Endorsed on the back: *1298 16 Guigno* (s.xvii); *1298 papa Innon' 3a 16 Guigno* (s.xvii); at the head of the dorse *xxvii* (?s.xiv); *privilegias regni Anglice* (s.xvi/xvii); *Privilegii concessi a Iohanne rege de Inghilterra .... regno d'Inghilterra* (s.xvii/xviii).

**Two single sheet copies of the 1216 Magna Carta**, today stored in the same series as the "Unknown" charter, in the French National Archives. These, like the 'Unknown' charter, have been linked to the activities of Simon Langton as adherent both of the rebel barons and of Louis of France during the civil war of 1215-17. One of these two copies involves a full recital, with address and witness list, of the 1216 Magna Carta;

the other recites merely the substantive terms of the charter, without the King's title or the address. The script of these copies could be English or northern French, and is otherwise unidentified. Their association with Simon Langton remains entirely speculative. That they were acquired by Louis during his time in England before 1217 remains highly probable. A basic version of one of these copies is printed in the *Layettes du Trésor des Chartes*, ed. A. Teulet and others, 5 vols (Paris 1863-1909), i, nos.34, 1153. No facsimiles have been printed, and no proper attempt has as yet been made to collate both copies against the original engrossments of the charter.

Paris, Archives nationales J655 Angleterre sans date no.11. Good condition. Approx. 16<sup>7</sup>/<sub>10</sub> X 10<sup>1</sup>/<sub>5</sub> in.; 424 X 258 mm, with margins of approx. 1<sup>1</sup>/<sub>15</sub> [left], 2<sup>2</sup>/<sub>5</sub> [top] and 1<sup>3</sup>/<sub>10</sub> [foot]; 1 [left], 10 [top] and 33 [foot] mm, no margin to the right. Full recital of the text, beginning *Henricus*, 44 lines, carefully infilled at the end to the right hand edge of the parchment. Written in an unlined and somewhat straggling business hand, probably northern French rather than English. Not prepared for sealing. Endorsed: *transcriptum e(st) quibusdam statut(is) regni Angl(ie) regni Henrici reg(is) Angl(ie) anno i.* (s.xiv/xv); various post-medieval endorsements.

Paris, Archives nationales J655 Angleterre sans date no.31. Good condition. Approx. 17<sup>4</sup>/<sub>5</sub> X 11<sup>1</sup>/<sub>2</sub> in.; 452 X 294 mm, with margins of 2<sup>2</sup>/<sub>25</sub> [left], 7<sup>1</sup>/<sub>10</sub> [top] and 2<sup>1</sup>/<sub>5</sub> in. [foot]; 1 [left], 18 [top] and 55 mm [foot], no margin to the right. Written in 36 lines of a straggling northern French business hand similar to but not the same as that of the other copy, but here opening without the titles and address *In primis concessisse Deo et hac presenti carta nostra confirmasse pro nobis et heredibus nostris in perpetuum quod Anglicana ecclesia*, with some corrections and insertions over the line, including in the passage just quoted the correction of *presente to presenti*. Never prepared for sealing. Endorsed: *in quod rotulo quedam consuetudines Angl(ie) que videntur ad consuetudines Normannie* (s.xiv); various post-medieval endorsements, including a note by Léopold Delisle (s.xix) that the present copy is very similar to no.11 in the same series.

**The Forest Charter of 1217**, of which there are two surviving engrossments, at Durham and Lincoln. As early as Magna Carta 1215, King John had promised in due course that he would issue provisions for those who dwelt within the royal forest—vast tracts of land extending into most of the counties of England—in which, until then, it had been the King's arbitrary authority rather than the laws of the rest of the realm that had chiefly operated. The resulting Forest Charter, issued at the same time as Magna Carta in November 1217, was intended both to restrict the royal forests to the geographical limits set during the twelfth century, removing any land newly afforested, and to offer protection to the rights of those who dwelt within such areas, in order to defend them against the arbitrary exercise of royal authority. From 1217 onwards, the reissue of Magna Carta was invariably accompanied by the reissue of the Forest Charter, so that the two texts are to be seen as twin elements of a phenomena known to contemporaries as "the charters" or "the charters of liberties". From 1217 onwards, the format and diplomatic of the surviving originals of the Forest Charter are thus of great significance to our understanding of the format and diplomatic of Magna Carta.

Lincoln, Lincolnshire Archives ms. Dean and Chapter of Lincoln A1/1/46. Good condition. Approx. 13 X 11<sup>9</sup>/<sub>10</sub> + 1<sup>1</sup>/<sub>10</sub> in.; 331 X 301 + 29 mm, with margins of approx. 5<sup>5</sup>/<sub>9</sub> [left], 3<sup>3</sup>/<sub>5</sub> [top] and 1<sup>1</sup>/<sub>2</sub> in. [right]; 14 [left], 16 [top] and 13 mm [right]. The *H* of *Henricus* left blank, restrained majiscule lettering in the final line, infilled in the final line so that *aliis multis* is hard against the right hand margin. Neat chancery-style hand, 41 lines. Damaged at the top left-hand corner and at the extreme left hand side, obliterating sections of the text. Some minor brown staining. Neat chancery-style hand, 41 lines. Sealed *sur double queue*, one thin seal tag (2<sup>2</sup>/<sub>5</sub> in.; 9 mm wide) through a single slit on the left hand side, the seal tag on the right missing with only the slit remaining. On the surviving tag, the seal of the legate Guala in dark green wax, defaced. Dorse now inaccessible, but said to read *Carta de foresta sub sigillo episcopi* (s.xiii).

Durham, University Library Special Collections Durham Cathedral Muniments 1.2.Reg.4. Lower third of the document badly damaged. Approx. 13<sup>3</sup>/<sub>10</sub> X 15<sup>7</sup>/<sub>10</sub> + 1 in.; 338 X 400 + 26 mm, with margins of approx. 2<sup>2</sup>/<sub>3</sub> [left], 9<sup>9</sup>/<sub>10</sub> [top] and 1<sup>1</sup>/<sub>2</sub> in. [right]; 17 [left], 22 [top] and 13 mm [right]. The *H* of *Henricus* occupies one line and is undecorated, restrained majiscule lettering in the first line, not infilled in the final line (the sentence ending almost halfway across the document). Neat chancery-style hand, 48 lines. Substantial damage to the lower third of the document, with the bottom right-hand corner entirely missing; six more damaged patches, of varying size, in the same lower third, with extensive repair to this section. Substantial sections of text missing. Sealed *sur double queue*, but only the extreme left-hand section of the fold now survives, with one

thin parchment tag  $\frac{2}{5}$  in.; 11 mm wide) through a single slit; presumably a second tag through a second slit on the right-hand side of the fold now missing. The seal of the legate Guala in green wax on the surviving tag. Endorsed *C(arta) general(is) tocius regni et p(rim)o de forestis signata sigillis G(uale) legati et W(illelmi) comit(is) (s. xiii in); .... ista carta postea fuit sigillata apud Westm' cum magno sigillo eiusdem H(enrici) reg(is) III XI die Februar' anno regni sui nono (s. xiv in); Henr(icus) ter(tius) (s. xiv ex); Transcribed Sept. 1806 T E. Tomlins W. Illingworth (s. xix)*. Printed with engraved facsimile in *Statutes of the Realm*.

**The Forest Charter of 11 February 1225**, of which there are three surviving engrossments.

Durham, University Library Special Collections Durham Cathedral Muniments 1.2.Reg.5. Good condition. Approx.  $13\frac{1}{5} \times 13\frac{9}{10} + 2\frac{1}{5}$  in.; 335 X 352 + 57 mm, with margins of approx.  $\frac{2}{3}$  [left], 1 [top] and  $\frac{4}{5}$  in. [right]; 17 [left], 27 [top] and 20 mm [right]. The first five letters of *Henricus* are missing, but both *Henricus* and *Dei* were originally written in a fairly flamboyant majiscule lettering, with restrained majiscule lettering for the remainder of the first line. Not infilled in the final line (the line ending in the first third of the charter). Extensive damage has been done to the left- and right-hand sides of the document, obliterating substantial sections of the text. A neat chancery-style hand, 41 lines. Sealed *sur double queue* on pink cords with impression of the first Great Seal of King Henry III in green wax, in good condition. Endorsed *<Carta ge>n(er)alis totius regni de forestis .... reg(is) III (s. xiii in); one other medieval endorsement very faded; Transcribed Sept 1806 T. E. Tomlins W. Illingworth (s.xix)*.

Lincoln, Lincolnshire Record Office ms. Dean and Chapter A1/1/47. Good condition. Approx.  $12\frac{5}{6} \times 8\frac{3}{7} + 1$  in.; 329 X 216 + 26 mm, with margins of approx.  $\frac{1}{3}$  [left];  $\frac{2}{5}$  [top] and  $\frac{1}{3}$  in. [right]; 9 [left], 10 [top] and 8 mm [right]. The *H* of *Henricus* is capitalized, occupying one line, with restrained majiscule lettering in the first line, not infilled to the end of the final line. Damp damage to the top left hand corner and to the middle lower third of the document; the entire right hand side of the foot has been torn away obliterating an extensive section of the text (some twenty-one words); two small holes. A neat chancery-style hand, 42 lines. Originally sealed *sur double queue*, part of the fold and slit for seal tag torn, tag and seal impression missing. Endorsed *Libertates concesse per Hen(ricum) r(egem) . III . (s. xiii ex); XVI (s. xiii ex); H III (s. xiii ex); various post-medieval endorsements*.

BL Additional Charter 24712. Good condition. Approx.  $13\frac{3}{4} \times 11\frac{2}{5} + 1\frac{7}{8}$  in.; 352 X 292 + 48 mm, with margins of approx.  $\frac{2}{7}$  [left],  $\frac{1}{5}$  [top] and  $\frac{1}{3}$  in. [right]; 7 [left], 5 [top] and 8 mm [right]. Neat, slightly fussy chancery-style hand, majiscule *H* to *Henricus*, 36 lines, not infilled at the end. Sealed *sur double queue* on pink or brown and white cords through 3 holes, impression of the great seal of Henry III in green wax within a linen seal bag. Endorsed: *carta de foresta (s.xvi); various post-medieval endorsements*. No indication of provenance, either from the charter itself or from its placement within the collection of Additional Charters.

**The "Parva Carta" of 28 January 1237**, of which at least three originals survive. These take the form of a confirmation by Henry III in charter form but without any recital of either Magna Carta or the Forest Charter, of 'the liberties and free customs granted by us ..... either in the great charter (*magna carta*) or in our charter of the Forest'.

London, British Library ms. Cotton Vespasian F xiii fo.17. Good condition. Approx.  $7 \times 4\frac{2}{7} + 1\frac{1}{6}$  in.; 178 X 110 + 30 mm, with narrow margins of  $\frac{1}{9}$  [left],  $\frac{1}{10}$  [top] and  $\frac{1}{10}$  in. [right]; 3 [left], 2 [top] and 2 mm [right], neatly infilled to the right hand margin at the end, 15 lines in all. Neat chancery-style hand, capital *H* for *H(enricus)*. Sealed *sur double queue*, slit for tag, tag and seal impression missing. Endorsed: *confirma(tio) H(enrici) r(egis) general(is) ecclesiasticis et laycis viris tocius Anglie (s.xiii ex); iiiii. (s.xiv); ii.g (s.xiv/xv)*.

London, British Library Additional Charter 19826. Good condition. Approx.  $7\frac{7}{8} \times 8\frac{1}{7} + 2$  in.; 202 X 209 + 50 mm, with margins of  $\frac{3}{5}$  [left],  $1\frac{3}{8}$  [top] and  $\frac{2}{5}$  in. [right]; 15 [left], 35 [top] and 10 mm [right], not infilled in the final line. Rounded, slightly archaic hand, but probably a chancery production, merely capitalized *H* to the initial word *Henricus*, 19 lines of text. Sealed *sur double queue*, single slit through an exceptionally generous fold, tag and seal impression now missing, tag replaced with a modern piece of parchment. Endorsed: *conf(irmatio) reg(is) Henr(ici) iiiii.ti de libertate totius regni et de libertate foreste (s.xiii/xiv); kk (s.xv); various post-medieval endorsements*. Provenance unknown. A hole cut into the top margin, perhaps for filing, remains of a parchment guard apparently from previous binding into a book.

Oxford, Bodleian Library ms. Ch. Gloucs. 10a. Good condition. Approx.  $6\frac{5}{8} \times 6\frac{1}{3} + 1\frac{5}{9}$  in.; 170 X 163 + 40 mm, with margins of  $\frac{1}{3}$  [left], 1 [top] and  $\frac{2}{5}$  in. [right]; 8 [left], 25 [top] and 10 mm [right]. Rounded chancery hand with capital *H* of *Henricus* much as in BL Additional Charter 19826. 20 lines of text, last line not infilled. Sealed *sur double queue*, pink cords through three holes, seal impression (stored separately): the first great seal of Henry III in dark green wax. Endorsed: *confirmatio reg(is) de libertatibus Angl(ie) caps' xiiii.a.* (s.xiii med); *de laicis tenuris* (s.xiii/xiv); *registratur* (s.xiv/xv); various post-medieval endorsements. Stored at St. Peter's Gloucester during the Middle Ages and therefore, presumably, the original intended for broadcast in Gloucestershire. Belonged to the Gloucestershire antiquary Richard Furney (1694-1753).

**The supposed reissue of Magna Carta 1252-3.** In 1253, the archbishop of Canterbury and other bishops solemnly confirmed Magna Carta and the Forest Charter in a public ceremony of excommunication. It has been assumed a document which survives in a peculiar and unexplained state in the British Library, is an original Magna Carta issued by King Henry III, dated 11 February 1252. Printed in *Statutes of the Realm*, it has often been cited as if it were a 1252 or 1253 confirmation of the 1225 Magna Carta, associated with the public excommunication of 1253. In fact, the text it recites is a hybrid, confusing elements of the 1217 Magna Carta with that of 1225, reminiscent in various ways of the hybrid text that came to be accepted by the chroniclers of St. Albans—Roger of Wendover and Matthew Paris—as a result, in part of confusion between the various issues, in part in order that the chroniclers could deliberately manipulate the historical record. Although presented as a original written on a single sheet, the sheet itself already had holes and faults at the time of writing that would have been entirely unacceptable to the royal chancery. The date of the text, 11 February at Westminster, appears to be borrowed from the 1225 charter, although here amended to the 36th rather than the 11th year of the reign (1252 rather than 1225). The witness list which precedes this dating clause (*Hiiis testibus domino B(onofacio) Cant' archiepiscopo, G. London', Iohanne Bathon', R. Witthon', R. Lincoln', R. Saresbur' et aliis episcopis, abbatibus, prior(ibus), comit(ibus), baron(ibus), militibus et ceteris*) is both garbled and irregular, and once again appears to represent a fairly crude and unsuccessful attempt to adapt the witnesses of the 1225 charter to the circumstances of the early 1250s.

London, British Library ms. Cotton Augustus ii.51. Good condition. Approx.  $9\frac{3}{5} \times 18\frac{5}{6}$  in.; 246 X 483 mm, at one time folded in four from top to bottom, now rebacked. Neat business hand, opening with a capital *H* for *Henr(icus)* (itself not a standard chancery abbreviation), 83 lines in all. No indication of sealing. No medieval endorsements. To be compared to the St. Albans' copy of the 1225 charter associated with Matthew Paris' book of *Additamenta* in BL ms. Cotton Nero D i fo.199v, sometimes described as an 'original' 1253 engrossment of the 1225 charter, but in reality a single sheet copy of the 1225 charter neither intended nor suitable for sealing. Cf. also the single sheet copy of the 1225 charter in London, Society of Antiquaries ms.544. For further commentary here, see S. Reynolds, 'Magna Carta 1297 and the Legal Use of Literacy', *Bulletin of the Institute of Historical Research*, lxii (1989), 239-40.

**The Forest Charter of 12 October 1297**, of which there is a single surviving engrossment in the British Library, once stored in the archives of Easebourne Priory in Sussex and thence one of nineteen Easebourne Priory charters donated to the British Library by F. Quekett Zouch on 16 June 1905. Although in the Middle Ages stored in a Sussex monastic archive, apparently the version of the charter that was intended for proclamation within the county of Surrey. Discovered and upgraded from its previous status as a "copy" only in September 2007, during the making of this catalogue. Not printed, either in text or in facsimile, with *Statutes of the Realm* declaring there to be no known original of the 1297 Forest Charter. A key document in understanding the diplomatic, sealing and script of the 1297 Magna Carta, and of the provenance of the particular exemplar of the 1297 Magna Carta now in Canberra.

London, British Library Additional Charter 53712. Good condition. Approx.  $15\frac{3}{5} \times 13 + 1\frac{2}{3}$  in.; 400 X 335 + 43 mm, with margins  $\frac{7}{9}$  [left], 1G [top] and  $\frac{7}{9}$  in. [right]; 20 [left], 35 [top] and 20 mm [right]. Chancery-style hand, undecorated majiscule letter *E* to *Edwardus*. infilled at the end with the name of the chancery official placed after the date, *lern'*, apparently for 'Hugh of Yarmouth'. 49 lines. Sealed *sur double queue* on pink and green cords through four holes, fragment of a double-sided seal impression in natural wax, the same small seal of Edward I described in detail as attached to the 1297 Magna Carta. Contemporary address and chancery marking on the outside of the fold, to the left and right of the cords: *Surr' .... Exam(inatur)*. Endorsed: *carte foreste* (s.xv); *relating to Eastborne Priory* (s.xviii); various post-medieval endorsements.

Apparently the copy of the Forest Charter directed to the county of Surrey, and thus the twin of the Surrey Magna Carta of 1297 now in Canberra.

**The reissue of Magna Carta of 28 March 1300**, of which there are at least six surviving engrossments, the last of them perhaps best regarded as a contemporary exemplification rather than as a production of the royal chancery. A further engrossment recorded by *Statutes of the Realm* in the possession of the Borough of Appleby in Westmoreland probably represents confusion with some other record, perhaps with an inferior late copy of Magna Carta reported still to be in the borough's archive.

London, Metropolitan Archives, Corporation of London charter 23Z. Good condition. Approx.  $16\frac{1}{4} \times 17\frac{2}{3} + 1\frac{1}{2}$  in.; 417 X 453 + 39 mm, with margins of approx.  $\frac{5}{7}$  [left],  $\frac{7}{9}$  [top] and  $\frac{5}{7}$  in. [left]; 18 [left], 20 [top] and 18 mm [left]. Neat chancery-style hand, the initial *E* of *Edwardus* decorated and extending down three lines, in all 70 lines. Sealed *sur double queue*, single slit, tag and seal impression missing. Endorsed: *magna carta r(egis) E(dwardi) fil(iii) reg(is) H(enrici) de libertatibus Angl(ie)* (s.xiv in); various post-medieval endorsements including stamps from the charter's time in the Public Record Office. On the face, in the left hand margin, a hand pointing to the clause on the liberties of the city of London. On the fold, to the left of the slit: *magna carta de libertatibus Angl(ie) pro civitate London'* (s.xiv in). Recorded in the possession of the Corporation of London in 1810, but by 1869 reported missing. Rediscovered in 1958 in the Public Record Office where it had perhaps been brought by Thomas Duffus Hardy at the time of his cataloguing of the London city charters and where it had acquired the Public Record Office class number E40/15200. Returned to the Mayor of London by the Master of the Rolls at a banquet held on St. George's day (23 April 1958) at the same time that the health of the Lord Mayor was proposed, cf. correspondence concerning the events of 1958 in London, Public Record Office LCO2/7899.

Durham, University Library Special Collections Durham Cathedral Muniments 2.2.Reg.2. In near perfect condition. Approx.  $19\frac{1}{2} \times 22\frac{3}{4} + 1\frac{1}{2}$  in.; 499 X 583 + 39 mm, with margins of approx.  $2\frac{1}{9}$  [left], 2 [top] and 2 in. [right]; 54 [left], 49 [top] and 51 mm [right]. The *E* of *Edwardus* decorated and extending down seven lines, with restrained majiscule lettering in the first line, not infilled in the final line, the final sentence ending in the left-hand third of the document. A small hole close to the extreme right-hand edge of the document, but with no loss of lettering. A neat chancery-style hand, 79 lines. Sealed *sur double queue* on a parchment tag (approx.  $\frac{2}{3}$  in.; 17 mm wide) through a single slit (26 mm. wide), impression of the Great Seal of Edward I in natural wax, damaged in the top left-hand corner. In the left hand margin *No(ta) confir'* (a Durham marginal entry c.1415). On the fold: *per dominum I(ohannem) canc(ellarium) do(mi)ni reg(is)* (c.1300, contemporary chancery warrant). Endorsed: *Confirmacio magne carte Henrici tercii facta per Edwardum primum filium eiusdem regis* (s. xiv in); *Magna Carta. Edward(o) nobil(i) t(ri)plicat(ur), de libertatibus concess(is) archiepiscopis episcopis comitibus et baronibus abbatibus et prioribus ab Edwardo rege stabili filio regis Henrici tercii ....* (s. xv in); *2u. 2e. Reg(alium)* (s. xv in); *Tertia prime regalium* (s. xv); various post-medieval endorsements.

Oxford, Oriel College Muniments D.R. 16C8. Good condition, despite rodent damage to the left and right sides, along earlier folds. Approx.  $16\frac{3}{5} \times 16\frac{7}{9} + 1\frac{2}{3}$  in.; 426 X 430 + 42 mm, with margins  $1\frac{1}{4}$  [left],  $1\frac{5}{9}$  [top] and 1 in. [right]; 32 [top], 40 [top] and 26 mm [top]. A clear chancery-style hand, with a capital *E* to *Edwardus* extending down four lines with neat pen and ink geometric decoration, 68 lines in all, neatly infilled to the right margin at the end. Sealed *sur double queue* on pink and green cords through three holes, almost perfect impression of the Great Seal of Edward I in natural wax ( $4\frac{1}{2}$  in.; 115 mm in diameter) protected in a tin seal box. Endorsed: *de libertatibus ecclesie Anglicane* (s.xiv in); *C8.8* (s.xvii/xviii). No certain evidence of provenance, but probably from the archives of Great St. Mary's, the University church in Oxford, of which Oriel College has been patron since the college's foundation.

Faversham, Faversham Borough Archives. Good condition, save for some damp damage to the left hand side of the document. Approx.  $23 \times 17\frac{1}{3} + 1\frac{1}{4}$  in.; 591 X 444 + 32 mm, with margins of approx.  $1\frac{1}{3}$  [left],  $\frac{1}{2}$  [top] and  $1\frac{2}{5}$  in. [right] 34 [left], 12 [top] and 36 mm [right]. Neat chancery-style hand, the capital *E* of *Edwardus* fairly elaborately decorated and extending down three lines, restrained majiscule lettering in the opening line, final line infilled with decorative marking, 58 lines in all. Four patches of severe damp damage on the left-hand side of the charter, resulting in the loss of several words; other traces of minor damp dam-



age. Sealed *sur double queue*, parchment tag (a modern replacement,  $\frac{1}{2}$  in.; 19 mm wide) through a single slit with fragment of medieval parchment tag ( $\frac{1}{2}$  in.; 13 mm wide), impression of the Great Seal of King Edward I in natural wax stored separately. On the front of the fold to the left of the sealing, *pro baronibus port(us) de Fauresh(a)m'* and on the right-hand side *Examinat(ur) per mag(ist)r(u)m Edmundum de London'* (both apparently contemporary with the charter itself, s.xiv in). Dorse inaccessible.

Westminster Abbey Muniments LX. Good condition, save for the trimming away of and repair to the foot. Approx.  $18\frac{2}{5}$  X  $19\frac{1}{5}$  in.; 472 X 492 mm, originally  $18\frac{2}{5}$  X  $18 + \frac{1}{8}$  in.; 472 X 463 + 29 mm, the fold now trimmed away, with margins of approx. 1 [left],  $\frac{1}{3}$  [top],  $\frac{7}{9}$  [right] and  $\frac{1}{8}$  in. [foot]; 25 [left], 34 [top], 20 [right] and 29 mm [foot]. Neat chancery-style hand, the capital *E* of *Edwardus* decorated extending down three lines, infilled to the right margin at the end, 63 lines in all. Six holes of varying size in the far left-hand section of the charter, obliterating letters and in one case a fairly substantial portion of the text, apparently rodent damage, now repaired and rebaked. Originally sealed *sur double queue* on a parchment tag through a single slit, tag and seal impression missing, and fold trimmed away. Illegible endorsement.

Oxford, Bodleian Library Ch. Oseney 143\*b. Good condition, but of uncertain status, having attracted no previous notice. Best regarded as a contemporary exemplification rather than as a product of the royal chancery. Approx.  $21\frac{3}{8}$  X  $13 + \frac{14}{9}$  in.; 548 X 335 + 37 mm, with margins of  $\frac{1}{16}$  [left],  $\frac{8}{9}$  [top] and  $\frac{1}{6}$  in. [right]; 30 [left], 23 [top] and 30 mm [right]. Simple capital letter *E* to *Edwardus*, extending down two lines of text. Peculiar, spidery business hand, 50 lines in all. Blatant corrections and insertions at over a dozen points in the text, the first in line four where *omnia sua iua* has been corrected to *omnia sua iura*. Sealed *sur double queue*, narrow parchment tag ( $\frac{3}{5}$  in.; 15 mm) through 3 slits, seal tag clearly too narrow to carry the great seal of Edward I. Sealed instead with a seal impression, stored separately, oval, single-sided, dark green wax, a mitred figure standing in full pontificals with a book held across his chest in his left hand and a crozier in his right hand, beneath a decorated arch or doorway, legend (barely legible, due to warping of the wax on the left hand side): S'FR'IS IOH'IS DI GRA.....BATIS OSEN....., apparently the seal of abbot John (de Bibury) of Oseney (1297-1317), suggesting that the whole is an Oseney Abbey production rather than a product of the royal chancery, issued in exemplification of the 1300 Magna Carta at some time, perhaps shortly after 28 March 1300. Endorsed: *confirmat(io) reg(is) E(dwardi) primi super magnam cartam de libert(atibus) foreste 2i* (s.xiv ex); *v.v.* (s.xvi); *64* (s.xvii).

**The Forest Charter of 28 March 1300**, of which there are two surviving engrossments in Durham and London. A further engrossment, reported by *Statutes of the Realm* to be at Oxford, Oriel College, can no longer be located and, in all probability, represents a confusion on the part of the editors of *Statutes* with the Oriel College original of the 1300 Magna Carta.

Durham, University Library Special Collections Durham Cathedral Muniments 2.2.Reg.8. In near perfect condition. Approx.  $12\frac{7}{8}$  X  $17\frac{5}{9} + \frac{14}{9}$  in.; 330 X 450 + 37 mm, with margins of approx.  $\frac{5}{6}$  [right],  $\frac{14}{9}$  [top] and  $\frac{5}{9}$  in. [right]; 21 [right], 37 [top] and 14 mm [right]. The *E* of *Edwardus* decorated extending down five lines, with restrained majuscule lettering in the first line, not infilled in the final line. A neat chancery-style hand, 62 lines. Sealed *sur double queue* on a thin parchment tag (1 in.; 24 mm) through a single slit, impression of the Great Seal of Edward I in natural wax. On the fold: *per dominum I(ohannem) canc(ellarium) do(mi)ni reg(is)* (c.1300, contemporary chancery warrant)

London, British Library Harley Charter 43.D.6. In near perfect condition. Approx.  $14\frac{1}{8}$  X  $13\frac{1}{3} + \frac{12}{3}$ ; 362 X 342 + 43 mm, with margins of approx.  $\frac{1}{16}$  [left],  $\frac{7}{9}$  [top] and  $\frac{7}{9}$  in. [right]; 30 [left], 20 [top] and 20 mm [right]. Capital *E* of *Edwardus* extending down five lines of text with pen and ink geometric decoration, Written in a neat chancery-style hand, 58 lines. Sealed *sur double queue*, green and white cords through 3 holes, impression of the great seal in dark green wax, damaged and repaired. Endorsed: *de foresta* (s.xiv); various post-medieval endorsements. No indication of provenance. Sewn into the fold is a schedule written on a single sheet of parchment in the same or a very similar chancery-style hand to the body of the text, a copy of letters patent of Edward I, 27 May 1306, described as a statute on the forests.

This list exhausts the "original" evidences for the first century of Magna Carta, or at least those evidences which have thus far been brought to light. As will be apparent virtually all, even of these subsidiary originals,

are held in major public collections. There are also various secondary texts or copies, again all in public collections, that have been used by historians to throw further light upon the charter's genesis and development. For example, in the 1960s, Christopher Cheney discovered a list in the Archbishop of Canterbury's manuscripts in Lambeth Palace, naming the twenty-five barons whose appointment as conservators of Magna Carta formed so crucial and controversial an element of the 1215 charter. Amongst the legal manuscripts of the Harvard Law Library, Vivian Galbraith unearthed a text of Magna Carta which, he suggested, derived from an earlier stage of negotiations than the eventual originals of the charter, in which the reliefs payable by earls and barons, in accordance with the Articles of the Barons, but not with the eventual charter of 1215, were set at distinct levels of £100 and 100 marks. An exemplification of the 1215 charter under the seal of the archbishop of Canterbury and other bishops was delivered to the royal Treasury and was thence, in the reign of Edward II, copied into the Red Book of the Exchequer (London, Public Record Office E164/2 fos.234r-236v). Had the original of these "letters testimonial" survived it would deserve to rank as perhaps the closest that we might claim to come to an 'original text' of the 1215 Magna Carta. Demonstrating that the charter, for full effect, would have had to be promulgated not just in Latin but in the French and English vernacular languages spoken by the majority of the King's subjects, Sir James Holt drew attention to the survival of a French translation of the 1215 Magna Carta, preserved in the cartulary of the hospital of St-Gilles at Pont-Audemer (Rouen, Bibliothèque Municipale ms.1232), which was in all likelihood drafted on the basis of the version of the 1215 charter sent into the county of Hampshire. Another version of the charter closely associated with France, this time of the 1225 charter, was preserved in various manuscripts stored in the French royal chancery from the second half of the thirteenth century, where it was attributed to King Henry II (1154-1189) rather than to Henry III (1216-1272), being anachronistically redrafted as a charter of liberties granted not to England and the English but to Normandy and the Normans, the intention here being, apparently, to persuade the kings of France that the Normans, before 1204 subjects of the Plantagenet kings, had received liberties and immunities from their former sovereigns which it was the obligation of successive French kings to uphold. What these texts chiefly reveal is that the history of Magna Carta has continued to evolve over the past century; that numerous discoveries remain to be made, and that every single piece of evidence, save for the charter now offered for sale, resides securely in a public collection from which it is unlikely ever to be dislodged.

Principal sources: Beyond the manuscripts themselves, the key articles on the 1215 charters remain those by J.C. Fox, 'The Originals of the Great Charter', *English Historical Review*, xxxix (1924), 321-36, and A.J. Collins, 'The Documents of the Great Charter', *Proceedings of the British Academy*, xxxiv (1948), 233-79. For the history of the charter in general, as for various of the individual documents cited here, see J.C. Holt, *Magna Carta*, 2nd ed. (Cambridge 1992); J.C. Holt, *Magna Carta and Medieval Government* (London 1985); R.V. Turner, *Magna Carta* (Harlow 2003). Texts of various of the key documents are generally cited from the editions in *Statutes of the Realm* and by C. Bémont, *Chartes de libertés anglaises* (Paris 1892). See also, C.R. Cheney, 'The Twenty Five Barons of Magna Carta', *Bulletin of the John Rylands Library*, I (1968), 280-307; J.C. Holt, 'The St. Albans Chroniclers and Magna Carta', *Transactions of the Royal Historical Society*, 5th series xiv (1964), 67-88; V.H. Galbraith, 'A Draft of Magna Carta (1215)', *Proceedings of the British Academy*, liii (1967), 345-60; J.C. Holt, 'A Vernacular-French Text of Magna Carta 1215', *English Historical Review*, lxxxix (1974), 346-64.

# PART III

## MAGNA CARTA AND MODERN HISTORY

### MAGNA CARTA AND AMERICA

Magna Carta was a charter written by Englishmen, but the logical development of its ideas and their implementation has been left to Americans. Many of the legal injustices highlighted in the American Declaration of Independence echo specific provisions of Magna Carta, and the signers of that Declaration saw themselves as the barons of Runnymede. Magna Carta also served as the keystone of the Constitution and Bill of Rights. But almost two centuries before the Continental Congress declared the United States independent from Great Britain, Magna Carta was already sewing the seeds of personal and political liberty in England's North American colonies.

Created by the pragmatic exigencies of feudal economy, the charter signed at Runnymede, 1215, ceded certain rights and privileges to the baronial opponents of King John, in return for their oath of allegiance. But the influence and interpretation of Magna Carta swiftly and fundamentally evolved through its thirteenth-century iterations into the framework for English freedom and American liberty. As the chief constitutional defense against arbitrary and capricious rule, the Great Charter gave birth to such concepts as "a government of laws, not of men"; "judgment by a jury of one's peers"; "the punishment must fit the crime"; "no property may be confiscated by government without just compensation"; and "due process of law." Rudyard Kipling's poem "The Reeds of Runnymede" declares that the rights of all—not just of barons—"were won at Runnymede": and nowhere in the British Empire was the concept of the universal applicability of Magna Carta more espoused than in America.

When the English colonies in the New World were beginning to be settled in the first half of the Seventeenth Century, England was simultaneously engaged in a constitutional struggle between Parliament and the Stuart Kings James I (1603-25) and Charles I (1625-49). The disputed issues included royal taxation without the consent of Parliament, arbitrary detentions, the quartering of troops in private homes, and the imposition of martial law—many of the same grievances cited by the Declaration of Independence in 1776. Arguing for an end to these abuses, members of Parliament countered the Stuarts' assertion of the Divine Right of Kings by invoking the protections of Magna Carta. The most influential of these men was Sir Edward Coke (1552-1634).

Coke was Attorney General for Elizabeth I, Chief Justice of the Common Pleas under James I, and a leader in Parliament in opposition to Charles I, so widely known for his fiery eloquence that Charles ordered his papers seized after his death "for he is held too great an oracle among the people, and they may be misled by anything that carries such an authority as all things do which he either speaks or writes."

Coke also played a major role in the drafting of the first Charter of the Virginia Company (1606), which made the extraordinary provision of granting that "all and every the Persons being our Subjects, which shall dwell and inhabit within every or any of the said several Colonies and Plantations, and every of their children, which shall happen to be born within any of the Limits and Precincts of the said several Colonies and Plantations, shall have and enjoy all Liberties, Franchises, and Immunities, within any of our other Dominions, to all Intents and Purposes, as if they had been abiding and born, within this our Realm of England."

This guarantee that colonists had the same rights as citizens of the mother country was unprecedented, and certainly not extended to the residents of French and Spanish colonies in the New World. The assurance of these rights is reiterated in later colonial charters, including those of Massachusetts (1629), Maryland (1632), Connecticut (1662), Rhode Island (1663), Carolina (1663), and Georgia (1732).

The colonists were acutely aware of these rights and of their origin. John Winthrop (1588–1649), first governor of Massachusetts Bay Colony, observed that the objective of *The Body of Liberties*, adopted by Massachusetts in 1641, was to frame limitations on magistrates “in remarkable resemblance to Magna Charta, which ... should be received for fundamental laws.” The General Assembly of Maryland in 1639 declared that “the Inhabitants of this Province shall have all their rights and liberties according to the Great Charter of England.”

In Edward Coke the English colonists also found their great interpreter of Magna Carta. Coke was among the first to find the guarantees of the “rights of Englishmen” penumbrating from Magna Carta. Coke’s *Institutes of the Lawes of England* (1628), the second volume of which (suppressed until 1641) provides a complete commentary on Magna Carta, was widely studied by American law students (and future presidents) such as John Adams, Thomas Jefferson and James Madison. In 1826 Jefferson wrote to Madison concerning Coke: “a sounder Whig never wrote, nor of profounder learning in the orthodox doctrines of the British constitution, or in what were called English liberties.” Coke’s *Institutes* remained the standard work on English law until the publication, 1765–1769, of William Blackstone’s *Commentaries on the Laws of England*. Blackstone’s work was reprinted in Philadelphia just two years after its completion and became the basis for modern Anglo-American law. Like Coke’s earlier work, Blackstone’s *Commentaries* can largely be read as an explication of Magna Carta, which it termed the “stable bulwark of our liberties.”

Magna Carta had been published in Philadelphia almost a century earlier, as part of William Penn’s *Excellent Priviledge of Liberty & Property being the Birth-Right of the Free-born Subjects of England* (1687), which also included a commentary on Magna Carta, Edward I’s confirmation of the Charter, an abstract of the patent for the province of Pennsylvania given by Charles II to Penn, and Pennsylvania’s Charter of Liberties, which Penn had modeled on Magna Carta. (Fortunately, perhaps, Magna Carta did not address intellectual property issues, since the commentary on the Great Charter in Penn’s *Excellent Priviledge* was plagiarized from Henry Care’s *English Liberties*, 1682).

Penn had successfully invoked Magna Carta during his 1670 trial at Old Bailey for “tumultuous assembly,” and assisted thereby to secure the right of trial by jury to the freedoms enjoyed by Englishmen. He took with him to Pennsylvania a manuscript replica of one of the Magna Cartas from the Cottonian Library, and, more significantly, used *The Excellent Priviledge of Liberty & Property* to acquaint the many colonists “who may not have leisure ... to read large Volumns” with “what is their native Right and Inheritance.” In the preface to *The Excellent Priviledge*, Penn expressed the hope that familiarity with Magna Carta would “raise up Noble Resolutions in all the Freeholders in these new Colonies, not to give away any thing of *Liberty and Property* that at present they do, (or of right as Loyal English Subjects, ought to) enjoy, but take up the good Example of our Ancestors, and understand, that it is easie to part with or give away great Priviledges, but hard to be gained, if once lost.”

Because the English colonies in North America were settled in a period of constitutional definition, long past the feudal environment which gave rise to Magna Carta, and because they lay across the Atlantic Ocean, they were unencumbered by oppressions associated with the traditions of the mother country, including a class system dominated by a hereditary aristocracy. The colonists’ concept of a constitution as a supreme law was quite different from the English concept of a constitution as a list of rights granted by a King. The colonists saw a constitution as creating government, limiting it, unalterable by it and paramount to it, while the English viewed a constitution as detailing the organization of society: how a sovereign is chosen and what the sovereign’s powers are.

Personal liberties for American colonists also expanded beyond those of domestic Englishmen. While the great constitutional documents of England limited the Crown, they did not restrict the Parliament. As James Madison put it in his speech before the First Federal Congress (1787), “[In Britain] ... they have gone no farther than to raise a barrier against the power of the Crown; the power of the Legislature is left altogether indefinite.” The system of “checks and balances” among the three branches of American government were much more protective of personal liberties.

But the political path to the United States Constitution was not an easy one, even though it closely followed a trail blazed by Magna Carta. After the Seven Years' War, Great Britain sought to rebuild her treasury through taxation and other commercial exploitation of her North American lands, and colonists from Boston to Charlestown rose to demand the same rights as British citizens resident in Great Britain. When these rights continued to be denied, the principles of Magna Carta were cited in justification of the American rebellion by John Adams, Benjamin Franklin, Alexander Hamilton, Thomas Jefferson, Thomas Paine, and scores of other patriots both celebrated and unknown — including several who, like John Dickinson, had been trained in English law at the Inns of Court.

In 1761, Magna Carta was already more than five hundred years old, but it remained the touchstone for most legal issues. Magna Carta was born as a revolutionary document, and while over the centuries it had taken on the safe sheen of well-established tradition, the Charter retained its capacity to inspire and buttress radical thought. In *Hurtado v. California*, 110 U.S. 516, 535 (1884), the Supreme Court cited the “flexibility and capacity for growth and adaptation” of Magna Carta as one of its principal strengths. So it was that James Otis seized on Magna Carta when he was hired by a group of Massachusetts merchants to oppose the renewal of Writs of Assistance.

Writs of assistance allowed agents of the crown to enter private premises and search and seize private properties without having a specific warrant. Colonists viewed this as one of the first arbitrary and unconstitutional measures that Great Britain inflicted upon her North American Citizens, and, like the Stamp Act and Intolerable Acts, it incited the colonial resentment and opposition that eventually grew into revolution.

Such writs were first issued in Massachusetts in 1751, but they seem not to have caused much controversy until they needed to be renewed a decade later when George III ascended to the throne (the writs were limited in time only by the life of the sovereign who issued them). In 1761, James Otis was engaged to oppose the renewal of the writs. Otis argued, unsuccessfully, that the writs violated Magna Carta and therefore had no standing in either constitutional or natural law. The writs of assistance, he maintained, undercut “one of the most essential branches of English liberty”: the assumption that “a man’s home is his castle.” John Adams later wrote of Otis's speech “then and there the child Independence was born.”

In a 1765 speech opposing the infamous Stamp Act, Adams himself proclaimed that “A Parliament of Great Britain can have no more right to tax the colonies than a Parliament of Paris. ... The law, the King’s writs, cannot be withheld from his subjects. Magna Carta says, We deny no man justice, we delay no man justice.” Benjamin Franklin had made much the same point the previous year when he addressed the House of Commons: “[I]t appears to us as great Injustice to divest the People of this Province of the Privileges held under the former, as to disenfranchise the People of England of those Rights they claim under Magna Charta itself, or any other Law in Great-Britain.”

The Declaration of Independence — predicated on the principle that governments derive “their just powers from the consent of the governed” — largely comprises a list of accepted articles of Magna Carta that had been violated by George III, including “imposing Taxes on us without our Consent”; “depriving us in many cases, of the benefit of Trial by Jury”; “quartering large bodies of armed troops among us”; and “taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments.” And the Declaration, like Magna Carta, was issued as a public pronouncement. Magna Carta was written out by various scribes and sent to all the English shire courts, where it was read and proclaimed. Similarly, after the Congress adopted the Declaration of Independence, the legislators ordered that it immediately be printed and “That copies of the declaration be sent to the several Assemblies, Conventions & Committees or Councils of Safety and to the several Commanding Officers of the Continental troops, that it be proclaimed in each of the United States & at the head of the army.”

Thomas Jefferson (who must have had Magna Carta in mind as he drafted the Declaration of Independence) and Alexander Hamilton both cited Magna Carta in support of the United States Constitution. Indeed, under the communal pen-name “Publius,” Hamilton specifically referred to Magna Carta in number 84 of “The Federalist Papers.”

Seven decades later, an obscure Senate candidate declared in a speech at Carlinville, Illinois, that the institution of slavery was condemned by “the magna charta of human liberty”— the Declaration of Independence. Statements like these soon transformed Abraham Lincoln from a local politician into a figure of national importance and — ultimately — into the savior of the United States.

In the twentieth century, no one has expressed the enduring vitality of Magna Carta and its role in American constitutional law more clearly than Winston Churchill during his celebrated joint appearance with President Harry S. Truman at Westminster College, Fulton, Missouri, in March 1946. “We must never cease to proclaim in fearless tones the great principles of freedom and the rights of man which are the joint inheritance of the English-speaking world and which through Magna Carta, the Bill of Rights, the Habeas Corpus, trial by jury, and the English common law find their most famous expression in the American Declaration of Independence.”

The three stories that follow have not previously been told, and are reconstructed here for the first time using recently-released British government records.

## **HOW MAGNA CARTA CAME TO AMERICA BUT DID NOT STAY 1939-1947**

In 1939, bowing to representations from the British government’s Department of Overseas Trade and ultimately to a personal request from the British Foreign Secretary, the Dean and Chapter of Lincoln agreed that their original of the 1215 Magna Carta, since the time of its first issue stored in the Lincoln Cathedral archives, should be allowed to travel out of England for public display at that year’s New York World’s Fair: clearly in the hope that so remarkable an object, exhibited in the USA, might foster closer Anglo-American co-operation. As it transpired, the Lincoln charter arrived in America just as the European political crisis reached its inevitable climax. Hitler’s threatened invasion of Poland, the Nazi-Soviet pact, and the fact that no official alliance existed by which Britain and France could call upon American assistance in the event of an outbreak of war, raised Anglo-American relations to the very top of the agenda for many officials within the British Foreign Office. It was on the eve of this crisis, in June 1939, that a letter was received at 10 Downing Street, addressed to the British Prime Minister, Neville Chamberlain, by the prominent Conservative politician and former government minister for the Colonies, Leo Amery. Amery had himself received a letter from an American citizen, J.W. Hamilton, Secretary to the International Magna Carta Day Association, whose patrons included yet another prominent British Conservative politician: the former Prime Minister, Stanley Baldwin. What Hamilton proposed, and what Amery now supported was that the Lincoln Magna Carta be permanently gifted by Great Britain to the United States of America, where, so Hamilton suggested, “It might do more finally to obliterate all recollection of previous disagreements by reasserting the common origin of our liberties than anything that could be imagined”. To offset any loss to the Dean and Chapter of Lincoln, it was suggested that the British Government pay sufficient financial compensation to enable the Dean and Chapter to shore up the fabric of their Cathedral, considered to be in imminent danger of collapse. Chamberlain’s response, sent at the end of July 1939 and effectively dictated by officials at the British Foreign Office, was that “Such a gift would merely be represented in malevolent quarters as a clumsy bribe to gain American goodwill”. The charter was too rare an object simply to be given away, and of the small number of originals, one at least had been burned during the Great Fire of London (clearly a case of confusion here between the Great Fire of 1665 and the Cotton Library fire of 1731). Amery was asked to advise Hamilton and his supporters that to release any of the original Magna Cartas from British custody “would give rise to insuperable opposition”. So the matter was dropped, at least for the time being.

By the time that the World’s Fair closed, in the autumn of 1939, Britain and Germany were at war. Rather than risk Magna Carta to the high seas now patrolled by German U-boats, the charter was deposited for safe-keeping in the Library of Congress, the occasion being marked by a suitably patriotic speech by the British Ambassador, Lord Lothian, who reminded his listeners that

"Inscribed on the musty parchment before us, we see the nucleus of most of our liberties, of trial by jury, of habeas corpus, of the principles of [no] taxation without representation, of the Bill of Rights and of the whole constitution of modern democracy ..... The principles which underlay Magna Carta are the ultimate foundations of your [American] liberties no less than ours. Samuel Adams appealed to the 'rights of Magna Carta to which the colonists, as free citizens, have undoubted claim'. It was in their name that your ancestors threw the tea into Boston harbor and rejected the claim of King George III to tax the colonies for defense. It was in their name that, after bitter sacrifices and frustration, they drew up that constitution which Mr Gladstone, one of the greatest champions of human freedom, described as 'the most wonderful work ever struck off at a given time by the brain and purpose of man'."

The press coverage of this event, and of Lord Lothian's speech, was for the most part enthusiastically pro-British. The *Chicago Daily News*, for example, reported on 1 December 1939 that

"Deposit of one of the four remaining originals of Magna Carta in the Library of Congress is somewhat like a visit of a venerable grandparent to the home of grandchildren. The forty-eight bills of rights in our States' constitutions, and the first ten amendments of the United States Constitution, are direct descendants of this medieval parchment"

The *Augusta Chronicle*, on the same day, suggested that "It is of deep significance that it should fall to the lot of the United States Government to protect this symbol of the rights, liberties and privileges of our Anglo-Saxon friends abroad, because with democracy under fire throughout the world, the United States stands as a bulwark of the democratic way of life and a strong defender of the right of freemen to enjoy the privileges set down in our Constitution and the Magna Carta"

Not everyone was so enthusiastic. Among the advocates of American isolation, General Hugh Johnson, whose vividly expressed opinions were syndicated across North America, was prepared to accept the dependence of the United States Constitution upon a legal tradition reaching back to Magna Carta, but remained deeply suspicious of British motives. "Would it seem to be too much like mooching," General Johnson wrote, "to suggest that, instead of just letting us hold this one, they give it to us outright?"

In April 1940, the charter itself once again made the journey between Washington and New York, to be displayed in the British Pavilion of the 1940 New York World's Fair. It was while the charter was thus displayed in New York that Britain itself was confronted by the sudden escalation of hostilities in Europe. In May 1940, Germany invaded Belgium, Holland and France. Within a matter of a few weeks the British army, or what remained of it, had been evacuated from the beaches of Dunkirk, and France itself had capitulated in the face of overwhelming German military superiority. It was at this unprecedented moment of crisis, amidst the darkest of threats not merely to Britain but to the entire future of democracy, that J.W. Hamilton once again wrote to England, this time to King George VI, suggesting that 15 June be celebrated each year throughout the English-speaking world as Magna Carta Day, and that the Lincoln Magna Carta, still on exhibition in New York, be presented to the people of the United States once the World's Fair ended later that year.

This proposal met with a response only slightly less lukewarm than Hamilton's earlier proposal of 1939. On 10 October 1940, John Colville, private secretary to the Prime Minister, wrote to the Foreign Office backing the idea of a gift of Magna Carta to the American people, and reporting that it had already excited the personal interest of Mrs Churchill. Once again, however, the Foreign Office demonstrated its mastery of the art of prevarication. The charter itself was due to return in December to safekeeping in the Library of Congress, but proposals were afoot in the United States for a coast-to-coast touring exhibition, taking in ten leading universities, with the city of Cleveland offering to meet the additional insurance premium that would be required for a hazardous journey. Canada also expressed an interest in playing host to such a tour. On 17 December, a reluctant approach was made from the Foreign Office to the Dean of Lincoln, but with the openly expressed hope that the Dean and Chapter would refuse permission for such a nationwide tour. This is precisely what happened, with the Dean, R.A. Mitchell, writing on 3 January 1941 that no permission would be granted for the charter to tour America unless he could be assured that the tour was "a matter of urgent national importance"

Still, however, the idea that the charter might serve as a gift to the American people refused to die. On 13 March 1941, in the immediate aftermath of the Lend-Lease Act intended to bring American aid to the British war effort, a private American citizen, T. North Whitehead, once again raised the idea of such a gift, suggesting that the Dean and Chapter of Lincoln be compensated for the loss of their charter by the grant either of £100,000 in war bonds and one of the British Museum originals of the 1215 Magna Carta, or of £250,000 in war bonds in full settlement of all claims, the gift to be announced by the King or Prime Minister, Winston Churchill, in a broadcast address to the American people. Now, for the first time, the British Foreign Office itself began to change tack from cautious disapproval to grudging support, officials there noting in particular that Mr Churchill himself had referred to Magna Carta in his statement on the passage of the Lend-Lease Bill in March and that, at this crucial stage in the war, anything likely to enhance Anglo-American friendship was heartily to be welcomed. Propelled by the active support of both Duff Cooper, Minister of Information, and Rab Butler, junior minister in the Foreign Office, the idea was rapidly passed up the chain from departmental level to Downing Street and the British War Cabinet. As Sir Alexander Cadogan, Permanent Undersecretary at the Foreign Office, minuted in a form of words subsequently adopted as the official Foreign Office *communiqué* to the Prime Minister's office on 18 March 1941:

"I have always wanted to do this. I should like to say to the Americans, 'You are giving us aid on a scale which makes it almost impossible for us materially to repay. Any material repayment we could offer can only look insignificant. We shall owe you a debt which can never be discharged. May we give you – at least as a token of our feeling – something of no intrinsic value whatsoever: a bit of parchment, more than 700 years old, rather the worse for wear. You know what it means to us. We believe it means as much to you. Will you accept it as a symbol and a seal of our compact to fight to the last against the forces of evil?'"

The War Cabinet discussed the affair, but opinion was now divided: some members of Cabinet being in favour, others being concerned as to how such a presentation might be viewed by the British Dominions. If an original Magna Carta were to be given to the United States, might not Australia, Canada, New Zealand and South Africa all expect similar gifts to be made to them? The transfer to Lincoln Cathedral of one of the British Museum Magna Cartas would necessitate an act of Parliament. Some, including Leo Amery in a letter to Churchill of 18 March 1941, now demanded not only that the gift of Magna Carta to America be made but that it be made as soon as possible, suggesting 15 June 1941, Magna Carta Day, as a suitable date and urging that preliminary discussions be held to ensure that President Roosevelt have a speech of welcome for the charter already prepared. Churchill himself has marked in red ink here, in a memorandum dated 21 March 1941, "I prefer this, as it gives more time." At this point, however, cold reality began to dawn upon the proponents of the scheme.

So far, Cadogan, Butler and their supporters had built many a castle in the air, with their discussions of war bonds, and of Magna Cartas moving from the British Museum to Lincoln and from Lincoln to the United States. No-one, however, had bothered overmuch with the harsh reality that the Lincoln Magna Carta was not the British government's property to give away. In particular, no approach whatsoever had been made to the Dean and Chapter of Lincoln to establish how they might view such a gift. Bearing in mind the Dean of Lincoln's refusal even to countenance the much less radical proposal of a touring exhibition of the charter, it must surely have been apparent that the Dean and Chapter would most likely view any proposal to give their charter to America not with approval but with outrage and dismay.

The extraordinarily close association of the Lincoln copy with Lincoln Cathedral, where it had always been stored apparently since the time of its first issue in 1215, and the fact that the British Museum only possessed two originals of the 1215 charter, one of which was burned and entirely illegible, the other of which was legible but without a seal, were facts likely to pose yet further problems. The Dean and Chapter would be unlikely to accept a gift of the burned and illegible 1215 charter, but giving them the unburned copy would be to leave no legible original of the 1215 charter still in a national public collection. Despite suggestions that the Dean and Chapter of Lincoln, or if that failed the Dean and Chapter of Salisbury be effectively bullied into giving away their 1215 Magna Cartas for the greater public good and as if of their own free will, by the second week in April 1941, Churchill had decided to back off. "Better leave it alone," he minuted to Butler. By



November 1941, although the idea of giving Magna Carta to the United States had by no means been dropped, the prevailing view had become that such a gift were better left until the war itself was over. The entry of the United States into the war in December 1941, in the aftermath of the attacks on Pearl Harbour, merely confirmed this assessment.

After a period when, together with American national treasures, the Lincoln charter was sent from Washington to Fort Knox for safekeeping, the saga of how to give Magna Carta to the United States resumed in January 1945, by which time the librarian of Congress, had begun to wonder whether the loan of the Lincoln Magna Carta to the Library of Congress might be continued after the war, perhaps by the replacement of the Lincoln charter with one of the other originals still in the UK, perhaps on an indefinite basis. The return of the Lincoln charter to England was still being discussed a year later, by which time the Library of Congress was proclaiming that 15 million Americans had taken the opportunity to view it. Lord Halifax, British ambassador to Washington, proposed to return the charter to England in the charge of the captain of the "Queen Elizabeth" sailing from New York on 18 January 1946. Doubts as to whether the captain would be prepared to accept so heavy a responsibility were allayed only when the Foreign Office sent an official request to the captain for his assistance. The charter came back to England not by diplomatic bag but in the same bronze and armour-plated case, weighing 60 lbs, in which it had previously been displayed in Congress, now presented as a token of thanks to the Dean and Chapter of Lincoln. Far from Lincoln losing its charter to America, America thus lost its showcase to Lincoln. The ship docked at Southampton on 23 January, and by the following day the British press was reporting Magna Carta's imminent return to Lincoln. There is, nonetheless, a rather sad postscript to report.

On 5 April 1946 a special service held in Lincoln cathedral to welcome back the charter was interrupted by an unknown woman who stood up at the back of the Cathedral shouting, "I denounce Magna Charta: it is a relic, and relics are denounced in the Bible." Whether or not this denunciation was heeded by the Almighty, it was soon afterwards noticed that the Lincoln charter was showing signs of wear and tear, and in particular of fading to various of its letters. By December 1950, it was judged necessary to break into the armour-plated case and to send the charter to the Public Record Office for conservation. There, a minor disaster occurred. The Deputy Keeper of the Record Office, Sir Hilary Jenkinson, was forced to admit by March 1951 that the charter had suffered "indubitable and regrettable" damage, which he blamed upon "internal deterioration from some organic cause, for example a fungoid affection which might have developed in the long period during which it was, as I understand, immured between sheets of glass" – words which have all the false authority of someone attempting rather to conceal than to reveal the truth. In reality, blame is to be attached here not to some imaginary fungus, but to the fact that the charter was deliberately and perhaps carelessly dampened in the Record Office in order that it might be rebaked with modern parchment.

Meanwhile, no sooner did one Magna Carta return to England, than another prepared to cross the Atlantic in the opposite direction. Following discussions with the British Museum, it was now proposed that the Lacock original of the 1225 Magna Carta, which had spent the War buried in the grounds of Lacock Abbey and which had only recently been gifted to the Museum by Miss Talbot, the owner of Lacock, be sent to Washington in place of the Lincoln charter, this time on loan for a fixed period of two years. This proposal was accompanied by further suggestions, backed by the newly promoted Lieutenant-Commander Douglas Fairbanks Jr. that 15 June be set aside as a public holiday throughout the English-speaking world.

The Lacock Charter did indeed cross to America, even though its loan necessitated a special act of Parliament, introduced to the House of Lords in May 1946 in a debate chiefly memorable for their lordships' inability to agree whether Magna Carta should be spelled with or without an "h". In December the charter and Miss Talbot were both transported across the Atlantic at the British taxpayer's expense, although in those days of post-war austerity, it was determined that Miss Talbot herself should be maintained while in America on an allowance to cover subsistence set at the hardly princely figure of three dollars a day, rising to eight dollars should she have to stay in a hotel, "the allowance to cease on the day of sailing of the first homeward-bound ship that can accommodate her after the ceremony": this despite the fact that in 1945 Miss Talbot had gifted Lacock Abbey and its entire estate village to the National Trust, at the same time giving the

British Museum her Magna Carta, which she had carefully buried under one of the Abbey floors during the War wrapped in a box inside flannel and the whole enclosed in a metal container. Even in the 1940s, Miss Talbot's Magna Carta would have fetched a king's ransom had she chosen to sell it rather than give it away. But as James Lees-Milne, secretary of the National Trust, recorded in his celebrated Diary on first visiting Lacock in December 1943:

"(Miss Talbot) is a dear, selfless woman, and extremely high-minded. She has the most unbending sense of duty towards her tenants and the estate, to the extent that she allows herself only a few hundreds (of pounds) a year on which to live. She spends hardly a farthing on herself, and lives like an anchorite .... (The abbey) was warm and smelled sweet and cosy. Miss Talbot said 'I hate fresh air. It is the cause of most of our ills in England.'"

In December 1948, two years after its arrival in the United States, and despite attempts to prolong its stay including yet further suggestions that it be gifted to the American nation, the Lacock Magna Carta returned to England in the custody of A.J. Collins of the British Museum, arriving on New Year's Day. For the moment, America was once again without a document which the Librarian of Congress, writing to the British Foreign Secretary, had only recently described as possessing

"Fully as much significance for citizens of the United States as it does for the citizens of the United Kingdom. While there exist in public institutions in England several copies of the document as originally issued .... there is not in the United States any such copy."

As for the idea that 15 June should be celebrated throughout the English-speaking world as Magna Carta Day, this too became buried under a dead weight of petty objections. It had been hoped in some quarters that such a celebration might serve as a valuable weapon in the nascent Cold War. In January 1947, an anonymous official in the British Dominions Office had pointed out the advantages that such celebrations might have, not only for Anglophone democracy but for the furtherance of British colonial interests:

"The forces of law and order in the modern world are deficient in slogans, rallying-points and ceremonial. The disruptive elements of modern societies on the contrary, with their Communist Manifesto, Red Flag and the 1st May celebrations, are well provided. How important these assets are to the Communist crusaders is rarely as fully appreciated as it should be by the critics of Marxism. The difficulty has always been for the constructive forces in society to achieve some rational symbolism which can at the same time harness and inspire some genuine enthusiasm and emotional support .... Magna Carta offers more promise in this respect. Hopes should naturally not be pitched too high, but success may well exceed them, reversing perhaps the experience over Empire Day."

Set against this, however, were the objections of the Ministry of Education, which pointed out that most American schools were on vacation by 15 June, so that the proposed day of celebrations could have little or no effect in the indoctrination of American youth. Moreover, far from combatting communism, the proposal might actively encourage communist propaganda. As the British Foreign Office official, E.J. Perowne, pointed out the charter itself had been issued not to the common people but to the much more restricted class of "free men": a fact which might well prejudice the communists against it. Worse still, a senior civil servant, K.W. Blaxter of the Colonial Office, minuted in February 1947 that there was even the risk that Magna Carta might be interpreted by ignorant or ungrateful 'Colonial peoples' not as a symbol of British authority, but as in some way a guarantor of popular rights. As Blaxter pointed out:

"In some colonies where ill-disposed politicians are ever on the lookout for opportunities to misinterpret our good intentions, its celebration might well cause embarrassment, and in general there is a danger that the Colonial peoples might be led into an uncritical enthusiasm for a document which they had not read but which they presumed to contain guarantees of every so-called 'right' they might be interested at the moment in claiming"

There can have been few more honest, yet few more extraordinary statements ever penned by a British writer on Magna Carta. Denying precisely the liberties to which the American colonists had laid claim in the 1770s and for which Magna Carta had entered American mythology as a cornerstone of the colonists' claim to Independence from oppressive British rule, this particular British colonial administrator showed himself entirely oblivious to the fact that Magna Carta was indeed a guarantee of rights rather than a mandate for authoritarianism. Thus did the brave initiatives of the early 1940s decline into a petty-fogging world of economies in the disposition of public funds, and even of economies with the truth.

The story has been reconstructed here, for the first time, from the relevant British Foreign Office, Dominions Office and Cabinet Office files: London, Public Record Office mss. FO371/22834; FO371/24245; FO371/38735; FO371/51657; FO371/51658; FO371/61073; FO371/68065; FO371/91013; DO35/1130. For the botched repairs to the Lincoln charter, see London, Public Record Office mss. PRO1/1159; PRO1/1176. Miss Talbot's touching memories of the Lacock Magna Carta are recorded in her autobiography, *My Life and Lacock Abbey* (London 1956) 188-90, 214-16, 255, 259-60, with a fine photograph of the author dressed as Ela countess of Salisbury facing p.224. For reminiscences of her by James Lees-Milne, see the first three volumes of his diaries: *Ancestral Voices* (London 1974) entry for 15 December 1943; *Prophesying Peace* (London 1977), entry for 15 August 1944, and *Caves of Ice* (London 1983), entry for 16 March 1946.

## HOW MAGNA CARTA CAME TO AUSTRALIA 1952-3

The story of the proposed gift of the Lincoln Magna Carta to America has tragi-comic elements and is set against a background of some of the more dramatic events of the Second World War. The story of how the British government allowed the sale of another Magna Carta to Australia, by contrast, is almost entirely a story of inter-departmental rivalries: a battle of the books fought out amongst scholars and civil servants, or in this instance a battle of the charters. There were three chief actors here. The first of these was Arthur Jefferies Collins (1894-1976), Keeper of Manuscripts at the British Museum (the predecessor of the British Library) from 1947 to 1955, the official called upon in 1948 to bring back the Lacock Magna Carta from Washington to England, and author in the same year of an article on the originals of the 1215 Magna Carta that remains, even today, the classic treatment of its subject. There was no-one better qualified than Collins to judge the significance of an original Magna Carta that in 1951 appeared unexpectedly for sale. The second actor, Sir Hilary Jenkinson (1882-1961), Deputy Keeper of the Public Record Office from 1947 to 1954 and doyen of the scholars of British medieval diplomatic, we have already met in 1950, apologizing somewhat disingenuously for the damage caused to the Lincoln Magna Carta whilst in conservation in the Public Record Office. Jenkinson was to play an equally mephistopholeian role in ensuing events, not doubt relishing the opportunity to score an advantage over Collins and the British Museum, long considered rivals in terms of prestige and expertise to the Public Record Office. The third actor is today the least well-known. His name was E.W. (subsequently Sir Edward) Playfair (1909-1999), and as Third Secretary to the Treasury he was the civil servant charged with supervision of the government committee that in theory could veto the export of British antiquities, including manuscripts and documents, judged to be of outstanding national significance. As we shall see, it was the somewhat inappropriately named Playfair who outwitted all others in this story. As is often the case, it was also Playfair, the victor, who wrote the history, since it is from his carefully constructed file, of correspondence, memoranda and committee minutes, that our story is reconstructed.

At some time in the Spring of 1951 the headmaster of a small and impoverished private school in the English West Country, the King's School Bruton, went up to London carrying with him a peculiar document that he wished to be examined by experts in the British Museum. It was an original Magna Carta, of the 1297 issue, and at the time it was assumed to be one of only two such 1297 Magna Cartas known to exist, the other being held by the Corporation of the City of London. Quite how Bruton School had come to acquire the charter was never properly explained. What mattered far more was that the charter was undoubtedly genuine and that it excited the keenest of interest from the British Museum and in particular from the Keeper of Western Manuscripts there, A.J. Collins. Collins saw immediately that the 1297 Magna Carta could be made to plug a gap in the Museum's collection. The Museum had long prided itself on its display of a cabinet, known as the Magna Carta Cabinet, in which were exhibited not only the Articles of the Barons and the two 1215 Magna Cartas that had once belonged to Sir Robert Cotton, but since the late 1940s, the 1225 Magna

Carta from Lacock Abbey which had recently been gifted to the nation. If only the 1297 charter could be added to this collection then, as Collins realized, the collection itself could be considered not only unique but complete. There was only one stumbling block here, and as usual that stumbling block was money. The headmaster of Bruton School wanted to sell his Magna Carta at the highest possible price, since his school was poor, and the money potentially vital to the school's survival. Although Collins already judged the Bruton charter to be, in his own words, "supremely important", he could imagine offering no more than £2000-£2500 to obtain it. When, in July 1951, the headmaster removed it from the British Museum to have it independently valued, and when that valuation was placed at the, then, unprecedented figure of £10,000, Collins remained adamant. The charter must come to the Museum, but at a reasonable price, and not at the valuation price which he dismissed as "excessive." So it was that Collins moved to draw the charter to the attention of the committee of experts established to supervise the sale and export of items of historic significance. To ensure that this committee had the requisite expertise in diplomatic and documentary history, Sir Hilary Jenkinson of the Public Record Office was co-opted on to it as an independent advisor. On 24 January 1952, writing preparatory to the committee's meeting, Collins declared, without hyperbole,

"Never has a stronger case for the exercise of the powers conferred by the Export Licencing regulations presented itself in the field of manuscripts and documents. I should find it difficult to name half-a-dozen objects in this field with a better claim than the [1297] Charter to be regarded as an essential part of our historical heritage"

Collins noted a number of interesting features to the Bruton charter, among them that it was inscribed on the fold "*Com Surr*"; suggesting that it was the exemplar of the 1297 Magna Carta originally sent to the county of Surrey, and that it was sealed with a wax seal that Collins, mistakenly, identified as the third seal of King Henry III. Reporting to the Trustees of the British Museum as early as May 1951, Collins had already noted that the headmaster and governors of Bruton School had no real idea of how they had acquired the charter. Certainly it was odd that a school in Somerset, in the English south-west, should have come into possession of a Magna Carta addressed to Surrey, far away in the English south-east. Nonetheless, Collins remained convinced that the Bruton charter was "a most important national relic" and that "a more desirable acquisition [by the British Museum] could not be imagined."

Already, however, events had begun to run ahead of him. By February 1952, the school governors had entered into negotiations to sell their charter to the National Government of Australia. To this end, a press campaign was started, with Australian backing, to support the idea of such a sale. When the Treasury committee on exports convened on 18 February, with Playfair acting as secretary and with Sir Hilary Jenkinson co-opted as expert witness, the pro-Australian campaign was at its height.

Quite what happened at the committee meeting of 18 February remains uncertain. What is clear is that tempers frayed and that bitter and angry words were spoken. We know this, not least because the minutes of the committee had to be rewritten to accommodate conflicting memories of who had said what, and in precisely what order these things had been spoken. Collins appears to have set off with all guns blazing, as the minutes declare "There was no other manuscript in private possession which Mr Collins felt was of such great national importance." At this point, Jenkinson intervened in his capacity as co-opted expert. He appeared initially to endorse all of Collins' remarks, emphasising the charter's unique significance as a record of a key stage in the development not only of Magna Carta but of the British constitution. At this point, however, Jenkinson dramatically changed tack. Was it not possible, he suggested, that all sides might be accommodated? The Museum was in need of a 1297 Magna Carta, the Australians wanted the document as a matter of national pride. Bruton School wished to be recompensed for any sale, at the highest possible price. What Jenkinson now suggested, delivering his suggestion rather like a rabbit from out of a hat, was that the committee agree to the export of the Bruton charter to Australia on one condition: that the Corporation of London agree to the deposit of their 1297 Magna Carta, presently inaccessible save to scholars, to be placed on permanent public display in the British Museum. In this way, honour would be satisfied all round. Both the Museum and Australia would obtain 1297 Magna Cartas, and Bruton School would be handsomely com-

pensated. The committee was duly impressed and enthusiastically adopted Jenkinson's proposal. Not so Collins, who just as strenuously resisted it. When the committee adopted the Jenkinson plan, Collins wrote to Playfair offering his resignation from the committee. Playfair, who clearly supported the Australian desire to obtain the charter and who just as clearly was determined that the Treasury in no way be made to pay the cost of keeping the charter in England, attempted to dissuade Collins from resigning, without success.

At this stage, however, a complication arose. If the Corporation of London were to deposit their 1297 Magna Carta in the British Museum, then someone needed to write to the Lord Mayor of London to request such a loan. Furthermore, the committee needed to be absolutely sure that, if offered, such a loan from so exalted a personage as the Lord Mayor of London, would be gratefully and graciously accepted by the Museum. With Collins threatening to oppose any such acceptance, the entire plan appeared doomed to failure. Here it was that two major political figures became involved: Lord Salisbury, the Lord Privy Seal, and Rab Butler, Chancellor of the Exchequer, who we have already encountered in the story of the 1941 attempt to gift the Lincoln Magna Carta to America and who, in 1952, was considered by the Treasury to be the only government minister sufficiently exalted to approach the Lord Mayor of London on behalf of the committee's request for a loan of London's charter to the British Museum. On 24 March 1952, Lord Salisbury wrote to Butler in no uncertain terms, declaring his alarm at the news that so impoverished and so worthy an institution as Bruton School might be prevented from taking financial advantage of what, erroneously, Salisbury described as "a charter of King Edward III". Were the School to be forced to accept the £2500 offered for their charter by the British Museum, then they would, in effect, be deprived of the further £7500 that the Australian government was prepared to pay. Forced by Butler to defend his committee from such an accusation of "villany", Playfair now played his master stroke. In a letter to Butler of 2 April 1952 he set out, in detail, all of the reasons that had led the committee to their proposal, ending with the following remarkable details,

"As a final comment on the confused morals of these problems I might mention that nobody knows how the charter came into the possession of Bruton School, but I am told the best guess is that the school's lawyer was keeping it on behalf of another client and put it into the wrong box some time within the last 100 years"

Next to this statement, in red crayon, Butler has marked "this is 'entre nous' RB". Whether "entre nous" or not, the story is a remarkable one, and one which Butler immediately conveyed, in precisely the terms communicated to him by Playfair, in a letter to Lord Salisbury. Meanwhile, any idea that Butler might write to the Lord Mayor of London requesting a loan of the London 1297 Magna Carta to the British Museum was allowed to lapse, apparently on the grounds that any such approach to the London authorities might merely alert them to the great value of the charter in their possession and lead, not to a loan to the British Museum, but to the threat of yet another sale, this time not by private treaty but upon the open market. The Bruton charter was duly exported to Australia, where it resides today in the Australian Parliament in Canberra, as one of that institution's greatest treasures and, indeed, as one of the most important historical documents ever to have left the British Isles. Bruton School was paid £12,500, slightly more than the £10,000 at which the charter had initially been valued. The London charter of 1297 remains in the archives of the Corporation of London, and the British Museum remains, despite Collins' best endeavors, without any original of the 1297 Magna Carta.

There are, nonetheless, two postscripts to this story, the first supplied by Collins, the second only as a result of work undertaken for the present catalogue. On 11 March 1953, Collins wrote to Playfair, having buried all animosity in the intervening twelve months:

"My dear Playfair, Spare a few seconds to laugh at and with a defeated opponent. Yesterday, I was shown another (a third) exemplar of the Magna Carta of 1297 over which we contended. Where? At the Public Record Office. It has been there since the foundation of that office a century ago, amongst the charters of the Duchy of Lancaster ..... This note, needless to say, is for your paper basket, not for your file"

From this story, no-one emerges entirely blameless, and certainly not Sir Hilary Jenkinson, who might surely have taken the trouble to discover that his own office possessed an original of precisely that charter which Collins, in the British Museum, was so desperate to acquire. Although Playfair signally ignored the instruction to destroy his letter, Collins was correct about the Record Office, where another exemplar of the 1297 was indeed to be found (now London, Public Record Office DL10/197). Not only this, but yet another, a fourth exemplar, was to turn up within the next twenty years, in the possession of the Brudenell family: the exemplar until recently exhibited in the National Archives at Washington, D.C. and here offered for sale for the first time at auction.

One further postscript can be added, prompted by recent research. The Bruton Magna Carta, now in Canberra, may well have come to Bruton School in precisely the circumstances indicated by Playfair and Rab Butler: as a fortuitous windfall, accidentally transferred from one deed box to another within the office of a somewhat careless solicitor. Whose charter, though, was it originally? Here, we can offer a fairly convincing answer. The Bruton/Canberra Magna Carta of 1297 is inscribed as one sent to the county of Surrey. So too is the 1297 Forest Charter, only recently identified amongst the Additional Charters in the British Library (Additional Charter 53712), as a document gifted to the British Museum in 1905 by a Mr F. Quekett Zouch. Surely it must have been from amongst the deeds of this same Mr Zouch or his executors that the 1297 Magna Carta slipped into the strongbox of the governors of Bruton School. Had Collins known slightly more of his own collections, and had he realized that since 1905 the British Museum had possessed an original of the 1297 Forest Charter also addressed to Surrey, then the whole sorry farce of export licences and departmental rivalries might have been avoided. Collins could have mounted an entirely legitimate claim to possession of the 1297 Magna Carta as a document that by rights belonged to Mr Zouch and hence by extension to the British Museum as the beneficiary of Mr Zouch's deeds. Of such ironies is the rich fabric of history woven.

The entire story here can be reconstructed from a single British Treasury file: London, Public Record Office T227/1235.

## **HOW AMERICA SAVED MAGNA CARTA FROM BECOMING A 'CENTERPIECE' 1975-2007**

As early as 1971, it had become apparent to those to whom such things mattered that Great Britain would need to plan carefully ahead, to ensure that the Bicentennial of the American Declaration of Independence, due to be celebrated in 1976, was marked with sufficient pomp and circumstance. In particular, influential figures in British government were concerned that the Bicentennial should have as its "centerpiece" some appropriately magnificent gift sufficient to remind the Americans that Britain was still a nation with a proud heritage, prepared, after two hundred years, to be entirely magnanimous in the celebration of its ancient defeat. It was to this end that a Bicentennial Liaison Committee was established, under the chairmanship of Lord Lothian, cousin and successor to the peer who, as British Ambassador in 1939, had deposited the Lincoln Magna Carta in the Library of Congress for safekeeping. Lord Lothian's committee was supplied with a budget, of £500,000, to devote to its chosen project, and was basically told to get on with it: above all to ensure that the Bicentennial went "with a bang." By what precise means the worm entered the bud remains unclear, but by the end of 1974 the Liaison Committee, having beaten around many a bush, arrived at a rather startling proposition: all the more startling because it was a proposition that had first been raised in 1939 and whose progress over the years between 1939 and 1948 we have already examined.

As on that earlier occasion, an undertaking had been made by a British institutional archive which itself possessed an original Magna Carta, in this instance the British Library, that it would be prepared to loan its charter to America, subject to guarantees over safe transport and handling. The charter in question was the unburned but unsealed original of the 1215 Magna Carta, Cotton Augustus ii.106. As on an earlier occasion, what had begun as a proposed loan was very swiftly transformed by the politicians into the possibility not of a loan but of a permanent gift. An original of Magna Carta, so Lord Lothian's Liaison Committee decided, should be presented to Washington by Her Majesty the Queen, as a suitably memorable gift from the

British Parliament to the Congress and people of the USA. This was best done by persuading the British Library (recently released from its dependence upon the British Museum) that its own Magna Carta, due to be loaned to Washington for the year of the Bicentennial celebrations, be instead transformed either into an outright gift or a loan in perpetuity. Meeting on 12 February 1975, less than a year away from the rapidly approaching day of reckoning the Liaison Committee near unanimously recommended that such a gift be made: those members in favour including Sir John Foster, Sir John Catlin, Lady Harlech and Winston Churchill MP, grandson of the wartime Prime Minister. As another committee member, Sir Edward Ford, formerly of the Queen's private office, pointed out, even were an outright gift to prove impossible, the advantage of a permanent loan, say of no less than 99 years, was that no payment would be required and that the question of ownership would not arise, whereas were one of the English cathedrals to be persuaded to give up its Magna Carta, or even were the British Library to give one of its, there would have to be financial compensation. Since the British Library Magna Carta was valued, at the most conservative estimate, at over £1 million, necessitating an insurance premium of £75,000, and since the Liaison Committee was supposed to be working to a budget of no more than £500,000, the mathematics here made sound sense.

As in 1939, or 1941, or again after 1947, the reaction from the Library was both swift and unambiguous. No such gift or loan should be allowed or even contemplated. To give away any of the Library's Magna Cartas would be openly to flout the terms of the bequests by which both Sir Robert Cotton in the seventeenth century and Miss Talbot in the twentieth had gifted their manuscripts to the nation.

Not only in the British Library but in its old rival, the Public Record Office, there were clearly concerns that the British Government's search for a "centerpiece" to the 1976 celebrations might result in the giving away of documentary treasures. Such fears were well grounded. Not only was an unofficial search instituted in the Public Record Office to find such a potential "centerpiece", but when that failed, according to a conversation with the Prime Minister, Harold Wilson, reported in February 1975, Mr Wilson himself suggested that a search be made of the Round Tower at Windsor Castle where, he claimed, there was "a great deal of absolutely fascinating original stuff going back to a very early stage in British history." The fact that any of this "stuff" which could conceivably belong to the government had long ago been transferred to the Public Record Office, and the fact that the Windsor Castle archives were themselves the private papers and hence the personal possession of Her Majesty the Queen seems not unduly to have troubled the Prime Minister.

While the British Prime Minister failed to stand guard over the national archives and, on the contrary, appeared determined to give away whatever could be tracked down, the Americans themselves came to the rescue. On 14 February 1975, Elizabeth Hamer Kegan, Assistant Librarian of Congress wrote to Jeffrey Ede, Keeper of the Public Record Office, to express alarm at the very idea of the British government presenting Magna Carta to America as a gift.

"Removal of an important document from archival custody," she wrote, "Even by an order in Council, act of Parliament, or whatever is necessary – would set an unfortunate precedent for archival and public establishments everywhere, including the United States."

James B. Rhoads, Archivist of the United States himself wrote to Ede:

"I am in complete agreement with your position on not alienating official government documents .... Once begun, the precedent could become an embarrassment to us all."

If a presentation were to be made, all concerned suggested, then it should be made from a private rather than a public collection. Armed with such ringing support from America and no doubt emboldened by liaisons of his own conducted with various of his fellow archivists and keepers of public collections, on 6 March 1975, Lord Eccles, Chairman of the British Library Board, wrote to Lord Lothian and his committee in no uncertain terms:

"For us to make a permanent loan or gift of the one good copy [of Magna Carta] we possess and propose to lend for one year would be considered an irresponsible act on the part of a national institution such as the British Library. Far from generating goodwill, it would cause a storm of protest in

this country. Moreover, you will know that in 1966 the Trustees of the British Museum turned down a request from Canada for a loan of Magna Carta in connection with the Canadian Centennial Celebrations held in 1967. If it became known that having turned down a loan request from the North American member of the Commonwealth it was now intended to house the manuscript permanently in the United States, the protests would spread from this country to Canada and beyond."

So far, so good. The suggestion that a liaison committee that itself enjoyed only semi-official status could somehow determine the fate of manuscripts that had been in public ownership for hundreds of years, and that it might scatter the public records to the winds like so much celebratory confetti, was soundly and satisfactorily squashed. The committee was forced to think again. The eventual solution, whose fruits are still to be seen in the rotunda in the Capitol in Washington, was to commission a well-respected goldsmith, Mr Louis Osman, to make both a handsome gold and enamel case and, within it, a replica of Magna Carta on gold leaf. It was in this case that the British Library charter was displayed during its time in Washington in 1976 and, on the charter's return to England, both the case and the gold facsimile were gifted to Congress by the British Houses of Parliament. The story of this particular "centerpiece" is not without its diversions. Proposals, for example, that the case be mounted on a 300 million year-old, three ton granite rock hewn from the sea shore of South Uist in the Outer Hebrides encountered all manner of problems, not least the cost of hiring the Royal Air Force to pluck the boulder from the waves, and the resistance of the security officers in Washington to the idea of anything so massive being placed within so sensitive a place as the rotunda of the Capitol. Mr Osman's likening of his display cabinet to an illuminated medieval manuscript inspired a magnificently pedantic exchange with the British Library, whose Keeper of Manuscripts, D.H. Turner, objected to the term 'illuminated manuscript' as a very loose phrase when used to describe the art of what were in reality several centuries, and who suggested instead that the display case be thought of as a "casket" or "reliquary"; enshrining something of no aesthetic value, like a piece of bone, or in this instance parchment, but of "untold thaumaturgical importance". The Foreign Office official who compiled the file has placed a marginal exclamation mark next to this last phrase, and a letter of 12 December 1975 from the Information Counsellor in the British Embassy at Washington gently points out that Mr Turner's "analogy of the 'reliquary' with a 'casket' is most unhappy, (since) over here casket means coffin."

Some surprise was expressed at the British end of things that the chief American authority who it was proposed should write the guidebook to the British Library Magna Carta displayed in Washington should be a Mr William ('Bill') Swindler, and at the American end there was disquiet at the superciliousness and pedantry of the British. In short, a very typical story of Anglo-American understanding. For present purposes, what matters here is that it is in 1975, at the height of the British Library's fears that their Magna Carta might still be plucked from them and offered as a gift to America, that we receive perhaps the clearest and most honest appraisal of the charter's importance to the English-speaking world, in a letter from Lord Eccles to Lord Lothian, dated 19 December 1975, drawing attention to the fact that with Magna Carta, they were dealing with "the most sensitive document in Britain." It was at much this same time, in June 1975, that we first read of the efforts being made by the Chief Justice of the United States, Warren Earl Burger (Chief Justice 1969-1986), acting in concert with the Director of the Folger Shakespeare Library in Washington, to obtain the purchase of an original Magna Carta, of the 1297 issue, for permanent display in the United States. There can be no doubt that the charter referred to here was the Brudenell charter subsequently acquired by the Perot Foundation. The investigation of its purchase in 1975 was swiftly brought to an end, largely so that it might not embarrass the British Parliamentary committee which had laboured so long and so hard to bring the British Library's charter to Washington as a "centerpiece" for the Bicentennial celebration.

Not all of the files in the Public Record Office relating to the exchanges of 1975-6 have as yet been released. For those that have, see London, Public Record Office FCO13/774-9; FCO26/1729; FCO81/72-3, and cf. also London, Public Record Office PREM16/1153 (currently closed under the 30 year rule).