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King John, Magna Carta and the Origins of English Legal Rights

By Paul M. Pruitt, Jr.

Prelude

King John: treacherous, tyrannical, mercurial, malicious—the third ruler of the Angevin dynasty.¹ John ruled England and a shrinking number of French provinces from the death of his brother, Richard Coeur de Lion, in April 1199, until his own death in October 1216. One historian observed: “The legend of his awfulness as a person as well as a ruler dates from his own lifetime.” King John may have possessed good qualities—brilliant strategist, firm administrator, fiercely determined—but it was his tyranny that caused English barons to revolt against him. That clash led to a settlement, a peace treaty, Magna Carta. Thus, it was a tyrant king who, forced to deliberate with rebellious nobles, put his seal to Magna Carta, a foundation stone of English and American legal rights.

International Politics and John's Character

John was clever and unscrupulous, yet he had little success in the 13th century's Game of Thrones. His rival was the Capetian monarch, Philip II of France. Older than John, Philip viewed the Angevins as a constant threat, for they had acquired, through conquest or marriage, the territories of Normandy,

Brittany, Anjou, Poitiers and Aquitaine. True, they owed Philip homage for these lands, but they were positioned to undermine his power.³ In response, Philip did what he could to divide and conquer. In the 1190s he supported John's unsuccessful effort to supplant King Richard. In the mid- to late 1190s, Philip warred with Richard, with little success. He was probably relieved to sign a peace treaty with John in 1200.⁴

John's behavior thereafter—notably his marriage in August 1200 to Isabella of Angouleme, the betrothed of Hugh of Lusignan—led to legal disputes in which Philip, infuriated over John's refusal to answer charges in person, confiscated all of his French lands.⁵ Dismissing John as a “contumacious” vassal, Philip bestowed upon Arthur of Brittany (John's nephew) all Angevin lands in France except for Normandy—which Philip wanted.⁶ In the ensuing war, John captured Arthur and then murdered him, allegedly in a drunken rage.⁷ Meanwhile, Philip, this time, made a better showing as a commander. By the fall of 1204, all of Normandy was in French hands, and most of John's Norman barons had switched sides.⁸

Fearing a French invasion of England, John decreed in January 1205 that he would mobilize his whole kingdom. Ever the fundraiser, John fitted out two expeditions: one to re-take Normandy and one to reinforce his vassals in Poitou and Aquitaine. English barons balked, though, at campaigning in a foreign land, and John was reduced to assisting his southwestern

vassals with mercenary troops. By 1206, when he concluded a two-year truce with Philip, John saw his barons as a dangerous element.⁹ In coming years, as he endured and exploited a religious crisis, he would become a master manipulator of feudal relations.

God, Mammon And Law

In theory, no medieval king could afford to lose the cooperation of the archbishops, bishops and abbots who ruled over the vast landed holdings of the Catholic Church.¹⁰ Richard Coeur de Lion had enjoyed mutually beneficial relations with Hubert Walter, who held overlapping offices, including those of Archbishop (1194-1205), Justiciar (1193-1198), Papal Legate (1195-1198) and Chancellor (1199-1205). John made use of Hubert's talents but resented his prestige. When Hubert died in 1205, John was determined to place one of his familiars upon the arch-episcopal throne; he had already clashed unsuccessfully with the Pope, Innocent III, over a Norman bishopric.¹¹

The monks of Canterbury had the right to elect archbishops, though previous monarchs had exercised considerable influence over their choice. This time it was not so simple. In 1206, the monks hurriedly (and they thought, secretly) sent their own nominee to Rome, but the chosen man blabbed, and John found out. Soon he was sending his own nomination to Rome, after securing his election by the embarrassed monks. Innocent was not impressed. In the end, he summoned more Canterbury monks to Rome and coerced those at his court to elect *his* choice, Stephen Langton, an Englishman who had formerly lectured at the University of Paris. Innocent consecrated Stephen in the summer of 1207, but John refused to receive him, decreeing that anyone calling Stephen "Archbishop" was guilty of high treason. For good measure, the king forced the Canterbury monks into exile.¹²

By March 1208, Innocent placed England under an Interdict.¹³ This ban (a doctrinal atom bomb) involved a suspension of religious services, rites and comforts. Non-offenders suffered alongside transgressors.¹⁴ Unflustered, John continued negotiating while administering church property and revenues through his agents. He retained the support of some clergy and a handful of bishops, and his propagandists spread the word that he was defending the ancient liberties of the English church.¹⁵ Meanwhile, John diverted church funds to assist with his overriding goal—retaking the lost lands. In November 1209, the Pope excommunicated him.¹⁶

Meanwhile, the church was only one of the institutions that John was bending to his awe. The next target, which fit nicely with his family history, was the legal system. John's father, Henry II, had lifted England from the chaos of prolonged civil war¹⁷ by

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adroit use of his powers—most notably via the royal courts, through which he presided over the birth of a "common law" for England. Coordinated by a chief "justiciar," this judicial system included the Exchequer, where sheriffs and crown debtors came to settle accounts; the "Bench," a banc of jurists often sitting at Westminster; the court "Coram Rege," which met in the king's presence to hear pleas of the crown; and shire/county courts often presided over by traveling royal justices.¹⁸

John was interested in the law, and since he was mostly trapped in England, he paid personal attention to the courts.¹⁹ At the time—thanks to the professionalism of judges, and the reliability of writs and procedures—the royal courts were much in demand among small landowners. These litigants knew that royal courts produced

definitive decisions on important matters: rights of seisin and inheritance, location of boundaries, possession of franchises.²⁰ Thus, the king and his judges stood at the intersection of law and bureaucracy, to the benefit of many of his subjects. Wealthier litigants, to be sure, sometimes offered to pay "fines" in order to expedite a case or have it heard *coram rege*. Defendants sometimes offered payment to have a case against them dismissed or delayed.²¹

Yet John's barons, the 200 or so individuals who held lands directly from him, might as well have worn bull's-eyes.²² Not satisfied with receiving church funds on top of conventional revenues, John decided to build up his war chest by tapping into these tenants-in-chief.²³ Consider John's use of the "relief," a payment owed by the heir of an estate to his lord. The amounts varied by the heir's rank—for example, 100 shillings for a knight's "fee." The customary relief for a barony was much higher (£ 100); but Glanvill, the legal authority of the day, admitted that in such matters the barons were at the king's mercy.²⁴ John's demands for baronial relief were often "far in excess of" 100 pounds. Twice in 1210, he burdened heirs with reliefs of 10,000 marks (over £ 6,000). Three years later, he forced John De Lacy to pay 7,000 marks to inherit the "honor" (management) of Pontefract. Historian Ralph Turner observes that no one should be surprised to find these barons among the rebels of 1215.²⁵

Barons, as well as knights and town-dwellers, were probably united in their resentment of other royal policies, too, for John, as early as 1200, had begun to force renewal of all existing charters and franchises. Each demand for payment was backed by the implicit threat that the king might sell the privilege to one of his favorites.²⁶ Then there was "Scutage"—a contribution arbitrarily decreed by the king and paid by those who owed him military service. Henry II and Richard had imposed the Scutage 11 times from 1154 to 1199. John required it 11 times from 1199 to 1215.²⁷ This combination—frequent assessment and harsh enforcement, plus church income—caused royal revenues to skyrocket. Turner estimates that John took in as much as £145,000 per year after

1208, almost *six* times the money available to Richard in 1199!²⁸

To staff his administrative state, John preferred to employ men from the knightly class, like his pliable justice, William Briwerre, or soldiers of fortune like Falkes de Bréauté, a castellan and sheriff known for his brutality.²⁹ Such men served zealously in expectation of advancement.³⁰ From John's standpoint, careerists were preferable to men of noble houses; the latter were more likely to be independent-minded.³¹ The best way to manage highborn persons, John decided, was to trap them, offering them high-priced manors, offices or wardships, knowing that if they accepted, they would fall into his hands. His Court of Exchequer, tasked with judgments regarding crown debts, was a convenient forum for humbling the arrogant, blue-blooded or otherwise. True, this court often allowed its debtors to pay in installments, and John sometimes forgave debts altogether. In other cases, however, the Exchequer forced defaulters to choose between confiscation and borrowing money at high interest from Jewish moneylenders—individuals whose persons and profits were by law completely at the king's mercy.³² In the end, incautious magnates were likely to share the fate of cash-strapped heirs. Most ended up as the king's debtors.³³

That was the way John liked it, but sometimes his paranoia overrode his sense of reality. In 1201, John forgave a debt owed by the father of his close supporter, William de Briouze (or de Braose), the scion of a family of "marcher" (border) lords.

Thereafter, John accepted William's "proffer of 5,000 marks for the vast lordship of Limerick," more than he could pay. So far so good, as De Briouze basked in the king's favor, but soon John began to doubt his friend. Apparently De Briouze knew too much about the death of Arthur of Brittany. Eventually John initiated legal actions, in the course of which he demanded De Briouze's sons as hostages, stripped William of lands and castles and finally outlawed him. The king's men chased him out of England, and then out of Ireland, imprisoning his wife and one of his sons. William died in France in 1211. His wife and son were starved to death at John's orders.³⁴ John was careful to obtain token baronial support for these actions. Yet the barons could not fail to see that nothing was safe—neither lands nor lives—while John was king.

"Plots Have I Laid"³⁵: Magna Carta's Backstory

John was paranoid, but by the time he devastated the De Briouzes, a number of people *were* out to get him. This included a brave minority of barons, who were prepared to oppose him on ideological as well as self-interested grounds. Such nobles were scornful of the bureaucrats and mercenaries who had the king's

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ear. They contrasted their image of John's court, dominated by his *familiares*, with the ethos and familiar procedures of the county and feudal courts. A court of the former type was headed by a sheriff, magnate or royal justice, who presided over an assembly of landholders and other parties entitled to be present. The attendees would hear petitions and accusations, discuss the laws and customs involved and take or defer actions. Feudal courts (courts-baron) were presided over by the lord or his Reeve, and attended chiefly of his vassals, men who expected their interests to be consulted when the lord asked for "aids" (special-occasion taxes) or reliefs.³⁶

To be sure, this template for justice and government was intellectually conservative. Applied to the royal government, it would have forced the king to rule by means of a magnified Shire Moot or baronial court. Not coincidentally, in the early 1200s, a "recension" of the laws of Edward the Confessor (ruled 1042-1066) and Henry I (ruled 1100-1135) was circulating in London; it emphasized a king's duty to obey the laws and consult with his magnates.³⁷ Moreover, the popular literature of the day, particularly the works of the troubadours, promoted a cult of chivalry within which all knights were equal and honorable. King Arthur presided over the round table and King Richard led the Crusade; both fit this image. In contrast, John, murderer of a contemporary Arthur, and John the imposer of arbitrary burdens, did not fit.³⁸ In 1212, a plot to assassinate John was discovered, and one of his barons, Robert Fitzwalter, was forced to flee to France. A northern baron, Eustace de Vesci, fled across the Scottish border.³⁹

It was John's bad luck to have his enemies meet in France. There Fitzwalter spoke with exiled clergy and French officials, and with Pandulf, the Papal Legate. He presented his case so effectively that, by the spring of 1213, Innocent made pardons for Fitzwalter and De Vesci a condition of receiving John back into the fold. Stephen Langton was given power to enforce this provision when he returned to England that summer, after six years of exile, as Archbishop. Langton would prove to be a useful friend to the rebellious barons. It may have been he who eventually directed their attention to a long-neglected document, the coronation oath of 1100 of Henry I, in which that monarch had sworn to uphold the laws of Edward the Confessor. In August, Langton stopped John from leading mercenaries against northern barons who had defied yet another assessment of scutage. The Archbishop's argument: the king should proceed against them through the courts.⁴⁰

The baronial resistance of 1213 was troublesome, but it hardly diminished that year's great royal success: John's escape from the perils of Interdict. He did this by caving-in to Innocent's

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demands. In fact, he offered himself as a vassal to the delighted Pope, who had been preparing to declare John deposed—using a French-led "crusade" as his weapon. The surrender had the effect, wrote Turner, of "suddenly transforming a stubborn enemy into an indulgent friend and a potent protector."⁴¹ Thus, surly barons or no, John had gained breathing space in which to launch his long-delayed initiative in France in 1214. From Poitou, supported by loyal magnates, mercenary captains and allies from the Netherlands and Germany, he planned to catch Philip's army in a pincer movement.⁴²

A decade of scheming, plundering and rack-renting came to naught, though. The French won at Bouvines, and John came home in mid-October of 1214 with no martial glory, no reconquered lands and few liquid assets. Being John, he immediately set about punishing his foes, demanding a heavy scutage of those who had failed to accompany him to France. These demands irked magnates who were already in debt to the crown, notably in East Anglia and the north. At this point, about two-score of the barons turned conclusively on the king. Most resented high taxes and repeated calls for foreign service. Supposedly, some resented John's lecherous advances toward their wives.⁴³ Today, we know that they were

all caught up in a changing feudal order. Relations that had once been based on "homage" and "fealty" were increasingly financial in nature.⁴⁴ As Sir James Holt once put it, the movement of 1215 "was a rebellion of the king's debtors."⁴⁵

By December 1214, rebel barons had formed a *conjunctio*, an oath-bound body.⁴⁶ Led by Eustace de Vesci and Robert Fitzwalter, their goal was a government *per concilium*, where controversies were settled *per judicium*.⁴⁷ They demanded that the king embrace the laws of Edward the Confessor and the coronation oath of Henry I.⁴⁸ By some accounts, John had already done so—in the oath he had sworn the previous year before Archbishop Stephen, on the occasion of being received back into the church. Historian James Holt believes that John had simply renewed his own coronation oath, in a context "which associated secular and ecclesiastical matters in a single royal promise of good behaviour"—leaving the specifics to be determined by force.⁴⁹

Early in January 1215, John met with the rebel leaders in London, but nothing was decided beyond another meeting after Easter. In the ensuing months, John played a masterly game, promising concessions to church and nobility, and in March cementing himself in Innocent's goodwill by promising to go on Crusade.⁵⁰ By the time of the post-Easter council, rebel opinion had hardened. Not trusting John, they came armed, bearing "a schedule of non-negotiable demands." John did not appear, so they sent him their demands. By the end of April, John had

received more welcome communications in the form of papal letters. One commanded the rebels to dissolve their conspiracies or face excommunication. Another scolded Langton and his bishops for taking the rebels' side. Yet John had taught his subjects that papal wrath could be endured, even ignored. On May 5, the rebels renounced their allegiance to John.⁵¹

The hostilities that followed were quickly over. The barons failed to capture any of the Crown's castles, but John's forces failed to control London—whereupon support for the king seemed to melt away.⁵² Moderates such as the warrior-earl William Marshal⁵³ urged arbitration. John, intent upon impressing Innocent, had already promised that he would not move against the rebels “except by the law of our realm or by judgment of their peers in our court.” He may not have meant a word of this, but he had presented a basis for the celebrated 39th article of Magna Carta. Negotiations among Marshal, Stephen Langton and their counterparts began by early June, at Runnymede.⁵⁴ By the 10th, John had agreed to the “Articles of the Barons,” essentially a draft of Magna Carta. Chancery clerks polished the language, and on June 19, the rebels exchanged the “kiss of peace” with John, who set his seal to the final document.⁵⁵

Magna Carta: That Was Then, This Is Now

Legal historian A.E. Dick Howard divides the 63 “chapters” of Magna Carta into subdivisions, with the first concerning feudal rights and finances.⁵⁶ Chapter 2 addressed one of the barons' chief complaints, reliefs, which were to be assessed according to the 100-shilling/100-pound scale noted above.⁵⁷ More interesting to modern students, Chapter 12 promised that neither scutage nor aids should be imposed, “unless by common counsel” of the kingdom. While this may seem to inject a democratic note into the proceedings, the counselors in question were “the archbishops, bishops, abbots, earls, and great barons.”⁵⁸ Still, these provisions represented a distinct check upon the power of the monarch—an issue on which former writers had seemed confused.⁵⁹ Future opponents of royal prerogative suffered no such confusion—for them, Magna Carta was gospel.

Another of Dick's categories consists of chapters pertaining to “Courts and Justice.”⁶⁰ These include regulation of royal judges' eyres, requiring them to travel to each county on a quarterly basis, and to dispense justice in company with four knights “elected out of each county by the people thereof.”⁶¹ Other chapters commanded courts to levy fines “according to the measure” of the offense, adding that penalties should not be calculated to ruin the fined party. These latter principles were to be applied all along the socio-economic scale, right down to serfs (villeins),⁶² which might be construed today as a democratic measure. Most likely, these measures were twofold in purpose: to co-opt an increasingly important knightly class, and to afford unfree persons, in any court, the sort of consideration that any good lord might show them. With regard to his own courts John admitted to endemic problems, promising in Chapter 40, “To no one will We sell, to none will We deny or delay, right or justice.”⁶³

Evocative as these provisions are, scholars and practitioners have paid the most attention to Chapter 39: “No free man shall be taken, imprisoned, disseised [ejected from his land], outlawed, banished, or in any way destroyed . . . except by the lawful judgment of his peers, and by the law of the land.” This language, which marks the dawning of “due process” as a ruling principle of common law, has had tremendous impact upon modern justice.

For the rebel barons, the effect of Magna Carta was practical and immediate. Because John had left behind him a trail of murders, extralegal killings and seizures by force, the rebels did not trust John to carry out his promises. Chapter 61 of Magna Carta provides for a committee of 25 barons to advise and govern the king. This chapter concludes with a promise that John would not “procure, by Ourselves or any other” means “whereby any of these concessions or liberties shall be revoked.”⁶⁴

Despite these promises set on parchment with his seal, John showed his mastery of the solemn lie. Very soon he would ask Innocent to release him from obedience to Magna Carta, and Innocent complied in August of 1215. Civil War followed, in which John showed unexpected maturity and success as a commander, so much so that the rebel barons sent for French assistance. By the time of John's death in October 1216, Philip II's son, Louis, was in England as a claimant for the throne. Opposing him was John's nine-year old son Henry III, who successfully turned the civil war into a war for English independence. Twice, in 1216 and 1217, the boy king reissued Magna Carta. An exceptionally long-lived king, Henry III would re-issue the charter again in 1225, 1237 and 1253.⁶⁵ His own policies were intended to regain his ancestors' prerogatives, but his attitude toward Magna Carta proves that he ruled under the law.⁶⁶

Conclusion

Several scholars have traced the post-1215 history of Magna Carta. An excellent treatment is contained in a short book published by the late Daniel John Meador, former dean (1966-1970) of the University of Alabama School of Law.⁶⁷ Meador shows how Magna Carta was eventually linked with the writ of *habeas corpus* by such foes of Stuart absolutism as John Selden and Edward Coke. In arguments for *Darnel's Case* (1627); in House of Commons debates over the Petition of Right (1628); and above all, in the second part of Coke's *INSTITUTES OF THE LAWS OF ENGLAND* (1642), the writ of *habeas corpus* was held up as a vital tool against arbitrary imprisonment, which Coke asserted was forbidden by the due process provision of Magna Carta set forth in Chapter 39. Thus, the medieval visions of Fitzwalter and Langton were retooled for use in a post-feudal world, emphatically so when Blackstone praised Coke's interpretations in his *COMMENTARIES ON THE LAW OF ENGLAND* (1765-1769), a work which, like Coke's *INSTITUTES*, was required reading for generations of American lawyers.⁶⁸

By the middle of the 19th century, Magna Carta was firmly established as a starting point of the process by which English-speaking peoples achieved free and balanced government.⁶⁹ The name “Magna Carta” was so commonplace that Ralph Waldo Emerson, in 1856, could include it in a list of catch-phrases:

“Magna-charta, jury trial, *habeas-corpus*, ship money, Popery, Plymouth-colony, American Revolution,” he wrote, “are all questions involving a yeoman’s right to his dinner.”⁷⁰ In more modern times, the great charter’s name has been a code-word for a spectrum of motives and intentions. Consider Justice Hugo L. Black in 1947, quoting an earlier writer on pro-business interpretations of the 14th Amendment: “It [the amendment] was aimed at checking the power of wealth and privilege. . . It has become the Magna Charta of accumulated and organized capital.”⁷¹

As we celebrate the 800th anniversary of Magna Carta, we should recall that the original was written with an eye to several groups: the king and his officers, rebel barons, churchmen in England and Rome and as many knights and landowners as could be won over to support it. As a symbol, it has meant different things to leaders, jurists and scholars. Like the U.S. Constitution, it lives in our collective consciousness. Today, as in 1215, it stands for freedom and legal rights, as we, in a democratic society, define them. | AL

Endnotes

1. The term Angevin refers to the dynasty’s origins in the French province of Anjou. Previous rulers had been Henry II (1154-1189) and Richard I (1189-1199). See Frank McLynn, *RICHARD AND JOHN: KINGS AT WAR* (2007), 1-26; and Ralph V. Turner, *MAGNA CARTA THROUGH THE AGES* (2003), 13-14.
2. Christopher Tyerman, *WHO’S WHO IN EARLY MEDIEVAL ENGLAND* (1996), 296.
3. For an overview see Arthur R. Hogue, *ORIGINS OF THE COMMON LAW* (1966, 1985), 35-55; and Turner, *MAGNA CARTA*, 35; see also Ralph V. Turner, *KING JOHN* (1994), 35.
4. Robert Bartlett, *ENGLAND UNDER THE NORMAN AND ANGEVIN KINGS, 1075-1225* (2000), 26; Turner, *KING JOHN*, 53.
5. Turner, *MAGNA CARTA*, 35-36; McLynn, *op. cit.*, 292-302.
6. Bartlett, *op. cit.*, 26-27. Hannis Taylor, *ORIGIN AND GROWTH OF THE ENGLISH CONSTITUTION: AN HISTORICAL TREATISE* (1889-1898), I: 364-365, tells of the jurisprudence by which Philip declared himself the new lord of Normandy.
7. McLynn, *op. cit.*, 301-306; Turner, *MAGNA CARTA*, 32-34. For a commentary written shortly after the events, see J.A. Giles, trans., *ROGER OF WENDOVER’S FLOWERS OF HISTORY, COMPRISING THE HISTORY OF ENGLAND FROM THE DESCENT OF THE SAXONS TO THE YEAR 1235* (1849), II: 203, 205-206.
8. Bartlett, *op. cit.*, 27.
9. McLynn, *op. cit.*, 325-336; Turner, *MAGNA CARTA*, 36.
10. Examine the modern printed shire records taken from the Domesday Book (the massive original of which was compiled 1086) to see that bishops, abbeys, and parishes rank among the shires’ wealthiest landowners, often holding as much land as the king. See, for example, John Morris and Clare Caldwell, eds., *DOMESDAY BOOK: OXFORDSHIRE* (1987), 154b.
11. Turner, *KING JOHN*, 149-153.
12. McLynn, *op. cit.*, 371-375; *ROGER OF WENDOVER’S FLOWERS OF HISTORY*, II: 215-218, 219-221, 236-238; and Turner, *KING JOHN*, 156-159. Note that Innocent also assessed the rights of the “suffrigan bishops of the church of Canterbury” in this matter.
13. McLynn, *op. cit.*, 375; Turner, *KING JOHN*, 158-159.
14. Peter D. Clarke, *THE INTERDICT IN THE THIRTEENTH CENTURY: A QUESTION OF COLLECTIVE GUILT* (2007), 1, 15-28, 37-48, 170.
15. McLynn, *op. cit.*, 375-377; Turner, *KING JOHN*, 160-163; and for an insight into John’s point of view, see Tyerman, *op. cit.*, 321.
16. Turner, *KING JOHN*, 164-165.
17. After Henry I died (1135) a civil war raged (1139-1153) between his heir, the Empress Matilda, and the usurper, King Stephen. Henry II (1154-1189), was the son of Matilda. See McLynn, *op. cit.*, 2; and for a succinct view of Henry II’s royal style, see Hogue, *op. cit.*, 33-45.
18. Hogue, *op. cit.*, 151-163; Bartlett, *op. cit.*, 177-193, especially 190-192; J.C. Holt, *MAGNA CARTA*, 2nd ed. (1992), 178-181; and see Taylor, *op. cit.*, I: 303-333, for the transition from Anglo Saxon law to Angevin common law. The circuit-rising royal justices were said to be “on eyre.”
19. Holt, *op. cit.*, 180-183.
20. Bartlett, *op. cit.*, 178-179, 190-193; McLynn, *op. cit.*, 366-368; Turner, *KING JOHN*, 201-202; Turner, *MAGNA CARTA*, 13-14, 48; and see also Ralph V. Turner, *ENGLISH JUDICIARY IN THE AGE OF GLANVILL AND BRACTON*, 1176-1239 (1985), *passim*.
21. Turner, *KING JOHN*, 205-207; for treatment of “amercements,” monetary penalties inflicted by royal justices, see *ibid.*, 209. And for the easy acceptance of the idea that extra payment to the crown or to judges was “part of the normal costs of lawsuits,” see *ibid.*, 209 (quoted passage), 214.
22. Hogue, *op. cit.*, 50, estimates 230 barons; Turner, *MAGNA CARTA*, 18, 55, estimates 165 barons.
23. John’s general tax of 1207 had almost touched off a revolt. See Turner, *MAGNA CARTA*, 45.
24. Turner, *KING JOHN*, 102; and G.D.G. Hall, ed., *THE TREATISE ON THE LAW AND CUSTOMS OF ENGLAND COMMONLY CALLED GLANVILL* (1965), 108 (IX.4). See also L.J. Downer, trans., *LEGES HENRICI PRIMI* (1972), 109 [C. 10, 1], which places “the reliefs of his barons” under the King’s jurisdiction.
25. Turner, *KING JOHN*, 103.
26. J.C. Holt, *Magna Carta, 1215-1217: The Legal and Social Context*, in Edward B. King and Susan J. Ridyard, eds., *LAW IN MEDIAEVAL LIFE AND THOUGHT: SEWANEE MEDIAEVAL STUDIES, NUMBER FIVE* (1990), 12.
27. Holt, *MAGNA CARTA*, 85; Turner, *KING JOHN*, 101; and Antonia Fraser, *LIVES OF THE KINGS AND QUEENS OF ENGLAND*, rev. ed. (2000), 65.
28. Turner, *MAGNA CARTA*, 41-42.
29. Tyerman, *op. cit.*, 317-319; and see Turner, *ENGLISH JUDICIARY IN THE AGE OF GLANVILL AND BRACTON*, 130-131.
30. Readers should consider Shakespeare’s *TWELFTH NIGHT*, Act. 2, Scene 5, lines 159-160 [Yale Shakespeare, 1922]: “Some are born great, some achieve greatness, and some have greatness thrust upon them.”
31. Turner, *KING JOHN*, 54-58, 72-76, 104.
32. *Ibid.*, 70, 77, 102-103, 107-108, 206; and Bartlett, *op. cit.*, 346-360. For the practices of the Exchequer generally, go to an original source; Richard Fitzneale [Arthur Hughes, *et al*, eds.], *DIALOGUS DE SCACCARIO: ENGLISH AND LATIN* (1902), *passim*. For a contemporary discussion of the mistreatment of Jews, see *ROGER OF WENDOVER’S FLOWERS OF HISTORY*, II: 81-82,
33. W.L. Warren, *GOVERNANCE OF ANGEVIN ENGLAND, 1076-1272* (1987), 157-158.

34. *Ibid.*, 158; Holt, MAGNA CARTA, 83, 109; Turner, KING JOHN, 197-198, 208, 220-221; Turner, MAGNA CARTA, 47-48; Tyerman, *op. cit.*, 311-312; Bartlett, *op. cit.*, 30. It was true that De Briouze had not met his payments to the Exchequer; likewise, that his wife had refused to give up their sons; finally, that he had violently resisted efforts to seize his lands.
35. The words are from the opening speech of Shakespeare's RICHARD III ("Now is the winter of our discontent . . .) but they seem appropriate here.
36. Generally see Turner, KING JOHN, 180-181, 183-184, 192-193; and see GLANVILL, 112 (IX.8), for the statement (though hedged about with conditional language) that lords, in matters of their own private wars, "may not lawfully constrain their tenants beyond their the limits of their willingness to comply."
37. Holt, MAGNA CARTA, 93-95, 118.
38. Turner, KING JOHN, 4, 7-9, 16, 179, 185, 261, 262; Bartlett, *op. cit.*, 497-500, 506; McLynn, *op. cit.*, 115, 151, 243, 260, 275, 306-307.
39. For short biographies, see Tyerman, *op. cit.*, 313-317.
40. Turner, KING JOHN, 167, 192-193, 217, 226-231; Turner, MAGNA CARTA, 46-47, 53-54; and Holt, MAGNA CARTA, 119-120, 204, 211.
41. Turner, MAGNA CARTA, 39-40; ROGER OF WENDOVER'S FLOWERS OF HISTORY, II: 256, notes that in 1212, Innocent had taken the preliminary step of absolving princes high and low from "all fealty and allegiance" to John.
42. Turner, MAGNA CARTA, 30, 37.
43. McLynn, *op. cit.*, 410-411; Holt, MAGNA CARTA, 221 ff.; Turner, KING JOHN, 215-218; Turner, MAGNA CARTA, 55.
44. See GLANVILL, 103-109 (IX.1-IX.6). But note also that Thomas Littleton's TENURES (1481/1482), the last great work of medieval common law, still contained serious, even moving entries involving these concepts of loyalty. See LITTLETON'S TENURES IN ENGLISH, rev. ed. (1845), *passim*, but especially §§ 85, 91-92.
45. Turner, KING JOHN, 218-219, quoting at 218 Holt's THE NORTHERNERS (1961), 34.
46. Holt, MAGNA CARTA, 222-223.
47. Turner, KING JOHN, 193, 201-221.
48. Holt, MAGNA CARTA, 222.
49. *Ibid.*, 218-220, 223-226.
50. Turner, KING JOHN, 232-234; Holt, MAGNA CARTA, 227.
51. Turner, KING JOHN, 234; Holt, MAGNA CARTA, 229.
52. Giles, ROGER OF WENDOVER'S FLOWERS OF HISTORY, II: 307-309.
53. Turner, KING JOHN, 236; Tyerman, *op. cit.*, 287-290. Marshal was the greatest fighter of his day, a consistent supporter of the Angevin line who had been rewarded with the earldom of Pembroke. His candor and honesty had cost him John's favor after the fall of Normandy; see McLynn, *op. cit.*, 37-33.
54. Turner, KING JOHN, 235-236 (quoted passage on 235). Runnymede is a short distance from Windsor.
55. *Ibid.*, 236-238. By June 24, the clerks had drawn up a number of copies, of which four survive.
56. A.E. Dick Howard, MAGNA CARTA: TEXT AND COMMENTARY, rev. ed. (1998), 8-12. The text of Magna Carta may be found in *ibid.*, 35-54; all subsequent cites to Magna Carta refer to the translation of the document in Howard.
57. Magna Carta, Ch. 2; for provisions intended to protect Wards, widows and heirs, see Chs. 3-11.
58. *Ibid.*, Chs. 12, 14. The specified exception to these chapters is noted in Ch. 12, by which the king may impose "reasonable" aids in order to finance the knighting of his eldest son, the marriage of his eldest daughter, or his own ransom. Ch. 15 places the same three-part limitations upon all lords.
59. GLANVILLE, 2 (Prologue), speaks of laws "settled in council on the advice of the magnates and with the supporting authority of the prince—for this also is a law, that 'what pleases the prince has the force of law.'" For an older, more authoritative passage that supported the barons' claims see LEGES HENRICI PRIMI, Ch. 1,1.
60. Howard, *op. cit.*, 12-17.
61. Magna Carta, Chs. 18; the elections presumably were to be held among (Ch. 19) the "knights and freeholders" present at the county (shire) court. Note that Ch. 17 required sittings of the Bench to be held at some fixed place, and not to follow the king around the country—arguably the beginning of that court's separate institutional history.
62. See *Ibid.*, Chs. 20 (free men and serfs, or villeins), 21 (earls and barons, fined only by their peers), and 22 (churchmen). And note Ch. 60, in which John states that "All the customs and liberties aforesaid" should be observed by "all Our subjects, whether clerks [churchmen] or laymen . . . toward their dependents."
63. *Ibid.*, Ch. 40. Magna Carta also referred to a developing legal profession when it promised that the king would appoint to certain offices "only such men as know the law of the land"; *ibid.*, Ch. 45. For an anticipation of our Bill of Rights' "takings" clause, compare the U.S. Constitution, 5th Amendment, with Magna Carta, Ch. 28. The discussion of Magna Carta in this piece does not touch upon the many of John's more specific promises of restoration and amendment; nor does it deal with the crafty passages (Chs. 52, 53, 57) by which John postponed many of the promised reforms until he returned from his promised Crusade.
64. *Ibid.*, Ch. 61; and see Ch. 52 for the barons' role in mediating land-disputes.
65. Henry III ruled from 1216 to 1272. In the course of his re-issues, Chapter 39 of the 1215 charter became Chapter 29.
66. Tyerman, *op. cit.*, 335-347; Turner, KING JOHN, 249-257; Howard, *op. cit.*, 23-24.
67. Daniel John Meador, HABEAS CORPUS AND MAGNA CARTA: DUALISM OF POWER AND LIBERTY (1966). For Dean Meador's obituary see the BIRMINGHAM NEWS, February 11-13, 2013.
68. Meador, *op. cit.*, 10-29, *passim*, especially 13-29. And see Beverly Zweiben, HOW BLACKSTONE LOST THE COLONIES: ENGLISH LAW, COLONIAL LAWYERS, AND THE AMERICAN REVOLUTION (1990).
69. William Holdsworth, SOURCES AND LITERATURE OF ENGLISH LAW (1925), 10-11; and see Sir Herbert Butterfield, THE WHIG INTERPRETATION OF HISTORY (1931, 1965).
70. Robert Ernest Spiller, *et al.*, eds., COLLECTED WORKS OF RALPH WALDO EMERSON, 10 vols. (1971-), at 5: 48.
71. See Black's dissent in *Adamson v. California*, 332 U.S. 68-92 (1947), at 84, quoting from Charles Collins, THE FOURTEENTH AMENDMENT AND THE STATES (1912). See Peter Linebaugh, THE MAGNA CARTA MANIFESTO (2014), 190.