

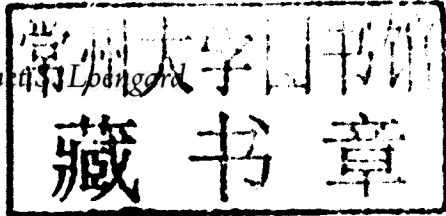
MAGNA CARTA AND THE ENGLAND OF KING JOHN



EDITED BY JANET S. LOENGARD

Magna Carta
and the England
of King John

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Magna Carta and the England of King John

Magna Carta marked a watershed in the relations between monarch and subject and as such has long been central to English constitutional and political history. This volume uses it as a springboard to focus on social, economic, legal, and religious institutions and attitudes in the early thirteenth century. What was England like between 1199 and 1215? And, no less important, how was King John perceived by those who actually knew him? The essays here analyse earlier Angevin rulers and the effect of their reigns on John's England, the causes and results of the increasing baronial fear of the king, the 'managerial revolution' of the English church, and the effect of the *ius commune* on English common law. They also examine the burgeoning economy of the early thirteenth century and its effect on English towns, the background to discontent over the royal forests which eventually led to the Charter of the Forest, the effect of Magna Carta on widows and property, and the course of criminal justice before 1215. The volume concludes with the first critical edition of an open letter from King John explaining his position in the matter of William de Briouze.

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Abbreviations

<i>Annales Monastici</i>	Henry Richards Luard, ed., <i>Annales Monastici</i> , 5 vols, Rolls Series 36 (London, 1864–9)
BL	British Library
<i>Bracton</i>	George E. Woodbine, ed., <i>Bracton on the Laws and Customs of England</i> , tr. with revision and notes by Samuel E. Thorne, 4 vols (Cambridge, MA, 1968–77)
<i>Chronique des rois</i>	Martin Bouquet, ed., <i>Chronique des rois de France, Recueils des Historiens de Gaule et de la France</i> , 2nd ed. Léopold Delisle, 24 vols (Paris, 1864–1904)
<i>Coggeshall</i>	Joseph Stevenson, ed., <i>Radulphi de Coggeshall Chronicon Anglicanum</i> , Rolls Series 66 (London, 1875)
CRR	<i>Curia Regis Rolls of the Reigns of Richard I and John</i> , 7 vols (London, 1922–35)
Fitz Nigel, <i>Dialogue</i>	Richard fitz Nigel, <i>Dialogus de Scaccario and Constitutio Domus Regis: The Dialogue of the Exchequer and The Establishment of the Royal Household</i> , ed. Emilie Amt and S. D. Church (Oxford, 2007)
Giraldus Cambrensis, <i>Opera</i>	J. S. Brewer, J. F. Dimock, and G. F. Warner, eds., <i>Giraldi Cambrensis Opera</i> , 8 vols, Rolls Series 21 (London, 1861–91)
<i>Glanvill</i>	G. D. G. Hall, ed., <i>The Treatise on the Laws and Customs of England commonly called Glanvill</i> (Edinburgh, 1965); repr. with guide to further reading by M. T. Clanchy (Oxford, 1993)
<i>Histoire des ducs</i>	Francisque Michel, ed., <i>Histoire des ducs de Normandie et des rois d'Angleterre</i> (Paris, 1840)
<i>Howden</i>	William Stubbs, ed., <i>Chronica Magistri Rogeri de Hovedene</i> , 4 vols, Rolls Series 51 (London, 1868–71)
HWM	Anthony J. Holden and David Crouch, eds, <i>History of William Marshal</i> , trans. Stewart Gregory, 3 vols, Anglo-Norman Text Society Occasional Publications Series 4–6 (London, 2002–7)
<i>Liber Niger Scaccarii</i>	Thomas Hearne, ed., <i>Liber Niger Scaccarii</i> , 2 vols (Oxford, 1728)
Matthew Paris, <i>Chronica Majora</i>	Henry Richards Luard, ed., <i>Matthaei Parisiensis Chronica Majora</i> , 7 vols, Rolls Series 57 (London, 1872–84)

MIC	Monumenta iuris canonici
ODNB	<i>Oxford Dictionary of National Biography</i> online (www.oxforddnb.com)
<i>Pipe Roll</i>	<i>The Great Roll of the Pipe for the [named year] Year of the Reign of King Richard I/John/Henry III</i>
PRS	Publications of the Pipe Roll Society
RCR	Sir Francis Palgrave, ed., <i>Rotuli Curiae Regis</i> , 2 vols (London, 1834–35)
Rolls Series	<i>Rerum Britannicarum medii aevi scriptores, or Chronicles and Memorials of Great Britain and Ireland during the Middle Ages</i> , 99 vols (1858–96)
<i>Rot. Chart.</i>	Thomas Duffus Hardy, ed., <i>Rotuli Chartarum</i> (Record Commission, 1837)
<i>Rot. Litt. Claus.</i>	Thomas Duffus Hardy, ed., <i>Rotuli Litterarum Clausarum</i> , 2 vols (Record Commission, 1833–4)
<i>Rot. Litt. Pat.</i>	Thomas Duffus Hardy, ed., <i>Rotuli Litterarum Patentium</i> , (Record Commission, 1835)
Rymer, <i>Fædera</i>	Thomas Rymer, <i>Fædera, Conventiones, Litterae et cujuscunque generis Acta Publica</i> , ed. Adam Clarke and Frederick Holbrooke, 4 vols in 7 (Record Commission, 1816–69)
SCP	William Paley Baildon, ed., <i>Select Civil Pleas</i> , Selden Society 3 (London, 1890)
Stubbs, <i>Select Charters</i>	William Stubbs, ed., <i>Select Charters and other Illustrations of English Constitutional History</i> , 9th edn rev. H. W. C. Davis (London, 1913)
TNA:PRO	The National Archives: Public Record Office
<i>Walter of Coventry</i>	William Stubbs, ed., <i>Memoriale Fratris Walteri de Coventria</i> , 2 vols, Rolls Series 58 (London, 1872)
<i>Wendover</i>	Henry G. Hewlett, ed., <i>Rogeri de Wendover Flores Historiarum</i> , 3 vols, Rolls Series 84 (London, 1886–9)
<i>William of Newburgh</i>	<i>Historia Rerum Anglicarum of William of Newburgh</i> , in Richard Howlett, ed., <i>Chronicles of the Reigns of Stephen, Henry II and Richard I</i> , 4 vols, Rolls Series 82 (London, 1884–9)

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Introduction

JANET S. LOENGARD

IT IS CERTAINLY a testament to the vitality of Magna Carta that a conference invoking its name was held in Pennsylvania almost 800 years after Runnymede. This volume has its genesis in that conference, 'Magna Carta and the World of King John', at Pennsylvania State University in March 2008. As it happened, all the papers presented there dealt primarily with England, hence the change in the title of this book. Together, they explore the economic, social, political, and personal factors which ultimately affected the relationship of king and subjects. To borrow the title of a recent volume, their theme might be said to be 'Why Magna Carta?'¹

In both the United States and the United Kingdom, books and articles with interpretations and analyses of the Charter have appeared regularly. Their focus has shifted over time. Nineteenth century work tended to concentrate on constitutional and political history, speculating on thirteenth-century political thought and often tracing the effect of various Charter provisions on one or more later periods in British history. There was also a tendency to inject an author's view of the morality of barons and/or king into the discussion; John Hudson touches on both points in his essay here when he speaks of historians' former tendency to write in terms of 'the nature of political thinking amongst the lay elite' and of 'the moral terms in which the question of ... lay ideals for reform in 1215 used to be posed – for example, how far were the barons of 1215 self-interested, how far altruistic.' Particularly in the second half of the twentieth century, that focus shifted. Historians concerned themselves with exploring the social and economic networks of early thirteenth century England, as well as tracing the background of specific grievances, which led the barons to embark on what David Crouch in his essay refers to as the Barons' Rebellion.² In part this

¹ Natalie Fryde, *Why Magna Carta?* (Münster, 2001).

² There have been various discussions of the Charter in which an author's particular interests or expertise have been emphasized; for example, recent work by two academics in the area of accounting focuses on Magna Carta as a tax rebellion: Jane Frecknall-Hughes and Lynne Oates, 'King John's Tax Innovations – extortion, resistance, and the establishment of the principle of taxation by consent', *Accounting Historians Journal* 34 no. 2 (2007), 75–107, and John Lackland: A Fiscal Re-evaluation', in John Tiley, ed., *Studies in the History of Tax Law III* (Oxford and Portland, OR, 2009), pp. 201–26. They are of course not alone in noting the significance of taxation as a factor; in this volume David Crouch quotes J. C. Holt's remark that the events of 1215 were 'a rebellion of the king's debtors'.

may reflect changing trends in the discipline of history, but in part it must be related to the vast increase in the number of primary sources readily available to historians, thanks to the publications of county record societies, The National Archives, the Selden Society, the Ames Foundation, and other groups both British and American. The plea rolls, charters, pipe rolls, and various administrative records have led to a more nuanced view of John's governance and its reception by his subjects, baronial or other. One might suggest that the shift in focus is encapsulated in the title of Helen Maud Cam's 1965 Selden Society lecture: *Magna Carta, Event or Document?*³

It is, of course, not only academics and scholars who continue to find Magna Carta of absorbing interest. Like the Declaration of Independence or the Constitution in the United States, the physical document itself – in one of its four existing 1215 copies and various later reissues and exemplars – exerts a popular fascination. Its iconic status could not be better illustrated than by the sight of crowds of people – at least one hobbling with the aid of two sticks – who streamed into Oxford's Bodleian Library in December 2007 to view the four copies it holds, briefly on view there.⁴ In the same year, there was widespread dismay well reported in the American newspapers when a 1297 inspeximus of the Charter, which had been on loan to the United States National Archives in Washington, DC, was withdrawn and put up for sale; the same papers chronicled its 'rescue' when it was purchased by a buyer who immediately announced his intention to return it to the Archives.⁵ Such interest alone would surely justify an attempt to explore the England which produced a parchment so freighted with meaning and interpretation.

The conference did not focus on the character and personality of King John, but his qualities are the background for the events of 1215 and for this book. In the opening essay, Ralph Turner sites John with relation to his father and brother. John was not simply the ill-favoured child of a well-beloved and benevolent royal family; Turner analyses the personality and character of two generations of the Angevin dynasty, finding them all lacking in most of the attributes necessary for successful kingship. They were, in his assessment, greedy, cruel, and violent. But he also points up circumstances which a medieval chronicler did not take into account or perhaps generally did not recognize: the Angevins would have faced overwhelming

³ 'Magna Carta, Event or Document?', Selden Society lecture delivered in the Old Hall of Lincoln's Inn, 7 July 1965 (London, 1965).

⁴ *Telegraph*, 12 December 2007: <http://www.telegraph.co.uk/news/uknews/1572181/crowds-flock-to-see-Magna-Carta-Manuscripts.html>; *Guardian*, 11 December 2007: <http://www.guardian.co.uk/uk/2007/dec/11/maevkennedy>.

⁵ 'This Magna Carta to Remain in US', *New York Times*, 19 December 2007; 'Who Bought Magna Carta', *Wall Street Journal*, 20 December 2007.

difficulties even had they exhibited more desirable personal qualities. The size and diversity of their 'empire' – the quotation marks are Turner's – would have made it difficult if not impossible to administer, given the state of communications and transportation. Moreover, the wealth of the French king was increasing as that of the English monarchs was not, threatening the financial advantage which Henry II and even Richard had enjoyed. Finally, the French monarch himself was widely admired, benefiting to no small extent from comparison with the tumultuous personal lives of Henry II and John.

Nonetheless, Turner makes clear that even without a family background which had engendered distrust and dislike among segments of his subjects, John's behaviour and his alleged behaviour – murder of a nephew, torture to death of courtiers, harsh treatment of hostages and more – coupled with his military defeats would have been enough to bring barons and clergy to the brink of rebellion.

Two further essays, by John Gillingham and David Crouch, examine contemporary perceptions of the king. John has not lacked for analysis, from the vitriolic remarks of Matthew Paris in the thirteenth century and the startlingly intemperate ones of William Stubbs in the nineteenth,⁶ to the more measured comments of the Tudor chronicler Raphael Holinshed, who could be said to write more in sorrow than in anger,⁷ the somewhat more favourable but conflicted analyses of historians from V. H. Galbraith to W. L. Warren,⁸ and the generally critical but balanced appraisals in essays collected in *King John: New Interpretations*.⁹ J. C. Holt's carefully balanced assessment may sum up John's character most succinctly: he had a

⁶ *Walter of Coventry*, ii, Preface: '... there is nothing in him which for a single moment calls out our better sentiments; in his prosperity there is nothing that we can admire and in his adversity nothing that we can pity. ... John has neither grace nor splendour, strength nor patriotism. His history stamps him as a worse man than many who have done much more harm ...' (p. xi); '... he is savage, filthy, and blasphemous in his wrath ...' (p. xv) and so on.

⁷ Hollinshed's summing up of John, despite its sixteenth-century diction, sounds familiar to modern historians: while John had a princely heart, he could not bridle his affections, 'a thing verie hard in a stout stomach, and thereby [he] missed now and then to compasse that which otherwise he might verie well haue brought to passe.' *Holinshed's Chronicles of England, Scotland and Ireland*, new intro. by Vernon F. Snow, 6 vols (New York, 1976), vol. 2: England, p. 339. The text is a reprint of the 1807–8 edition.

⁸ V. H. Galbraith, 'Good Kings and Bad Kings in Medieval English History', *History* 30 (1945), 119–32; repr. in his *Kings and Chroniclers* (London, 1982), pp. 119–32; W. L. Warren, *King John* (London, 1961; 2nd edn 1978) and W. L. Warren, 'King John and the Historians', *Journal of British Studies* 1:1 (1961), 1–15.

⁹ Stephen D. Church, ed., *King John: New Interpretations* (Woodbridge, 1999), especially essays by Jim Bradbury, John Gillingham, and Ralph V. Turner.

'genius for political negotiation, for intrigue, and the manipulation of men' and he was interested and able – if ruthless – in governance. 'But he lacked what helps a man most in a crisis – a level head.'¹⁰

Holinshed's comment about John's inability to bridle his affections is a fitting complement – albeit perhaps more favourable to the king – to John Gillingham's detailed consideration of the early thirteenth century anonymous and somewhat neglected *Histoire des ducs de Normandie et des rois d'Angleterre*, attributed to an author in the retinue of Robert de Béthune. The *Histoire* lets the reader listen to the voice of King John, rather than hearing only an interpretation of his words; the king could be crude and cruel, but a measure of stubborn bravery also appears together with considerable administrative ability. He shows himself as in no way admirable – there is little in the *Histoire's* narrative to invite admiration – but also in the end not simply 'a very bad man ... brim-full of evil qualities', as the anonymous author does characterize him at one point.¹¹ Reading Gillingham's detailed and even-handed analysis of the *Histoire* provides a measured picture of John, a man who emerges still not likeable but neither cowardly nor incompetent.

David Crouch also refers to the *Histoire des ducs de Normandie et des rois d'Angleterre* and its picture of John, this time using it as one of the sources which offer an insight into the circumstances which coloured the barons' view of the king. Their 'paranoia', which Crouch chronicles, seems to have been warranted by what might be thought of as the king's own paranoia: he was fearful of his subjects (sometimes not without justification); he trusted no one, as evidenced by his taking of hostages; he could justify even the most cruel of his actions. It is not surprising, then, that fear existed as well on the part of his subjects and Crouch comments that fear 'has always been the emotion that most compels human beings to fight'. He sees it as the key to the paranoia which in turn led to the events of 1215; it is unsurprising that there was a Barons' Rebellion. What is of interest to Crouch are the barons' failure to move against the king until late in the reign, and the events that eventually triggered their rebellion. His assessment of the first is complex, dealing with both the barons' individuality and inability to form a unified faction and the benefits which John's favour conferred. On the second point, he offers a commentary on the tradition of counsel and its ability to influence kingly behaviour, the lack of meaningful consultation as a basis for policy formation in John's reign, and the attempt on John's life in 1212 which caused the king to modify his behaviour and which Crouch implies empowered the baronial opposition.

¹⁰ 'King John', in J. C. Holt, *Magna Carta and Medieval Government* (London and Ronceverte, 1985).

¹¹ *Histoire des ducs*, p. 105.

One of the significant modifications Crouch mentions was a relaxing of the forest law, whose harshness in both prescription and administration had been one of the barons' longtime grievances. Its injustice affected more than noblemen and was widely felt; Ralph Turner here quotes the complaint of a monk of Eynsham Abbey about the punishment inflicted on peasant poachers. The particulars of forest law administration are set out in detail by David Crook, whose essay leaves little doubt in the reader's mind of both its brutality and the financial hardship it imposed. The 1198 assize of the forests, with its reiteration and explication of the penalties of the brutal Assize of Woodstock, while instituted under Richard would have formed the basis for the repeated visitations of the chief forester and his assistants. Crook's carefully constructed outline of the forest eyres from 1198 to 1212 and of the sums they produced makes clear their success as a fund-raising venture, although apparently the severity of the visitations abated after 1212. As Crook explains, following the crisis when the plot against the king's life was discovered in mid-August of that year, John ordered that his senior foresters demand only what had been customary under Henry II. In any event, the 1217 Charter of the Forest, echoing themes raised in the Articles of the Barons, was the eventual remedy for the excesses of the former reign.¹²

The essays by James Brundage and John Hudson look at the impact of non-English developments on the British Isles. Both take up the question of the *ius commune* and its influence, on the English church in Brundage's case and on Magna Carta itself in Hudson's. Brundage traces the rise of teaching of both canon and Roman civil law in England, leading to what he calls 'the takeover of the church by lawyers' and the result of their presence on the entire system of church courts. As more men studied law at Oxford and Cambridge, more men learned in canon and civil law were appointed to significant positions in the church administration and hierarchy and some of them came to dominate the increasingly formal and complex system of church courts. Brundage finds the influence of the *ius commune* significant, although he is of two minds about the beneficial results of a church court system increasingly dominated by lawyers. Although he mentions it only in passing – it is not the point of his essay – another result of the 'managerial takeover' was the concomitant presence of churchmen with training in Roman law as justices in the king's courts in the earlier part of the

¹² In a recent wide-ranging, and speculative book, Peter Linebaugh argues for the original importance of the Charter of the Forest, which he sees as having left only 'local and customary practices' over the centuries. He traces the early relationship between Magna Carta and the Forest Charter, stressing the importance of the latter in a society which depended on wood as its source of fuel and building material: Peter Linebaugh, *The Magna Carta Manifesto: Liberty and Commons for All* (Berkeley, 2008), esp. the chapter 'Two Charters'.

thirteenth century. The Roman law elements in Bracton's treatise, set out by Maitland in his *Bracton and Azo*,¹³ come to mind, and with them the long-debated question of *ius commune* influence on English law.

John Hudson enters that debate in analysing *ius commune's* place in the drafting of Magna Carta. The poles of the debate, for him, are Richard Helmholz's 1999 article 'Magna Carta and the *ius commune*'¹⁴ and the second edition of J. C. Holt's *Magna Carta*, published in 1992.¹⁵ Helmholz argues from a detailed analysis of various chapters that not only did drafters of the Charter know the *ius commune*, they borrowed from it when formulating a significant number of provisions; the wider point is *ius commune* influence on English common law. Holt would allow the *ius commune* a narrower role, and Hudson takes a similar position: he suggests that much of Magna Carta was derived from earlier custom and practice and '[A]s with Magna Carta, any influence [on the common law] generally seems to have been on underlying thinking or on discussion of parallel problems, rather than through the adoption of procedures from the *ius commune*.' In an appendix whose sources range from the Bible to the *Leges Willelmi* he offers some of the evidence for his conclusions.

The other three essays in the volume deal with less theoretical topics. Barbara Hanawalt investigates the administration of justice before 1215, in a world where a majority of criminal matters were brought to the courts by private appeal rather than by jury of presentment although both modes of initiating action existed,¹⁶ and where many or most of those initiated were not decided by judgment of either judge or jury. The number of plaintiffs who failed to appear following their initial appeal, the parties who put themselves on the king's mercy and paid a fine, and the frequent court-sanctioned settlements between the parties of essentially criminal charges, might suggest an impotent judicial system but might better be seen as a legacy of Anglo-Saxon legal thinking and attitudes toward dispute settlement.¹⁷ Hanawalt speculates that the apparent malfunctioning of procedure – ordeals which never took place or failure of clear-cut findings of guilt, for example – may mean, rather, that people initiated appeals for

¹³ F. W. Maitland, ed., *Select Passages from the Works of Bracton and Azo*, Selden Society 8 (London, 1895).

¹⁴ R. H. Helmholz, 'Magna Carta and the *ius commune*', *University of Chicago Law Review* 66 (1999), 297–371.

¹⁵ J. C. Holt, *Magna Carta* (Cambridge, 1965; 2nd edn 1992).

¹⁶ The jury of presentment of course offered a path to greater involvement in criminal cases by royal justices since a jury was obliged to voice its suspicions to them, under threat of penalty for failure to do so.

¹⁷ See Doris M. Stenton, 'The Anglo-Saxon Inheritance', in *English Justice between the Norman Conquest and the Great Charter, 1066–1215* (Philadelphia, 1964 repr. 1966) pp. 6–21.

reasons other than seeing a criminal brought to justice. That theory goes far to explain the behaviour of both parties and judges in many instances. Because Hanawalt is interested primarily in why people behaved as they did within the framework of the courts as they found them, rather than what that behaviour meant for the development of legal institutions, she moves behind the terse accounts in the plea rolls to speculate on the parties' motivation and relationships.

Janet Loengard examines the background to clauses 7 and 8 of Magna Carta 1215, the provisions protecting widows' dower and their right not to remarry. She finds that despite the well-known occurrences recorded in the pipe rolls and early plea rolls, royal interference was not the force behind most dower litigation. While widows of all men who had held freehold land could claim dower, there was a divide between the widowed heiresses and widows of tenants-in-chief on the one hand and widows of lesser men on the other, and the king rarely interfered with the latter. It was the barons who were most concerned about their wives' dower and remarriage – and it is they whose concern is reflected in clauses 7 and 8 of the 1215 Charter (c. 7 of 1225), which deal with dower, *maritagium*, inheritance, and remarriage. Clause 60 of that Charter (c. 7 of 1225), which decrees that customs and liberties granted by the king to his men are to be observed by them towards their own men, may well have affected many more women. But in fact most dower litigation did not involve a dead husband's lord, and in many cases the provisions of Magna Carta may not have been a deciding factor.

James Masschaele provides a survey both detailed and sweeping of the economic condition of England in the early years of the thirteenth century. He offers a critique of several scholars' views of both inflation and deflation during the reign, finding that the first decade of the thirteenth century was actually a period of significant commercial growth, a period which began in the mid-twelfth century. His conclusion is that Magna Carta thus falls in the middle of an exceptional period of overall expansion related to a rise in commercial activity: he discusses the founding of new towns and the acquisition of commercial privileges by established towns; the burgeoning of markets and fairs; and the development of transportation. Masschaele notes that in each of these areas, it is possible to find strong evidence for growth, and that various clauses of Magna Carta in fact deal with commercial matters – an indication that commerce had become of national concern rather than simply a local preoccupation. The question of inflation – the period over which it took place and its severity – is, of course, important because it would have resulted in an increased cost of government and it has been suggested that John's escalating financial demands resulted from those rising expenses. But Masschaele argues that knowledge of price trends 'cannot really serve as a proxy for general trends or developments'. He cautions that

the links between the economy and the barons' revolt against King John are not simple and draws no certain conclusions.

Finally, after discussion of him ranging from the thirteenth century to the twenty-first, there is the voice of King John himself. The king's open letter concerning William de Braose or Briouze,¹⁸ translated with notes by David Crouch, provides compelling evidence of John's character – an insistence on procedure, a petulant conviction of his own victimization, an apparent concern for criticism by his barons – as the king makes his case against a former favourite courtier, although, as Crouch points out, the letter was written before the death of William's wife and son in Windsor Castle at the king's hands.

Something should be said to acknowledge what is *not* covered in the volume. There is no effort to assess or explain the importance of the Charter through the centuries in either its impact on political thought or its effect on governance. Additionally, the book does not present an all-inclusive picture of England even in the early thirteenth century: most importantly, the peasantry is underrepresented, touched on only tangentially in several essays. The omission was dictated by the content of contributors' papers, and is not meant to imply that peasants were an unimportant group, although admittedly they played little or no role in the formulation of the Charter and had very little short-term benefit from it, being carefully left out of its most significant provisions.¹⁹

It would be wrong to end this introduction without reference to two significant historians who spent much time working on King John and whose influence hovers over this volume. Doris Mary Stenton appears in the footnotes of many essays; she edited not only most of the pipe rolls for John's reign but numerous volumes of plea rolls of the same period for county record societies and the Selden Society. Her familiarity with the sources led her to a relatively positive evaluation of John in relation to the courts and the emerging common law, even as she made no attempt to assess the king's character or justify his sometimes unjustifiable conduct.²⁰ Sir James

¹⁸ William's name is spelled in various ways and contributors to this volume have elected one or another of them. I have not attempted to impose uniformity on the point.

¹⁹ Perhaps most importantly, it is free men who are not to be detained, arrested, deprived of freehold, outlawed or banished except by judgment of peers and law of the land (c. 39 of 1215, c. 29 of 1225). One of the few specific protections for villeins is in c. 20 of 1215 (c. 14 of 1225): if amerced for a grave offence, a villein is to be spared his agricultural implements and he is not to be amerced except by oath of honest men of the neighbourhood.

²⁰ 'King John and the Courts of Justice', the Raleigh Lecture of the British Academy, 1958, repr. in Stenton, *English Justice between the Norman Conquest and the Great Charter, 1066–1215*, pp. 88–114.