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MAGNA CARTA

THIRD EDITION

A revised edition of J. C. Holt's classic study of Magna Carta, the Great Charter, offering the most authoritative analysis of England's most famous constitutional text. The book sets the events of 1215 and the Charter itself in the context of the law, politics and administration of England and Europe in the twelfth and thirteenth centuries. Additionally, a lengthy new introduction by two of Holt's former pupils, George Garnett and John Hudson, examines a range of issues raised by scholarship since publication of the second edition in 1992. These include the possible role of Archbishop Stephen Langton; the degree of influence of Roman and canon law upon those who drafted the Charter; other aspects of the intellectual setting of the Charter, in particular political thinking in London; the continental context of the events of 1212–15; and the legal and jurisdictional issues that affected the Charter's clauses on justice.

SIR JAMES HOLT FBA was Professor of Medieval History, University of Cambridge, and Master of Fitzwilliam College, 1981–8. He died in 2014.

GEORGE GARNETT is a Fellow and Tutor of St Hugh's College, Oxford and Professor of Medieval History, University of Oxford. He is the author of *Conquered England: Kingship, Succession, and Tenure 1066–1166*, *Marsilius of Padua and 'the Truth of History'* and *The Norman Conquest: A Very Short Introduction*. He was also joint editor, with John Hudson, of *Law and Government in Medieval England and Normandy: Essays in Honour of Sir James Holt*.

JOHN HUDSON is Professor of Legal History at the University of St Andrews and William W. Cook Global Law Professor at the University of Michigan Law School. His books include *The Formation of the English Common Law* and *The Oxford History of the Laws of England*, volume II, 871–1216. He was also joint editor, with George Garnett, of *Law and Government in Medieval England and Normandy: Essays in Honour of Sir James Holt*.

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J. C. HOLT

1922–2014

REVISED AND WITH A NEW INTRODUCTION BY

GEORGE GARNETT

*Fellow and Tutor of St Hugh's College
and Professor of Medieval History,
University of Oxford*

AND

JOHN HUDSON

*Professor of Legal History
University of St Andrews
and
William W. Cook Global Law Professor
University of Michigan Law School*



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Preface to third edition

Dear Jim,

There used to be a myth current here that Goronwy Edwards was the bastard son of Stubbs – because he knew so well Stubbs’ Charters. Having read your book I am inclined to think posterity may see in you Stubbs’ grandson – for both of you hail from Yorkshire, and your book reminds me, in its massive detail and its judicious comment, more of the Constitutional History than any single book written since.¹

In February 2014 we were approached and asked if we would prepare this now classic work, first published to accompany the seven hundred and fiftieth anniversary of Magna Carta, for republication at the beginning of the eight hundredth anniversary.² Since 2011 Jim Holt had been so physically infirm that he was no longer capable of revising his book himself. We had both visited him frequently during the period of his infirmity, and knew well that he continued to reflect on these matters and still relished discussing them. ‘Bloody rubbish!’, he exploded when one of us had the temerity to suggest that the true identity of ‘Glanvill’ might just conceivably be Samson, abbot of Bury St Edmunds. If anything, medieval history grew in intensity and immediacy because his circumscribed, house-bound existence provided little alternative stimulation.

¹ Undated letter (c. 1964) from V. H. Galbraith to Holt, commenting on a draft of *Magna Carta*: Holt papers, Department of Mediaeval History, University of St Andrews.

² We should like to thank David Bates for instigating the project, and David Carpenter, Dick Helmholtz, Peter Maxwell-Stuart, George Molyneux, Helen Pike, Richard Sharpe and Nicholas Vincent for information and criticism. In addition to the new Introduction, this edition revises the translation of Magna Carta in Appendix 6 (quotations in the main text retain the unrevised translation), adds new translations of the second part of the Unknown Charter and the Articles of the Barons in Appendices 4 and 5 respectively, makes minor corrections to the text of the Second Edition and expands the References section.

Neither of us hesitated for a moment about accepting the invitation, both out of filial piety and because we were confident that the book which Jim had greatly expanded for the Second Edition in 1992 was not going to be surpassed in the deluge of publications which would inevitably swamp 2015. It deserved to be brought up to date, to take account of what had been published since 1992, and also to explain how and why Jim had rethought so much for the Second Edition – the magnitude of the rethink is evidenced by the fact that the Second Edition is 175 pages longer than the First. But we did so with a scintilla of trepidation, because we were all too aware that he knew we were at work. He had approved of our taking on the job, but we could sense his critical eye skimming over what we had just written, and we wrote in the expectation that he would soon be taking us to task about it. The tone we adopted was therefore one of current debate, not valedictory summing up. We were due to go and see him with a preliminary draft of our Introduction on Friday 11 April. Then, as we were making last-minute revisions to it in preparation, came the news – an e-mail message flashing up in the corner of the screen, as is the way of things nowadays – that he had died suddenly, on Wednesday 9 April. It is always later than you think.

This is not the place for an obituary, or an assessment of Jim as an historian – probably the greatest historian of medieval England of the later twentieth century. We trust that there will be opportunities enough for these. But his death has forced us to adjust the tone of our draft, because it can no longer aspire to secure his *imprimatur* as a living contributor to the debate. That he nevertheless has an authoritative contribution to make has been clear to us as we have weighed his book, and the recent attempts of others to build on it and disagree with it, with an even keener intensity. His death has also prompted us to write at somewhat greater length, because this Introduction seems likely to constitute the most substantial assessment of his work on Magna Carta, and will mark his vicarious last word on the subject.

Amongst his papers – which will henceforth be lodged in the Department of Mediaeval History at St Andrews – we found a very long hand-written letter commenting on a typescript of the First Edition. It was written by Jim's own, greatly revered, doctoral supervisor – 'the Old Man', as he referred to him – who had encouraged him to write the book. Fifty years on, its opening sentence seems to us accurately to estimate Jim's place in the Pantheon of historians of medieval England. Who

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Preface to third edition

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could be better qualified to pronounce such a judgement than Galbraith? In 1964 his words were to some degree prophetic; but the prophecy came to pass, in Jim Holt's development of his work on Magna Carta and on many other subjects. Like his book's subject, 'It set no mean standard.'³

GEORGE GARNETT

JOHN HUDSON

³ Holt (1965), p. 292; (1992), p. 405.

Preface to second edition

This new edition differs from the first in various respects. First, a new chapter entitled Justice and Jurisdiction has been added. This fills a gap in the First Edition, for in 1965 I felt that on this topic there was little to be added to what others had done. I hope also that it will fill a gap in much that has been written in the last twenty years or so about the legal history of England in the late twelfth and early thirteenth centuries, for it is concerned with barons as litigants, not as holders of courts. Secondly, I have added some new appendices. Some of these deal with completely new evidence or with problems which have emerged since 1965; some are concerned with difficult and debatable matters best discussed outside the main body of the book. I have not tried to discuss all current debates in this way. On the 'price revolution', 'heritability', and a few similar matters I have simply directed the reader to a reasonable sample of the work of the participants and referred to Holt (1991a) where I discuss them briefly, but more directly. Thirdly, I have revised the text throughout, adjusting it here and there to recent work and adding a few short sections which reflect my own fresh thinking or research. The references in the footnotes have been brought up to date; I hope that I have included all the relevant work which has been done in the last quarter of a century. Finally, the book is provided with a completely new and more comprehensive index.

At the same time I have tried to reduce changes to the minimum, for this, like any other book, is a product of time and place. At one stage I intended to include a clause-by-clause commentary, but it soon became apparent that this would require almost encyclopaedic bulk. Too much work has now been done on the later history of the Charter, on the Crown's feudal incidents, for example, to incorporate anything more than a passing reference. Even more still needs to be done. Much that has been written on a theme as central as the later history of *nullus liber homo*, for example, now needs serious revision; I touch on this in a short addition in chapter 1. In any case such a commentary would have involved

Preface to second edition

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so much repetition of material in chapters 8 and 9 that it would have distorted the original shape of the book. It would, in short, have become a different book. So it remains thematic in structure, as it was first designed.

Over twenty-five years many have helped. Thanks to some can now only be a matter of record: Helen Cam, whose postcards always brought fresh ideas or information: Professor C. R. Cheney and Professor V. H. Galbraith, both of whom shared my zest for the subject and on whose contributions I call at several crucial points; and Professor S. B. Chrimes whose down-to-earth questions led me to think a little further, and I hope a little deeper, about events at Runnymede. I am grateful to Professor J. A. Guy for mentioning the preliminaries to the Act of Heresy of 1534, and to Mr D. E. C. Yale for drawing my attention to an original of the charter of 1215 which was still extant in the seventeenth century. Dr Martin Brett was particularly generous in presenting me with the problem of the collection of royal charters in B.L. Harleian MS 458. On the script of this enigmatic document, which came to be known affectionately among us as ‘the thing’, I benefited from the advice of the late Mr N. R. Ker and of Dr Pierre Chaplais and Dr Malcolm Parkes. On the more general linguistic problems which arise from it and from the Anglo-Norman text of Magna Carta, Professor William Rothwell gave generous and valuable guidance. Dr D. A. Carpenter helped me to correct some errors which were still buried deep in the first edition, and Dr David Crook answered appeals for urgent assistance from time to time. Finally I am particularly indebted to Dr Paul Brand. He read a draft of chapter 5 and suggested several improvements in detail and enabled me to correct a number of errors. He is to be excused of any responsibility for the argument I develop. To all these I express warm thanks.

My wife, to whom this book is dedicated, has helped in correcting the proofs and compiling the new index. She has meticulously and rigorously eliminated that happy variation in the rendering of names which results from work done at long intervals. She has also contributed in many other ways beyond record, as it was when the First Edition was completed in 1965.

J. C. H.
Fitzwilliam College
 CAMBRIDGE
January 1991

Preface to first edition

The seven hundred and fiftieth anniversary of Magna Carta is not the sole reason for the publication of this book. The last comprehensive study of the Charter was McKechnie's, published in 1905 and revised in 1914. Since McKechnie wrote, much work has been done, both in studying the Charter and in publishing the records of the Exchequer and the Curia Regis which are essential to its proper comprehension. One object of this present book, therefore, is to provide an up-to-date study of the subject. But it does not follow the pattern of the previous work. The commentary to which McKechnie devoted nearly three hundred pages is no longer practicable. Furthermore, it embodied the approach of the lawyer concerned with pursuing the provisions of the Charter through subsequent legal developments. The result was a learned work of scholarship, but it was not always closely related to the circumstances in which the Charter was produced. For example, McKechnie allotted more space to cap. 36 of the Charter which concerned the relatively trivial matter of the writ of life and limb, than to caps. 52, 53 and 55 which provided for the restoration of property to those disseised by the Crown. These last clauses were among the most crucial issues between King John and his baronial opponents. Their execution led England into civil war.

The approach of the present work is different from McKechnie's, for it is the work of a historian not a lawyer. Its object is to present the Charter in a context of the politics, administration and political thought of England and Europe in the twelfth and thirteenth centuries. I have discussed some aspects of the Charter's later history in the first and last chapters, but the book is mainly about the Charter of 1215 and its immediate re-issues, for its later history cannot be understood without a proper grasp of its origins and contemporary significance.

Such a project cannot be an individual effort. It has depended on the work of many scholars, in particular of Lady Stenton, Professor C. R. Cheney, the late Professor Sidney Painter, Mr H. G. Richardson and all

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those who have edited the relevant volumes of the Pipe Roll Society, the Selden Society and the state papers. I was encouraged to write this book in the first place by Professor V. H. Galbraith. He and Lady Stenton have read the work in typescript and I am indebted to both of them for their comments, suggestions and corrections. Over many years I have enjoyed and benefited from discussions with Professor J. S. Roskell. I have also been helped on particular points by Dr Patricia Barnes, who supplied me with some valuable references to documents in the Public Record Office, Dr R. A. Brown, Professor C. R. Cheney, Mr W. R. Fryer, Mr B. E. Harris, Dr W. D. McIntyre and Miss Anne Pallister.

Dr R. L. Storey read the work in proof and Mr B. E. Harris has helped in correcting proofs.

I owe thanks to the staff of the University Library, Nottingham, for their helpful attention, to Miss Rosemary Hunt, who typed the manuscript and to Mr P. G. Hunter, who compiled the index.

My final debt is to my wife, who has helped in preparing and correcting the final typescript. Without her encouragement this book might have been begun, but it would certainly never have reached completion.

J. C. H.
NOTTINGHAM
August 1964

Acknowledgements

The author is indebted to the Editor of the *English Historical Review* for permission to draw on material which he first published in article form in that periodical in 1955 and 1957. The document in Appendix 3 is published by permission of the Directeur des Services, Archives de l'Orne, Alençon.

Abbreviations

- Annales Monastici* *Annales monastici*, ed. H. R. Luard, 5 vols. (Rolls Series, 1864–9)
- B.J.R.L.* *Bulletin of the John Rylands Library*
- B.L.* British Library
- B.N.* Bibliothèque Nationale
- Book of Fees* *Liber Feodorum. The book of fees commonly called Testa de Nevill*, 3 vols. (Public Record Office, 1920–31)
- Bracton* *Bracton on the Laws and Customs of England*, ed. G. E. Woodbine, trans. and rev. Samuel E. Thorne, 4 vols. (Cambridge, Mass., 1968–77)
- Bracton's Note Book* *Bracton's Note Book*, ed. F. W. Maitland, 3 vols. (London, 1887)
- Brevia Placitata* *Brevia Placitata*, ed. G. J. Turner and T. F. T. Plucknett (Selden Society, 76, 1951)
- Cal. Charter Rolls* *Calendar of the Charter Rolls*, 6 vols. (Public Record Office, 1903–27)
- Cal. Docs. France* *Calendar of Documents preserved in France illustrative of the history of Great Britain and Ireland*, 1, 918–1206, ed. J. H. Round (London, H.M.S.O.), 1899
- Cal. Inq. P.M.* *Calendar of inquisitions post mortem and other analogous documents preserved in the Public Record Office, i, Henry III* (H.M.S.O., 1904)
- Chron. Battle* *The Chronicle of Battle Abbey*, ed. Eleanor Searle (Oxford, 1980)
- Chronicles of Stephen, Henry II and Richard I* *Chronicles of the reigns of Stephen, Henry II and Richard I*, ed. R. Howlett, 4 vols. (Rolls Series, 1884–9)
- Chron. Maj.* *Matthaei Parisiensis, monachi sancti Albani, chronica majora*, ed. H. R. Luard, 7 vols. (Rolls Series, 1872–83)

- Chron. Melrose* *The Chronicle of Melrose*, facsimile edn, ed. A. O. Anderson, Marjorie O. Anderson and W. C. Dickinson (Studies in Economics and Political Science, London, 1936)
- Coggeshall* *Radulphi de Coggeshall chronicon Anglicanum*, ed. J. Stevenson (Rolls Series, 1875)
- Curia Regis Rolls* *Curia Regis Rolls, Richard I–Henry III*, 16 vols. (H.M. S.O., 1922–)
- Dialogus* *Dialogus de Scaccario*, ed. C. Johnson (London, 1950)
- Diplomatic Documents* *Diplomatic Documents preserved in the Public Record Office*, 1, 1101–1272, ed. P. Chaplais (H.M.S.O., 1964)
- Early Registers of Writs* *Early Registers of Writs*, ed. Elsa de Haas and G. D. G. Hall (Selden Society, 87, 1970)
- Early Yorkshire Charters* *Early Yorkshire Charters*, vols. 1–3, ed. William Farrer (Edinburgh, 1914–16), vols. 4–12, ed. C. T. Clay (Yorkshire Archaeological Society, Record Ser., extra ser., vols. 1–10, 1935–65)
- Econ. H.R.* *Economic History Review*
- E. E. A.* *English Episcopal Acta*
- E.H.R.* *English Historical Review*
- Electio Hugonis* *The chronicle of the election of Hugh, abbot of Bury St Edmunds and later bishop of Ely*, ed. R. M. Thomson (Oxford, 1974)
- Epp. Cant.* *Epistolae Cantuarienses, 1187–99*, ed. W. Stubbs (Rolls Series, 1865)
- Excerpta e Rot. Fin.* *Excerpta e rotulis finium in turri Londinensi asservatis, A.D. 1216–72*, ed. C. Roberts 2 vols. (Record Commission, 1835–6)
- Foedera* *Foedera, conventiones, litterae et cujuscunque generis acta publica*, ed. T. Rymer, new edn, vol. 1, part 1, ed. A. Clarke and F. Holbrooke (Record Commission, 1816)
- Gerv. Cant.* *The historical works of Gervase of Canterbury*, ed. W. Stubbs, 2 vols. (Rolls Series, 1879–80)
- Gesetze* F. Liebermann, *Die Gesetze der Angelsachsen*, 3 vols. (Halle, 1898–1916)
- Gesta Henrici* *Gesta Regis Henrici secundi Benedicti abbatis*, ed. W. Stubbs, 2 vols. (Rolls Series, 1867)
- Gesta Stephani* *Gesta Stephani*, ed. K. R. Potter, rev. R. H. C. Davis (London, 1955, 1976)
- Glanvill* *The treatise on the laws and customs of the realm of England commonly called Glanvill*, ed. G. D. G. Hall (London, 1965)
- Herrschaftsverträge* *Herrschaftsverträge des Spätmittelalters (Quellen zur Neueren Geschichte, xvii, Berne, 1951)*

List of abbreviations

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- Histoire de Guillaume le Maréchal* *Histoire de Guillaume le Maréchal*, ed. P. Meyer, 3 vols. (Société de l'histoire de France, 1891–1901)
- Histoire des ducs de Normandie* *Histoire des ducs de Normandie et des rois d'Angleterre*, ed. F. Michel (Société de l'histoire de France, 1840)
- H.M.C. Reports and Calendars issued by the Royal Commission on Historical Manuscripts*
- H.M.S.O.* Her Majesty's Stationery Office
- Honors and Knights' Fees* William Farrer, *Honors and Knights' Fees* (London, Manchester, 1923–5)
- Hoveden* *Chronica Rogeri de Hovedene*, ed. W. Stubbs, 4 vols. (Rolls Series, 1868–71)
- Letters of Innocent III* *The Letters of Pope Innocent III (1198–1216) concerning England and Wales*, ed. C. R. Cheney and Mary G. Cheney (Oxford, 1967)
- Lincolnshire Assize Rolls 1202–9* *The earliest Lincolnshire Assize Rolls A.D. 1202–1209*, ed. Doris M. Stenton (Lincoln Record Society, xxii, 1926)
- M.C.C.E. Magna Carta Commemoration Essays*, ed. H. E. Maiden (London, 1917)
- Memorials of St Edmund* *Memorials of St Edmund's Abbey*, ed. T. Arnold, 3 vols. (Rolls Series, 1890–6)
- M.G.H., Const.* *Monumenta Germaniae Historica, Constitutiones et Acta Publica Imperatorum et Regum*, ed. L. Weiland, 2 vols. (Hanover, 1893, 6)
- O.D.N.B.* H. C. G. Matthew and B. Harrison, eds. *Oxford Dictionary of National Biography* (Oxford, 2004)
- Ordonnances* *Ordonnances des Rois de France de la Troisième Race*, vol. 1 (Paris, 1723)
- Pedes Finium* *Fines sive Pedes Finium sive Finales Concordiae in curia domini regis*, ed. Joseph Hunter, 2 vols. (Record Commission, 1835, 1844)
- Pleas before the King or his Justices* *Pleas before the King or his Justices 1198–1212*, ed. Doris M. Stenton, 4 vols. (Selden Society, 67, 68, 83, 84, 1948–67)
- P.R.O.* Public Record Office
- Recueil* *Recueil des historiens des croisades, Lois*, 2 vols. (Paris, 1841–3)
- Reg. Urban IV* *Registres de Urbain IV*, ed. J. Guiraud (Bibliothèque des écoles françaises d'Athènes et de Rome, 1901–6)
- Richard of Devizes* *The Chronicle of Richard of Devizes*, ed. J. T. Appleby (London, 1963)
- Rolls of the Justices in Eyre for Gloucestershire, Warwickshire and Staffordshire 1221–2* *Rolls of the Justices in Eyre for Gloucestershire, Warwickshire and Staffordshire 1221–2*, ed. Doris M. Stenton (Selden Society, 59, 1946)

- Rolls of the Justices in Eyre for Lincolnshire 1218–19 and Worcestershire 1221* *Rolls of the Justices in Eyre for Lincolnshire 1218–19 and Worcestershire 1221*, ed. Doris M. Stenton (Selden Society, 53, 1934)
- Rolls of the Justices in Eyre for Yorkshire 1218–19* *Rolls of the Justices in Eyre for Yorkshire 1218–19*, ed. Doris M. Stenton (Selden Society, 56, 1937)
- Rot. Chartarum* *Rotuli chartarum in turri Londinensi asservati*, ed. T. Duffus Hardy, vol. 1 (Record Commission, 1837)
- Rot. Curiae Regis* *Rotuli curiae regis*, ed. Sir Francis Palgrave, 2 vols. (Record Commission, 1835)
- Rot. de Dominabus* *Rotuli de Dominabus et Pueris et Puellis de XII Comitatus*, ed. J. H. Round (Pipe Roll Society, xxxv, 1913)
- Rot. de Ob. et Fin.* *Rotuli de oblatiis et finibus in turri Londinensi asservati*, ed. T. Duffus Hardy (Record Commission, 1835)
- Rot. Lib.* *Rotuli de liberate ac de misis et praestitis*, ed. T. Duffus Hardy (Record Commission, 1844)
- Rot. Litt. Claus.* *Rotuli litterarum clausarum in turri Londinensi asservati*, ed. T. Duffus Hardy, 2 vols. (Record Commission, 1833–4)
- Rot. Litt. Pat.* *Rotuli litterarum patentium in turri Londinensi asservati*, ed. T. Duffus Hardy, vol. 1 (Record Commission, 1835)
- Rot. Norm.* *Rotuli Normanniae in turri Londinensi asservati*, ed. T. Duffus Hardy, vol. 1 (Record Commission, 1835)
- Royal Letters* *Royal and other historical letters illustrative of the reign of Henry III*, ed. W. W. Shirley, 2 vols. (Rolls Series, 1862–8)
- Royal Writs* *Royal Writs in England from the Conquest to Glanvill*, ed. R. C. Van Caenegem (Selden Society, 77, 1959)
- Select Cases in the Court of King's Bench* *Select Cases in the Court of King's Bench under Edward I*, ed. G. O. Sayles, 3 vols. (Selden Society, 55, 57, 58, 1936–9)
- Select Cases of Procedure without Writ* *Select Cases of Procedure without Writ*, ed. H. G. Richardson and G. O. Sayles (Selden Society, 60, 1941)
- Selected Letters of Innocent III* *Selected Letters of Pope Innocent III*, ed. C. R. Cheney and W. H. Semple (London, 1953)
- Stubbs's Charters* *Select Charters and other illustrations of English constitutional history from the earliest times to the reign of Edward the First*, ed. William Stubbs, 9th edn, rev. H. W. C. Davis (Oxford, 1921)
- T.R.H.S.* *Transactions of the Royal Historical Society*
- V.C.H.* *Victoria County History*
- Walt. Cov.* *Memoriale fratris Walteri de Coventria*, ed. W. Stubbs, 2 vols. (Rolls Series, 1872–3)