

# MAGNA CARTA

By Anne Peterken

June 2015

## Introduction by Myrtle Beitz

Anne said to me on the phone *As Anne interprets the Magna Carta*. We know Anne – she has been Quota Woman of the Year and I won't embarrass her and is in Probus. You all know that she is English.

## Presentation

Good evening everybody. Jeff (my husband) and I have been here nearly 16 years. Our children escaped from England – one went to America and two of them came to Brisbane and having spent all that time checking their homework and paying for their university, we decided they weren't going to get away and that we would come and join them. So we came at the end of 1999 and saw the year 2000 in here. We have lived here in Manly since we came.

Before I launch into my contribution for this evening, I would like to describe to you how I did my research for this talk. First of all, I read the Magna Carta. Now I have already made a mistake. Has anybody noticed? Yes (pointing to member with hand up).

Member: "the"

Well done. Magna Carta is Latin for "great charter" and because in Latin you don't have "the" or "a" then you don't say it when you are doing the translation or using that because it incorporates it in Magna Carta.

I read it in English because my Latin has never ever been good enough to do it. As I read it, I realised that there were messages coming across telling me about the existing situation in England when it was sealed. It was never signed, it was sealed and telling about the problems facing the people of that time and I felt that it was a necessity to painting a picture for you of how life was then. So you are not going to get away with only a study or a small glimpse at Magna Carta, but also the essence of the state of England at the beginning of the 13th century. And a word of warning about Magna Carta, it only considered free men. Many of the things it offered to people were only to free men and at that stage there were a lot of people who did not qualify for that title because they were servants or being looked after by the Barons. Anyway let me start about King John and Magna Carta.

In the last few weeks, we have been bombarded by the media with information concerning a happening at Runnymede on the banks of the River Thames. It's 800 years ago since Magna Carta was sealed by King John on that site on the 15th June 1215. I always remember which year it is because I say "12 15 just in time for lunch". I would like to interest you in the importance of that event. What it tells of life at the time and the influence it had throughout the world up to the present day. We have heard of Magna Carta for most of our lives and for most of us, it was the first time, we spoke Latin when we said Magna Carta. But why was it needed, what is it, what did it say? To answer these questions, we need to understand what was happening in England in the 12th and early 13th centuries. We need to pick the story up in 1154 when the first Plantagenet King, Henry II came to the throne. He was born in France and he died in France but he did spend quite a lot of time in England.

England's association with France started when William the Conqueror in 1066 shot who in the eye? Harold. In the eye and claimed the throne of England. But William already ruled Normandy in France. In the 90 plus years, the English kings acquired more land in France until they controlled the whole area abutting the western seaboard of France. The disadvantage of this was that armies from England were needed to prevent the French from retaking the land and armies cost money and the English Barons had to pay for it. In 1189, Henry died and his son, Richard I, became King. He was also called Richard the Lionheart. A man who loved fighting, especially against the French, and against the Saracens who at that stage held Jerusalem. So he spent most

of his reign either fighting the French or on crusades. In fact, in the 10 years that Richard was King of England, he only spent a few months in that country. When Richard died, he named his youngest brother, John, to succeed him as at that time, all the older brothers had died. So let me tell you a little bit about King John although I suspect that you have already met him in the Robin Hood films and have an opinion of him. I will accept that there can be some subdued booing occurring when his name is mentioned and I will permit that as long as it doesn't become outrageous.

Now King John was the youngest child of Henry II and he had no land in his own right as it had all been given to his older brothers and as you can imagine, he resented this because he wasn't a man to follow orders or keep promises and he was ruthless if his authority were challenged. Whatever you think of him though you have to admire his ability to get his own way.

On ascending the throne, King John faced several problems. The first was to get rid of his nephew who challenged John's right to be King. The nephew came to a grisly end. King John was blamed. Another problem was that King John had an argument with the Pope about Stephen Langton becoming Head of the English Church as Archbishop of Canterbury and here I must just stop and have a moment to think about a lake in the middle of the Surrey Hills in England where there is a small village called Friday Street and along one road from Friday Street there is a pub which we used to often visit for lunch and it was called Stephen Langton. That brings back memories and shows how important this person was in the history of England.

Anyway because of the argument with the Pope, it resulted in the English church being excommunicated by the Pope and that meant that social and religious occasions such as marriages and baptisms and burials could not be recognised and this was not popular with the devout English. But, it wasn't any concern to King John as he was benefiting from the riches that he was taking from the church. Eventually King John approved Langton's appointment and so made his peace with the Pope even declaring himself subservient to the Pope.

Over this time, King John needed to fund the army which was trying to keep the land that he ruled in France and this meant that he needed money from the Barons most of whom had little interest in the French provinces. But then the Barons began to join together to complain about the way King John was undermining their authority, taking their land without authority, challenging the special rights of cities, especially London, imposing unrealistic fines and demanding scutage (which is money if they didn't supply soldiers). When King John was defeated in France, the rebel Barons took their opportunity to capture the city of London in May 1215 and there was civil war. Within a month, King John was forced to meet the rebel Barons and Stephen Langton, the Archbishop of Canterbury, who played a large part in setting together Magna Carta as the church also believed the King was too powerful. They met at Runnymede where quietly furious King John acceded to the terms of Magna Carta or Great Charter of Liberties as it is sometimes called. This could almost be considered a peace treaty between the King and the people he was ruling despotically. Its main message was that the government must henceforth mean more than the arbitrary rule of one man and that custom and law must be inspected by the King and he was not above the law. A very new concept.

Some parts of Magna Carta are no longer appropriate to modern times but others are and many human rights enjoyed today were established when it was sealed. When reading Magna Carta, it is possible to see where King John had been interfering with the customs of the time and benefiting financially as a result. The first clause declares that the Church shall be free of interference from the King. Remember that in those years of arguments with the Pope over who should be Archbishop of Canterbury, there were obviously problems with inheritance fees as they were in future to be charged with actual amounts according to the social standing the deceased. Furthermore, the duties of guardian were limited to caring for the assets of the minor heir and no benefits should accrue to the guardian.

So what do you think that tells us about what happened? You can see how they were trying to establish that the King could not do this sort of thing. It seems that widows were having problems as Magna Carta defines their rights at length. They must receive their inheritance immediately including a dower which was a home to live in and it must be provided within 40 days. There must be no compulsion to marry if the widow wished to be single but a woman had no right to give evidence against another man unless it concerned the death of her husband. This showed how

women were still regarded as a possession of either their father or their husband and didn't have the same rights as a man.

Do you see how by these things being expressed, it was telling us of what were the problems in that time?

As I explained, in that time, King John had required his Barons to supply soldiers to defend his lands in France or to pay scutage, that is the money to be excused from military service. And this had become very unpopular as the main beneficiary was the King rather than the soldiers. Scutage was changed so that only the new formed common council of the Kingdom could insist upon it being enforced. Rules of the payment of death were set out so that no land could be seized if goods could cover the debt and the importance of walgage?, that is the tools of a debtors trade, should be left with the debtor so that they could use them to pay off the debt. And there was special consideration given to debt collectors who owed money to Jews.

Other clauses concerned forest, fish weirs and bridges showing that these areas were of great importance at the time and most of the earnings derived from them went to King John. These earnings came from traders who were charged tolls as they sailed upstream or crossed bridges and it also said because it was troubling the people who were sailing up the river that all fish weirs would have to be removed.

But why is Magna Carta so important today? There are several clauses that were as pertinent then as they are today and here are some of them.

The church will be free of royal interference and shall make its own appointments.

The City of London shall have all its ancient liberties and free customs. The Square Mile, as it is called today, continues to maintain its ancient traditions. They have Sheriffs and a Lord Mayor. That is now the Mayor of London who is the one with the white hair. The Lord Mayor is elected every year and holds a procession through the city of London which is only about a square mile. Only about 9,000 people live there but 350,000 work there. It is an incredible difference there and the City of London supports all sorts of charities and actually two of our children went to the City of London Schools which were sponsored by the Lord Mayor of London and so this is very much a separate place and they had all the trading facilities and able to see that the boats were unloaded there during this time. I believe that the Queen often stops at the boundary of the city to be greeted by the Lord Mayor and welcomed in to the city.

Also weights and measures were to be standardised throughout the kingdom for wine, ale, corn and cloth. And this mentioned the crossword favourite of old cloth L is 45 inches.

Prison is only for those who have disobeyed the law and they shall be tried by their peers and given a reasonable punishment. That is the precursor of the jury – 12 or the Magistrates Court.

To “non ? sell, delay or deny right of justice” and anyone arrested must be brought before a court without necessary delay. That is the precursor of the Habeas Corpus Act which was 16 something. Normally in England everybody that is arrested must come before some sort of court within 48 hours and when I was in England, for 10 years I was a lay Magistrate and on Saturday mornings some of us would be called along because people had been arrested during the Friday night and it would be more than 48 hours before the court sat again on the Monday morning so we would have to go along and give them bail or not to give them bail if there were any reason.

On top of that we talked about this Council. 25 Barons will be chosen to see the terms of Magna Carta are enforced even against the King and I will repeat that ... even against the King. Interestingly, or was it to be expected, most of the 25 were chosen from the rebels who had occupied London in the May of that year and there often seen to be the precursor of Parliament and of the Judiciary and I make absolutely no comment on the relationship of the original rebels and the present members of Parliament.

It was sealed by King John and it was supposed to be forever. By the end of 1215, the Barons and King John were again at war. His arrogance couldn't allow him to accept the new situation where he was not in charge so was Magna Carta a kind of peace treaty. It didn't work.

In 1216, King John died and his 9 year old son, Henry III, was left to reign for the next 56 years. One of the first actions of His Regent was to reissue the Charter. Since 1215, many other Charters have been agreed but Magna Carta was the first to declare that the King was not above the law. And today, well in the 1980s a friend of ours who was a lawyer working for the British Government was given the job of seeing which of the 63 clauses of Magna Carta were still part of English law and could be retained.

He was awarded a CBE for that work. I hate to think what he would have made of this short discourse.

Thank you.