

# Chapitre un

## *Feudal England, 1066-1485*

### ÉVÉNEMENTS HISTORIQUES

- 1084 : Domesday Book
- 1096 : Première Croisade
- 1170 : Meurtre de Thomas Becket
- 1204 : Perte de la Normandie
- 1282 : Pays de Galles annexé
- 1296 : Invasion de l'Écosse
- 1314 : Bataille de Bannockburn, indépendance de l'Écosse
- 1348 : Épidémie de peste
- 1381 : Révolte des Paysans
- 1388 : Début de la guerre de Cent ans
- 1455 : Guerre des Deux Roses entre Lancaster et York

### ÉVÉNEMENTS LITTÉRAIRES

- John Wycliff** : 1<sup>er</sup> traducteur de la Bible en anglais
- John Gower** : *Confessio Amantis* (1390)
- Geoffrey Chaucer** : *Canterbury Tales* (1387)
- John Lydgate** : *The Story of Thebes* (1420), *Troy Book* (1412-1420), *The Fall of Princes* (1430-1438)

### ÉVÉNEMENTS ARTISTIQUES

#### art essentiellement religieux



#### Architecture

- XI<sup>e</sup> et XII<sup>e</sup> siècles : Le style anglo-normand
- 1220-1260 : Construction de la cathédrale de Salisbury (gothique primitif)
- 1280-1369 : Construction de la cathédrale d'Exeter (gothique flamboyant)
- XV<sup>e</sup> siècle : Le style perpendiculaire



#### Musique

- Prédominance de la musique vocale
- **Musique profane** : Chansons de troubadours
- **Musique sacrée** :
  - Le plain-chant
  - La polyphonie se développe fin XIV<sup>e</sup> s./début XV<sup>e</sup> s. :
    - { John Dunstable
    - { Leonel Powers
    - { Robert Morton



#### Peinture

- École anglaise d'enluminures de manuscrits ; tryptiques

TEXTE 1  
**MAGNA CARTA, 1215**

De retour en Angleterre en 1214, le roi Jean Sans Terre, fils d'Henri II, était affaibli par la défaite que ses troupes et celles de son allié Frédéric, roi de Sicile, avaient subie à Bouvines. Il dut affronter la révolte des barons qui réclamaient une charte portant le sceau royal et garantissant leurs libertés. Signée à Runnymede, cette charte engageait le roi à respecter la loi fondée sur la coutume féodale. Elle demeure un texte fondateur de la constitution anglaise.

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, sends greeting to the archbishops, bishops, abbots, earls, barons, justices, foresters, sheriffs<sup>1</sup>, reeves<sup>2</sup>, ministers, and all other officials and his loyal subjects.

Know that we have made the grants and concessions which follow, in the sight of God and for the salvation of our soul and the souls of all our ancestors and heirs, in honour of God and to enhance the prestige of Holy Church, and for the better ordering of our kingdom. We have been advised by our reverend fathers, Stephen archbishop of Canterbury, primate of all England and cardinal of the Holy Roman Church, Henry archbishop of Dublin, William bishop of London, Peter bishop of Winchester, Jocelin bishop of Bath and Glastonbury, Hugh bishop of Lincoln, Walter bishop of Worcester, William bishop of Coventry, and Benedict bishop of Rochester; master Pandulph subdeacon and member of the household of the lord Pope; brother Aylmer master of the knights Templar in England; and the noblemen, William Marshal earl of Pembroke, William earl of Salisbury, William earl of Warenne, [...] and others of our faithful subjects.

1. We have, in the first place, given to God, and by this our present charter have confirmed for us and our heirs forever, that the English Church shall be free and shall enjoy full and undisturbed possession of all its rights and privileges. We wish that this grant be honoured; and that we are sincere in this is shown by our action before the outbreak of hostilities between us and our barons, when without prompting or hidden intent, we granted to the English Church that freedom of appointments which is counted as the greatest and most necessary of its privileges, confirming our grant by charter and obtaining its further confirmation

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1. officiers royaux pour le comté

2. prévôts

by the lord pope Innocent III. We will ourselves observe this freedom of the church, and we desire that it shall be similarly observed in all good faith by our heirs for ever.

We have also granted to all the free men of our kingdom, for us and our heirs for ever all the rights set down below, to have and hold for themselves and their heirs from us and our heirs.

2. If any of our earls or barons, or any other of our tenants in chief<sup>1</sup>, holding directly from the crown in return for knight service<sup>2</sup>, dies and leaves an heir of full age from whom a relief<sup>3</sup> is due, the heir shall succeed to his inheritance on payment of the accustomed relief, namely £100 from the heir of an earl for the whole estate of the earl; £100 from the heirs of a baron for the whole baronial estate; 100s. at most from the heir or heirs of a knight for the whole knight's fee<sup>4</sup>, with lesser amounts from those who owe less, according to the established custom of the individual fees.
3. But if any such heir of any such earl, baron, or other tenant in chief is under age and therefore a ward<sup>5</sup>, he shall succeed to his inheritance when he comes of age without payment of any relief or fine.
4. The guardian of the land of any such heir who is under age shall only take from it reasonable rents, customary dues, and labour services, without destruction or waste of men or property. In cases where we have entrusted the guardianship of any such estate to the sheriff or other person answerable to us for its revenues, and the guardian has made destruction or waste of his trust, we will exact compensation from him and the estate shall be entrusted to two men of legal standing and discernment of that same fee, who shall be answerable to us or to our nominee for the estate revenues.
5. But for so long as the guardian has the wardship of the land, he shall maintain the buildings, parks, game preserves, ponds, mills, and other appurtenances of the estate out of the estate revenues. And he shall restore to the heir when he comes of age, the whole of his estate stocked with ploughs and such other agricultural equipment as the time of year demands and the estate revenues can reasonably support.
6. Heirs may be given in marriage by their guardians, but the marriage must be a suitable one socially, and before it is contracted notice shall be given to the near blood relations of the heir.
7. On the death of her husband, a widow shall immediately receive her marriage portion and her inheritance and without difficulty; and she shall pay nothing to receive her dowry or marriage portion, or to

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1. tenants en chef, qui détiennent leurs terres directement du roi

2. service militaire

3. relief, impôt féodal

4. fief

5. enfant sous tutelle, pupille

succeed to the property which she and her husband owned on the day of his death. She may remain in her husband's house for forty days after his death and within that time her dowry shall be assigned to her.

8. No widow shall be compelled to remarry for so long as she wishes to live without a husband, but she shall give security that she will not remarry without our consent if she is our tenant, or without the consent of the lord whose tenant she is, if she holds from another.
9. Neither we nor our bailiffs<sup>1</sup> shall seize any land or distrain<sup>2</sup> upon the rents for payment of debt so long as the chattels<sup>3</sup> of the debtor are sufficient in value to satisfy the debt, nor shall distraint be made upon the debtor's sureties<sup>4</sup> if he can satisfy the debt himself. But if the debtor fails to pay and has not the means to discharge the debt, then the sureties shall answer for it. They may, if they so wish, take the debtor's lands and revenues into their possession until they have recovered the amount of the debt paid by them on his behalf, unless the debtor proves that he has discharged his obligations towards them. [...]
12. Scutage<sup>5</sup> and aids shall only be levied in our kingdom by common counsel of our kingdom, unless occasioned by the need to ransom<sup>6</sup> our own person, to make our eldest son a knight, or to give our eldest daughter once in marriage; the amounts of aid on these occasions shall be reasonable. So shall it be with regard to aids from the city of London.
13. The city of London shall have all her ancient privileges and traditional trading rights both by land and water. We also desire and grant that all other cities, boroughs, towns, and ports shall retain all their privileges and traditional trading rights.
14. To obtain the common counsel of the kingdom for the assessment of aids –for other purposes than the three specified above– and scutage, we will send individual letters of summons to the archbishops, bishops, abbots, earls, and chief barons, and general summonses through our sheriffs and other officials to all our tenants in chief, calling them to meet together on a given date –which shall be not less than forty days after the issue of the summons– and in a given place; and in all the letters we will set down the business of the assembly. When summonses have been issued in this manner, items of business on the appointed day shall be decided by the advice of those present, notwithstanding the absence of some of those who were summoned.

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1. baillis

2. saisir

3. biens meubles

4. cautions

5. écuage

6. racheter, payer la rançon de

15. In the future we will not allow anyone to levy an aid upon his free men except to ransom his person, make his eldest son a knight, or give his eldest daughter once in marriage; aids levied for such purposes shall be within reason.
16. No man shall be compelled to render more service for a knight's fee or other free holding of land than is properly due from it.
17. Common pleas shall not be heard in the various places where, from time to time, our royal court is established, but in some fixed place.
18. Presentment<sup>1</sup> shall be conducted only in the courts of the counties where the cases arise, and in the following manner. We, or our justiciar if we are out of the kingdom, will send two justices<sup>2</sup> to each county four times a year, and they together with four knights of the county, elected by the county, shall conduct the said assizes<sup>3</sup> in the county court on the same day and in the same place as the meeting of the county court. [...]
20. A free man who is liable<sup>4</sup> for punishment at our hands shall be fined in proportion to the seriousness, or otherwise, of his offence; but fines shall not be imposed which are so heavy as to cause a freeholder<sup>5</sup> to lose his holding<sup>6</sup>, or a merchant to lose his stock-in-trade, or a villein to lose the means of earning his living. Fines shall only be imposed upon the categories of persons following the attestation of charges against them by sworn<sup>7</sup> juries of local men of proved honesty. [...]
38. In the future no bailiff shall bring anyone to trial on his own unsupported statement without producing trustworthy<sup>8</sup> witnesses to the alleged offence.
39. No freeman shall be taken, imprisoned, dispossessed, outlawed, exiled, or in any way deprived of his standing, nor shall we proceed against him by force or prosecute him, except by the lawful judgment of his equals and according to the law of the land.
40. To no one will we sell, refuse, or delay the operation of right or justice.
41. All merchants shall have safe conduct to go and come out of and into England, and shall be safe and unmolested during their stay and in their travels by land and water throughout the country. No burdensome<sup>9</sup> or extraordinary taxation shall be levied upon them, but they shall buy and sell freely on payment only of the proper and anciently established dues.

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1. plainte, poursuite
2. juges
3. assises
4. mérite, encourt
5. détenteur d'une propriété perpétuelle et libre
6. biens immeubles, propriétés
7. assermenté
8. digne de confiance
9. écrasant

These provisions<sup>1</sup>, however, shall not apply in wartime to nationals of a country at war with us. All such foreign nationals found trading in our lands at the outbreak of war shall be interned, but without loss of life or property until we or our justiciar have ascertained the treatment accorded to such of our own merchants as the outbreak of war has surprised in enemy country; and if we find that our merchants are safe with the enemy, their merchants shall be safe with us.

42. In the future anyone may leave our kingdom and return, safe and secure by land and water, saving his allegiance to us, except in wartime when temporary restrictions may be imposed for the common good of the realm. This provision does not apply to persons imprisoned or outlawed by due process of law; or to nationals of a country at war with us; or to foreign merchants, who shall be treated in accordance with the provisions of the last section. [...]
45. We will only appoint as justiciaries, constables, sheriffs, or other officials, such men as are well versed in the law of the realm and intend to uphold it. [...]
60. All the aforesaid customs and rights which we have granted to be maintained in our kingdom in the dealings between us and our people shall be similarly observed by all men of our kingdom, both clergy and laymen, in their dealings with their own people.
61. Whereas we have made all the aforesaid grants out of reverence for God, for the better ordering of our kingdom and for the more effective healing<sup>2</sup> of the strife<sup>3</sup> between us and our barons, and desire that our grant shall remain firm and unshaken in its entirety for ever, we do therefore secure and safeguard it by the following provision, namely:  
The barons shall elect any twenty-five barons of the kingdom whom they please, and they in their turn shall exert themselves to the full extent of their powers in preserving and upholding, and causing to be upheld, the peaceful settlement and grant of rights which we have made to them and have confirmed by this our present charter; and in the pursuance of these objects, they shall apply the following procedure. If we, the justiciar, our officials or any of our ministers offend against anyone in any respect, or break any of the provisions of the peace or of this guarantee, and the offence is made known to four of the said twenty-five barons, they shall come to us, or to the justiciar if we are out of the kingdom, and laying the cause of the complaint before us, require that we remedy it without delay. And if we, or the justiciar in our absence abroad, have not remedied the complaint within forty days after it was first presented to us, or to him, they shall refer the matter to the

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1. dispositions
2. apaisement
3. conflit

rest of the twenty-five barons, and those twenty-five barons together with the commonalty of the whole kingdom shall then distrain and bring pressure to bear upon us in every way open to them, namely, by seizure of our castles, estates, and possessions and by any other means in their power until the complaint has been remedied to their satisfaction, saving only our own person and the persons of our queen and our children. And once satisfaction has been obtained they will stand towards us exactly as they did before.

Anyone in the land shall be free to swear his obedience to the commands of the said twenty-five barons in furtherance of all these aims, and to swear that he will join with them to the full extent of his power in bringing pressure to bear upon us. We publicly and freely give permission to take the oath to anyone who so wishes, and we will at no time prevent anyone from taking it: but rather will we compel those of our subjects who are unwilling of themselves to pledge their support to the barons by this oath of distraint and pressure against us to take the oath by our command.

If any of the twenty-five barons dies or leaves the country or is in any other way prevented from carrying out his aforesaid duties, the rest of the twenty-five shall choose another in his place, whomever they think best, and he will be sworn, in the same way as the others.

If all the twenty-five barons are present at a meeting and fail to agree on any of the matters which are entrusted to them for action, or if some of those summoned have refused or are unable to attend, any decision taken or instruction issued by the majority of those present shall be held to be as fixed and binding as if all twenty-five had agreed to it. [...]

63. It is accordingly our wish and stern command that the English Church shall have its freedom, and that men in our kingdom shall enjoy full and competent possession of all the aforesaid rights, grants, and privileges in their entirety, in peace and freedom and without disturbance for themselves and their heirs from ourself and our heirs, in every particular and in all places in perpetuity, exactly as is aforesaid.

Both we and the barons have sworn to observe all the foregoing provisions faithfully and without deceit, as witness the before-mentioned persons and many others.

## COMMENTAIRE

### I. HISTORICAL BACKGROUND

*King John came to the throne in 1199 and was immediately faced with a number of pressing difficulties. The excessive amount of money needed to ransom his late brother, Richard I, had placed a considerable tax burden on his subjects. Furthermore, what was seen as his mismanagement of expensive military campaigns in France, culminating in loss of territory there, did little to enhance the new king's image. To add to his problems, his conflict with Rome over who had the right to appoint the Archbishop of Canterbury –the Church or the king– led to his excommunication by the Pope in 1209. Four years of defiance of papal wishes ended in a climb-down by John, who accepted the Church's nominee, and papal candidate to Canterbury.*

*During this period, John used every means available to him to raise much-needed money to bolster his administration. Recourse to new forms of taxation and customs duties, along with what was seen as abuse of the traditional system of feudal dues, especially scutage, i.e. payment of money to the king in lieu of military service, contributed to angering the barons. The unrest that had been brewing for a number of years came to a head in 1215 when John was faced with the threat of civil war. Negotiations were begun and a compromise was reached which sought to satisfy the barons' grievances and make some sort of authoritative statement on the detail of feudal custom in England.*

*Needless to say, much of Magna Carta is concerned with finding remedies for these specific problems. Essentially concrete and pragmatic, the document makes little or no attempt at a general statement of 'rights'. Successive generations have sifted through its highly detailed clauses to highlight the principles that underlie the instances it contains.*

*After a brief comment on the preamble, it may be best, in the interest of clarity, to re-arrange the clauses presented above under a number of headings designed to pinpoint the areas with which the document repeatedly concerns itself, areas which, in their turn, will highlight the vested interests involved in the drafting thereof. Indeed, the agreement hammered out at Runnymede in 1215 cannot be dissociated from the groups involved in the negotiations –the Church, the barons, the nobility and their supporters among the merchants and traders– each group eagerly awaiting its "slice of the cake".*

### II. TEXTUAL COMMENTARY

#### 1. The Preamble

*The preamble begins with John explaining what has motivated the drafting of this Charter. It is claimed, with great solemnity, that the prime purpose behind it is "the salvation of our soul and the souls of all our ancestors and heirs [...] and [...]"*