

Magna Carta; a Precedent For Recent Constitutional Change

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The Rt. Hon. The Lord Woolf, Lord Chief Justice of England and Wales

Introduction

790 years ago, John, the King of England was having a little local difficulty with his barons. His attempts to defend his extensive dominions across the Channel, including Normandy and a considerable proportion of western France, had been a disaster. This was despite the exorbitant demands that he had made of his subjects. The taxes he had imposed were extortionate. There had been ruthless reprisals against defectors. The administration of justice for which he was responsible could with generosity be described as capricious. Instead of depending on the traditional establishment for his advisers and confidants, John looked to “new men”, who wielded immense power. Today no doubt the media would describe them as “John’s cronies”. In the world of politics, little changes.

John’s barons became increasingly disaffected. They knew John needed their support for his further military adventures in

France. Not to lose an opportunity, in January 1215, the barons collectively decided upon industrial action. They insisted that, as a condition of their support, John execute a charter that recognised their liberties as a safeguard against further arbitrary behaviour on the part of the King.

In order to press home their cause, the barons took up arms against the King. In May 1215 they captured London. England was on the brink of being engulfed in civil war. Instead of allowing this to happen, both sides of the dispute behaved in an exemplary manner. If they had been litigants before our courts, they would have received my unqualified commendation for deciding to rely on Alternative Dispute Resolution, [or as lawyers say today ADR] as an alternative to battle to the death.

On the 10th of June 1215, they met at Runnymede and, in the meadow, compromised their differences and agreed terms which were outlined in the Articles of the Barons to which the King's *great seal* was attached on 15th June 1215. [Subsequently, the

Royal Chancery produced the formal document recording the settlement.] The immediate result was that the barons renewed their oath of allegiance and once more supported the King in his endeavours in France.

You can settle disputes but there is no guarantee the settlement will be honoured. In the past Pope Innocent III had his own disputes with John. John had refused to accept the Pope's candidate, Stephen Langton, as Archbishop of Canterbury when the previous archbishop died. Relations between the Pope and John broke down and John was for a time excommunicated by the Pope. However, John had by the time of the meeting with the Barons at Runnymede already settled his dispute with the Pope and had been rehabilitated. Langton had become Archbishop and had played a part in creating the Charter.

However, no sooner was the Charter sealed than Innocent III, encouraged by John, intervened. He condemned the Charter as exacted by extortion and declared it was of no validity whatsoever.

John needed no more encouragement not to observe the Charter into which he had freely entered. John reneged on his commitments to surrender castles, borrowed money to hire foreign troops, and rallied his forces to subdue the nobles. Fortunately for us and for history John was prevented by ill health from pursuing his plans and his early death in October 1216 put an end to his double dealing. The Charter survived and this, for those times, was a remarkable outcome.

But this does not explain why we are gathered here today, precisely 790 years after [the document which in due course became known as] Magna Carta was sealed, or why we are due to reconvene annually over the next 9 years until 2015, the 800th Anniversary of what happened in Runnymede in June 1215.

The Two Explanations for the importance of the Charter

The Contents

In fact there are two better explanations for why we are here today. The first is that the *contents* of the charter fully justified its title, Magna Carta. It was by any standards a remarkable document for its time. The Charter goes far beyond what was needed to resolve the immediate dispute between John and his barons. While the Charter did address real, contemporary and practical problems of the time, it was not merely concerned with the immediate dispute. It was intended to govern the relations between successive kings and their most powerful subjects forever. Confirmation of its importance in mediaeval times is provided by the fact that 3 new editions were produced after John died by his son Henry III. Henry had ascended the throne at 9 years of age. He was in no position to renew the struggle with the barons and the first new edition was created in 1216, just a month after John's death. It was followed by further editions in 1217 and 1225.

Then, in the next reign, on 28th March 1297, Edward I, the “father of Parliament”, signed letters patent containing the Charter which were entered on statute rolls so that, in so far as it has not been repealed, it binds the Crown even today¹. Indeed, the first petition presented by the commons to the monarch at each new parliament is a request that the Great Charta be kept.

The long title of the 1297 edition reflects the status Magna Carta had already achieved by that date. The title reads: “the Great Charter of the Liberties of England, and the Liberties of the Forest; confirmed by King Edward, in the 25th year of his reign”. The contents of the Charta justified that title.

The first article, perhaps in view of the history to which I have referred disingenuously proclaims:

“We have granted to God and by this charter have confirmed for us and our heirs in perpetuity, that the English Church shall be free, and shall have its rights undiminished and its liberties unimpaired.”

¹ *R (on the application of Bancourt) v S of S for the FCO* [2001] 2 WLR 1219 and *Chagos Islanders v AG* [2004] EWCA Civ 997.

It added that “we”, that is John, before the present dispute confirmed the Church’s elections and what is more caused it to be confirmed by Innocent III, and desired it to be observed in good faith by his heirs in perpetuity.

John in the remainder of the Charter addresses “all free men of our Kingdom” and grants them “for us and our heirs forever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs”. So while the settlement was made with the barons, the class which it purported to protect was much wider. Not everyone, as this was still feudal England, but “all freemen”, which is as broad a category as was conceivable at that time.

The liberties are then listed. As you expect in view of the background to the Charter, pride of place is given to restrictions on the King’s ability to abuse his position by extracting extortionate taxes.

Some of the taxes have exotic mediaeval names, such as “scutage”, which was the obligation to provide money in lieu of men to fight for the King, and “aids”, which was an exceptional tax to meet an exceptional need which John had regularly demanded as a matter of course.

What was perhaps most surprising was the protection of heirs, especially those under age. While under age, heirs became the King’s wards and their estates came under the King’s control. John treated them as his own. They were to have their inheritance “without relief or fine” when they came of age and should receive their land properly maintained and stocked (chapters 3, 4 & 5).

The mediaeval attitude to women is not that of which the founders of this great College, initially devoted to the education of women, would have approved. However, again, the Charter language is remarkably liberal in relation, for example, to widows – the practice had been to treat them as in the

King's custody so that their lands would also come under the King's control. If the King was short of money he would auction widows off to the highest bidders. In the case of one widow, Henry II had consigned her to the tower, no doubt because her lands were so considerable. Another noble lady who had already been widowed and married 3 times was prepared to pay the King's demand of £3000 to escape being married a fourth time. In contrast with this treatment, the Charter provided that widows were to have their "marriage portion and inheritance at once and without trouble" (chapter 7) and that no widow was to be compelled to marry "as long as she wishes to remain without a husband" (chapter 8).

Even if a widow did want to marry, the marriage could be a lonely one as has been recorded by the present Master of the Rolls (MR) in a previous speech. King John expected his court to dance attendance upon him unencumbered by their wives. One wife, apparently frustrated by this practice, offered John

200 chickens to enable her husband to spend one night at Christmas with her.

John accepted. I share the MR's hope that this was a worthwhile investment.

There is a provision contained in chapter 11 restricting the recovery of debts by Jews out of the estate of a debtor which certainly sounds racially discriminatory, but the sting of the provision is drawn by the concluding words of the chapter which provide, and I quote, "Debts owed to persons other than Jews are to be dealt with similarly".

Other provisions that were to benefit the public were those that establish standard measures and weights throughout the Kingdom (c35) [surely the first example of consumer protection] and that the city of London and other cities, boroughs, towns and ports were to enjoy all their liberties and free customs. In addition, with certain exceptions, there was a

general right to leave and return to the kingdom “unharmmed and without fear” (c42) [perhaps the source of holidaying abroad].

The provisions I have already cited, you may agree with me, are remarkable for a document negotiated 790 years ago, but they diminish into insignificance when compared to those chapters dealing with the individual’s rights to justice. Here I will let the articles speak for themselves. I use their original chapter numbers:

20. For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood.
38. In future no official shall place a man on trial upon his own unsupported statement, without producing credible witness to the truth of it.
39. No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send other to do so, except by the lawful judgement of his equals or by the law of the land.

40. To no one will we sell, to no one deny or delay right or justice.

45. We will appoint as justices, constable, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.

These are the chapters at the heart of Magna Carta. They set out the sense rather than the actual words of the original Latin but by themselves they justify treating Magna Carta as a document of outstanding importance. They contain many of the core features of a society that today adheres to the rule of law.

They explain why Magna Carta captured the imagination of Rudyard Kipling and why Lord Denning, perhaps the judge who more than any other placed a premium on personal liberty, loved at the slightest excuse to recite from Kipling's homage to Magna Carta. Although I cannot hope to emulate Lord Denning's delivery, let me jog your memory by citing part of "Runnymede". It describes so accurately the place of Runnymede in this country's history.

[At Runnymede, at Runnymede,
What say the reeds at Runnymede?
The lissom reeds that give and take,
That bend so far, but never break,
They keep the sleepy Thames awake
With tales of John at Runnymede.]

At Runnymede, at Runnymede,
Oh, hear the reeds at Runnymede:
'You musn't sell, delay, deny,
A freeman's right or liberty.
It wakes the stubborn Englishry,
We saw 'em roused at Runnymede!

When through our ranks the Barons came,
With little thought of praise or blame,
But resolute to play the game,
They lumbered up to Runnymede;
And there they launched in solid line
The first attack on Right Divine,
The curt uncompromising "Sign!"
They settled John at Runnymede.

At Runnymede, at Runnymede,
Your rights were won at Runnymede!
No freeman shall be fined or bound,
Or dispossessed of freehold ground,
Except by lawful judgment found
And passed upon him by his peers.
Forget not, after all these years,
The Charter signed at Runnymede.'

And still when mob or Monarch lays
Too rude a hand on English ways,
The whisper wakes, the shudder plays,
Across the reeds at Runnymede.

And Thames, that knows the moods of kings,
And crowds and priests and suchlike things,
Rolls deep and dreadful as he brings
Their warning down from Runnymede!²

The Influence of Magna Carta

The second reason why Magna Carta is so important is because of the *influence* that it has had, not only in this country, but around the globe, in establishing the constitutional principles

² Rudyard Kipling (1865-1936)

that today are generally accepted as governing any society committed to the rule of law. It is a constitutional instrument for which there was no precedent. Neither the Barons nor the King, needed to reach such a wide ranging and long term agreement. Yet, they created a Charter that placed limits on the sovereign power of the King.

However, the full significance of Magna Carta could not have been recognised by its authors. For the Barons it was no more than an acknowledgement of their immediate grievances. For the King it was a useful short term expedient to buy time. It provided practical remedies for actual wrongs. It was not based on any lofty ideals or philosophical theory and at least until after the last war it took its place with other events in the development of what Lord Bingham has described as our unentrenched constitution.³

³ The Ditchley Foundation Lecture, Lord Bingham 2003

For a time Magna Carta disappeared off the horizon, only to be resurrected at the time of a different conflict. This time the dispute was between King James I, and subsequently Charles I, and Parliament. Sir Edward Coke, in turn Attorney General, Chief Justice of the Common Pleas and Lord Chief Justice claimed effectively, but inaccurately, that Magna Carta recorded the liberties and freedoms enjoyed since time immemorial by the people of England. It was therefore an antidote to the Stuarts' claims to unbridled power based on the divine rights of Kings. Coke's approach to Magna Carta was dramatically in contrast to that of Oliver Cromwell.

Once he became Protector he was contemptuous of Magna Carta to redress grievances. For Cromwell it was not Magna Carta but "Magna Farta"⁴. Such a boorish dismissal of Magna Carta was even more unjustified than Coke's claims for it.

⁴ Lord Phillips MR; Magna Carta

Fortunately historians redressed the balance. Though the Charter still has not had the recognition that, in my view, it should have, as the first of a series of instruments that now are recognised as having a special constitutional status. They include the Habeas Corpus Act, the Petition of Right of 1627, (largely the work of Coke and very much influenced by Magna Carta), the Bill of Rights confirmed by the Crown and Recognition Act 1689 and the Act of Settlement 1700. The long title to the Act of Settlement makes clear its links with Magna Carta since it states that it is an Act for the further limitations of the Crown and securing the rights and liberties of the subject. Importantly it secured the independence of the judiciary. Previously the judiciary had been dependent on the goodwill of the monarch for remaining in office.

It is, however, Magna Carta that has played the most critical role in developing our form of democratic government subject to the rule of law.

Magna Carta has also had a huge influence on the constitutional developments of those countries that have conventional written entrenched constitutions. One of the earliest of these constitutions and the model for a great many that followed was the Constitution of the United States.

The links between the United States' Constitution and in particular their Bill of Rights and Magna Carta is widely acknowledged. This connection explains the response of Americans to the Lincoln Cathedral's copy of the Magna Carta being transported to the United States Library of Congress for safe-keeping in 1939. No less than 14 million people queued to see it for themselves. When at the end of the war it was returned to this country, the Minister receiving it on behalf of the Crown referred to its lineage which he regarded as being "without equal in human history". He also considered with justification that the preamble to the United Nation's Charter was the most recent of Magna Carta's "authentic offspring".

Magna Carta's influence has also spread throughout the Commonwealth. Attention was drawn to this by Lord Irvine of Lairg when, as Lord Chancellor, he visited Australia and gave his authoritative lecture on "the Legacy of Magna Carta: a joint commitment to the rule of law".

As he stated: "In many respects, the Magna Carta has transcended the distinction between law and politics and its legacy represents a joint commitment by Monarchs, Parliamentarians and the Courts to the rule of law⁵. [For Lord Irvine, Magna Carta is not a distant constitutional echo. He considered that "its spirit resonates in modern law.]

That Lord Irvine should be giving a lecture on Magna Carta, on the other side of the globe in Australia was far from surprising. Magna Carta has been accepted in many of the Australian jurisdictions by statute (in some it is still almost entirely in force notwithstanding the repeals in this country).

⁵ LQR [2003] 119 (APR) 227/245.

It is part of Australian Common Law and was described by Isaac J as “the groundwork of all our constitutions”⁶. Undoubtedly, as Laws LJ has pointed out, the “enduring significance” of Magna Carta is that it was a “proclamation of the rule of law” and “in this guise, it followed the English flag even to the Chagos Archipelago”⁷.

India’s very distinguished Supreme Court has the task of upholding the rule of law in the largest democracy in the world. It is no surprise to find that Court deciding that the right for a citizen to have a passport is based on Magna Carta⁸.

The principles enshrined in Magna Carta have also, from time to time, surfaced in different parts of the world that have never been part of the British Empire or a common law legal system. The principles are universal. Thomas Payne’s *Rights of Man*

⁶ *Ex-parte Walsh Johnson* (1925) 27 CLR 36 at p.79

⁷ (2001) QB 1067 (*Bancoult’s case*)

⁸ *Sawhney v Assistant Passport Officer, Government of India* (1967) Times 15 April.

took them to the different legal systems on the continent. They played their part in the French Revolution of 1789.

After the last war, the world had learnt the painful lesson, that John and the Barons' method of settling a little local difficulty had advantages over resorting to warfare. The world decided to do better in future and the result was that, in addition to playing a role in establishing the principles set out in the United Nation's Charter, the provisions of Magna Carta were highly influential when it came to drawing up the European Convention of Human Rights. It is easy to draw a parallel between the broad rights of that Convention and the broad statements contained in Magna Carta. As this country played its part in drawing up that convention, it is not surprising that a number of the articles of that Convention have a distinct Magna Carta resonance.

Surprisingly, however, the importance of Magna Carta has never had the recognition by the public at large in this country that it deserves.

Magna Carta and the Act of Settlement have been at least as important in protecting the public of this country's liberties as great battles such as that of Trafalgar, whose tri-centenary we will celebrate later this year. Rightly, there will be great reviews of the fleet and fireworks to mark the tri-centenary. By way of contrast, the tri-centenary of the Act of Settlement went unnoticed here as far I am aware, but in Canada, there was a great conference at which the event was celebrated with judges attending from all round the world.

Surely the time has come to rectify this position. I have mentioned Royal Holloway. There is, however, a co-host of these lectures. It is the Magna Carta Trust, established in 1957 with a most distinguished membership. Its Chairmen, commencing with Lord Evershed, have been the Master of the Rolls for the time being.

The then Prime Minister Sir Anthony Eden wrote a letter marking the inaugural meeting of the Trust in these terms:

The 15 June 1215 is rightly regarded as one of the most notable days in the history of the world. Those who were at Runnymede that day could not know the consequences that were to flow from their proceedings. The granting of Magna Carta marked the road to individual freedom, to parliamentary democracy and to the supremacy of the law. The principles of Magna Carta, developed over the centuries by the Common Law, are the heritage now, not only of those who live in these Islands, but in countless millions of all races and creeds throughout the world.

At least Runnymede is in safe custody in the hands of the National Trust. But, that said, the identification of the actual site of the historic events in 1215 depends not on an English initiative, but on the initiative of the American Bar Association, supported by the Trust and the Pilgrim Trust, who on land leased by what is now the Runnymede Borough Council erected a monument in 1957 to commemorate and dedicate themselves to the principles of Magna Carta.

In 2000 the American Bar Association held a rededication ceremony at which Justice Sandra Day O'Connor spoke.

Visits have been made to the site by Presidents of India and Hungary. The president of Hungary came to the site to mark its importance to the emerging democracies of Eastern Europe.

Many thousands of members of the public visit the site each year, but they leave with no information of the significance of Magna Carta. No national or heritage money is made available to the Magna Carta Trust but it strives to do its best with the resources that are available to it. There is an undoubted need for a visitors centre at the site. The treatment of Runnymede demonstrates an unfortunate tendency of this country to be unduly complacent about the freedoms of which Magna Carta is a symbol. We cannot afford to take our freedoms for granted.

The same complacency also contributed to the delay in making the European Convention, even though it is based on Magna Carta principles, part of our domestic law.

This had at least two disadvantages. Firstly, before October 2000 citizens, in order to obtain the benefits of the ECHR, had to go to Strasbourg; not a happy situation for the nation that had made such a significant contribution to establishing the importance of the rule of law. Secondly, until the ECHR became part of our domestic law, our judiciary were not able to make the contribution they would have made otherwise, by their judgments, to the development of the European jurisprudence relating to human rights.

Today the courts recognise specially protected rights. They are the very same rights that Magna Carta protected. They are the rights which, in this country, whilst they do not override the sovereignty of Parliament, control and constrain how that sovereignty is exercised.

Now the courts have an additional role. They are under a duty both to ensure that legislation is interpreted, whenever possible,

in accord with the European Convention and to ensure that public bodies do not contravene the Convention.

This increased responsibility of the courts enhances the importance of access to the courts for the protection of the human rights. Those rights would be illusory if members of the public who considered their rights had been infringed could not seek the appropriate protection from the courts. This is but one example in a contemporary setting of the relevance of Magna Carta principles.

When the public seek their protection, the courts have to be seen to be wholly free of the influence of the executive. There is a need for independent judges who treat all who come before them in the same manner. Again, these are among the constitutional necessities that Magna Carta recognised.

That our judges would demonstrate such independence had been taken for granted but two events were to draw attention to the need for constant vigilance.

The first warning came with the decision of the Prime Minister, announced in a press release in June 2003, to abolish the Office of the Lord Chancellor which was then occupied by Lord Irvine of Lairg.

What was apparently not appreciated at the time is that, while one individual as Lord Chancellor could, for historic reasons, exercise all the responsibilities of Lord Chancellor, a Secretary of State could not. In particular, the judiciary considered it wholly inconsistent with their independence for a Secretary of State to exercise the Lord Chancellor's traditional role as head of the judiciary.

It is now my personal view that even if this announcement had not been made, the conflict between the Lord Chancellor's

different roles would inevitably have made changes necessary. However, this announcement accelerated the process. Fortunately, it was recognised both by the government and by the judiciary that the respective responsibilities of the relevant minister and the judiciary had to be re-defined. The time had come when responsibilities previously performed by the Lord Chancellor had to be performed by a body or an individual who was clearly seen to be independent from the executive. There needed to be greater clarity as to the separate roles of the government and the judges. While up until that time, the separation of powers had not been a part of the English constitutional scene, at least in relation to the judiciary, the role of both the executive and the legislature now had to be seen to be separate from that of the judiciary.

The need for this separation had already been made clear by the European Court of Human Rights. Prior to the announcement, the European Court had by its decision in relation to the Bailiff

of Guernsey, given warning that the Lord Chancellor's different roles might be in conflict with the European Convention.⁹

The judiciary were obviously the most directly affected by the proposed changes. There is a massive amount of legislation giving tasks to the Lord Chancellor as head of the judiciary which would be more appropriately dealt with by a new head of the judiciary once the Lord Chancellor was disqualified from performing that role. There were other responsibilities which could appropriately be shared by the new Minister and the new head of the judiciary and there were yet other responsibilities which should be performed by someone independent of both the Executive and the judiciary.

To deal with this novel situation, a novel negotiation took place between the Executive, led by the Lord Chancellor and the judiciary which I led as Chief Justice.

⁹ *McGonnell v United Kingdom* (2000) 30 EHRR 289.

The setting for the negotiation was not exactly a riverside meadow, but the objective as in the case of Magna Carta was to reach a consensus for the future as to how these differing responsibilities should be performed. I hope you detect an echo with the process that took place on Runnymede 790 years ago. The parallel is, of course, not exact. To begin with, the process took far longer. In addition, both the King and the nobles produced that remarkable document notwithstanding that they were motivated by their own self interest. I hope you will accept, that from the start both the judiciary and the Lord Chancellor were acting solely in the long term constitutional interests of the country. We were seeking to identify the proper boundaries between the roles of the executive and the judiciary and Parliament.

It was remarkable that as a result of these negotiations a consensual document was agreed which defines the respective roles of the parties and came to be known as the Concordat. Even more remarkably, the Concordat was universally

acceptable to the judiciary, the executive and the different political parties in Parliament.

There were differences of opinion between the different parties as to whether the office of Lord Chancellor should be abolished and as to whether, if the office was not abolished, which of his other roles should be affected. There were also the disputes as to whether, in future, the Lord Chancellor had to be a lawyer and a member of the House of Lords, but these disputes did not conflict with the terms of the Concordat.

The same is true of the issue as to whether the House of Lords should remain the final court of appeal for the whole of the United Kingdom or whether there should be a new Supreme Court. Here, there was hotly contested debate in Parliament but, miraculously, before the recent election, the Constitutional Reform Act was passed giving effect to the Concordat and Parliament's decision on the contested issues.

This required great Parliamentary statesmanship on all sides. The Act now protects the judiciary by making clear their and the executive's responsibilities. It is a new constitutional settlement giving effect to the rule of law. This is a further step in the process commenced 790 years ago.

The other development to which I referred was also of great importance. Dealing with a flood of asylum seekers was creating problems for the government. The process for determining claims for asylum and removing those whose claims failed was not effective. The system had too many tiers of appeal. The process was so protracted that by the time it had finished, the unsuccessful applicant could say that there had been a sufficient change of circumstances to justify the process being restarted. Many attempts were made to modify the system to make it more efficient with limited success.

The government, therefore, decided that a much more radical change was needed. They opted for a single tier with no right of

access to the courts. They drafted legislation which it was intended would exclude the courts in their entirety. Over the years, since the last war, attempts have been made to do this in a number of contexts but they have always failed. The courts are not prepared to accept that Parliament intends to exclude their residual jurisdiction to prevent the individual being treated unlawfully contrary to Magna Carta. However, the proposed clause was intended to make it impossible for the courts to say that, if the legislation was passed, it was not the intention of Parliament to remove any residual jurisdiction of the courts, however great the injustice that might result.

Fortunately, before the clause was debated in the Lords, the government was persuaded to think again. The fact that they did so avoided the risk of a confrontation between the courts, the government and Parliament. It is my belief that, for the future, the recognition by the government of the need to take account of the requirements of the rule of law enshrined in Magna Carta is more significant than the misguided attempt to exclude access to

the courts in the search for an expedient way of handling a difficult situation.

Increased recognition of the rule of law is also apparent in the strident argument which has taken place over the invasion in Iraq. What are the requirements of international law in relation to the invasion are, like most other areas of the international law, highly debateable at least at the fringes. However, it is commendable that the argument is to whether the invasion was lawful or unlawful. The argument is focussing upon the legality of what was done. It is not as might have been the case in the past on what is in the strategic interests of this country. In other words, the issue is “has the government acted in accordance with the rule of law?”

The same is true over the dispute as to the legal status of the detainees both at Guantanamo Bay and Belmarsh Prison, which rightly have concerned the Supreme Court of the United States and the Appellate Committee of the House of Lords.

The final illustration of the importance today of the rule of law and consequently its source, Magna Carta, is their impact upon the global economy. It is now accepted that the improvements in the standard of living are adversely affected by the absence of an established legal system which can ensure observance of the rule of law. There can be extreme reluctance to invest in a jurisdiction if there is a lack of confidence that disputes will be impartially resolved by an independent court system which is free from corruption and capable of upholding the rule of law. For the same reason, the European Union has insisted that the legal institutions of the countries applying for membership of the Union should be of acceptable standards before entry.

Conclusion

What I have said enables me to bring to a conclusion the first of the ten lectures on the relevance of Magna Carta today.

Last year, all around the world in both the civil and common law jurisdictions, including this country, celebrations were held

to mark the bi-centenary of the *Code Civile*. The *Code Civile* is the procedural code which has served civil jurisdictions so well for 200 years. In the common law world, there is nothing comparable to the *Code Civile*. Even if there had been, it is doubtful whether we would have celebrated it in the same way as France did. The French rightly saw the *Code Civile* as part of France's contribution to the legal systems of the world.

Hitherto, we have not sufficiently promoted the contribution of this country to the establishment of a world governed by the rule of law. The common law has spread and provided a contribution to justice, day in and day out, to about one third of the population of the world. It has influenced other systems of justice. There is no code to which we can draw attention.

However, Magna Carta is a symbol for the values of the common law. Magna Carta is also remarkable because it is such a historic statement of the fundamental principles of the rule of law.

The solution to a little local difficulty 790 years ago has become more important today than it has ever been. It is important that its 8th centenary should be celebrated in a manner that is worthy of what was achieved in Runnymede on the 15th June 1215. While I do not congratulate the Trust and Royal Holloway on their choice of the first speaker, I do commend their efforts to ensure the 8th Centenary will mark the important contributions of this country to establishing the rule of law which I have attempted to identify.