

# Magna Carta, Foundation of American Democracy

**Sir Robert Worcester KBE DL**

Good afternoon.

I will cover three things in my talk today:

- Why me, why now?
- Why are you here this day? You know what it is to be Americans.
- What do you know about the role that Magna Carta played in the building of America, and the Special Relationship that exists to this day between America and Great Britain?

## **Why me?**

Growing up in America I had a pretty thorough schooling in English history, English literature and not least English cinema (that was before television), which began with the Angles, Saxons and Jutes, then 1066 and all that, in 1215, the Great Charter, later *Magna Carta*.

From an early age it was “Good” King Richard the Lionhearted, “Bad” King John “Lackland” (and Robin Hood and his merry men, Little John, Friar Tuck, Will Scarlet and all), Henry VIII and Elizabeth the Virgin Queen, Shakespeare, 18th C. Georgian elegance in costume, in architecture and music.

I grew up with the belief that 'the sun never sets on the British Empire'.

And did I collect stamps from all over the British Empire!

All Americans knew then that George Washington, John Adams, John Jay, Benjamin Franklin and James Otis, nearly all the Founding Fathers were Englishmen (Alexander Hamilton was a Scot). They were giants. And they stood on the shoulders of giants, the Barons of England who forced King John in June 1215 to agree to renounce his absolute power over his subjects and abide by the Rule of Law.

James Otis? How come he is revered in this series of lectures sponsored by ABOTA, the American Board of Trial Advocates? You presumably know this much:

“James Otis, Jr., (1725-1783) was arguably the most influential lawyer in early American history. According to John Adams, the second President of the United States, who was present at the time, Otis’s eloquent argument presented in a Boston court room in 1761 challenging the British laws, known as the Writs of Assistance, lit the spark which led to the American Revolution.

It was Otis who said ‘A man’s home is his castle’.”

Otis<sup>1</sup> challenged oppressive laws which permitted warrantless searches of homes and businesses. His arguments were a ringing reaffirmation of the Anglo-American belief all men are born with certain natural and inalienable rights which cannot be violated by any king, parliament, or other governmental authority.



ABOTA created the James Otis Lecture Series to educate and inspire students across America so they will have appropriate knowledge of and respect for the United States Constitution.

Together with students representing high schools throughout the country, ABOTA brings together its James Otis Scholars to celebrate this important and historic event today, Constitution Day, 2014, reflecting the 227<sup>th</sup> anniversary of the day, September 17, 1787, when what we now call “The Miracle of Philadelphia” took place, as 39 men gathered in Independence Hall in Philadelphia and signed the United States Constitution.

What started in May of that year as an effort by delegates of the several States to amend the Articles of Confederation, resulted, instead, in an agreement by The People of the United States to build a country standing on the shoulders of giants, men who knew not what they were doing when 800 years ago on June 15<sup>th</sup> 1215, they gathered in armour with weapons drawn to force King John to bow his head, he who ruled with the “divine right of kings’, was forced to acknowledge that even a king who made the law was subject to the Rule of Law, a power greater than his own.

**Why me?** Let me expand on the kind introduction to this talk. On my first visit to Britain, in 1957, I was a serving officer in the US Army Corps of Engineers, returning to America to be discharged after serving in Korea, my tour of duty completed.

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<sup>1</sup> James Otis’s famous court room presentation is captured in a sweeping mural painted by Robert Reid in 1901 in Nurse’s Hall, part of the Massachusetts State House in Boston.

On my first day in London I went to the British Museum to see two things, the Magna Carta and the Rosetta Stone, which to me represented the two icons of civilised society: the rule of law and communication outside the village.

I became a Trustee of the Magna Carta Trust 21 years ago (when I became Chairman of the Pilgrims Society), the Chairman of the Trust, by Charter was the Master of the Rolls, the head of civil law in the United Kingdom. Four years ago I was called in to see the Master of the Rolls, then Lord (Anthony) Clarke, on the day before he moved to become a member of the UK Supreme Court to meet with his successor Lord (David) Neuberger, now President of the Supreme Court. The Master of the Rolls and Chairman of the Magna Carta Trust is now Lord (John) Dyson, all distinguished jurists. I serve as Deputy Chairman of the Trust.

Thirty-eight years ago in all its splendour the House of Common's Speaker and House of Lords Lord Speaker, MPs and Peers, Law Lords, Ambassadors and High Commissioners, the Archbishops of Canterbury and York, met with the senior members of the American Congress and Senate assembled in the 1,000 year old Palace of Westminster's Westminster Hall to hand over the Lincoln 1215 Magna Carta to the Library of Congress in the Autumn of 2014, to be displayed in the Rotunda of the Congress of the United States. I was there.

### **So that's why I'm here, and why now.**

This is also largely the reason for the existence of the 'Special Relationship' that bonds my two countries, Britain and America.

President Obama observed in 2011 in a speech to the British Parliament:

*“our system of justice, customs, and values stemmed from our British forefathers”.*

And went on to say:

*“Our relationship is special because of the values and beliefs that have united our people throughout the ages. Centuries ago, when kings, emperors, and warlords reigned over much of the world, it was the English who first spelled out the rights and liberties of man in Magna Carta.”*

### **Why are you here today?**

You are James Otis Scholars. You may become interested in constitutional history. I did when I was your age. You may even become lawyers.

When I mention Magna Carta to lawyers anywhere in the world, eyes light up. They know the role that Magna Carta played in establishing the Rule of Law.

There are many myths which surround the Magna Carta. That it was only a fight between the barons and the King. That it was a peace treaty, and at that it failed.

It certainly was a fight, and the fight went on for several years but the Great Charter lived on, reissued after King John's death by his nine year old son, Henry III, in 1216 and again in 1217 and 1225, and by Edward I in 1297 when it became English law, following the establishment of a Parliament.

It was the beginning of the spread of modern democracy. Magna Carta was the overturning for the first time of 'divine rule' (King John, and somewhat later, King George III's power over the American colonialists), the beginning of representative democracy, and as Lord Judge, the former Lord Chief Justice of the United Kingdom recently quoted from the Magna Carta itself: "*Nullum scutagium vel auxilium ponatur in regno nostro, nisi per commune consilium regni nostri*". Roughly translated into American that means "*no taxation without representation*". This was the cry of American colonists petitioning the King for their rights as free men which led to the United States of America.

And it was the foundation of human rights, under threat now at home and abroad, as we consider how to cope with the threats which face us in the 21<sup>st</sup> Century.

Magna Carta matters still today. It is the foundation stone supporting the freedoms enjoyed today by nearly two billion people in more than 100 countries.

Magna Carta enshrined the Rule of Law. It limited the power of authoritarian rule. It paved the way for trial by jury, modified through the ages as the franchise was extended, and what we now call 'due process'.

It proclaimed certain religious liberties, "*The English Church shall be free*".

For centuries it has influenced constitutional thinking worldwide including in many Commonwealth countries, in France, Germany, and Japan, and throughout Asia, Latin America and Africa.

Over the past 800 years, denials of Magna Carta's basic principles have led to a loss of liberties, of human rights and even genocide taking place yesterday, this morning, today and tomorrow.

It is an exceptional document on which all democratic society has been constructed, described by the former German Ambassador to me as "The Foundation of Democracy".

For eight centuries Magna Carta has exerted a powerful influence upon constitutional and legal development now least in America, but during the first half of that period, four hundred years, only in the British Isles. Then, in 1606, the Virginia Charter was signed by King James I, and 101 intrepid travellers departed Kent in England on the 19<sup>th</sup> of December to sail the Atlantic to found the first permanent English-speaking colony in the New World, in Jamestown in what they named Virginia in 1607, 13 years before the Mayflower.

That, according to Hazeltine<sup>2</sup>, led to “The earliest, and perhaps most important phase of ... Magna Carta is its effect upon the constitutions and laws of the American colonies and of the Federal Union that was established after their War of Independence.

Hazeltine observed that with the Treaty of Paris of 1783, Great Britain acknowledged her former colonies to be ‘free, sovereign, and independent States’ and with that the present period of national existence in America had its definite beginnings.

“This American evolution is one that rests for its foundations upon the long centuries of English development that preceded its own beginnings, and that bears also, in a marked degree, the imprint of constitutional and legal changes in England during the period of colonization and even in later times.

We should not forget that the Englishmen who settled in America in the seventeenth century inherited all the preceding ages of English history. To them belonged Magna Carta and the Common Law. Even today American institutions and principles bear the impress of its influence.”<sup>3</sup>

To conclude:

You can follow the commemoration of the 800<sup>th</sup> anniversary by signing up to the Magna Carta Newsletter at our website and tell us if you’d like to get involved, at [www.magnacarta800th.com](http://www.magnacarta800th.com).

And, I hope, some of you will be with us next year on the 800<sup>th</sup> anniversary when several thousand Americans will be at Runnymede with the Queen, and some as well in Westminster Hall for the mock trial of the Barons at the end of July, or at least watching it on BBC World and maybe even BBC America and PBS.

Thank you.

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<sup>2</sup> H.D. Hazeltine, “The influence of Magna Carta on American Constitutional Development” in Magna Carta Commemoration Essays, Henry Elliot Malden, Ed., London: Royal Historical Society, 1917

<sup>3</sup> Op. Cit., pps. 179-180