

CONSTITUTION DAY 2015

The Magna Carta: Its Impact Upon the U.S. Constitution



Presented by:



Constitutional Rights
Foundation
ORANGE COUNTY

800 YEARS IN THE MAKING

- The Constitution of the United States is a document which creates both a framework for our government and a guarantee of our individual liberties
- In this lesson, we will explore how the Magna Carta first gave rise to some of these individual liberties 800 years ago and how these liberties find expression in our U.S. Constitution today



WHAT IS THE MAGNA CARTA?

- Most famous document in English history
- Latin for "Great Charter"
- Except for the Bible, it is the most cited document in legal debates
- Has been called "[T]he foundation of the freedom of the individual against the arbitrary authority of the despot."



ENGLISH BEGINNINGS



- The drafters of our U.S. Constitution were schooled in British law, so our story begins about 800 years ago in the late middle ages
- The tales of Robin Hood outfoxing King John
- While Robin Hood may be a legend, the abuses of King John were very real

ABUSES BY THE FEUDAL KING

- 12th century England was a feudalistic society of obligations and laws
- The divinely appointed king held all power over his people and land
- King John abused his power by unjustly imprisoning subjects without cause, confiscating lands, raising taxes and defying any law he did not like



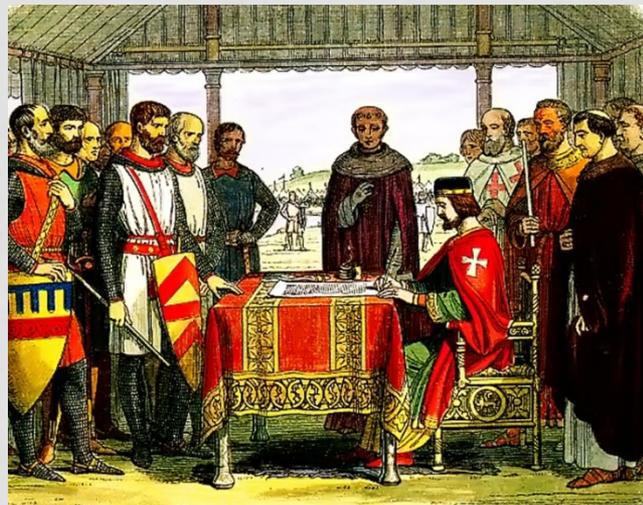
CIVIL UNREST

- John's abuses led to revolt among the barons
- Facing overthrow, John was forced to meet with the barons and church leaders in June, 1215
- The neutral ground chosen for the meeting was a meadow known as Runnymede

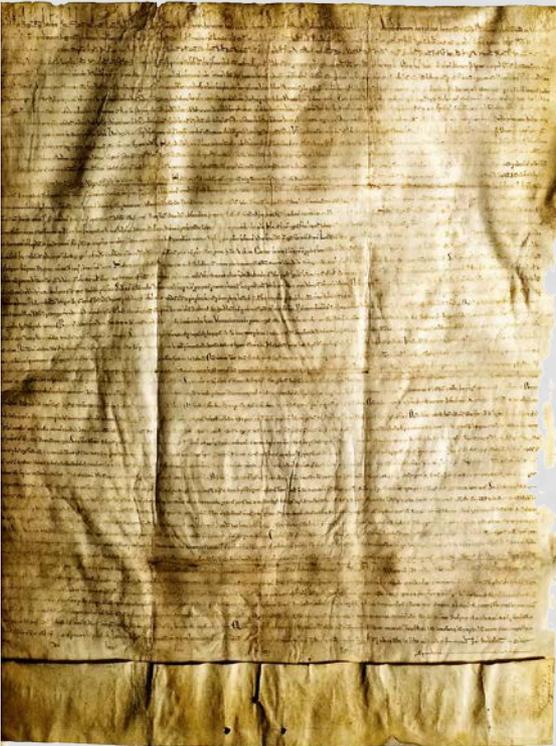


THE AGREEMENT

- After days of discussion, the King agreed to the demands of the barons on June 15, 1215
- The demands were inscribed in Latin on a dried animal skin called parchment
- The document was called the Magna Carta and distributed throughout the realm



THE 63 ARTICLES



- The Magna Carta consists of 63 articles
- Many of the articles dealt with feudal land, trade and measures
- Although the barons were not concerned with the rights of all English people, several important liberties were granted to “all free men of the realm”.
- It was the first written attempt to bind the English monarch in obedience to the law

THE NEW LIBERTIES

- Religious freedom
- No taxation without approval
- The rule of law would be monitored and followed
- No selling, delaying or denying justice by the king
- Fair and speedy trials for those accused of crimes
- A free man could not have his liberty or possessions taken away without due process
- No imprisonment without a trial by peers

THE LANGUAGE OF FREEDOM

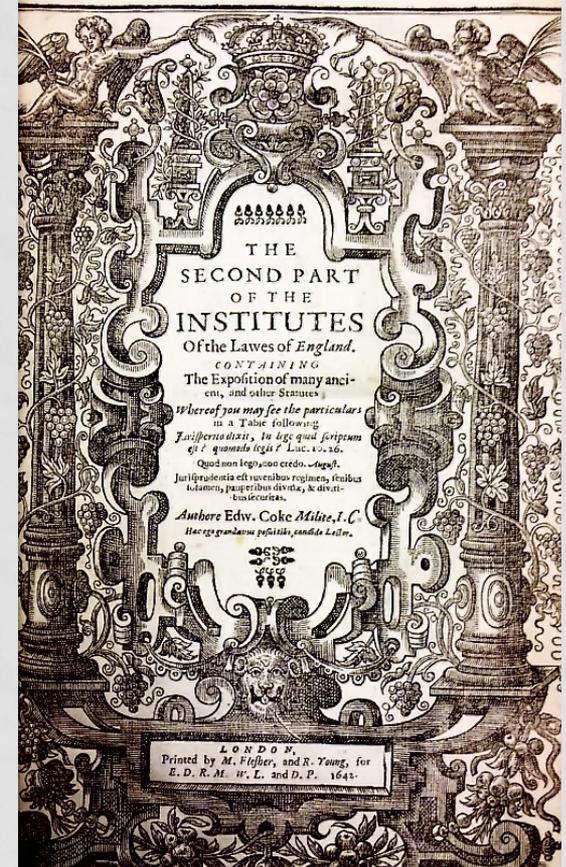
- Clauses 39 and 40 would influence future generations to the present
- **“No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his peers or by the law of the land.”** Clause 39
- **“To no one shall we sell, to no one shall we deny or delay right or justice.”** Clause 40

THE MEANING OF THE MAGNA CARTA

- Established that the royal sovereignty was not just subject to God but to popular consent of those governed
- The King had limits to his power as imposed by his people
- The King was not above the law but must act within the rule of law
- The people could redress the wrongs of government through petition

THE CHARTER REINTERPRETED

- Although the terms of the Magna Carta would be violated and changed over the centuries, its spirit would not be forgotten
- For British lawyers and judges in the 17th century, the charter would remain the symbol of individual rights against a capricious crown
- Legal and religious commentators argued that the monarchy governed under the rule of law and not divine authority
- The notion that all Englishmen enjoyed certain freedoms gained popularity



THE CHARTER & THE NEW WORLD

- The establishment of English colonies brought the liberty concepts of the charter to America
- Charters for Virginia and Massachusetts Bay Colonies gave colonists the same rights as if they were in England

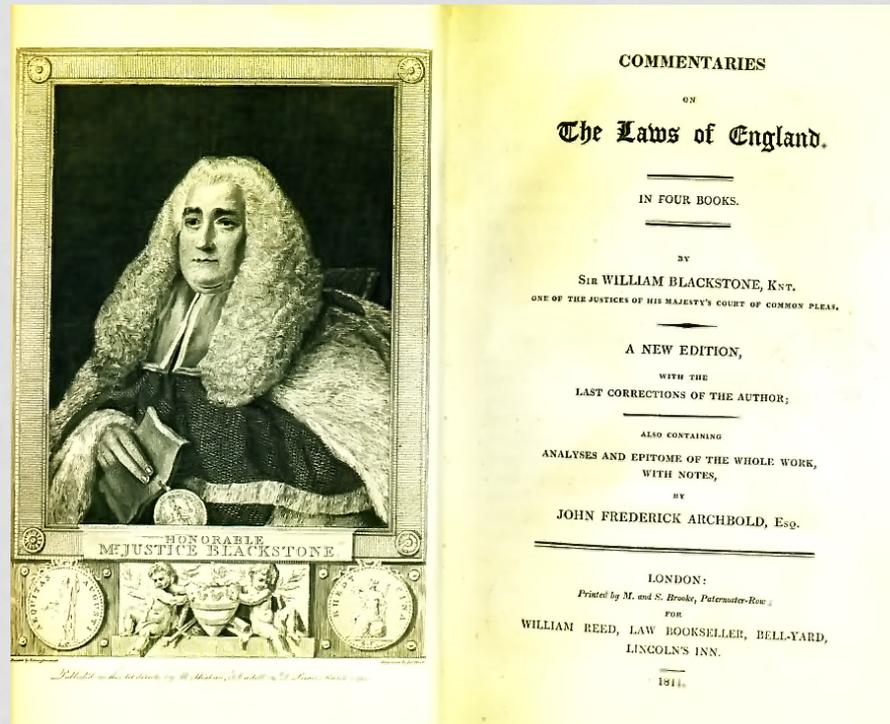
THE CHARTER & THE NEW WORLD

- William Penn, the founder of the Pennsylvania Colony, published a pamphlet in 1687 explaining his plan for a government and included a copy of the Magna Carta – this was the first printing of the charter in America



INFLUENCE ON THE FOUNDING FATHERS

- Founding fathers such as Thomas Jefferson, John Adams, John Marshall and others were schooled in the earlier writings of English legal scholars



INFLUENCE ON THE FOUNDING FATHERS

- These rights were immutable laws of nature
- The scholars and founders believed that the Magna Carta did not create but preserved individual rights
- British Parliament was viewed as a sovereign entity like the king, hence Parliament was bound by the same guarantees afforded Englishmen

INSPIRATION FOR POLITICAL THOUGHT & DEFIANCE

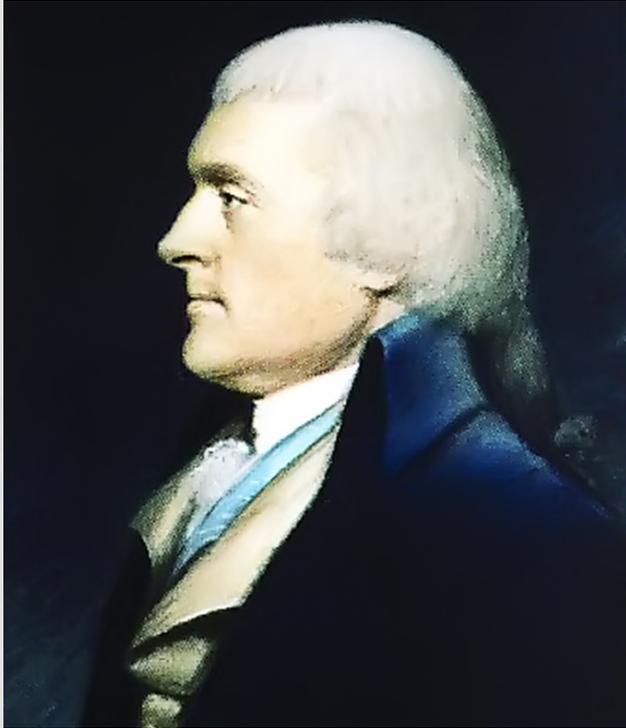
- Contemporary political leaders on both sides of the Atlantic found inspiration in the Great Charter for the colonists' claimed rights as Englishmen and defiance of perceived tyranny
- Example: The Boston Tea Party - Demonstrators objected to the Tea Act of 1773 claiming it violated their rights as Englishmen to, "No taxation without representation." Colonists argued that they could only be taxed by their own elected representatives and not by a British Parliament in which they were not represented (Clause 14 – Magna Carta)

INSPIRATION FOR POLITICAL THOUGHT & DEFIANCE



- By the outbreak of the Revolutionary War, the Massachusetts Colony adopted a seal designed by Paul Revere which depicted a patriot holding a sword and a copy of the Magna Carta

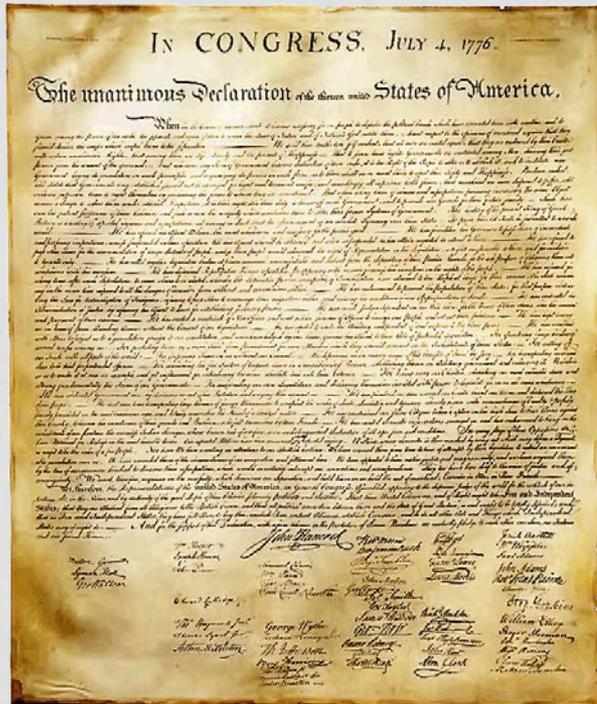
THE DECLARATION OF INDEPENDENCE



- Thomas Jefferson wrote the majority of the Declaration which was a petition to redress governmental wrongs inflicted upon the colonies

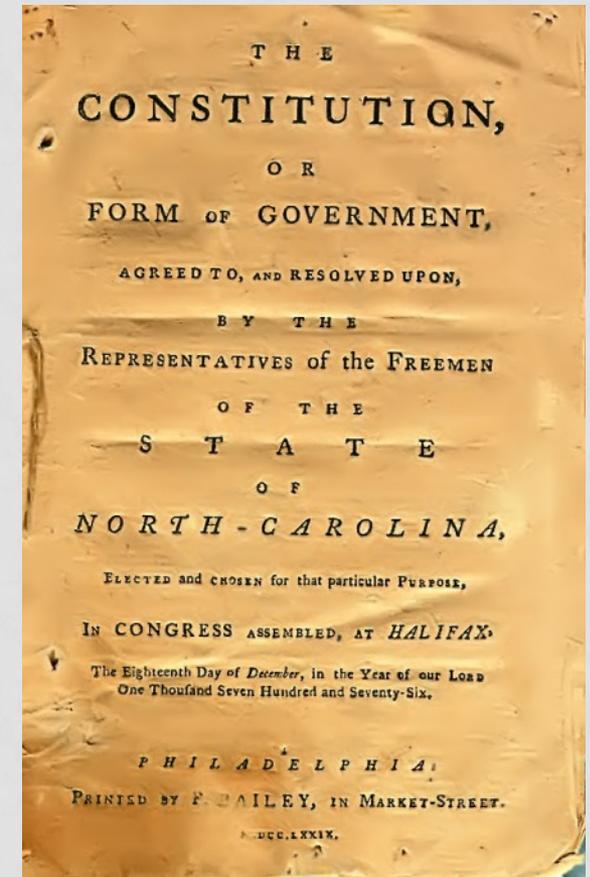
THE DECLARATION OF INDEPENDENCE

- Jefferson reasoned that because an individual's rights were endowed by the Creator, these rights were inalienable. Governments derived their power from the consent of the governed. Thus, the governed could dissolve their bonds from the British government and yet retain the liberties afforded by the Magna Carta, even if the colonists separated from the Mother Country



THE NEW COLONIAL CONSTITUTIONS

- Independence from the Crown meant that their old colonial charters were invalid so a new constitution for each state was necessary
- Many incorporated paraphrased parts of the Magna Carta in their new state constitutions



THE U.S. CONSTITUTION



A. HAMILTON



J. MADISON



J. JAY

- Even after independence, the final ratified Constitution of 1789 did not expressly set forth many of the traditional individual liberties or expanded rights Americans had come to cherish
- The right to travel and taxation by Congress (elected representatives) were made part of the new Constitution
- Much debate was had: Some argued that such individual rights must be written in the Constitution while others claimed that such rights were inherent in the document

THE U.S. CONSTITUTION

- The solution: The Bill of Rights (the first 10 Amendments) ratified in 1791, contained many of the liberties inspired by the Magna Carta
- Like the Magna Carta, the written Bill of Rights served as an express limitation on the power of government



THE FIRST AMENDMENT – FREEDOM OF RELIGION & REDRESS THE GOVERNMENT

- **“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”**

THE FIFTH AMENDMENT - DUE PROCESS OF LAW

- “ No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.**”

THE SIXTH AMENDMENT - SPEEDY AND PUBLIC TRIAL

- **“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”**

MAGNA CARTA - A GOLDEN THREAD RUNNING THROUGH JUDICIAL THINKING

- Example: **United States v. Booker** (2005) 543 U.S. 220, 239; 125 S. Ct. 738 – The Court found unconstitutional guidelines which permitted the trial judge to increase a defendant's sentence if the judge found a certain enhancing fact true although such fact was not presented to a jury
- Rationale: **"The Framers of the Constitution understood the threat of "judicial despotism" that could arise from "arbitrary punishments upon arbitrary convictions" without the benefit of a jury in criminal cases. The Founders presumably carried this concern from England, in which the right to a jury trial had been enshrined since the Magna Carta."**

CONTINUING VITALITY



- The Magna Carta has been cited in over 170 U.S. Supreme Court opinions
- Of these 170 cases, 28% concern due process of law; 13%, trial by jury; 8% concern how Magna Carta influenced American constitutionalism; 6% treat antitrust matters and habeas corpus; 5% concern other civil rights and liberties; and 4% treat cruel and unusual punishment and excessive fines.

2015 US SUPREME COURT CASES

- **Williams-Yulee v. Fla. Bar** (April 29, 2015) 135 S. Ct. 1656, 1666:
- “Judges, charged with exercising strict neutrality and independence, cannot supplicate campaign donors without diminishing public confidence in judicial integrity. **This principle dates back at least eight centuries to Magna Carta, which proclaimed, ‘To no one will we sell, to no one will we refuse or delay, right or justice.’”**

2015 US SUPREME COURT CASES

- **Obergefell v. Hodges** (June 26, 2015) 135 S. Ct. 2584, 2633 (Dissent):
- “The Framers drew heavily upon Blackstone’s formulation, adopting provisions in early State Constitutions that replicated Magna Carta’s language, but were modified to refer specifically to “life, liberty, or property.”” ...
- ...“In enacting the Fifth Amendment’s Due Process Clause, the Framers similarly chose to employ the “life, liberty, or property” formulation, though they otherwise deviated substantially from the States’ use of Magna Carta’s language in the Clause.”

2015 US SUPREME COURT CASES

- Kerry v. Din (June 15, 2015) 135 S. Ct. 2128, 2132 :
- “The Due Process Clause has its origin in Magna Carta.”
- “The Court has recognized that at the time of the Fifth Amendment’s ratification, the words “due process of law” were understood “to convey the same meaning as the words ‘by the law of the land’ in Magna Carta.”

REVIEW - THE TIMELINE

June 15, 1215

- King John signs the Magna Carta
- Written rights – rule of law binds all

1600-1642

- British jurists/lawyers publish writings on Charter
- Expands Charter: Freedom from tyranny for all people

1607

- Virginia Colony/ Charter in New World
- Colonists given same rights as Englishmen

REVIEW - THE TIMELINE

1765

- Blackstone "Commentaries" published in colonies giving founding fathers a new concept of the Charter rights
- Individual rights in Magna Carta are immutable

July 4,
1776

- Declaration of Independence by Thomas Jefferson
- Consent of govern may be withdrawn/individual rights continue to exist even if separated from England

1787-1789

- Debate: Should the new U.S. Constitution list the rights of the citizen like the Magna Carta?
- U.S. Constitution ratified without listing many rights

REVIEW - THE TIMELINE

1791

- Bill of Rights (10 Amendments) to U.S. Constitution ratified
- Rights listed

To the
Present

- United States Supreme Court cases continue to cite Magna Carta as foundation for many American freedoms

CELEBRATION OF LIBERTY

- Unlike any other historical document, the Magna Carta symbolizes our deep-rooted tradition of constitutional governance and its associated “rule of law” values. These are commonly understood to mean that “no ruler is above the law” and, often, the granting of political and legal rights in writing.
- Although scholars may continue to debate which clause of the Great Charter may have influenced a certain concept of American democracy and to what extent, there is no doubt that even 800 years later its impact is still felt by every American today.

ADDITIONAL RESOURCES

- **Further Reading:**

- Nicholas Vincent : Magna Carta – Foundations of Freedom 1215-2015
- Alexander Hamilton, The Federalist Papers, The Federalist No. 84

- **Web Resources:**

- American Bar Association – “Magna Carta: Icon of Liberty” <http://iconofliberty.com>
- American Bar Association – Magna Carta Commemoration
http://www.americanbar.org/groups/leadership/office_of_the_president/magnacarta

ADDITIONAL RESOURCES

- PBS Learning Media : “Magna Carta – Rule of Law”
(ABOTA Otis Lecture Series)
<http://www.pbslearningmedia.org/resource/otist14-soc-maglaw/magna-carta-rule-of-law>
- The British Library – Magna Carta
<http://www.bl.uk/magna-carta>
- The Magna Carta Project
<http://magnacarta.cmp.uea.ac.uk>
- Magna Carta – 800th Foundation of Liberty
<http://magnacarta800th.com>

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- This presentation was prepared by The 2015 Constitution Day Committee, CRF-OC
- For more information: CRF-OC @ <http://crfoc.org>
4101 Westerly Place. Suite 101
Newport Beach, CA 92660
Phone: 949.679.0730



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