

A photograph of the original Magna Carta:



Introduction to Magna Carta with Annotations, abridged:

The rule of law has its basis in Magna Carta. This concept, fundamental to democratic forms of government, asserts that all – including a king, prime minister, or president – must abide by the laws of the nation. While Magna Carta does not specifically state that the king is subject to the rule of law, the provisions of this document establish that principle by imposing limits on the king’s power. The fact that the barons are given the authority to enforce this document in Chapter 61 of the original version reinforces the principle that the king could no longer ignore or violate established laws, traditions, or customs, nor could he arbitrarily infringe on the rights of his subjects. In short, the king would be compelled to abide by the rule of law.

The Magna Carta is not a carefully crafted constitution, or framework of government, like the U.S. Constitution. Rather, it addresses the principal grievances of the barons, merchants, and church officials through a set of rules designed to both restrict the power of the king and protect the liberties of Englishmen, Scots, and Welshmen.

This abridged document focuses primarily on the provisions that relate to due process of law. These provisions established the institutions and procedures needed to assure that an individual would be treated fairly by the legal process. The fundamental principle of “due process” as well as the specific provisions of the Magna Carta are generally considered as the most lasting contributions of the Great Charter.

This annotated version of Magna Carta shows the modern translation provided on the British Library Portal in bold. EDSITEment notes, which follow the respective chapters, are indented and appear in normal font.

The Magna Carta

JOHN, by the grace of God King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Count of Anjou, to his archbishops, bishops, abbots, earls, barons, justices, foresters, sheriffs, stewards, servants, and to all his officials and loyal subjects, Greeting.

KNOW THAT BEFORE GOD, for the health of our soul and those of our ancestors and heirs, to the honour of God, the exaltation of the holy Church, and the better ordering of 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, Benedict bishop of Rochester, Master Pandulf subdeacon and member of the papal household, Brother Aymeric master of the knighthood of the Temple in England, William Marshal earl of Pembroke, William earl of Salisbury, William earl of Warren, William earl of Arundel, Alan de Galloway constable of Scotland, Warin Fitz Gerald, Peter Fitz Herbert, Hubert de Burgh seneschal of Poitou, Hugh de Neville, Matthew Fitz Herbert, Thomas Basset, Alan Basset, Philip Daubeny, Robert de Roppeley, John Marshal, John Fitz Hugh, and other loyal subjects:

Preamble: This identified the key players, the most important of whom were King John and Stephen Langton, the Archbishop of Canterbury. Others names in this section of the document included high church officials and leading nobles, described as "loyal subjects." The fact that men of considerable stature had not joined the rebellion against the King is worth noting, for their presence probably helped to dissuade the barons from taking up arms against John. The King, it should be noted, signed the Magna Carta because of the threat of violence, but he had no intention of abiding by the agreement.

+ (1) FIRST, THAT WE HAVE GRANTED TO GOD, and by this present 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. That we wish this so to be observed, appears from the fact that of our own free will, before the outbreak of the present dispute between us and our barons, we granted and confirmed by charter the freedom of the Church's elections - a right reckoned to be of the greatest necessity and importance to it - and caused this to be confirmed by Pope Innocent III. This freedom we shall observe ourselves, and desire to be observed in good faith by our heirs in perpetuity.

The Archbishop's role is evident in this provision – both its placement at the beginning of the document and its guarantee of the rights and freedom of the church to act without being subject to the king's interference.

TO ALL FREE MEN OF OUR KINGDOM we have also granted, for us and our heirs for ever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs:

The second paragraph of this chapter was added, probably by Langton, between June 15 and June 19. It extended the liberties beyond the barons to include “all free men” and their heirs forever. At the time, this covered about 10% of the population; however, over time, as more of the population qualified as “free men,” it came to encompass virtually all of the people of Great Britain.

(17) Ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place.

The idea of establishing a permanent court, which included a place where legal records could be stored and consulted, was presented as a reasonable alternative to the former practice of moving the court from one location to another, a practice that resulted in uncertain schedules and indefinite delays in having a case heard.

(18) Inquests of *novel disseisin*, *mort d'ancestor*, and *darrein presentment* shall be taken only in their proper county court. We ourselves, or in our absence abroad our chief justice, will send two justices to each county four times a year, and these justices, with four knights of the county elected by the county itself, shall hold the assizes in the county court, on the day and in the place where the court meets.

Certain cases were more appropriately (and conveniently) heard in local courts, provided for in this chapter. The details included in this chapter were intended to assure a just hearing.

(19) If any assizes cannot be taken on the day of the county court, as many knights and freeholders shall afterwards remain behind, of those who have attended the court, as will suffice for the administration of justice, having regard to the volume of business to be done.

Efforts would be made to assure a fair hearing, even when the docket was overloaded.

(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. In the same way, a merchant shall be spared his merchandise, and a husbandman the implements of his husbandry, if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood.

[Chapters 20-21] Punishment for violations of the law was to be in proportion to the seriousness of the offense, thus establishing a standard of fairness.

(21) Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

(24) No sheriff, constable, coroners, or other royal officials are to hold lawsuits that should be held by the royal justices.

The goal of this provision was to provide a uniform system of justice, one not subject to local interpretation.

(36) In future nothing shall be paid or accepted for the issue of a writ of inquisition of life or limbs. It shall be given gratis, and not refused.

A precursor to the writ of *habeas corpus*, this chapter required that an inquiry be conducted in any case that might result in the defendant being deprived of life or limb, i.e., subject to punishment. The writ calling for the inquiry was to be issued free of charge. This established one of the essential elements of due process of law.

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

Another key element in due process, this chapter required “faithful witnesses” to attest that a man had committed a crime before he was formally accused and prosecuted. Edward Coke referred to this as the “golden passage,” indicating the importance he placed on this procedure.

+ (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 others to do so, except by the lawful judgement of his equals or by the law of the land.

The requirement for a jury of one’s peers (or, as the British Library translation puts it, “the lawful judgement of his equals”) is probably the most famous and certainly one of the most crucial guarantees of due process in the Magna Carta. In the context of the time in which it was written, this provision meant that a person could present his case to members of his own class; it did not, however, mean that a jury (as we understand that term) would hear the case and render a verdict.

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

The practice, until this clause was adopted, was to charge a fee for certain writs – with cost dependent on the nature of the writ and its potential value. These charges were considered legitimate ways for the king to raise revenue. However, they had the effect of denying justice to those who could not afford them.

5— * (45) We will appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.

This sets a standard for those appointed to enforce and administer the law – they must “know the law” and be prepared to “keep it well.”

*** (55) All fines that have been given to us unjustly and against the law of the land, and all fines that we have exacted unjustly, shall be entirely remitted or the matter decided by a majority judgement of the twenty-five barons referred to below in the clause for securing the peace (§ 61) together with Stephen, archbishop of Canterbury, if he can be present, and such others as he wishes to bring with him. If the archbishop cannot be present, proceedings shall continue without him, provided that if any of the twenty-five barons has been involved in a similar suit himself, his judgement shall be set aside, and someone else chosen and sworn in his place, as a substitute for the single occasion, by the rest of the twenty-five.**

Picking up on the theme of fairness, the chapter called for the repayment of all fines that were imposed unjustly, and it established the procedure by which challenges against unjust fines were to be handled. Worth noting is the attempt to avoid a “conflict of interest”: a baron was expected to step aside and allow a substitute to decide a case similar to one in which he was himself involved.

(60) All these customs and liberties that we have granted shall be observed in our kingdom in so far as concerns our own relations with our subjects. Let all men of our kingdom, whether clergy or laymen, observe them similarly in their relations with their own men.

Another of Coke's favorites, this chapter enlarged the scope of the Magna Carta, implying that the right and liberties would be extended to all men and by all men within the kingdom.

(63) IT IS ACCORDINGLY OUR WISH AND COMMAND that the English Church shall be free, and that men in our kingdom shall have and keep all these liberties, rights, and concessions, well and peaceably in their fulness and entirety for them and their heirs, of us and our heirs, in all things and all places for ever.

Both we and the barons have sworn that all this shall be observed in good faith and without deceit. Witness the above mentioned people and many others. 6—

Given by our hand in the meadow that is called Runnymede, between Windsor and Staines, on the fifteenth day of June in the seventeenth year of our reign (i.e. 1215: the new regnal year began on 28 May).

[The annotated notes are drawn from William F. Swindler's *Magna Carta: Legend and Legacy* (Indianapolis: Bobbs-Merrill Co., 1965).

Sources:

https://en.wikipedia.org/wiki/Magna_Carta

<https://docplayer.net/19788748-Magna-carta-with-annotations-abridged.html>