

A black square containing the text 'MAGNA' in large white capital letters, '800th' in smaller white capital letters inside a white circle, and 'ARTA' in large white capital letters below the circle.

MAGNA
800th
ARTA

Magna Carta FAQ: Answers

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Q1) WHAT'S MAGNA CARTA DONE FOR ME?

Quite simple - it's because of Magna Carta that we live in a free country today. Magna Carta affirmed the vital principle of freedom under the law. Clause 39 of the Charter said: 'no free man shall be imprisoned or deprived of his lands except by judgement of his peers or by the law of the land'. Clause 40 said: 'To no one shall we sell, delay or deny right or justice'. Before the making of Magna Carta the king had been able to do pretty

well whatever he liked - and did. After the making of the Charter he was subject to the law like everyone else. In the mid thirteenth century the lawyer Henry Bracton was to write, 'in England the king is below God and below the law'.

Q2) HOW MUCH OF MAGNA CARTA IS STILL ON THE STATUTE BOOK?

Very little, in fact. To be precise, just four clauses of the original 1215 version of the Charter. These are: clause 1, guaranteeing the liberties of the Church; clause 13, guaranteeing the liberties of the City of London; and the famous clauses 39 and 40, guaranteeing due legal process. These represent clauses 1, 9 and 29 of the definitive reissue of the Charter in a slimmed down version by King Henry III in 1225. All the rest of the Charter has been repealed in stages over the centuries, most especially in the nineteenth century, a period which saw the repeal of a great deal of obsolete medieval legislation. Does that mean that the Charter no longer

matters? Most definitely not. All great documents are the product of specific historical circumstances and lose their immediate relevance over time. But that does not mean that they can be forgotten or consigned to the historical waste paper bin. Magna Carta, although overtaken by events even in the medieval period, acquired huge symbolic significance, and it is its symbolic power as a touchstone of liberty which has guaranteed its continuing fame and importance over the centuries.

Q3) IS MAGNA CARTA ABOUT ENGLAND OR ABOUT BRITAIN?

Magna Carta was issued by a king of England at a time when England and Scotland were separate kingdoms, and when Wales outside the Marches constituted a separate principality. So strictly speaking the Charter is an English document. However, some of the Scottish and Welsh leaders were associated with the rebellion against John, and Eustace de Vesci, the lord of Alnwick, a rebel leader, was married to the half-sister of Alexander, king of Scots. For this reason, there are clauses in the Charter relating to Scottish and Welsh affairs. In clause 56, King John promised that, if he had dispossessed Welshmen of their lands and liberties in England or Wales without judgement of their peers, those lands and liberties were to be immediately restored. If, however, there was dispute over this, it was to be settled by the judgement of peers, for land in England according to English law, for land in Wales according to Welsh law, and for land in the March (the borders) according to the law of the March. In the following clause, 57, John promised to restore immediately to Llewellyn, prince of North Wales, Llewellyn's son, who had been taken as a hostage. In clause 59 the king

addressed the grievances of the king of Scots over his sisters, who were in John's custody, and his rights and liberties, promising to deal with these matters in the same way that he proposed to deal with the grievances of his English barons, that is, by either offering immediate redress or submitting to the judgement of the Twenty Five. The Charter is remarkable in acknowledging the distinctiveness of English, Welsh and Marcher law, the first time that all three had appeared in an English state document. King John was also lord of Ireland, but there are no clauses relating to Irish affairs in the Charter.

Q4) DID MAGNA CARTA BENEFIT ONLY THE UPPER CLASSES?

Most definitely not. As clause 39 of the original 1215 version of the Charter makes clear, the benefits of the Charter were to extend to all free men. The villeins, the unfree tenants, were of course excluded, but it would be entirely unrealistic to expect a thirteenth-century constitutional document to include them; technically, they fell within the jurisdiction of their lords. It is also worth remembering that in clause 60 the benefits which King John extended to his barons at Runnymede were

extended by them to their own free tenants: 'all the customs and liberties which we have granted to our own men shall be observed by all of our men, both lay and clerk, to their own men'. The liberties conceded in Magna Carta were spread down the tenurial chain.

Q5) WHY DID KING JOHN AND THE BARONS MEET AT RUNNYMEDE?

The meadows were simply a convenient meeting point at which large numbers of people could conveniently congregate. King John was staying at his castle of Windsor, already a major royal fortress. The barons, having taken possession of London in May, had advanced to Staines, a village by the River Thames with a bridge carrying the main road from London to the south-west. By early June, after negotiations between the two sides had been initiated, lots of American-style shuttle diplomacy was under way. When by around 10 June the king and the leading barons were ready to settle, and outline terms were agreed, they decided to meet at a neutral half way point – that is to say, Runnymede. The wide stretch of meadow by the river was probably an important meeting place as early as Anglo-Saxon times. Significantly it was sited on the boundary between two kingdoms – Mercia and Surrey (the latter subsequently

absorbed into Kent) – just as it stands today on the border between two counties, Surrey and Berkshire. The notion that the two sides met on an island in the river is pure myth and entirely without contemporary foundation. They met on the Surrey bank, because it is on that side that the road made its way from Windsor to Staines (the route of the modern A308). It should be borne in mind, however, that the course of the river has almost certainly changed in the eight hundred years since the meeting. Unfortunately we have no maps showing us the course of its meanderings in the thirteenth century.

Q6) WHAT IS THE CHARTER OF THE FOREST?

When Magna Carta was confirmed by Henry III's minority government in 1217, the opportunity was taken to hive off the clauses relating to the forests and place them in a separate charter, at the same time adding to their number. This second charter was known as the Charter of the Forest. The original 1215 charter, hitherto generally referred to as the charter of liberties, was itself reissued in amended form, and from this time known as Magna Carta – the Great Charter – to distinguish it from its younger sibling. There was much in the 1215 Charter

about forest matters because the extent of the king's forests and the administration of the forest law were both sources of popular grievance. By way of redress the king promised limited disafforestation and investigations into the malpractices of his forest officials.

Q7) WHAT DID MAGNA CARTA DO FOR WOMEN?

Two important clauses in Magna Carta dealt with the rights of women, specifically those of landholding widows, numbers 7 and 8. Clause 7 said that after her husband's death a widow was entitled to her marriage portion and inheritance at once and without hindrance, and she should not have to pay anything for these rights; furthermore, she would be able to stay in her husband's house for forty days after his death, while her dower rights were being assigned. Clause 8 said that no widow should be compelled to marry so long as she wished to live without a husband, subject to the qualification that if she were a royal tenant, then she would seek the king's consent in the event of remarriage. These two clauses essentially safeguarded the rights of wealthy aristocratic widows. King John had long been in the habit of rewarding his unpopular foreign-born mercenary captains by granting them the hand in marriage of widows of deceased tenants in chief, something which in a feudal society he was fully entitled to do. By this device he made considerable sums of

money for his exchequer – the mercenary captains naturally had to pay for the privilege – while, at the same time, rewarding those captains at someone else's expense. This Angevin version of a Babylonian marriage market, in which John's predecessors had also engaged, was extremely unpopular, and widows facing enforced remarriage offered sums to the king to secure their continued independence. In 1199, for example, Nicola de Huntingfield, the widow of William le Rous, offered £100 to John to secure the right not to remarry, while Ralph de Cornhill's widow offered as much as £166 in order not to be married off to Godfrey of Louvain (his name betrays his Flemish origins). Many widowed tenants of the crown had likewise been obliged to 'fine' (pay) to secure the dower rights to which they were entitled. These two clauses, which were amalgamated and confirmed as the new clause 7 in the authoritative 1225 reissue of the Charter, were largely respected by subsequent rulers. They constituted a major step forward in the safeguarding of women's rights.

Q8) WHERE CAN I SEE A COPY OF MAGNA CARTA?

Happily, copies of the Charter can be seen in quite a number of places around the country, although they won't all necessarily be on permanent public display at the same time.

There are four surviving copies of the original Charter issued on 15 June 1215. Two of these are in the British Library, London, one in good condition, and the other, since the nineteenth century, in very poor. The third is in Salisbury Cathedral, and the fourth at Lincoln. Of these, the only one which goes on tour is the Lincoln copy, and this autumn – 2014 - it will be on display at Bury St Edmunds Cathedral in Suffolk.

In the early years of Henry III's reign Magna Carta went through a number of reissues, and numerous copies of these reissue texts, or engrossments, have survived. The first such, made in November 1216, a month after Henry's accession, survives in a unique copy, in the archives of Durham Cathedral. The second, made a year later, and associated with the peace agreement between Henry's minority government and the rebel barons, survives in four engrossments. Three of these are in the Bodleian Library, Oxford, and the fourth in the Library of Hereford Cathedral. The final and authoritative reissue of the minority, that of 11 February 1225, which was subsequently embodied in statute law, again survives in four engrossments, one in the British Library, the second in the National Archives, the third in the Bodleian Library, and the fourth in the Library of Durham Cathedral. In 1297 Edward I reissued the Charter yet again, as part of the settlement of a major political crisis that year. Four copies of this text survive, one in the National Archives, a second – the City of London's copy – in the London Metropolitan Archives, and a third in the Australian National Parliament, Canberra, Australia. A fourth copy is in private ownership in the United States.

A copy of the reissue made by the same king in 1300 survives in Faversham Borough Archives in Kent. To this tally of copies of what was known from 1217 as the Great Charter may be added the surviving early texts of its sibling, the Forest Charter. In November 1217 the forest clauses of the Charter of 1215 were taken out and, much supplemented, were published separately as 'the Forest Charter'. In later times, when reissues were made, they were referred to together as 'the Charters'. There are two surviving engrossments of the Forest Charter of 1217, one in the Dean and Chapter Archives of Lincoln, and the other in Library of Durham Cathedral. There are three surviving copies of the 1225 engrossment, two in the same two cathedrals, and the third in the British Library. There is a single surviving engrossment of the 1297 Forest Charter, now in the British Library, and apparently the counterpart of the copy of the Great Charter in the Australian National Parliament at Canberra. It is believed that both of these copies were intended for proclamation by the sheriff of Surrey.

Why have so many copies of the Charters come to rest in cathedral archives? Quite simply, because in the Middle Ages, when there were no solicitors' offices, cathedral and abbey libraries provided convenient places of deposit. The copies of the 1215 Charter at Lincoln and Salisbury may well have been taken away from Runnymede by clerks connected with those two cathedrals, the bishop in the case of Lincoln, Elias of Dereham, a canon, in the case of Salisbury. At Durham there was a very particular interest in the preservation of legal documents because of the bishopric's standing as a jurisdictional 'liberty'. In the Durham archive in the Middle Ages nothing ever seems to have been thrown away.

Q9) WHO WROTE MAGNA CARTA?

A good question. No one really knows, and there is no contemporary who tells us. Having said that, it is a fair assumption that the Charter's 63 clauses were the product of committee work, the collective outcome of round after round of drafting and re-drafting by the two sides. The so-called Articles of the Barons, a document preserved in the British Library alongside the two copies of the Charter itself, probably represent a working draft of the Charter from the last few days before the final agreement. A highly influential figure in the drafting process may have been the man who was the leading public intellectual of his day, the archbishop of Canterbury, Stephen Langton. For much of his career as a teacher in the University of Paris, Langton had reflected on the problem of how to deal with errant kings in commentaries that he had written on the Old Testament, a text full of stories of kings equally as bad as John. Limited circumstantial evidence associates two baronial-leaning clerks with the drafting process - Elias of Dereham, Archbishop Langton's steward and a canon of Salisbury Cathedral, and Gervase of Howbridge, a canon and later chancellor of St Paul's Cathedral; the latter had gone into exile with the future baronial leader, Eustace de Vesci, in 1212. For all the undoubted prominence of the clerks in the drafting process, however, it is important not to underestimate the capacity for independent thought of the barons themselves. Many

of the rebel leaders had extensive knowledge of local administration, and they would have been familiar from their own experience of issuing charters with the idea of granting concessions through a charter of liberties. One point worth remembering is that a fair number of the Charter's clauses had their origins in the very specific grievances of the many and varied interest groups which had come together in the baronial coalition: that is to say, these clauses were all but drafted by them. Clause 13, for example, which guarantees the liberties of the City of London, reflects the aspirations of the wealthy London elite, a group crucially important to the baronial leaders after their takeover of the city in May. Clause, 33, which orders the removal of fish weirs from the Rivers Medway and Thames, likewise originated in lobbying by the Londoners, who were frustrated by the presence of such objects, which made the carriage of goods up and down the rivers difficult. The writing of Magna Carta is best seen as a team effort, the work of what might be termed Team Runnymede, rather than a product of the authorship of just one or two people. Whilst we may lament the absence from the process of a Thomas Jefferson, of someone who could draft ringing phrases, the author of clause 39 deserves our respect as a framer of big ideas.

Q10) WHAT DID MAGNA CARTA DO FOR CHILDREN?

Magna Carta did not do anything for children as such. Although childhood in the Middle Ages was a recognised stage in a person's ascent to adulthood, children were not seen as endowed with rights in the way that they are today. Where the children were landowners or the heirs of landowners, however, the position was different: in that case, they were entitled to the normal rights and privileges of a landed proprietor. It was with children in their capacity as landowners that Magna Carta was concerned in 1215.

In the twelfth and thirteenth centuries, when a baron who held his lands directly from the king died leaving an heir under age, the heir and his lands passed into the king's keeping, a condition known as wardship. All wealthy landowning families lived in dread of this eventuality because it gave the king the opportunity either to enjoy the income from the estate for the duration of the minority or, in return for a payment, to grant it to someone else, the young person's guardian, to enjoy. Three clauses of the Charter sought to offer remedies for this grievance. The first, clause 3, said that if an heir had been held in

wardship, he should be able to enter into his inheritance without relief or fine. The second, clause 4, said that the guardian of an heir under age should not take from the estate more than the normal reasonable revenues and services and should not commit waste. The third and last, number 5, said that for the duration of the wardship, the guardian should maintain the houses, parks, mills and fishponds of the estate. What, collectively, these three clauses did was deny the king and his agents the opportunity to asset-strip an inheritance, leaving it bare and run down by the time the heir entered. One other clause, number 6, safeguarded the interests of female heirs, saying that they were not to be married off to those of lower status than themselves. In the course of his reign John, as a way of endowing his low-born foreign mercenaries at others' expense, had been awarding them the marriage of well born heiresses or widows, in whose landed estates they thus secured rights. The achievement of Magna Carta was to invest landowners who were under age with the same rights and protection as landowners who had attained their majority.

Q11) WHY ARE AMERICANS SO INTERESTED IN MAGNA CARTA?

The people of the United States of America regard Magna Carta as part of their birthright. This is because the principle of freedom under the law, which it firmly established, was carried across the Atlantic and enshrined in the American Constitution and the Bill of Rights. Well before independence, the American colonists had been drawing on Magna Carta in their local and state legislation. As early as 1641 in the opening clause of the Massachusetts Body of Liberties, the earliest legal code in America, there was an echo of the famous clause 29 of the 1225 Magna Carta in the pronouncement that no person was to be arrested, dispossessed or imprisoned without trial in a court of law. Similar wording was to appear in the charters of later colonies. In 1683 the Charter of Liberties and Privileges of the state of New York, enacted by the Governor and Council, restated clause 29 and its sequel, the due process statute of 1354, almost verbatim, along with clause 14 of the Charter, which restricted monetary penalties. In the 1770s, when the American colonists rose in rebellion against the mother

country because of their opposition to the Stamp Act, to which they had not assented, they found historical legitimisation in the 1215 Charter's clause 12, which said that no aid – a thirteenth-century word for a tax – was to be levied without common counsel. After achievement of independence, the American indebtedness to Magna Carta was made clear in the Bill of Rights, the first set of amendments made to the Constitution. The fifth amendment's promise that no person shall be 'deprived of life, liberty, or property without due process of law' is a direct echo of Magna Carta. The sixth amendment, indeed, spells out very precisely the phrases 'lawful judgement of peers' and 'law of the land' as they appear in clauses 39 of the 1215 Charter and 29 of its 1225 successor. It is a striking indication of the extent of American interest in Magna Carta that when, during the Second World War, the Lincoln copy of the Charter was displayed in the Library of Congress, no fewer than 14 million people queued past to see it.

Q12) WHY DID THE POPE ANNUL MAGNA CARTA?

In September 1215, just three months after the meeting at Runnymede, the pope, Innocent III, annulled Magna Carta by the bull *Etsi karissimus*. His action was by no means as incomprehensible as it may appear to us today. For much of his reign John had been at odds with the Church, principally over the matter of who should be the next archbishop of Canterbury, John wanting one candidate, and the pope another, Stephen Langton. When John refused to give way, the pope imposed an Interdict on England, meaning that all the churches were closed; and two years after this, in 1209, with the king remaining obdurate, he excommunicated both him and all those who remained in his service. By the end of 1212, after the pope had entered into an alliance with the powerful king of France, Philip II, John decided that he would have to give way, and he made a settlement with the Church. He surrendered his kingdom to the pope,

receiving it back as a papal fief, and agreed to don the cross, becoming a crusader. These concessions cost the king little, but brought him the great political advantage that he would enjoy the pope's support in his dealings with his rebellious vassals at home. When Innocent quashed Magna Carta in September, therefore, he was, at least in his own eyes, acting absolutely correctly. The Charter had been imposed on a faithful son of the Church, a would-be crusader, against his will, and it constrained him; it was therefore illegal. After John's death in October 1216, and the accession of his son, the boy king Henry III, the position was to be very different. The Regent, William Marshal, earl of Pembroke, in a masterstroke adopted Magna Carta as a royalist measure and reissued it in revised, less contentious form with papal support, and the papal legate Guala, put his seal to the reissue. In the new reign, papal support was to ensure that Magna Carta survived.

Q13) WHY WERE SHERIFFS SO UNPOPULAR IN THE AGE OF MAGNA CARTA?

Sheriffs were unpopular in the thirteenth century because they were the main local enforcers of royal authority and were seen as oppressive. It was their especial responsibility to collect and hand over to the king's exchequer the 'county farms', the assemblage of revenues from the royal lands and courts in their bailiwick. When a hard-pressed monarch, such as King John, turned the screws on the sheriffs to raise more money, the sheriffs in their turn increased the fiscal pressure on the hapless residents of their bailiwicks. One of the most unpopular of all English sheriffs at this time, Philip Mark, the sheriff of Nottingham, may have been a real-life model for the

evil sheriff of Nottingham in the Robin Hood ballads, the ballads being of thirteenth-century origin. Numerous clauses in Magna Carta in 1215 limited the oppressions of sheriffs. Clause 24 said that they were no longer to hold pleas of the crown (that is, hold royal courts), and clause 30 that they were not to requisition horses or carts from free men without their consent. Clause 45 said that men were not to be appointed sheriffs and justices who did not know the law of the land or wish to observe it well. Philip Mark and other foreign-born officials of King John were expelled under the terms of clause 50 of the Charter.

Q14) HOW LONG DID MAGNA CARTA TAKE TO DRAFT?

This is another question to which there is no certain answer. However, we can chart the main stages by which the Charter came into being.

By no later than the autumn of 1214 the barons were thinking, as a minimum demand, of calling on King John to confirm the coronation charter issued by King Henry I in 1100. This was because Henry had made a commitment there to abolish all the evil customs by which the realm was oppressed, a commitment which the barons wanted the king to make in 1215. By the early part of 1215, however, with the rebellion gathering pace, the barons were at the point where they would go very much further. Around this time they drafted a document known today as the 'Unknown Charter', which consists of the Henry I charter with a list of proposed concessions by King John attached to it, many of them anticipating the later clauses of the Charter. The barons were now therefore drawing up a series of demands which they could take into negotiations with the king as the basis for a settlement. In the period June 1st to 10th, after the barons had taken possession of London and the king had moved from Odiham to Windsor, the two sides were engaged in close negotiation and outline terms were being agreed. A draft of these terms, arrived at by about June 10th, is represented by a document, now in the British Library, known as the Articles of the Barons, which anticipates the final terms of the Charter very closely. Interestingly, the king's great seal is appended to it, indicating that it was a draft which enjoyed his royal approval. Much later the presence of the document is recorded in the

archiepiscopal archives at Canterbury, suggesting that it was a copy kept by the archbishop, Stephen Langton, who was himself involved in the negotiations. The next four to five days witnessed tough negotiating between the two sides, and the king gained a couple of significant concessions: first, the level of relief to be paid by baronial tenants was raised from 100 marks to £100, an increase of a third (clause 2); and, second, the dismissal of the king's alien mercenaries was now delayed until after the formal making of peace (clause 51). Final agreement on the terms was reached, as the dating clause of the Charter tells us, on 15 June, when the so-called original copies were engrossed and sealed. The baronial negotiators, who almost certainly comprised a small group, now had to sell those terms to the rebel coalition as a whole, and at the same time choose the Twenty Five enforcers, who were not actually named in the Charter. It was the settling of this business which accounts for the delay of four days before the firm peace, which the Charter was supposed to create, was declared on June 19th. The leading rebels were evidently still present at Runnymede on June 20th, when a royal charter was witnessed there by the earl of Clare, William Mowbray, Eustace de Vesci and Roger de Montbegon, all of them on the former rebel side. It may be presumed that the rebel army dispersed very shortly afterwards. The more extreme of the barons, dissatisfied with the terms agreed, moved to the renewal of war fairly quickly.