

CONFIRMATIO CARTARUM [26]

October 10, 1297

EDWARD, by the grace of God, King of England, Lord of Ireland, and Duke of Guian[27], to all those that these present letters shall hear or see, greeting. Know ye that we, to the honour of God and of Holy Church, and to the profit of our realm, have granted for us and our heirs, that the Charter of liberties, and the Charter of the forest[28], which were made by common assent of all the realm, in the time of King HENRY our father, shall be kept in every point without breach. (2) And we will that the same charters shall be sent under our seal, as well to our justices of the forest, as to others, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the realm, together with our writs, in the which it shall be contained, **that they cause the foresaid charters to be published, and to declare to the people that we have confirmed them in all points; (3) and that our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgement in all their points, that is to wit, the Great Charter as the common law[*]** and the Charter of the forest, for the wealth of our realm.

2. AND we will, That if any judgement be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers that hold plea before them against the points of the charters, it shall be undone, and holden for nought.

3. AND we will, That **the same charters shall be sent, under our seal, to cathedral churches throughout our realm, there to remain, and shall be read before the people two times by the year.**

4. AND that all archbishops and bishops shall pronounce the sentence of excommunication against all those that by word, deed, or counsel do contrary to the foresaid charters, or that in any point break or undo them. (2) and that the said curses be twice a year denounced and published by the prelates aforesaid. (3) And if the said prelates, or any of them, be remiss in the denunciation of the said sentences, the archbishops of Canterbury and York for the time being shall compel and distrein them to the execution of their duties in form aforesaid.

5. AND for so much as divers people of our realm are in fear that the aids and tasks[29] which they have given to us beforetime towards our wars and other business, of their own grant and good will (howsoever they were made) might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and likewise for the prises taken throughout the realm by our ministers: (2) We have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises into a custom, for any thing that hath been done heretofore, be it by roll or any other precedent that may be founden.

6. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy church, as also to earls, barons, and to all the communalty of the land, that for no business from henceforth we shall take such manner of aids, tasks, nor prises, but by the

common assent of the realm, and for the common profit thereof, saving the ancient aids, and prises due and accustomed.

7. AND for so much as the more part of the communalty of the realm find themselves sore grieved with the maletent of woolls, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; We at their requests have yearly released it, and have for granted us and our heirs, that we shall not take such things without their common assent and good will, saving to us and our heirs the custom of woolls, skins, and leather, granted before by the communalty aforesaid. In witness of which things we have caused these our letters to be made patents. Witness EDWARD our son at London the tenth day of October, the five and twentieth year of our reign.

NOTES

[26] 25 Edw. i, c. i. Danby Pickering (ed.), Statutes at Large (Cambridge, 1726-1807), I, 273-75.

[27] Aquitaine, the territory in southwestern France.

[28] The Charter of the Forest was issued in 1217, early in the reign of Henry III, as a supplement to Magna Carta. It was confirmed by him in 1225. Some of the provisions omitted in the reissues of Magna Carta which relate to forest matters appeared in the Charter of the Forest.

[29] "Aids," "tasks," and "prises" were forms of taxation.

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The above is quoted from "Sources of Our Liberties" Edited by Richard L. Perry, American Bar Foundation; distributed by Associated College Presses, 32 Washington Place, New York 3, New York.

[*] This reaffirms that the Magna Carta may be pleaded as the Common Law before a court.

CONFIRMATIO CARTARUM

1297

(PARTIAL INTERPRETATION)

ARTICLE MEANING

- 1 The Magna Carta must be accepted as the common law by government..
- 2 The Magna Carta is the supreme law. All other contrary law and judgments are void.
- 5 Voluntary taxes cannot be made permanent.

MAGNA CARTA

1215

(PARTIAL INTERPRETATION)

- *20. A freeman shall only be amerced for a small offence*
- *according to the measure of that offence. And for a great*
- *offence he shall be amerced according to the magnitude of the*
- *offence, saving his contenement; and a merchant, in the same way,*
- *saving his merchandize. And a villein, in the same way, if he*
- *fall under our mercy, shall be amerced saving his wainnage. And*
- *none of the aforesaid fines shall be imposed save upon oath of*
- *upright men from the neighbourhood.*

The fine shall be proportional to the offense, and shall only be imposed upon testimony of non-government men.

- *21. Earls and barons shall not be amerced save through*
- *their peers, and only according to the measure of the offence.*

Fines likewise proportional to the offense for the bottom two ranks of the greater nobility. A peer is a member of the peerage, i.e. a member of the nobility.

- *24. No sheriff, constable, coroners, or other bailiffs of*
- *ours shall hold the pleas of our crown.*

No member of government may make a complaint against any individual. To "...hold the pleas of our crown" means to "...sue in the name of the king," or, in America, to "...sue in the name of the sovereign people," e.g. THE PEOPLE OF CALIFORNIA VS A.B.

- *28. No constable or other bailiff of ours shall take the*
- *corn or other chattels of any one except he straightway give*
- *money for them, or can be allowed a respite in that regard by the*
- *will of the seller.*

Rule of eminent domain also applies to personal property, which must be paid for when taken.

- *30. No sheriff nor bailiff of ours, nor any one else, shall*
- *take the horses or carts of any freeman for transport, unless by*
- *the will of that freeman.*

No one may take your car without your permission. (However, if your car has a license plate, it is owned by the issuer of that license plate, and can be taken back anytime by that true owner). If your car is licensed, that is proof that it does not belong to you.

- *31. Neither we nor our bailiffs shall take another's wood*
- *for castles or for other private uses, unless by the will of him*
- *to whom the wood belongs.*

Rule of eminent domain does not apply to privately owned wood.

- *34. Henceforth the writ which is called Praeipe shall not*
- *be served on any one for any holding so as to cause a free man to*
- *lose his court.*

"Praeipe" = order to show cause against property. "Rights" are property. A free man (i.e. nobleman) has his own land and people (slaves). The king may not force a nobleman into the king's court in such a way that the nobleman would be deprived of his own court.

- *36. Henceforth nothing shall be given or taken for a writ*
- *of inquest in a matter concerning life or limb; but it shall be*
- *conceded gratis, and shall not be denied.*

All prosecutions by the government are free, if the prosecution involves the taking away the life or limb (liberty, rights) of the defendant.

- *38. No bailiff, on his own simple assertion, shall*
- *henceforth put any one to his law, without producing faithful*
- *witnesses in evidence.*

No government official may be a witness in court. And if he is going to impose his law on another, then he must have the support of non-governmental witnesses (2 or more). Witnesses paid by the government are not faithful witnesses.

- *39. No freeman shall be taken, or imprisoned, or disseized,*
- *or outlawed, or exiled, or in any way harmed--nor will we go upon*
- *or send upon him--save by the lawful judgment of his peers or by*
- *the law of the land.*

One can only be put in jail if a jury puts him there (or if he agrees to be put there). Peers are members of the peerage (duke, marquis, earl, viscount, or baron).

- *40. To none will we sell, to none deny or delay, right or*
- *justice.*

Free justice, without delay. The government will assume the entire cost of prosecution.

- *45. We will not make men justices, constables, sheriffs, or*
- *bailiffs, unless they are such as know the law of the realm, and*
- *are minded to observe it rightly.*

Key officials must be knowledgeable about the law, and willing to obey it. If the sheriff takes his direction from the county counsel, then he must quit his job. In Orange County, California, a jury found that the sheriff intentionally disregarded the law and was unwilling to obey the law when he took extraordinary action to prevent two opposing candidates from winning his office. Despite that, he did not resign his position. To date, no one has sued to put him out of office. In 1996 he chose to not run for office.

- *52. If anyone shall have been disseized by us, or removed,*
- *without a legal sentence of his peers, from his lands, castles,*
- *liberties or lawful right, we shall straightway restore them to*
- *him. And if a dispute shall arise concerning this matter it*
- *shall be settled according to the judgment of the twenty-five*
- *barons who are mentioned below as sureties for the peace. But*
- *with regard to all those things of which any one was, by king*
- *Henry our father or king Richard our brother, disseized or*
- *dispossessed without legal judgement of his peers, which we have*
- *in our hand or which others hold, and for which we ought to give*
- *a guarantee: We shall have respite until the common term for*
- *crusaders. Except with regard to those concerning which a plea*
- *was moved, or an inquest made by our order, before we took the*
- *cross. But when we return from our pilgrimage, or if, by chance,*
- *we desist from our pilgrimage, we shall straightway then show*
- *full justice regarding them.*

The civil grand jury is the surety of the peace. Any problems with government must be resolved by the grand jury. The civil grand jury has the last word--no appeal.

- *55. All fines imposed by us unjustly and contrary to the*
- *law of the land, and all amerciaments made unjustly and contrary*
- *to the law of the land, shall be altogether remitted, or it shall*
- *be done with regard to them according to the judgment of the*
- *twenty five barons mentioned below as sureties for the peace, or*
- *according to the judgment of the majority of them together with*
- *the aforesaid Stephen archbishop of Canterbury, if he can be*
- *present, and with others whom he may wish to associate with*
- *himself for this purpose. And if he can not be present, the*
- *affair shall nevertheless proceed without him; in such way that,*
- *if one or more of the said twenty five barons shall be concerned*
- *in a similar complaint, they shall be removed as to this*
- *particular decision, and in their place, for this purpose alone,*
- *others shall be substituted who shall be chosen and sworn by the*
- *remainder of those twenty five.*

Unjust judgments are unlawful, and can be ignored or invalidated by the civil grand jury.

- *60. Moreover all the subjects of our realm, clergy as well*
- *as laity, shall, as far as pertains to them, observe, with regard*
- *to their vassals, all these aforesaid customs and liberties which*
- *we have decreed shall, as far as pertains to us, be observed in*
- *our realm with regard to our own.*

Everyone, like the king, is obligated to treat his own subjects according to the Magna Carta.

- *61. Inasmuch as for the sake of God, and for the bettering of*
- *our realm, and for the more ready healing of the discord which has*
- *arisen between us and our barons, we have made all these aforesaid*
- *concessions, -- wishing them to enjoy for ever entire and firm*
- *stability, we make and grant to them the following security: that*
- *the barons, namely, may elect at their pleasure twenty five barons*
- *from the realm, who ought, with all their strength, to observe,*
- *maintain and cause to be observed, the peace and privileges which*
- *we have granted to them and confirmed by this our present charter.*
- *In such wise, namely, that if we, our justice, or our bailiffs, or*
- *any one of our servants shall have transgressed against any one in*
- *any respect, or shall have broken some one of the articles of*
- *peace or security, and our transgression shall have been shown to*
- *four barons of the aforesaid twenty five: those four barons shall*
- *come to us, or, if we are abroad, to our justice, showing to us*
- *our error; and they shall ask us to cause that error to be amended*
- *without delay. And if we do not amend that error, or, we being*
- *abroad, if our justice do not amend it within a term of forty days*
- *from the time when it was shown to us or, we being abroad, to our*
- *justice: the aforesaid four barons shall refer the matter to the*
- *remainder of the twenty five barons, and those twenty five barons,*
- *with the whole land in common, shall distrain and oppress us in*
- *every way in their power,--namely, by taking our castles, lands*
- *and possessions, and in every other way that they can, until*
- *amends shall have been made according to their judgment. Saving*
- *the persons of ourselves, our queen and our children. And when*
- *amends shall have been made they shall be in accord with us as*
- *they had been previously. And whoever of the land wishes to do so,*
- *shall swear that in carrying out all the aforesaid measures he*
- *will obey the mandates of the aforesaid twenty five barons, and*
- *that, with them, he will oppress us to the extent of his power.*
- *And, to any one who wishes to do so, we publicly and freely give*
- *permission to swear; and we will never prevent any one from*
- *swearing. Moreover, all those in the land who shall be unwilling,*
- *themselves and of their own accord, to swear to the twenty five*
- *barons as to distraining and oppressing us with them: such ones we*
- *shall make to swear by our mandate, as has been said. And if any*

- *one of the twenty five barons shall die, or leave the country, or*
- *in any other way be prevented from carrying out the aforesaid*
- *measures,--the remainder of the aforesaid twenty five barons shall*
- *choose another in his place, according to their judgment, who shall*
- *be sworn in the same way as the others. Moreover, in all things*
- *entrusted to those twenty five barons to be carried out, if those*
- *twenty five shall be present and chance to disagree among*
- *themselves with regard to some matter, or if some of them, having*
- *been summoned, shall be unwilling or unable to be present: that*
- *which the majority of those present shall decide or decree shall be*
- *considered binding and valid, just as if all the twenty five had*
- *consented to it. And the aforesaid twenty five shall swear that*
- *they will faithfully observe all the foregoing, and will cause*
- *them to be observed to the extent of their power. And we shall*
- *obtain nothing from any one, either through ourselves or through*
- *another, by which any of those concessions and liberties may be*
- *revoked or diminished. And if any such thing shall have been*
- *obtained, it shall be vain and invalid, and we shall never make*
- *use of it either through ourselves or through another.*

Civil grand jury procedure: self-elect 25 barons of the kingdom. 4 of the 25 go talk to the king and his persons. If that doesn't work within 40 days, the 4 go back to the 25 and the 25 will then correct the problem in any way they see fit. Note that present day American grand juries consist of fewer than 25, and all are paid funds by the government. These are not true grand juries in the tradition of Magna Carta. They are merely advisory grand juries, meaning that the government may lawfully ignore them (though it may be politically risky).

Definitions

Amerce - To impose a fine. Also to publish by fine or penalty.

Assize - A court, usually but not always, consisting of twelve men, summoned together to try a disputed case. They performed the functions of jury, except the verdict was rendered from their own investigation and knowledge and not from upon evidence adduced.

Burage - One of three species of free socage holdings. A tenure where houses and lands formerly the site of houses in an ancient borough are held of some lord by a certain rent.

Chattel - Personal property as opposed to real property. A personal object which can be transported.

Darrein Presentment - Writ of Assize when a man or his ancestors under whom he claimed presented a clerk to a benefice, who was instituted, and afterwards, upon the next avoidance, a stranger presented a clerk and thereby disturbed the real patron.

Distrain - The act of taking as a pledge another's property to be used as an assurance of performance of an obligation. Also a remedy to ensure a court appearance or payment of fees etc.

Disseise - To dispossess or to deprive.

Escheat - Right of the lord of a fee to re-enter upon the same when it became vacant by the extinction of the blood of the tenant.

Intestate - To die without a will.

Mort d'Ancestor - Real action to recover a person's lands of which he had been deprived on the death of his ancestor by the abatement or intrusion of a stranger.

Novel Disseisin - Writ of Assize for the recovery of lands and tenements.

Peer - One who is a member of the peerage, i.e. the nobility. A jury of your peers is a jury of your nobility. In America everyone is a king without any subjects, so a jury of your peers means a jury of people, the owners of the country (not citizens, who by 14th Amendment constitutional definition, are all publicly owned slaves).

Praecipe - An original writ drawn up in the alternative commanding the defendant to do the thing required. An order to show cause.

Scutage - Tax or contribution raised by someone holding lands by knight's service used to furnish the King's army.

Socage - A species of Tenure where the tenant held lands in consideration of certain inferior services of husbandry by him to the lord of the fee.

[MORE LAWNOTES](#)