

## The Magna Carta

by John Patrick Quigley

We celebrate Law Day on May 1, 2015, this year's theme being the 800<sup>th</sup> anniversary of the Magna Carta, by reviewing a book published last year by the ABA entitled Magna Carta and the Rule of Law, on Floor A at KD3946.M33 2014. It includes copies of the Magna Carta and U. S. Constitution, as does The Constitutions of California and the United States with Related Documents, Floor 3, KFC680 1979 .A35.



## The Rule of Law

In 2008's Law Day celebration of the Rule of Law, ABA published: "By definition, the rule of law describes a system based on fair, publicized, easily understood and stable laws enforced with equity by knowledgeable lawyers and judges." That's quite a burden for any legal concept to bear, especially the requirement for knowledgeable lawyers.

Our reviewed book gives a simpler definition on p. 231: "As the phrase is normally used, it refers to the principle that we should have a system of laws not of men." To simplify analysis, we submit that there is no requirement of "fairness" or "equity", and certainly no requirement of lawyers – only that the law be known in advance by everybody and followed. It doesn't even need to be in writing.

In the Carta, the Saxon Barons referred to the "law of the land", unwritten rules of law, which they felt that King John

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Illustration by Jonty Clark  
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Operator-Assisted Telephone Services Still Offered  
in Emergency Situations & Other Circumstances

by Elizabeth Harmon



For many years phone companies have offered a variety of services to their customers who have landlines. Currently, most of these services – emergency and otherwise – are still available.

As far as an emergency situation is concerned, a customer can request an operator to check a phone line that has a busy signal and interrupt the call if necessary. At one time this service was free but according to one AT&T operator, people took advantage of this and "abused" the service so the phone company started charging a fee. Depending on who is asked, one operator supervisor said it was \$1.20 while another operator supervisor quoted the charge of \$11.95 + tax. The latter supervisor also quoted a charge of \$13.00 if the call was out-of-state. She also explained that there are certain states or areas within a state where this assistance is not accessible, which may be due to upgraded equipment or local ordinances.

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*Magna Carta**(Continued from page 1)*

and his Norman predecessors had failed to follow. Nevertheless, the Carta of 1215 was in writing. It was not the first written rule of law. That is generally said to be the Code of Hammurabi, of about 1700 B.C.

**Historical Background**

Under the feudalism of the middle ages, knights swore fealty to local leaders, such as Barons, who in turn swore fealty to higher rulers, up to the King. It was characterized by constant conflict between the centralized power of Kings and the localized power of lesser nobility, such as the English Barons. During conflicts in England, knights sometimes sided with their local ruler, while others sided with the king. On page 28 of our reviewed book, the author suggests that knights may have been influenced by the legendary tales of King Arthur and his Knights of the Round Table, where the table's shape indicated that the knights were equal in honor to the King.

It is sometimes claimed that the Barons were only acting in their own interest. But the original 1215 Carta included such mundane matters as the measures of wine and ale. For merchants comprised a middle class that was just beginning to make its voice heard, especially in the increasingly independent city of London. More importantly, the Carta frequently refers to the rights of freemen (which were admittedly only half of the residents of England). There were even modest provisions protecting the rights of women. The most famous opponents of the King were the legendary outlaws, Robin Hood and his not-so-merry men, who lurked in the forests that had been appropriated by the King and his predecessors for their own use. So King John's unpopularity was not limited to the Barons, which undoubtedly strengthened their hand. Additional detail is discussed in Chapter 2: "The Making of Magna Carta: The Historical Background".

**The Magna Carta**

King John immediately had the 1215 Carta voided by Pope Innocent III, who was certainly not innocent of meddling in English politics. There were several revisions and reissues of the Carta, the best known being the 1225 Carta issued by Henry III. There was also a companion Charter of the Forest issued in 1217, which became separate, and is explained as an environmental policy in Chapter 12. All this is detailed in Chapter 1, which also summarizes each of the subsequent chapters, on different aspects of the Carta, written by different authors, followed by identification of five themes in the book.

The Carta created a council of 25 Barons to enforce its provisions, which might be viewed as the beginnings of a parliament. Later, a separate House of Commons was added, which became more powerful. But as its power increased over the years, its problems with a tyrannical monarchy weren't resolved until a revolution resulted in the beheading of the King and unification of all governmental powers in the Parliament.

**The U. S. Constitution**

Some say the Carta was only a promise. In Chapter 4, political science professor Dillon presents the viewpoint that what is thought to be the precepts of the Magna Carta were invented by Chief Justice Sir Edward Coke, to address an imbalance between the King and Parliament. On page 99, Dillon charts the influences of others, including William Blackstone who melded the legal philosophy of Coke with the political philosophy of Locke, especially Locke's proposal to divide the branches of government. Dillon claims this version of the Carta most influenced the American founding fathers.

The closest correlation of the Magna Carta to our Constitution is to its amendments. Chapter 5 lists issues where the U. S. Supreme Court referred to the Magna Carta (sometimes explaining why it's inapplicable) including: Due Process, Jury Trial, Habeas Corpus, Right to Bear Arms, Cruel and Unusual Punishment, Excessive Fines, Right to Petition the Government, Antitrust, Church and State, and Freedom of Speech.

Chapter 8 covers religious freedom, ending with discussion of the recent Hobby Lobby case, before it was decided by the Supreme Court. Chapter 6 covers Executive Power, but not the current debate over immigration. Other chapters include discussion of Habeas Corpus, Sovereign Immunity, International Law, Civil Law and Canon Law.

**Conclusion**

The original Magna Carta covered a wide variety of subjects. But one is especially important: requiring the sovereign to abide by established law. This is the aspect of the Carta to which America is indebted. Our Constitution, and especially our Bill of Rights, clearly is intended to place limits on government power.

However, the main divergence of our Constitution, and the next great step in democracy, was the division of government powers per Locke's proposals, each with limited powers, and provision that our Constitution could only be changed in writing, by two-thirds of the members of Congress and three-quarters of the States. This provides protection from majority rule for minorities, especially the minority of the individual.

In contrast, the United Kingdom is said to have an unwritten Constitution, which includes both statutes and unwritten common law. But since the Parliament is supreme, it can make changes by simple statutes. There is no written limitation, since Parliament can not bind future Parliaments, and Courts cannot declare statutes unconstitutional.



**Telephone Operators***(Continued from page 1)*

An operator can also be requested to check a line to see if it is working correctly or if a phone has not been hung up properly and is off the hook. The charge, according to the first operator supervisor, is \$1.99 for this service. The operator will usually ask the customer requesting assistance for their permission before they continue.

Operator assistance is provided for several other types of calls as well:

An operator will still make a collect call that requires the operator to ask the person who receives the call to accept the charges for the call. According to the AT&T website, the charge for this service is \$8.50 plus \$1.49 'usage rate per minute'. A person can also carry this out themselves in the automated mode, which lowers the cost to \$5.99, with the same usage fee.

A Billed-to-Third-party call requires the operator to place a call and ask a person, other than the two people on the call, to accept the charges for the call. The cost of this service is \$10.99 plus \$1.49 'usage rate per minute'.


Using the automated system will cost \$7.99 plus the same usage rate.

A Person-to-Person call allows a caller to be connected to a particular person, office, department or extension.

The website indicates that the charge is "N/A" but there is a 'usage rate per minute' of \$1.49.

An Operator Dialed Direct call is when a party would like the operator to make the call for them and again the charge is listed as "N/A" with a 'usage per minute' charge of \$1.49.

Real Time Rated is when a caller requests the cost of a particular Operated Assisted call.

Miscellaneous charges or taxes could be added to the quoted prices. 



## Looking at the Web

by Mora Prestinary

Currently at the National Archives, courtesy of David M. Rubenstein, is one of four surviving originals of the 1297 Magna Carta:

[www.archives.gov/exhibits/featured\\_documents/magna\\_carta/](http://www.archives.gov/exhibits/featured_documents/magna_carta/)

The British Library:

[www.bl.uk/magna-carta](http://www.bl.uk/magna-carta)

The Constitutions of California and the United States with Related Documents:

[clerk.assembly.ca.gov/clerk/billslegislature/documents/2011-12\\_CalConstitution.pdf](http://clerk.assembly.ca.gov/clerk/billslegislature/documents/2011-12_CalConstitution.pdf)

Law Day, 800<sup>th</sup> Anniversary of the Magna Carta:

[www.americanbar.org/groups/public\\_education/initiatives\\_awards/law\\_day\\_2015.html](http://www.americanbar.org/groups/public_education/initiatives_awards/law_day_2015.html)



### On Display:

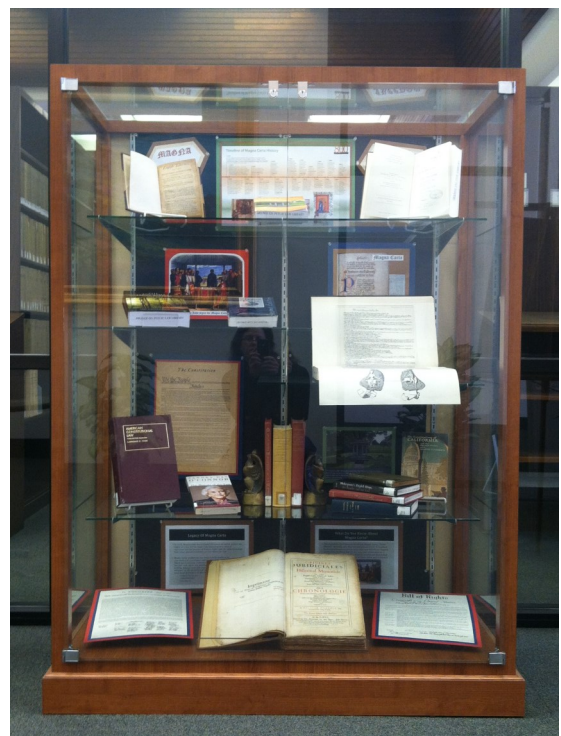
This spring the Library's Book Display commemorates the 800<sup>th</sup> anniversary of the Magna Carta. The display contains 2 antiquarian books:

- *Origines Juridicales: Or Historical Memorials...*  
by William Dugdale, Esq. [Published] In the Savoy, by Tho. Newcomb, 1671.

- *English Liberties, or the Free-Born Subject's Inheritance...* [Published] Providence, Rhode Island, 1774.

There are also various free information sheets explaining the history of the Magna Carta. Please take a moment to view the book display the staff has carefully prepared. For more information on the Magna Carta see:

[www.lawday.org](http://www.lawday.org)





New Database

LoislawConnect



**Loislaw** - Federal & state case law, statutes, regulations, court rules, & other primary law. Aspen Treatises, various topics. Full-text. Print, email, or download to flash. Available in the Library on all computer terminals and via Wifi

## Law Day 2015 - Magna Carta: Symbol of Freedom Under Law

by Mora Prestinary

Law Day, May 1, is a national day set aside to celebrate the rule of law. This year, it celebrates the 800th anniversary of the Magna Carta. See the ABA's Planning Guide publication ([www.americanbar.org/content/dam/aba/images/public\\_education/LawDay2015/LawDayGuide2015.pdf](http://www.americanbar.org/content/dam/aba/images/public_education/LawDay2015/LawDayGuide2015.pdf)) which says in part:

"Perhaps more than any other document in human history, Magna Carta has come to embody a simple but enduring truth: No one, no matter how powerful, is above the law. In the eight centuries that have elapsed since Magna Carta was sealed in 1215, it has taken root as an international symbol of the rule of law and as an inspiration for many basic rights Americans hold dear today, including due process, habeas corpus, trial by jury, and the right to travel.

As we mark the 800th anniversary of Magna Carta, join us on Law Day, May 1, 2015, to commemorate this "Great Charter of Liberties," and rededicate ourselves to advancing the principle of rule of law here and abroad."

In honor of the 800th Anniversary of Magna Carta, on June 11-14, 2015 in London, the ABA will present a series of continuing legal education programs. In addition there will be a travelling exhibit Magna Carta :Enduring Legacy 1215-2015. You can view the exhibit at [www.ambar.org/mctravelingexhibit](http://www.ambar.org/mctravelingexhibit)

## The Library will be Closed:

Tuesday March 31, 2015  
Saturday May 23, 2015  
Monday May 25, 2015

## WHAT'S GOING ON

Q

Can I find California Legislative History online?

A

California Legislative History can be found at these web sites:

The official site for California legislative information. All statutes enacted on or after January 1, 1993.

[www.leginfo.ca.gov/](http://www.leginfo.ca.gov/)

California Assembly Clerk Archive. Includes both Assembly and Senate historical information. Coverage from 1849. Journals, Statutes, and Histories.

[clerk.assembly.ca.gov/](http://clerk.assembly.ca.gov/)

Minerva - Contains descriptions of the collections owned by California State Archives, which is responsible for the management and preservation of state government records.

[www.sos.ca.gov/archives/minerva](http://www.sos.ca.gov/archives/minerva)

Online Archives of the California State Library.

[www.oac.cdlib.org/](http://www.oac.cdlib.org/)

ask a librarian

by Lu Nguyen

## Orange County Public Law Library

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Civic Center Plaza, Building 32  
Tel: (714) 338-6790

[www.ocpll.org](http://www.ocpll.org)

New Phone Number!

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