

Petition of Right

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The **Petition of Right** is a document produced by the English (pre-British) Parliament in the run-up to the English Civil War. It was addressed to Charles I of England in 1628 in an attempt to seek redress on the following points:

- forced loans
- arbitrary arrest
- imprisonment contrary to the Magna Carta
- arbitrary interference with property rights
- lack of enforcement of *habeas corpus*
- forced billeting of troops
- imposition of martial law
- exemption of officials from due process

The petition had the support of Sir Edward Coke; John Pym claimed that the rights herein demanded predated even the Norman conquest and were confirmed by successive kings. The King was under great financial pressure, and agreed in June to look into the "abuses", but maintained his prerogative rights.

Magna Carta

Magna Carta guaranteed certain English political liberties and contained clauses providing for a church free from domination by the monarchy, reforming law and justice, and controlling the behaviour of royal officials.

A large part of Magna Carta was copied, (nearly word for word), from *The Charter of Liberties of Henry I* which granted civil liberties to the English nobility.

The Magna Carta is composed of 63 different clauses or articles, the majority of which are very specific to the 13th Century and of temporary importance. For example it repealed certain royal taxes that were unpopular. Or, reduced the amount of hunting land that was royal and thus off-limits to most people.

One of the most important clause that would have the longest lasting effect was Article 39:

No free man shall be arrested, or imprisoned, or deprived of his property, or outlawed, or exiled; or in any way destroyed, nor shall we go against him or send against him, unless by legal judgement of his peers, or by the law of the land.

This meant the King must judge individuals according to the law, and not according to his own will. This was a check on the power of the king and the first step in the long road to a constitutional monarchy.

Magna Carta was not considered a particularly important document during the medieval period, during which the power of the English crown grew. Indeed, in his historical play *King John*, William Shakespeare did not mention Magna Carta. However, Magna Carta became increasingly important in the 17th century as the conflict between the Crown and Parliament grew. As English society continued to grow and develop, *Magna Carta* was repeatedly revised and other documents created such as the Provisions of Oxford, guaranteeing greater rights to greater numbers of people, thus setting the stage for the British Constitutional monarchy.

King John had no intention of honouring the Magna Carta as it was signed under extortion by force, and as soon as the barons left London he renounced it. However he died within a year in 1216 and the next king, King Henry III was more willing to accept it. Henry III ruled for 56 years until 1272 by which time the Magna Carta had become a settled part of English law.

English Bill of Rights

The **Bill of Rights 1688** (in full, "An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown") is one of the basic documents of English constitutional law. The Act was passed in 1689; the date within the title reflects the official calendar then in effect, under which the year began on 25 March rather than 1 January. It was agreed to by William of Orange and Mary II in return for their being affirmed as co-rulers of England and Ireland by the English Parliament after the Glorious Revolution.

Basic tenets

The basic tenets of the Bill of Rights were:

- Englishmen possessed certain civil and political rights that could not be taken away. These included:
 - freedom from royal interference with the law
 - freedom from taxation by royal prerogative, without agreement by Parliament
 - freedom to petition the king
 - freedom from a peace-time standing army, without agreement by Parliament

 - freedom to bear arms for self-defence, as allowed by law
 - freedom to elect members of Parliament
 - the freedom of speech in Parliament
 - freedom from cruel and unusual punishments
 - freedom from fines and forfeitures without trial
- Certain acts of James II were specifically named and declared illegal on this basis.
- The flight of James from England in the wake of the Glorious Revolution amounted to abdication of the throne.
- Roman Catholics could not be king or queen of England.

- William and Mary were the successors of James.
- Succession should pass to the heirs of Mary, then to Mary's sister Princess Anne of Denmark and her heirs, then to any heirs of William by a later marriage.

Development

In the separate Kingdom of Scotland, the 1689 **Claim of Rights** of the Scottish Estates was expressed in different terms, but to a largely similar effect declaring William and Mary to be King and Queen of Scotland.

The Bill of Rights was later supplemented by the Act of Settlement in 1701. The Bill of Rights was a major step in the evolution of the British government towards parliamentary supremacy, and the curtailment of the rights of the monarchy. In doing so it largely settled the political and religious turmoil that had convulsed Scotland, England and Ireland in the 17th century. After the Magna Carta, the Bill of Rights is an important step in England's progress towards a constitutional monarchy.