

## THE STORY OF MAGNA CARTA

Senior Counsel Section

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**“We are heirs to a tradition given voice 800 years ago by Magna Carta, which, on the barons’ insistence, confined executive power by the law of the land.”**

**— U.S. Supreme Court Justice Sandra Day O’Connor**

In 1215, King John of England was in trouble. He had imposed heavy taxes on the English barons to pay for his expensive wars in France. When the barons refused to pay, King John punished them and arbitrarily seized their properties. So, when the barons revolted and captured the city of London, King John had to negotiate. The two sides met at Runnymede, a meadow along the Thames River about halfway between Windsor Castle, where the king’s forces were encamped, and London, which was controlled by the barons. The Archbishop of Canterbury, Stephen Langdon, drafted an agreement, or charter, which demanded that the king commit in writing with his royal seal to a list of rights and obligations.

Written on parchment in Latin, Magna Carta has become a symbol of liberty and freedom. Its central tenet is that everyone, including our leaders, must obey the law.

In September, Second District Court of Appeals Judge Anthony Black recounted the story of Magna Carta to an audience of judges and lawyers at the

Senior Counsel luncheon. Judge Black explained that while most of the charter dealt with medieval rights and customs, it also pronounced that all free men had a right to justice and a fair trial. Unfortunately, “all free men” only included the powerful barons and churchmen. Most of King John’s subjects were poor peasants ruled over by their landlords.

Judge Black discussed the legacy of Magna Carta, especially to the English colonies that became the United States. The principles of limits on government announced in the great charter are echoed in the Declaration of Independence. Judge Black compared the fight of the barons in 1215 with the plight of the American colonies in 1776. Just as the English barons complained of King John’s abuses, so did the American revolutionists condemn the injustices of King George III.

Judge Black described how Magna Carta influenced the United States Constitution and the Bill of Rights. For example, Article III of the Constitution states that, “The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury.” The Fifth Amendment states that no person shall “be deprived

of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation.”

Compare these with clause 39 of Magna Carta:

No free man is to be arrested, or imprisoned, or disseized, or outlawed or exiled or in any other way ruined, nor will we go or send against him except by the legal judgment of his peers, or by the law of the land.

Magna Carta continues to maintain a powerful influence on our law. In *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), the United States Supreme Court, in an opinion involving the power of the executive to hold a U.S. citizen indefinitely, Justice Sandra Day O’Connor wrote, “we are heirs to a tradition given voice 800 years ago by Magna Carta, which, on the barons’ insistence, confined executive power by the law of the land.”

The Senior Counsel Section is grateful to Judge Black for speaking at its luncheon and sharing his insights into this historic document.

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