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## Magna Carta celebrates 800 years and counting

Today is the 800th anniversary of Magna Carta, the agreement between King John and the nobility and clergy of England. On June 15, 1215, the king and approximately 55 nobles and clergy met in a meadow called Runnymede near Staines on the River Thames and executed a treaty.

John had the misfortune to succeed two more talented relatives on the throne. He succeeded his older brother Richard, a legendary warrior known as "the lion-hearted." Richard had succeeded their father, Henry II, the king who solidified the Norman Conquest.

Like his forebears, John spent much time and treasure trying to defend his possessions on the continent in what is now France. Like them, he wanted to use England to raise the money and troops for his wars outside the realm. But after decades of supporting continental wars, the English had had enough and resisted John's high-handed methods. At Runnymede, John agreed to make 61 promises to the nobility and clergy.

In a narrow sense, the Magna Carta is the treaty between those being taxed and the monarch. In a larger sense, it is the acknowledgment that there were rights and liberties existing before the Norman Conquest of 1066 and that the monarch has to respect those rights and liberties. It has also become something more, a statement that power is to be di-

vided among several people and institutions and that all people and institutions must obey the law.

Of the 61 promises King John made that day, only three remain in force in Britain. One guaranteed the "independence of the church," an issue that resurfaced during the Reformation of Henry VIII. Another guaranteed the "ancient liberties of the City of London," which is to some extent the basis of municipal home rule concepts throughout the common law world, even Illinois.

The third extant promise is the most important to us. In Clauses 39 and 40, the king made these sweeping promises, breathtaking in their scope in 1215 and still resonating with us today:

"No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by

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the lawful judgment of his equals or by the law of the land.

"To no one will we sell, to no one deny or delay right or justice."

These two clauses go beyond those clearly intended to put an



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end to John's specific abuses, such as those regarding wardships, the inheritance rights of minors and "debts owed to Jewish moneylenders." Those abuses of power were simply reflective of the time. Clauses 39 and 40, however, are broader and have been a basis of rights in the common law world for eight centuries.

As the American Revolution unfolded in the 1770s, the colonists cited the Magna Carta for their claim that there were ancient rights of Englishmen, rights referred to explicitly or implicitly in the Magna Carta. Not until 1776 did the colonists make a more general claim that "all men are created equal" and "endowed by their Creator with certain unalienable rights."

When the Constitutional Con-

vention met in 1787, the members understood what the rights of Englishmen were. When the first Congress proposed to flesh out those rights in 1789, it updated the language of Clause 39 to guarantee "due process of law." The 14th Amendment repeated that guarantee 90 years later.

American cases concerning the right to trial by jury often refer to a "jury of one's peers," language taken directly from Clause 39. Some courts and bar association buildings have inscribed the language of Clause 40 on their walls.

Perhaps the most profound effect of the Magna Carta has been its implicit assumption that power cannot reside totally in one person or even one institution.

Queen Elizabeth II, who speaks at the ceremonies at Runnymede today, knows she is not an absolute monarch. But the British Parliament, elected by universal suffrage, does not hold absolute power either. Nor do the British town and borough councils and their mayors.

The same is true throughout the common law world. Neither the president of the United States nor Congress has absolute power. Neither does the governor of Illinois nor the Illinois General Assembly, nor the mayor of Chicago, nor the Chicago City Council.

It is this principle of diffusion of power, or shared governance under a rule of law, that we celebrate today. We owe that principle to some scruffy, angry nobles who brought a king to heel in a riverside meadow 800 years ago.