

Magna Carta and the Origins of Parliament

In February this year the four surviving originals of Magna Carta were briefly brought together in the Houses of Parliament.

John Maddicott, examining the Charter's role in the early development of Parliament, shows that the setting was well chosen.

What did Magna Carta contribute to the origins of parliament? If we define parliament very broadly as an assembly of the country's great men, convened by the king to discuss the nation's business, then we can trace the institution back in some form to the Anglo-Saxon period: an era very remote from the 1230s, in Henry III's early years, when the word 'parliament' first appears in a political context. Yet the development of these early assemblies, initially and most frequently termed 'councils' or 'great councils', was by no means only one of steady and continuous evolution over the centuries. It was frequently cut across by political shifts and crises which led to fundamental changes in conciliar organisation and function. Magna Carta was one such turning point. The Charter's statements about assemblies were no more than indirect and oblique. But by creating the conditions for parliamentary debate between the king and his magnates and by serving to widen the social range of the interests represented in parliament they did much to transform the world of English politics.

The agent of change, operating through the Charter, was royal taxation, and the key statement here came in clause 12 of the Charter. That clause laid down that no aid (i.e. general tax) was to be levied 'except by the common counsel of our realm'. The background to this novel stipulation was, in the long term, the rise of national taxation, levied as a proportion of the value of each man's moveable goods, from Henry II's later years onwards, and, in the more immediate term, King John's exaction of one such tax, the thirteenth of 1207, which raised nearly £60,000 – a huge sum. Nominally conceded freely by a magnate council, it is probable that this



Image of the House of Commons, from *True Platforme and Manner of the Sitting in the Lower House of Parliament, 1625*.

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grant was resisted, and secured from a deficient and timorous assembly only after the application of pressure by the king. The determination of the Charter's makers in 1215 to see that this should not happen again, implicit in clause 12, had permanent results which they could not have foreseen. Although the clause was omitted in the Charter's reissues in 1216, 1217 and 1225, its terms were in practice observed. The three taxes levied during Henry III's minority, 1216–27, were all formally granted by assemblies,

according to the Charter's terms, so that in effect national taxes were coming to depend on conciliar sanction. The Charter had forged what would prove to be an indissoluble link between taxation and consent.

The consequences of this linkage were seen only during the long years of Henry's personal rule. In the 1230s and 1240s Henry lacked the money to pursue his prime ambition, the reconquest of the French territories lost under John and during his own minority. By far

A view of the interior of the chapter house of Westminster Abbey, where medieval parliaments often met.



the most lucrative source of funding potentially available to him was national taxation in the form of the levy on moveables. But the Charter's terms and their enforcement during the minority meant that such taxes could be raised only with the consent of the conciliar body now coming to be known as 'parliament'. Since the magnates who dominated parliament disapproved of Henry's ambitions, and indeed of many other aspects of his extravagant spending and extortionate government, the stage was set for confrontation. Between 1238 and 1258 Henry asked parliament for a tax on at least ten occasions and was refused every time. These refusals were often backed by uninhibited criticisms of royal policy. In 1242, for example, when the king asked for a tax to finance an expedition to Poitou, he was told that he had committed himself to a campaign without his magnates' consent, that he had squandered his ordinary revenues and that he had wasted previous grants. In these exchanges, which sprang directly from the restrictions imposed by Magna Carta clause 12, both parliamentary debate and parliamentary politics were in the making.

Less direct, and certainly less predictable, were the Charter's effects on parliamentary representation. Clause 14 of the Charter had defined the status of those from whom the king

was to obtain the 'common counsel' now judged necessary for tax grants. Since the Conquest those summoned to councils had comprised the king's tenants-in-chief, the men who held their lands from him. These were divided into two groups: the greater tenants-in-chief, in effect the magnates, summoned by writs delivered personally to each man, and the lesser tenants, often described as knights, summoned collectively by the sheriffs of their counties. Clause 14 made it plain that both these groups were to be summoned to give their consent to taxation. Like clause 12, this clause was dropped from the Charter's reissues but, again like clause 12, it was in practice observed. The evidence suggests that in Henry III's middle years the lesser and knightly tenants-in-chief were summoned to parliament, along with the magnates, whenever taxation was on the agenda. This happened much more frequently than can have been envisaged by the makers of the Charter, for whom royal tax demands had been a rare and very occasional imposition. But from the government's point of view the now quite frequent summoning of the lesser tenants had large disadvantages. These men were an unknown quantity, their names, numbers and opinions often obscure to the king's ministers at Westminster. In addition, at a time when the need for express consent to taxation,

summarised in the contemporary maxim that 'what touches all should be approved by all', was becoming more prominent in political discourse, the lesser tenants may have been seen to lack proper standing as representatives of the king's tax-paying subjects.

These defects do much to explain why, in the mid-thirteenth century, the lesser tenants were replaced as 'parliamentarians' by another group: knights directly chosen in specified numbers to represent the local communities of the counties. This first happened in 1254, when two knights were summoned from each county to attend at Westminster in order to consider the grant of a tax to the king. The precedent was followed by Simon de Montfort, when, in 1264 and 1265, he summoned elected knights from the counties to his two famous parliaments. To the 1265 parliament burgesses were also summoned, extending the notion of direct representation from counties to towns. From the 1260s onwards we hear no more of the attendance of the lesser tenants-in-chief, and from Henry III's last years onwards, into the reign of Edward I and beyond, it was knights chosen in their counties, and not knights summoned by reason of their status as the king's tenants, who attended parliament whenever national taxes were up for discussion.



Henry III returning to England from Poitou in 1243, by Matthew Paris
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Magna Carta thus contributed powerfully to the rapid evolution of parliament in the 50 years after its making. The linkage which it established between taxation and consent given in assemblies, followed (unforeseeably) by Henry III's frequent requests for taxes in the 1230s, gave parliament and parliamentary debate a political salience very different from the more consensual and subdued role of royal councils prior to 1215; while the same frequent requests showed the drawbacks inherent in the parliamentary attendance of the lesser tenants-in-chief, for which the Charter had provided, and prepared the way for an alternative system based on the local representation of shires and towns. From this chrysalis, largely created by Magna Carta, the House of Commons would eventually emerge. Yet the Charter's significance for the development of parliament cannot be entirely restricted to questions of tax. Its requirement of assembly consent to taxation gave a powerful boost to the perceived need for consultation on, and by implication consent to, a much wider range of matters. The parliamentary criticism levelled at Henry for his failure to consult before deciding to campaign abroad in 1242 was one illustration of this. Magnate claims in the 1240s and 1250s, voiced again in parliament, for the right to consent to the appointment of the leading government officials, the chancellor, treasurer and justiciar, were another. The origins of these claims lay largely in the circumstances of Henry III's minority, when a magnate council had become accustomed to being regularly consulted about the kingdom's government. But the Charter too made a parallel contribution by stating the necessity for consent to a financial matter which lay at the heart of any government's activities.

If the Charter was in essence a set of particular rules to be observed by the king, covering much else besides taxation, it soon came to be much more than the sum of its parts. The three reissues of Henry III's minority, and the frequent citation of its terms in the courts, meant that by the time of Henry's

coming of age in 1227 it was coming to be regarded as something like a fundamental law of the constitution, the acknowledgment and observance of which by the king was a basic criterion of just and equitable government. It was important for the future development of parliament that the king's commitment to the Charter, a mark of his good intentions, was almost always demonstrated in parliament. The three reissues of the minority were all sanctioned at meetings of the great council; in 1225, 1237 and again in 1253 Henry confirmed the Charter in parliament in return for a tax grant; the baronial Provisions of Oxford, made at the Oxford parliament of 1258, demanded the Charter's observance; and the Charter was reissued again, by Simon de Montfort but in the king's name, in March 1265, at the end of a long parliamentary session, and again by Henry III at the Kenilworth parliament of 1266, after Montfort's defeat in the previous year. The process continued under Edward I with the Charter's confirmation at the parliament of October 1297, during a period of political crisis. The Charter and parliament thus enjoyed a kind of symbiotic relationship. Parliamentary confirmations and reissues, taking place as they did in large assemblies

of bishops, magnates and often knights, gave maximum publicity both to the Charter itself and to the king's undertaking to abide by its terms, publicity often magnified and broadened by the Charter's subsequent proclamation in the localities; while parliament itself gained insensibly in standing and authority by being marked out as the obvious venue for these solemn and public acts.

The influence of the Charter on the assemblies which were soon to be known as parliaments could not possibly have been foreseen in 1215. That influence grew from the impact of the Charter's particular terms and of its whole substance on the unpredictable and contingent circumstances of thirteenth-century politics: Henry III's minority, his foreign ambitions, his lack of money and the general unpopularity of his government. These were the contexts which helped to preserve and even to sanctify the Charter as a central feature in political argument. But in achieving that position it contributed powerfully to the development of a parliament which provided the setting both for the Charter's public elevation and, in the case of taxation, for the enforcement of some of its central demands.

Further reading

D. A. Carpenter, *The Struggle for Mastery: Britain, 1066-1284* (London: Allen Lane, 2003)

D. A. Carpenter, 'The Beginnings of Parliament', in his *The Reign of Henry III* (London: Hambledon, 1996)

J. C. Holt, *Magna Carta* (2nd edn., Cambridge, 1992)

J. R. Maddicott, *The Origins of the English Parliament, 924-1327* (Oxford, 2010)

D. A. Carpenter, *Magna Carta* (Penguin Classics, 2015).

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Effigy of King Henry III (d. 1272) in Westminster Abbey.