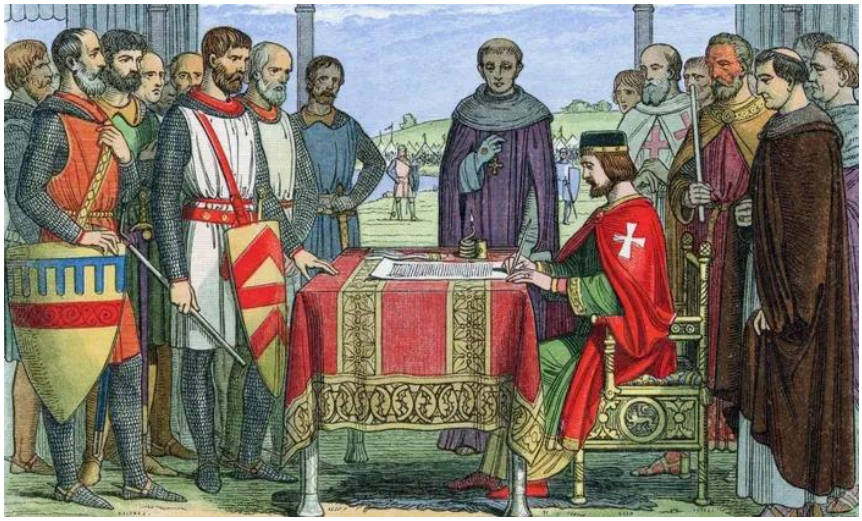
Magna Carta and Bill of Rights



OPCA theorists in Australia insist that Article 61 of the *Magna Carta* grants them the right to "lawful rebellion" if the charter is breached. If they are seeking some sort of judicial permission to rebel, unfortunately the law does not recognise this point.

Historic record shows that Clause 61 of the 1215 *Magna Carta* was repealed within months of it's establishment, and therefore not included into subsequent charters. This was of course, a long time before Australia was even thought about. Australian law had at it's foundation Common law of England, which was based on the later 1297 charter, not the outdated 1215 charter.

18 years ago ***a group of 28 Barons invoked Clause 61 of the Magna Carta*** against the Queen to stop closer integration with Europe. A lot of good that done, considering the UK subsequently joined the European Union. The authority to act upon such a demand had long since passed out of her hands and into the hands of the parliament, partly as a result of the very document they relied upon, the *Magna Carta*. The only thing that had the ability to undo this move was the voice of the people, expressed in the Brexit referendum.

The Telegraph

Peers petition Queen on Europe

By Caroline Davies
24 March 2001 • 12:00am

FOUR peers invoked ancient rights under the Magna Carta yesterday to petition the Queen to block closer integration with Europe.

The Duke of Rutland, Viscount Masserene and Ferrard, Lord Hamilton of Dalzell and Lord Ashbourne were imbued with the spirit of the ancient Charter, thrust on King John in 1215. In accordance with the Charter's Clause 61, the famous enforcement clause, the four presented a vellum parchment at Buckingham Palace, declaring that the ancient rights and freedoms of the British people had to be defended.

The clause, one of the most important in the Charter, which was pressed on King John at Runnymede, allows subjects of the realm to present a quorum of 25 barons with a petition, which four of their number then have to take to the Monarch, who must accept it. It was last used in 1688 at the start of the Glorious Revolution.

The four peers, who were all thrown out of Parliament in November 1999, proved they had that quorum by presenting Sir Robin Janvrin, the Queen's private secretary, with the petition signed by 28 hereditaries and letters of support from another 60. In addition, they claim the support of thousands of members of the public.

They say that several articles in the Treaty of Nice agreed by Tony Blair in December will destroy fundamental British liberties. The Queen has 40 days to respond. Under the Magna Carta's provisions, if the Sovereign does not observe the Charter the people may rise up and wage war on her, seizing castles, lands and possessions until they have redress.

Amazingly, some adherents have since pledged an oath of allegiance to Lord Craigmyle of Invernesshire, one of the British peers who urged the Queen in 2001 to block the UK's signing of the *Treaty of Nice*. In the Court of Queen's Bench of Alberta, Canada, Graesser J barred one such adherent, Jacqueline Robinson, a.k.a. Jacquie Phoenix, who claimed the *Magna Carta* puts her outside court's authority, in ***AVI v MHVB, 2020 ABQB 489*** and on the same basis in ***AVI v MHVB, 2020 ABQB 790*** As the court noted regarding her assertions of "lawful rebellion" under Article 61 of the *Magna Carta:*

> *"Article 61 of the 1215 Magna Carta has nothing to do with the rights of individual persons, but instead only granted a counsel of 25 barons the authority to seize King John's castles, lands, and possessions in the event of a dispute between the barons and the king. Worse, when King John died in 1216, so did the provision of the 1215 Magna Carta that MCLR adherents claim creates their extraordinary status. These modern Magna Carta rebels have therefore mustered over 800 years too late."*

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However, the spirit of Article 61 of the *Magna Carta* is alive and well, and has long since evolved through the principle of Responsible Government. Through the age of enlightenment with the further extrapolations of numerous philosophers and legal minds, to the US Declaration of Independence, incorporating the ability *"to alter or abolish"* the current form of government, and notions highlighting the consent of the governed. The spirit of Article 61 of the *Magna Carta* is now a ceremony that occurs every few years at election time, as the people gather to "alter or abolish" the current form of government if the majority so wishes.

Like most other articles of the *Magna Carta*, the intention and effect had been addressed by later statutes, by convention, or other constitutional enactments. The provisions of the ***1297 Magna Carta*** are mostly outdated, and would seem quite absurd in modern times. Here are a few such examples relating to women:

> *Article 8: "No widow shall be compelled to marry, so long as she wishes to remain without a husband. But she must give security that she will not marry without royal consent, if she holds her lands of the Crown, or without the consent of whatever other lord she may hold them of."*
>
> *Article 54: "No one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband."*

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Devlyn, Amelia; "***The Magna Carta and Its Relevance to Contemporary Australia***":

> *"The Magna Carta received into Australia upon settlement in 1788 was the 1297 Charter, as it provided for fundamental liberties which extended to the English colonisers. However, the Magna Carta's role as a statute in Australia differs between jurisdictions. For New South Wales, Victoria, Queensland and the Australian Capital Territory, local Imperial Acts legislation has determined which version and provisions of the Magna Carta apply. In these jurisdictions, the 1297 version of the Magna Carta applies, and of that version, only Chapter 29 remains a part of their statutory*

law. In Western Australia, South Australia, Tasmania and the Northern Territory, the applicability of the Magna Carta depends upon the jurisdiction's reception of Imperial legislation on a certain date. The result of such Acts is that if British Parliament repealed chapters of the Magna Carta prior to the reception date, then only the remaining chapters were received in the jurisdiction. The effect of such legislation is that many of the chapters of the Magna Carta have been repealed in Australian jurisdictions, and the New South Wales Law Commission went so far as to say that any inclusion of the Magna Carta in New South Wales law was 'chiefly sentimental.' However, much of the Magna Carta's relevance is grounded in the famous Chapter 29 which has not been repealed, and is the document's 'enduring symbolic role."

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Only chapter 29 of the Magna Carta remains unrepealed in Australian law.

In recent decades most of the States have passed an *Imperial Acts Application Act*, and were careful to say, that the preserved Acts were only preserved with *"the same force and effect (if any)"* as they had before the commencement of the Application Acts. For example, 6(b) of the *Imperial Acts Application Act 1969 (NSW)* declares c 29 to have remained in force in NSW *"except so far as affected by any State Acts from time to time in force in New South Wales"*.

Chapter 29 of the *Magna Carta* does not hold the status of a constitutional provision of NSW, rather it is open to *"affectation and modification"* by ordinary legislation enacted by the State Parliament. (See *Galea v NSW Egg Corporation* Court of Appeal, 21 November 1989, Unreported, (at 6,) ***Adler v District Court of NSW (1990) 19 NSWLR 317*** (at 332); see also ***Chester v Bateson (1920) 1 KB 829*** per Darling J).

As consistent with the *Imperial Acts Application Acts* of other states, only Clause 29 of the *Magna Carta* is in force in Western Australia, despite the other chapters remaining: Page 21 of the ***Law Reform Commission of Western Australia*** – *United Kingdom Statutes in Force*

"Its preservation does not ensure that these rights are inalienable because statutes of the Parliament of Western Australia which are repugnant to Magna Carta are not for that reason invalid. Indeed, to the extent of any repugnancy, these statutes operate to repeal Magna Carta. Chapter 29 is one of the historical provisions which should be declared to remain in force. The other chapters should be repealed."

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New Zealand has the exact same situation as here in Australia, only chapter 29 remains valid. ***"In a Constitutional State - Magna Carta in New Zealand 1840-2015"*** by David Clark:

"Given that the British Parliament repealed most of Magna Carta 1297 between 1863 and 1969 because its terms were either obsolete as they dealt with medieval circumstances that had passed into history, or because some of the problems had been addressed in later statutes, the problem for New Zealand was whether the wholesale adoption approach remained useful. A Law Commission report in 1987 recommended a special statute that identified particular Imperial enactments for retention and also identified the provisions of those acts that would remain part

of New Zealand law. The result was the Imperial Laws Application Act 1988 (NZ), which, by s 3(1) and the First Schedule, retained only chapter 29 of 1297 as part of the law of New Zealand."

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In ***Ledger Acquisitions Australia MB Pty Ltd v Kiefer [2014] FCCA 2216*** the respondent relied on Clause 29 of the *Magna Carta* in asserting a right to trial by jury in a bankruptcy matter, to which the court delivered the following detailed summary:

> *"The Immigration Restriction Act 1901 (Cth) was challenged in **Chia Gee & Ors v Martin (1905) 3 CLR 649** as "unconstitutional, because its provisions were contrary to the provisions of Magna Charta and the Statutes which had since confirmed it". Sir Samuel Griffith, the first Chief Justice of the High Court of Australia, and arguably the principal drafter of what became the Commonwealth Constitution, brooked no argument on this contention, dismissing it in a single sentence: "The contention that a law of the Commonwealth is invalid because it is not in conformity with Magna Charta is not one for serious refutation."*
>
> *The other two initial Justices of the High Court of Australia, Justices Barton and O'Connor, contented themselves with concurring with the Chief Justice. Justice Barton, who was the first Prime Minister of the Commonwealth, and Justice O'Connor, were both involved in the Constitutional conventions which led to the drafting of the Commonwealth Constitution, Barton extensively so. Such was the authority of the first three Justices of the High Court of Australia that no more needed to be said.*
>
> *In **Ex parte Walsh and Johnson; in re Yates (1925) 37 CLR 36** also a case concerning the Immigration Restriction Act 1901, Justice Isaacs discussed the Constitutional significance of Magna Carta in an Australian context. Referring to Clause 29 of Magna Carta, Justice Isaacs said: "The chapter, … recognises three basic principles, namely, (1) primarily every free man has an inherent individual right to his life, liberty, property and citizenship; (2) his individual rights must always yield to the necessities of the general welfare at the will of the State; (3) the law of the land is the only mode by which the State can so declare its will."*
>
> *Justice Isaacs recognised that personal liberty and property give way to a declaration by the State (in this case the Commonwealth) of the law of the land: "These principles taken together form one united conception for the necessary adjustment of the individual and social rights and duties of the members of the State."*
>
> *In **Skyring v Federal Commissioner of Taxation (1991) 23 ATR 84** the High Court of Australia held that the power conferred on the Commonwealth Parliament by the taxation power in s.51(ii) of the Commonwealth Constitution, to legislate with respect to taxation, extends to the imposition of taxation and its collection, even though it has the effect of requiring the person on which taxation is levied to pay the tax out of property which he owns.*
>
> *In **Arnold & Anor v State Bank of South Australia & Ors (1992) 38 FCR 484** the appellants sought to attack a mortgage on the basis that the debt secured by the mortgage involved the creation by the respondent bank of a book entry credit at no cost to itself. Magna Carta was invoked as guaranteeing the rights of the appellants to their matrimonial home and livelihood. Challenges*

were also made on the basis of passages from the Bible, and in particular those striking at usury. The Full Court of the Federal Court of Australia, in dismissing the appellants' appeal, did not specifically refer to Magna Carta in its reasoning, but approved what had been said in two recent cases before single Judges of the Federal Court, including in Fisher & Anor v Westpac Banking Corporation & Ors.

*In **Fisher v Westpac Banking Corporation [1992] FCA 390** the plaintiffs sought to set aside a claim made by a bank under a mortgage to their matrimonial home on the basis that the matrimonial home was guaranteed not to be abrogated from or interfered with by anyone by reason of authority derived ultimately from Magna Carta. Similar pleas were also made by reference to biblical authority. In the Federal Court of Australia, Justice French (as the current Chief Justice of the High Court of Australia then was), like the first Chief Justice of the High Court of Australia in Chia Gee, dismissed the plea by reference to Magna Carta in a single sentence, as follows: "In relation to the remaining pleas based on the Magna Carta and the Bible, it is sufficient to say they disclose no legally tenable cause of action."*

It follows from the foregoing that Commonwealth statutes dealing with a particular matter operate to repeal any contrary or limiting provision of Magna Carta. In this case, the relevant provisions of the Bankruptcy Act 1966, the FCCA Act and the FCC (Bankruptcy) Rules displace and prevail over any effect that Magna Carta might otherwise have had in the field of bankruptcy law, and Magna Carta did not, therefore, preclude the issuance of, or render invalid, the sequestration order made on 3 February 2014 by the Registrar against the estate of Mr Kiefer."

https://freemandelusion.com/wp-content/uploads/2020/10/ledger-acquisitions-australia-mb-pty-ltd-v-kiefer-2014-fcca-2216.pdf

In ***Re Cusack (1985) 60 ALJR 302***, Wilson J. said:

"The validity of laws enacted by the Commonwealth Parliament falls to be determined by reference to the proper construction of the Australian Constitution. It is not open to base an argument for validity by reference to alleged inconsistencies between laws of the Commonwealth and either Magna carta or the Bill of Rights."

In ***Essenberg v The Queen [2000] HCATrans 297***, McHugh J. said:

"Magna Carta and the Bill of Rights are not documents binding on Australian legislatures in the way that the Constitution is binding on them. Any legislature acting within the powers allotted to it by the Constitution can legislate in disregard of Magna Carta and the Bill of Rights. At the highest, those two documents express a political ideal, but they do not legally bind the legislatures of this country or, for that matter, the United Kingdom. Nor do they limit the powers of the legislatures of Australia or the United Kingdom. "

"We are ruled by law and law is the law of Parliament; it is called legal positivism. It is the law laid down. This Court makes decisions and, unless they are constitutional decisions, the Parliament can overrule them and often does. We lay down a law, Parliament can change it. It is the democratic right of the people to do it through their parliamentary representatives. So, what you are faced with is the Queensland Parliament enacting this legislation, which you obviously

think is a bad piece of legislation and infringement with your rights and which other members of the community think is a good thing, that is something to be debated at the ballot box, but it is not a constitutional matter…"

"I understand that and persons who have not had full legal training often think of Magna Carta and the Bill of Rights as fundamental documents which control governments, but they do not. After all, Magna Carta was the result of an agreement between the barons and King John and the barons themselves had their own courts, had their own armies, they, in effect, levied what we would call taxes today and they were concerned to protect themselves against the growth of the central power of the royal government, the central government, and that is how Magna Carta came into existence, but modern Parliament did not arise until late in the 17th century and the early struggle was between the King and the barons.

We are dealing now with the question of the legislature. I mean, Parliament established its authority over the monarch after the struggles which led to the execution of Charles I and the flight from the kingdom of James II in 1688. But Parliament – some people would regard it as regrettable – can, in effect, do what it likes. As it is said, some authorities could legislate to have every blue-eyed baby killed if it wanted to."

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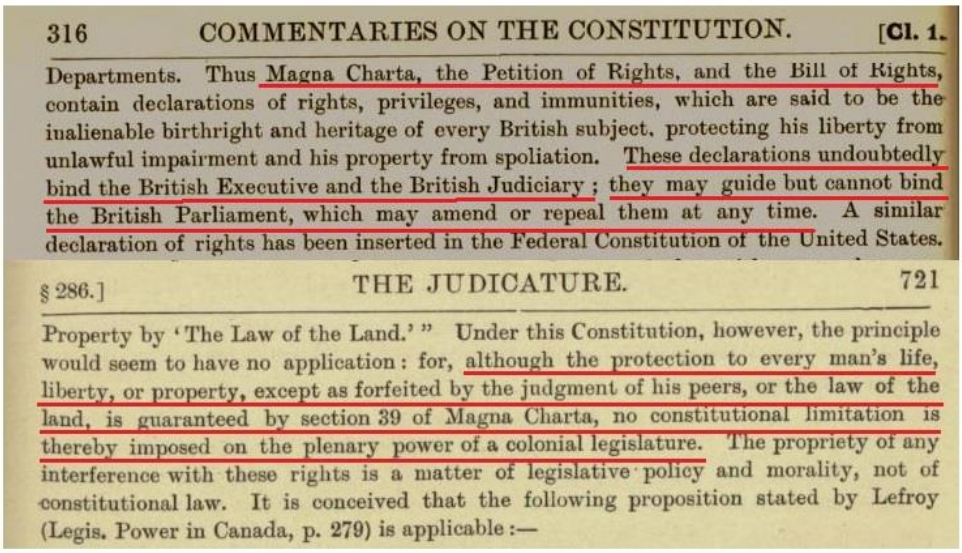
The ability to alter or repeal Magna Carta

Many theorists such as ***Wayne Glew*** believe that the *Magna Carta* cannot lawfully be altered or repealed, by either the British Parliament or the parliaments of Australia. This is despite his continual reliance on ***The Annotated constitution of the Australian Commonwealth***, where Robert Garran makes clear on ***page 316*** that *Magna Carta*, the *Petition of Rights* and the *Bill of Rights "...may guide but cannot bind the British Parliament, which may repeal them at any time."* And likewise on ***page 721*** regarding the the ability to repeal *Magna Carta* here in Australia, that *"...no constitutional limitation is imposed on the plenary power of a colonial legislature."*



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Departments. Thus Magna Charta, the Petition of Rights, and the Bill of Rights, contain declarations of rights, privileges, and immunities, which are said to be the inalienable birthright and heritage of every British subject, protecting his liberty from unlawful impairment and his property from spoliation. These declarations undoubtedly bind the British Executive and the British Judiciary; they may guide but cannot bind the British Parliament, which may amend or repeal them at any time. A similar declaration of rights has been inserted in the Federal Constitution of the United States.

§ 286.] THE JUDICATURE. 721

Property by 'The Law of the Land.'" Under this Constitution, however, the principle would seem to have no application: for, although the protection to every man's life, liberty, or property, except as forfeited by the judgment of his peers, or the law of the land, is guaranteed by section 39 of Magna Charta, no constitutional limitation is thereby imposed on the plenary power of a colonial legislature. The propriety of any interference with these rights is a matter of legislative policy and morality, not of constitutional law. It is conceived that the following proposition stated by Lefroy (Legis. Power in Canada, p. 279) is applicable:—

The British Parliament indeed repealed most of *Magna Carta* between 1863 and 1969 because its terms were either obsolete as they dealt with medieval circumstances that had passed into history, or because some of the problems had been addressed in later statutes. As noted in the ***UK statute book***, only three articles remain, the rest have been repealed. The articles remaining are:

> **I Confirmation of Liberties**: *"FIRST, We have granted to God, and by this our present Charter have confirmed, for Us and our Heirs for ever, that the Church of England shall be free, and shall have all her whole Rights and Liberties inviolable. We have granted also, and given to all the Freemen of our Realm, for Us and our Heirs for ever, these Liberties under-written, to have and to hold to them and their Heirs, of Us and our Heirs for ever."*
>
> **IX Liberties of London, &c**: "*The City of London shall have all the old Liberties and Customs [which it hath been used to have]. Moreover We will and grant, that all other Cities, Boroughs, Towns, and the Barons of the Five Ports, and all other Ports, shall have all their Liberties and free Customs."*
>
> **XXIX Imprisonment, &c. contrary to Law. Administration of Justice**: *"No Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right."*

In ***Carnes v Essenberg [1999] QCA 339*** Chesterman J noted:

> *"The supremacy of Parliament to make laws contrary to what had been the Common Law is expressly recognised by the Courts. It is enough to refer to the decision of the High Court in Kable v. The Director of Public Prosecutions, 189, Commonwealth Law Reports 51 at pages 73 to 74 in the judgment of Justice Dawson. His Honour pointed out that that champion of the Common Law, Chief Justice Coke, had in his Institute of the Laws of England in the early 17th century accepted that Magna Carta could be altered by English Parliament. Indeed he referred to Bills of Attainder which allowed for trial contrary to Magna Carta as being lawful enactments."*

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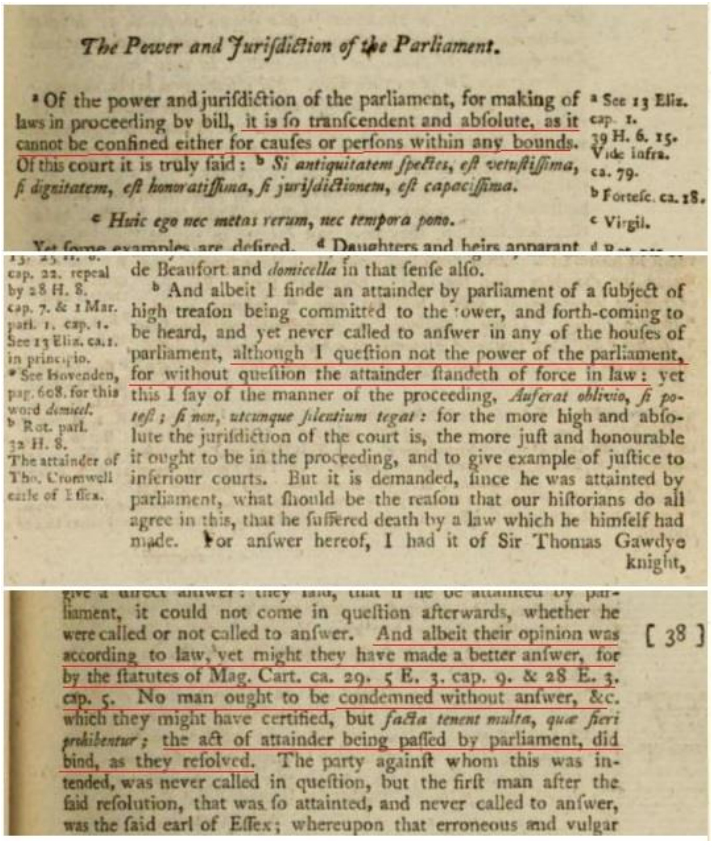
As Dawson J pointed out in ***Kable v Director of Public Prosecutions (NSW) [1996] HCA 24*** (at 12) Coke had:

> *"...described parliament's power as "transcendent and absolute", not confined "either for causes or persons within any bounds". He there contemplated the enactment of bills of attainder without trial and statutes contrary to Magna Carta without any suggestion of their invalidity."*

Sir Edward Coke, in ***The Fourth Part of the Institutes of the Law of England*** (at 36-38):



The Power and Jurisdiction of the Parliament.

[a] Of the power and jurisdiction of the parliament, for making of laws in proceeding by bill, it is so transcendent and absolute, as it cannot be confined either for causes or persons within any bounds. Of this court it is truly said: [b] *Si antiquitatem spectes, est vetustissima, si dignitatem, est honoratissima, si jurisdictionem, est capacissima.*

[c] *Huic ego nec metas rerum, nec tempora pono.*

[a] See 13 Eliz. cap. 1. 39 H. 6. 15. Vide infra. ca. 79.
[b] Fortesc. ca. 18.
[c] Virgil.

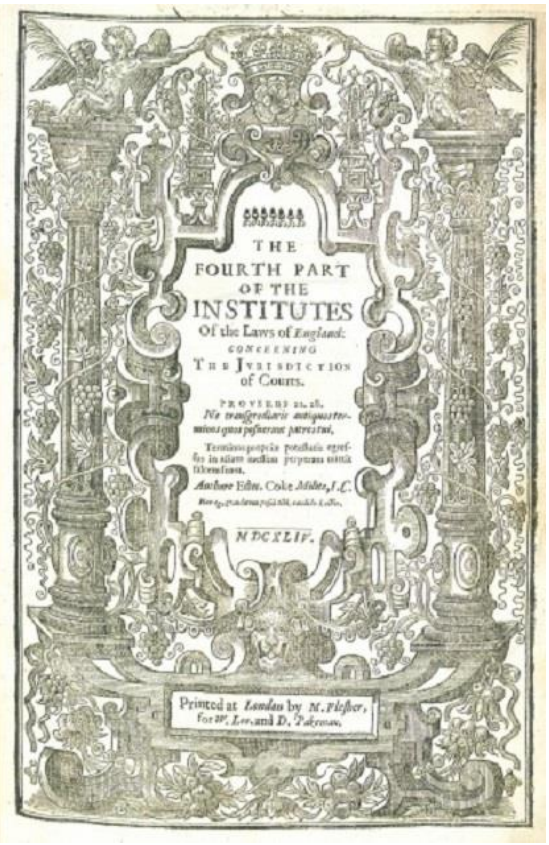
cap. 22. repeal by 28 H. 8. cap. 7. & 1 Mar. parl. 1. cap. 1. See 13 Eliz. ca. 1. in principio.
[a] See Hovenden, pag. 608. for this word *domicel.*
[b] Rot. parl. 32 H. 8. The attainder of Tho. Cromwell earle of Essex.

de Beaufort and *domicella* in that sense also.

[b] And albeit I finde an attainder by parliament of a subject of high treason being committed to the tower, and forth-coming to be heard, and yet never called to answer in any of the houses of parliament, although I question not the power of the parliament, for without question the attainder standeth of force in law: yet this I say of the manner of the proceeding, *Auferat oblivio, si potest; si non, utcunque silentium tegat:* for the more high and absolute the jurisdiction of the court is, the more just and honourable it ought to be in the proceeding, and to give example of justice to inferiour courts. But it is demanded, since he was attainted by parliament, what should be the reason that our historians do all agree in this, that he suffered death by a law which he himself had made. For answer hereof, I had it of Sir Thomas Gawdye knight,

[38]

liament, it could not come in question afterwards, whether he were called or not called to answer. And albeit their opinion was according to law, yet might they have made a better answer, for by the statutes of Mag. Cart. ca. 29. 5 E. 3. cap. 9. & 28 E. 3. cap. 5. No man ought to be condemned without answer, &c. which they might have certified, but *facta tenent multa, quæ fieri prohibentur;* the act of attainder being passed by parliament, did bind, as they resolved. The party against whom this was intended, was never called in question, but the first man after the said resolution, that was so attainted, and never called to answer, was the said earl of Essex; whereupon that erroneous and vulgar



Dawson J goes on to explain (at 13) that

"...there can be no doubt that parliamentary supremacy is a basic principle of the legal system which has been inherited in this country from the United Kingdom."

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As further explained by Dorney QC DCJ in ***Van den Hoorn v Ellis, [2010] QDC 451*** (at 24) the body of law which contains *Magna Carta* was received here in Australia as a body of common law and not of enacted law, which by its nature is open to modification and alteration by the parliaments, but even so, the effect of the *Colonial Laws Validity Act 1865* enabled the parliaments to alter Imperial legislation:

"By way of further clarification, McPherson JA (as he then was), speaking generally for the Queensland Court of Appeal in Bone v Mothershaw [2003] 2 Qd R 600 160 noted that the common law received in Australia under the Australian Courts Act 1828 (particularly by s 24) was received as a body of common law and not of enacted law, with the effect that the common law so received in Australia in 1828 was not so received as a body of statute law: at 610. As McPherson JA goes on to observe, the whole notion of such conversion is opposed to the established view that local laws or by-laws are capable of altering the received English law [as was recognised by the High Court in Widgee Shire Council v Bonney (1907) 4 CLR 977: 161 at 610.

The Queensland Court of Appeal decision in Carnes v Essenberg; Lewis v Essenberg [1999] QCA 339 162 concludes that it is "completely inaccurate" to say that colonial parliaments, or indeed the Parliament of Westminster, could not alter, modify or even repeal the provisions of centuries old legislation: see Chesterman J (as he then was) at p 4. Accordingly, after the Australian Courts Act 1828, enacted by the Imperial Parliament, became part of the law of Queensland upon its separate establishment in 1859, the Colonial Laws Validity Act 1865, also passed by the Imperial Parliament, removed doubts about the extent to which Australian Colonial Parliaments could alter imperial legislation as it applied to the colonies: at p 5. This had the consequence that no colonial law was void on the ground that it was repugnant to the fundamental principles of English law: also p 5. As Chesterman J goes on to note, the matter is made even more explicit by s 3(2) of the Australia Act 1986, which provides that no law and no provision of any law made after it by the Parliament of a State shall be void or inoperative on a ground that it is repugnant to the laws of England or to the provisions of an existing or future Act of Parliament of the United Kingdom: also p 5."

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The Bill of Rights 1688

"All grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void."

Section 12 is perceived by OPCA theorists to imply that fines are unlawful and invalid unless they are proven in a court. Since it was written several centuries ago, *"grants and promises"* requires a bit of an explanation, though cherry-picking the word *"fines"* seems to satisfy those without knowledge of the historical context.

In short, King James (and King Charles before him) had a habit of “granting or promising” to his mates the wealth of people he didn't like BEFORE they were convicted of treason. To stop this, the Bill of Rights insisted that the Crown can't grant or promise a person's wealth or property to anyone until AFTER the person is convicted.

Prior to 1870 a convicted felon forfeited his assets to the Crown. Indeed, the legal definition of a felon is a person whose property has been forfeited to the Crown. Because such grants and promises were later made illegal by the *Forfeiture Act of 1870*, it hardly matters now what the ***Bill of Rights*** did about narrowing the scope of such grants and promises back in 1688.

The Queen of Australia has not granted or promised any fine or forfeiture to anyone - and experts predict she is unlikely to do so during the remainder of her reign. If she ever does it to you though, you should rely on this section of the Bill of Rights to prevent your home or cattle being seized by the Crown and gifted to some Earle or Duke without giving you an opportunity to a fair trial.

The Bill of Rights was discussed in ***Living Word Outreach Inc v Deputy Sheriff of Victoria [2014] VSC 454*** (from 48):

"In ***Port of Portland Pty Ltd v State of Victoria (2010) 242 CLR 348***, the High Court considered the force of the principles enunciated in the *Imperial Acts Application Act 1980*. That Act, which is an act of the Victorian parliament, transcribes several Imperial acts, including the *Bill of Rights 1688*. Section 3 provides that the transcribed enactments *‘shall continue to have in Victoria … such force and effect, if any, as [it] had at the commencement of this Act’.* Considering the interpretation of the *Imperial Acts Application Act 1980*, French CJ, Gummow, Hayne, Heydon, Crennan, Kiefel and Bell JJ said (at 13) that *"...the preferable view is that these provisions in the Victorian statute at best serve only to reinforce what are settled constitutional principles".*

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In ***Antunovic v Dawson (2010) 30 VR 355***, Bell J considered the relevance of the *Bill of Rights 1688* in a contemporary context. His Honour said (at 50):

> *"The rights and liberties in the Bill of Rights restricted the powers of the sovereign, specified and confirmed the responsibilities of Parliament and declared certain fundamental freedoms of the people. The focus of these rights and liberties is mainly on the relationship between the sovereign, the Parliament and the people, rather than on the rights of the people as such. The rights are mainly civil and political in character."*

It follows from what was said in the above cases that the provisions of the *Imperial Acts Application Act 1980* are not to be understood as being capable of striking down provisions in other statutes. Rather, the principles there enshrined lay the groundwork of the constitutional framework and find expression in more specific principles.

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This is a ***republication of the Bill of Rights 1688*** 1 Will and Mary Sess 2 c 2 as in force on 5 July 2002 in the Australian Capital Territory. It includes any commencement, repeal or expiry affecting the republished law and any amendment made under the Legislation Act 2001, part 11.3 (Editorial changes). The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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