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### FROM COMMON LAW TO UNCOMMON GOD-GIVEN RIGHTS

In June 1215, a group of rebellious English barons presented a list of grievances to King John at Runnymede. Their complaints ranged from the exalted to the picayune. Among the crazy quilt of grievances, for example, is Article 46, which says: "All barons who have founded abbeys for which they have charters of kings of England, or ancient tenure, shall have custody of them when they have become vacant, as they ought to have."

But the barons demanded much more than custody of their vacant abbeys. They required the king to establish rules guaranteeing certain rights to nobility and the church, and providing even ordinary people with some legal protections. The charter was notable less for the coherence of its demands, than for the simple fact that the king signed it.

This most famous concession of legal rights ever made by an English king to his subjects marked the incipient stirrings of the principle that no man is above the law. It is recognized today as the first foothold of the rule of law. The document is known as the Magna Carta.

The king promptly reneged on his promise. He claimed he had signed the Magna Carta under duress. Soon he had prevailed upon the pope to void the contract and excommunicate the barons. But then he died, and the barons forced the agreement on his nine-year-old son, King Henry III.

The pattern of governmental promises followed by governmental welshing was duplicated repeatedly for the next thousand years.

In 1581, the first tax avoidance scheme was voided by an English court in an opinion known to bar review students everywhere as "the Rule in Shelly's case." Landowners discovered they could elude estate taxes by leaving a life estate to one party and the remainder interest to the grantee's heirs. The court in Shelly's case prohibited this earliest tax shelter.

In 1620, Puritans seeking religious freedom boarded the Mayflower and sailed to America. Enroute, the Pilgrims drafted and signed the Mayflower Compact, in which they agreed to create a democratic body that would make just laws for the colony. In 1628, the English Parliament issued the .Petition of Right, which forbade the forced quartering of soldiers, thai by martial law, and mandatory loans to the king. It also guaranteed the citizens' right to due process.

### English Bill of Rights

In 1679, Parliament passed the Habeas Corpus Act, which prohibited the government from jailing British subjects indefinitely without charges or bail, from imprisoning them twice for the same offense, from forcibly transporting subjects to prisons outside the country, and from imprisoning Linda Tripp on the basis of laughable constitutional rulings by a Maryland state court judge.

The Parliament then enacted the English Bill of Rights in 1689. This document officially transferred the power to make laws, levy taxes, and maintain an army from the king to the Parliament. The prototype for the American Bill of Rights, the English version guaranteed all subjects the right to petition the king, all Protestants the right to bear arms, and all members of Parliament the right to freedom of speech during debate. It also included various criminal law protections, such as the right to a trial by jury. and a prohibition on cruel and unusual punishments.

Outside of the British Empire, most people still lived in huts and ate one another.

But while the English system furnished, as John Adams put it, "the liberty, the unalienable, indefeasible rights of men, [and] the honor and dignity of human nature," more than any other known system of law, it still had a king. One concept was yet to come: The Declaration of Independence, seemingly, inevitable to later generations, would shake political constitutions to their foundations.

It took a nation founded by Pilgrims seeking religious freedom to notice that a belief in God did not permit a belief in god-like men. If it is a "self-evident truth," as the Declaration asserts, that "all men are created equal, that they are endowed by their Creator with certain unalienable rights," among them, "life, liberty and the pursuit of happiness," then no king need be cajoled into granting barons their vacant abbeys (or whatever).

This charter, drafted in 1776, was a new kind of law altogether--one written not by disgruntled barons, but by "Nature's God." As Alexander Hamilton explained: "The sacred rights of mankind are not to be rummaged for among parchments and musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the Hand of the Divinity itself, and can never be erased or obscured by mortal power."

Then Bill Clinton became President and wrecked it all. And that's the history of legal institutions in this millennium.

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By Ann Coulter

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