



***English Royal Charters, Vectors of the Progressive Fragmentation of the
Crown's authority***

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Abstract: One of the reasons of the progressive transformation of the British monarchy, from an absolute to a constitutional type, was the eroding action of royal charters. They were written permissions granted by the kings to exploit several areas of England's management.

Accordingly, the present article tries to reflect the impact of royal charters on the decline of English monarchical absolutism. It also tries to illustrate their prevalence throughout the different events that led to the proclamation of a constitutional nature of the British kingdom. The main findings reflect the paradoxical side of royal charters; they were initially considered as royal privileges and ended up significantly transforming an ancestral British institution.

Keywords: Charters; constitutional monarchy; legal concessions; monarchical grants; progressive transformation; royal absolutism

INTRODUCTION

Two main notions, namely *Absolutism* and the *Divine Right Doctrine*, had long structured the nature of the English monarchical rule. Sovereigns firmly unilaterally controlled the country without any will to share their reign. This governmental style that lasted many centuries displayed some changes starting from the Anglo-Saxon period; rulers issued official documents called “royal charters”, granting territorial privileges to the Church and other segments of the society. Subsequently, the different English dynasties accepted to issue other types of charters allowing individuals, institutions and even towns to enjoy concrete legislative and economic advantages, delegating many of their royal prerogatives.

Throughout centuries, these licenses played an outstanding role in influencing the political life and progressively changing the nature of the English monarchy. The country, especially urban areas, witnessed a great development; therefore, rulers accepted to grant some private legal instruments to involve other protagonists in the management of towns and the creation of educational and business organizations. Those same royal charters were also given to persons who planned to create overseas English settlements in the *New World*.

The main objective of this article is to study the extent to which these purely royal grants were so fundamental to implement a strategic independence from English rulers, pushing them to accept detrimental concessions. It illustrates charters' inspirational spirit used as a practical leverage for deep political transformations.

1. The pre-1215 context:

The Royal Charters that preceded the 1215 *Magna Carta* Events had already begun to display some major characteristics and founding principles, which started eroding the Royal authority. Influential subjects such as nobles and members of the Church were aware of the strategic side of that new situation where a monarch was invited to directly negotiate with other powerful elements of the country.

Actually, binding the monarchical authority to subjects, who obtained legal privileges such as lands and tax exemptions, was considered as a significant historical precedent. It created a kind of accountability where royal grants could not be invalidated by a divine right-based power. Accordingly, many factors reinforced these kinds of written agreements and strived to avoid a royal ignorance of their commitments, whose implementation was directly linked to royal honour. For instance, Bishops and Barons considered themselves as legal witnesses able to impede any kind of public rejection from the monarch, who by doing so could see his support withdrawn from local elites. The Church could also intervene when Charters were not respected, by excommunicating the monarch and excluding him from Catholicism. For example, a disrespect of King John's royal agreements led to a series of conflicts with Pope Innocent III. Besides, even if the judicial system during the period that preceded the emergence of the *Magna Carta*, was mostly under the control of the monarch, England started to witness some legal disputes involving monarchs and their subjects when charters were officially revoked. In fact, some new judicial texts, such as the 1166 *Assize of Clarendon* allowed challenging the king when his granted privileges were unfairly denied (Hudson, 2017). Charters given by the monarchy were also generally organized inside a global Feudal system binding the king to nobles. Therefore, the above-mentioned advantages were logically difficult to be ignored, since those same nobles were fundamental to guarantee the ruler's military protection from foreign attacks.

1.1 Urban autonomy:

One of the most outstanding and impactful features of royal Charters was the increasing autonomy of urban areas such as towns and boroughs. These areas symbolized an original organization of life with its inherent specificities, such as completely new economic activities, principally trading practices. Thus, thanks to royal privileges, English towns started to enjoy a wide range of advantages that progressively contributed to an irreversible multidimensional development.

Boroughs succeeded to obtain a particular legal status and innovative self-governing possibilities which allowed urban areas, for example thanks to the London's Charter of 1132, to have their own courts instead of relying on the feudal Lord's ones. Towns could also choose their judges to settle their own local disputes (Thomas, 2022).

Economically, chartered towns were also able to obtain many fiscal advantages such as paying to the monarchy an annual amount and keeping the rest, as stipulated by the Lincoln's 1157 charter granted by Henry II. Indeed, it significantly reduced royal interference when it comes to tax collections. Besides, thanks to Leicester's 1199 charter, towns could have their own weekly markets, getting rid of centuries of feudal lords' rigid monopoly. Other charters such as the Beverley's 1122-1132 allowed guilds to organize commercial activities, enjoying a complete dominance over such a vital sector (Rees, Jones, 2013).

Moreover, different political innovations were the fruit of allowing urban areas having access to a multitude of rights. Towns could directly deal with the monarchy without having recourse to the Feudal Lords' intermediation. Towns elected their own representatives such as mayors and councils thanks to, for example, the London's 1215 charter. Burgesses, or urban elites, increased their political influence thanks to their growing financial force provided by very lucrative commercial practices.

1.2 Empowerment of Nobles:

Nobles constituted another category that clearly profited from specific royal permissions. They could become, in exchange of a financial contribution or a military protection, landowners with hereditary rights to consolidate territorial acquisitions. They could also organize local baronial courts to settle disputes and impose judicial sanctions. Collecting taxes was another privilege enjoyed by that powerful category, increasing their financial resources. It allowed them, at the same time, to fortify castles and build powerful private armies (Barlett, 1993).

1.3 Ecclesiastical benefits:

The high Middle-Ages correspond to a historical period that witnessed the emergence of the Church as an unavoidable powerful actor in the kingdom of England. There was a clear determination from monarchs to reinforce the Church's position as a very prevailing institution. The monarchy was aware of its multifaceted impact and relied on it to efficiently manage the country. Consequently, a series of royal charters did help that religious body to increase its political, financial and judicial force (Barrow, 2019).

The economic influence of Churches was strengthened thanks to the vast lands granted by the different monarchs to build monasteries and cathedrals. The Westminster Abbey and the Canterbury Cathedral are concrete examples of how royal charters, granted by William the conqueror and his successors, contributed to erect such prestigious religious buildings. The financial opulence of this institution was also increased thanks to the several fiscal benefits granted by the crown. In fact, they were significantly exempted from tax payments and could unilaterally impose tithes, kind of agricultural taxes, without any royal interference. Besides, the vast lands owned by this ecclesiastical organization were used to create markets and fairs, providing much more profitable revenues (Miller, 2021).

The different royal privileges granted by the monarchy before the famous Magna Carta events gradually reinforced the independence of the Church from royal authority. For instance, judicially, through the enactment of the *Benefit of the Clergy*, a whole religious jurisdiction was created to exempt members of the church from ordinary trials. In addition, Henry I's *Charter of Liberties* notably weakened Royal interference in religious matters, giving the Church the ability to elect its own bishops and abbots (Garnett, 2020).

Accordingly, charters granted by the English monarchy resulted in the conjunction of different elements, which all led to a deterioration of the royal authority. The notable development of urban centres and their new economic panorama as well as the advent of very influential social groups created a climate of defiance towards the Crown. The latter, who still represented the most important source of power, strategically tried to reduce this threatening influence by denouncing many of those privileges. Consequently, such a royal move led to the Magna Carta events, considered by many historians as a turning point in the history of the English politics.

2. The Magna Carta precedent:

Present day British constitutional monarchy owes much to that 1215 referential event, called the Magna Carta. It was a royal charter conceded by King John, who bitterly accepted a document supposed to limit royal and governmental powers for the benefit of baronial political claims and aspirations. Barons did not accept absolute monarchical authority, invaded the royal court and eventually pushed for the creation of a document where English sovereigns would never be above the law. This action tried to put an end to centuries of *Divine Right Doctrine* (Sommerville, 1999). Indeed, that revolutionary text included many legal restrictions with the objective of subjecting the monarch to the law.

The Magna Carta was a rich legislative text that included various clauses intended for a significant reduction of royal government. Clause 12 and 14 limited the king's ability to absolutely control the country's financial matters, by avoiding any type of unilateral royal fiscal measures. Clause 39 was meant to exclude any arbitrary monarchical judicial system. Subsequently, Clause 61, which led to the creation of a council of 25 Barons, symbolized the baronial capacity to challenge the ancestral unchecked authority of the king, by intervening when the charter's principles could be threatened by a possible tyrannical rule (Church, 2016).

Moreover, this major historical event paved the way for the irreversible consolidation of the Parliament as an unavoidable actor in the English then British political matters. Indeed, the struggle for power between the barons and the monarchy obliged the latter to accept the creation of a contending legislative body supposed to intervene in many vital sectors, formerly exclusively dependent on the authority of monarchs. Therefore, the fiscal prerogatives became the main target of this emerging force of influence. Successively, Clause 12, which implemented the famous "*No taxation without consent*" and the 1297 *Confirmatio Cartarum* implemented the necessary parliamentary permission to tax creation (Maddicott, 2021). Besides, the parliament reflected a strong desire to challenge ancestral political actors and practices. It allowed the emergence of new protagonists, especially the Bourgeoisie, who in their turn started to claim more political weight. Paradoxically, the Magna Carta was initially conceived to serve baronial interests and ended up reinforcing another rising social class, whose power was no longer based on hereditary rights but on a wealthy financial and commercial preponderance.

The long democratic transition witnessed by the British crown started when royal authority was contested for the very first time in the history of the country. Daring to challenge a whole absolute monarchical rule created a decisive precedent in the way the legal framework can be conceived. In spite of its immediate limited impact, the Magna Carta could throughout centuries inspire a series of constitutional reforms, such as the 1688 *Glorious Revolution* as well as its subsequent *Bill of Rights*. Those essential turning points could restrain governmental abuses and drastically change the nature of the monarchy. Besides, the legacy of this emblematic historical charter was even able to inspire American revolutionaries, who contested

the authority of George III, seeing him as a danger for their democratic emancipation (Bailyn, 2017).

3. The Stuarts hectic times:

The English monarchy lived many dramatic moments during the reign of the dynasty, which replaced the Tudors. It was a period of major political and religious upheaval where the royal authority significantly declined due to a very aggressive parliamentary opposition, determined to contest the abusive and absolutist rule of Stuart monarchs. The royal court suffered from different notable crises such as the Civil War, Charles I's regicide, the dissolution of the monarchy and the creation of a republican governmental system under the rule of Oliver Cromwell and the deposition of another monarch, James II (Harris, 2007).

Meanwhile, the Royal charters continued to play a shaping role during that hectic historical period. The latter coincided with another context, commonly known as the *Age of Discoveries*, during which England was actively involved in a European race towards the colonization of the new American continent. The objective consisted in creating an effective colonial strategy supposed to serve the increasing royal ambitions. Thus, Stuart rulers considered royal prerogatives granted to some stakeholders as very precious tools to expand their reign overseas. Indeed, famous colonial charters such as the *Virginia Company*, the *Massachusetts Bay Company* and the *Hudson Bay Company* were effective expansionist instruments used to foster English settlements in North America and mainly to economically compete with other powerful European rivals such as France and Spain (Pritchard, 2003). Thanks to the advantages issued in favour of special private groups, the English crown could develop its American interests and spread its hegemonic philosophy in a newly discovered part of the world.

Nonetheless, paradoxically, royal charters during the Stuart period did also suffer from absolutist attitudes, clearly leading to the continuous social rejection of those rulers. For example, their legendary desire to tightly control many of England's governmental spheres pushed the decried dynasty, through the 1680's *Warranto Proceedings*, to revoke one of the most emblematic monarchical grants, *City Charters*, undermining towns' ability to enjoy self-government. They put an end to centuries of local legislative freedom granted by their predecessors. Besides, across the Atlantic, the famous Massachusetts Bay Company Charter, initially perceived as an instrument of colonial autonomy, was revoked in 1683 By Charles II (McConville, 2007). That action created a feeling of resentment among colonists who see it as a clear dangerous interference in their strategic interests.

4. The Glorious Revolution:

The Stuart dynasty and its tendency towards a monopoly of power and an imposition of an absolutist governmental style ruined a reign characterized by a continuous confrontation with the country's driving forces. The latter perceived that sovereignty as a reigning tyranny, which needs to be firmly denounced. Consequently, England witnessed, during the rule of another extremely contested monarch, King James II, a historical turning point, commonly called the *Great Revolution*. It was made by parliamentarians and a group of nobles who succeeded to depose the unpopular Catholic king. It resulted in a joint monarchy occupied by James II's daughter, Mary II and her Dutch husband William of Orange. Eventually, that 1688 revolution resulted in the 1689 Bill of Rights, which irreversibly laid the foundation of an unprecedented constitutional monarchy (Pincus, 2016).

It is worth noting here that there was a mutual influence between the spirit of both the *Glorious Revolution* and the Royal charters, which were viewed as vital elements of emancipation from royal absolutism, allowing entities and individuals resist excessive monarchical abuses. The Glorious Revolution did contribute to the consolidation of royal charters; it changed their nature, becoming more contractual. In fact, their holders were no longer at the mercy of monarchs and ceased to suffer arbitrary revocations, because they were defended by a parliamentary authority supposed to apply a fairer treatment. This new spirit of liberty positively affected trade, reinforcing by ricochet, many of the charters' commercial missions. The creation of the *Bank of England*, as a consequence of a royal grant, contributed to a better economic development and increasingly supported vital English financial investments. Besides, after being revoked by Stuart monarchs, colonial charters, such as the *Massachusetts Bay Company* were resuscitated to play a considerable role in the expansion of the British trade overseas (Pestana, 2007).

The long-term spirit of freedom promoted, during centuries by charters, did have an intellectual impact on the daily management of the country, mainly after the historical shift of power from a purely autocratic rule to a representative parliamentary one. Royal charters were generally seen as symbols of autonomy and liberation from ancestral shackles. They inspired a whole philosophy that encouraged political decentralization, financial innovation and the defence of corporate rights. The conjunction of these parameters helped Great Britain become the leading superpower of the 19th century.

5. A blueprint for a constitutional Model:

The British model of constitutional monarchy, implemented after the 1688 Glorious Revolution, represented a precedent in the history of European courts. It allowed an impressive shift of power from an ancestral unilateral rule to a more balanced parliamentary one, reducing monarchical abuses and allowing a broader involvement of larger parts of the country. This model progressively inspired other royal systems in Europe, which felt the need to modernize their political organization to the detriment of dynastic privileges (Muller, 2016).

This new governmental paradigm could not be possible without the continuous and inspirational force of influence of royal charters that knew how to get rid of a strict royal control, being able to invest many legal areas, previously reserved to a purely exclusive royal authority. Paradoxically, the latter's ability to charter different fields allowed baronial forces and, subsequently, influential middle classes to strongly contest the British monarchs' authority. The idea of delegation of powers to royal charters encouraged a whole democratic process culminated with the proclamation of the parliament as the unique centre of political decisions. This institution could rely on different political, economic and financial principles founded thanks to the insistent will of charters' holders to decentralize political authority, reinforcing local self-government. Their ability to adapt and sometimes denounce monarchical absolutism also created many effective mechanisms that served to reinforce the financial stability of the country. In fact, independent institutions, like the *Bank of England*, whose creation was the fruit of charter, obliged the crown to take into account an unavoidable parliamentary control to prevent former abusive spending, so disastrous for the economy of the country. Moreover, the establishment of a constitutional monarchy did improve British colonies' daily management, being inspired by the charters' liberalizing effect. British settlements could enjoy an atmosphere of self-government, so essential in a different continent (Greene, 2010). They could effectively take part in that successful colonial enterprise that transformed Great Britain into an overwhelming colonial empire.

Accordingly, the present British legal system is globally under parliamentary control, and the former royal charters, whose innovative spirit produced a progressive loss of royal ascendancy, are no longer granted. Nevertheless, former legal permissions are still present in the British cultural, financial and even political panorama. Old educational institutions such as Oxford University and the Bank of England as well as many British cities such as Manchester and London, still enjoy a special chartered status. Other professions like “*Royal College of Physicians*” and the “*Engineering Council*” are bodies which function thanks to those ancestral medieval governing charters (Irvine, 2003).

Conclusion:

Different historical events which led to the establishment of a constitutional monarchy deeply shaped the nature of the British royal institution and transformed it into a purely ceremonial kingdom, limiting its power to the maximum and ratifying the Parliament’s legislative and executive supremacy. Paradoxically, the fragmentation of the royal authority could be possible thanks to royal privileges initially granted to groups, whose independence from the local sovereigns inspired many popular and parliamentary uprising. In its unavoidable intention to delegate some limited aspects of the country’s daily management, British sovereigns did unintentionally consent to empower influential factions such as nobles, ecclesiastic figures as well as members of the nascent urban middle class. By vigorously defending their private interests, these bodies became very influential. Their excessive ambitions led to the creation of the Magna Carta, a charter considered as a first turning point in the long metamorphosis of British monarchy. Throughout centuries, that document continuously inspired a different monarchical model, in which its holders accepted unprecedented concessions. Subsequently, a whole referential historical sequence successively included revolutionary events such as the Regicide, the proclamation of a Republic as well as a Glorious Revolution which irreversibly established a constitutional monarchy model, inspiring a profound democratic British and European transformation. Therefore, the actions and spirit of royal charters, which were medieval privatized governmental instruments, vitally contributed to the progressive disintegration of British absolutism, stripping it from its foundational meaning.

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