

Magna Carta Compared to Federal and Tennessee Law

Magna Carta	U.S. Constitution, Declaration of Independence & Federal	Tennessee Constitution & State Law	Notes:
Magna Carta Chapter 39 (1215) and Chapter 29(1225), Per legem terrae clause: "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 the lawful judgment of his equals or by the law of the land.	Federal Due Process Clauses of the Fifth and Fourteenth Amendments	Article I, section 8 - Law of the Land clause	Federal and Tennessee are exact, identical, or synonymous in effect and result
Local magistrates could not usurp the judicial power of the crown	Separation of Powers, generally	Separation of Powers, generally	
Magna Carta (1215), art. 61: There was now an earthly authority higher than the anointed king: the rule of law. Enforcement was entrusted to a council of 25 barons with the legal authorization to make war on the king if necessary	Constitutional framework, generally	Constitutional framework, generally	
Magna Carta (1215), art. 40: To no one will we sell, to no one will we refuse or delay, right or justice	Fourth Amendment, Marbury v. Madison	Tennessee Const. of 1796, art. XI, S 17, Open Courts Clause: That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner and in such courts as the legislature may by law direct: Provided, The right of bringing suit be limited to the citizens of this State. Current language, Art. I, S 17: That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct.	38 states contain 'open courts' or 'remedies' clauses. Tenn. Const. art. I, S 17 is a direct descendant of Magna Carta. It embodies three of Magna Carta's most important principles: first, that all persons, including those in authority, are subject to the rule of law; second, that all persons are entitled to equal justice; and third, that all persons have the right to the protection of their person and property from injury or wrong.
Magna Carta (1215), art. 63: We will and firmly order that the English Church be free	First Amendment (to the extent that the Church should be free from government influence)	Tennessee Const. art I, sec. 3 (construed to be broader than the First amendment, but in reality identical)	

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Magna Carta (1215), art. 63: The men in our realm shall have and hold all the aforesaid liberties, rights and concessions well and peacefully, freely and quietly, fully and completely for them and their heirs of us and our heirs in all things and places forever		Tennessee Const. art I, sec. 1: That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness	
Right of widows to inherit		T.C.A. § 31-2-102: Dower abolished; T.C.A. § 31-2-104: wife's share in intestacy (100% if no children, at least 50% if children)	
Fines had to be proportional to the crime committed	Eighth Amendment	Tennessee Const. art. I, sec. 16: "That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. "	
The Common Council had to approve the amount of money that vassals had to pay instead of having to serve in the military (scutage) along with any aid that could be requested from them with only three exceptions, but in all cases the aid had to be reasonable. This basically meant that John could no longer tax without the agreement of his Council	Separation of Powers, generally, and Origination Clause, specifically, U.S. Const. art. I, sec. 3, cl. 1: "All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills."	Separation of Powers, generally.	
If the King wanted to call the Common Council, he had to give the barons, church officials, landowners, sheriffs, and bailiffs 40 days notice with a stated purpose for why it was being called	Separation of Powers and Constitutional framework, generally	Separation of Powers and Constitutional framework, generally	

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<p>For commoners, all fines had to be reasonable so that their livelihood could not be taken away. Further, any offense that a commoner was said to have committed had to be sworn to by "good men from the neighborhood."</p>	<p>Sixth Amendment (trial by juries, right to confrontation, etc.) and Eighth Amendment (no excessive fines)</p>	<p>Tennessee Const. art. I, sec. 9: "That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county in which the crime shall have been committed, and shall not be compelled to give evidence against himself." Tennessee Const. art. 1, sec. 16 (no excessive fines).</p>	
<p>Bailiffs and constables could take property without paying for it.</p>	<p>Fifth Amendment (takings clause)</p>	<p>Tennessee Const. art. I, sec. 21: "That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefore."</p>	
<p>London and other cities were given the right to collect customs.</p>	<p>Tenth Amendment</p>	<p>Tennessee Const. art. II, sec. 29 (authorizing counties and towns to impose and collect taxes)</p>	
<p>Inheritances were guaranteed to individuals with the amount of "inheritance tax" being set in advance.</p>		<p>T.C.A. § 67-8-301 et seq. (estate tax laws)</p>	

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<p>Those who serve as magistrates must "know the law of the realm and [be] minded to keep it well."</p>	<p>U.S. Const. art. VI, cl. 3: "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.</p>	<p>Tennessee Const. Art. X, sec. 1: "Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this state, and of the United States, and an oath of office."</p>	