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Magna Carta for the Masses: An Analysis of Eighteenth-Century Americans' Growing Familiarity With the Great Charter in Newspapers

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MAGNA CARTA FOR THE MASSES: AN
ANALYSIS OF EIGHTEENTH-CENTURY
AMERICANS' GROWING FAMILIARITY WITH
THE GREAT CHARTER IN NEWSPAPERS*

SALLY E. HADDEN**

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INTRODUCTION

Scholarly knowledge of Magna Carta has increased throughout 2015 as the result of new investigations into the remaining extant copies of the Charter on the occasion of its eight-hundredth anniversary. Medievalists David Carpenter and Nicholas Vincent, for example, revealed that two of the four extant 1215 copies were

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initially sent to bishops' chanceries for further distribution; with their colleague, Teresa Webber, Carpenter and Vincent have been able to identify which scribes composed various Magna Carta copies via handwriting comparison.¹ Such detailed scrutiny of the original thirteenth-century documents has been matched by retrospectives on Magna Carta's importance in shaping everything from early modern legal decisions to its influence upon perceptions of the rule of law in non-English-speaking parts of the world.² Despite these intensive explorations of Magna Carta's impact at the time of its creation or in contemporary settings, far less has been divined about its perceived effects in eighteenth-century America—perhaps because its effects then are presumably already well known.

Scholars A. E. Dick Howard and Bernard Bailyn have both probed how members of colonial America's elite understood and then used Magna Carta to mobilize public opinion in the years prior to the war for America's independence. Their intellectual histories in the 1960s untangled how colonial politicians such as Thomas Jefferson, John Dickinson, John Adams, and others used Magna Carta in the 1760s and 1770s to justify protection of their inalienable rights against British taxes, regulations, and tightening imperial control.³ Those political leaders managed to persuade ordinary individuals to join the revolutionary movement, as did the day-to-day experiences that ordinary people had living under more intrusive

1. Carpenter delivered part of his findings at the Leeds International Medieval Congress in Leeds, U.K., on July 8, 2015. David Carpenter, Presentation at the Leeds International Medieval Congress: The Mystery of the 1217 Magna Carta (July 8, 2015). Carpenter and Vincent have posted their evidence and findings at The Magna Carta Project, a website they run. Nicholas Vincent & David Carpenter, *Who Did (and Did Not) Write Magna Carta*, MAGNA CARTA PROJECT (June 2015), http://magnacartaaresearch.org/read/feature_of_the_month/Jun_2015_3 [<http://perma.cc/cc/5JMP-GYAF>].

2. For its impact on early modern legal decisions, see Paul Brand, Address at the High Court Public Lecture Series: Magna Carta and the Development of the Common Law 7–12, (May 13, 2015) (related manuscript available at <http://www.hcourt.gov.au/assets/publications/speeches/lecture-series/Brand-Magna-Carta-and-the-Development-of-the-Common-Law-May15.pdf> [<http://perma.cc/4CJW-U88Q>]). Magna Carta's invocation in 1994 by the indigenous peoples of the Lacandon jungle, in Mexico, against their own government and by Nigerian women in 2003, when Chevron Oil Company planned to widen the Escravos River in the Bight of Benin (thus threatening to destroy their forests and villages) is detailed in PETER LINEBAUGH, *THE MAGNA CARTA MANIFESTO* 5–6 (Univ. of Cal. Press 2008).

3. BERNARD BAILYN, *THE IDEOLOGICAL ORIGINS OF THE AMERICAN REVOLUTION* 67, 78, 81 (Harvard Univ. Press enlarged ed. 1992); A. E. DICK HOWARD, *MAGNA CARTA: TEXT AND COMMENTARY* 27–30 (Univ. Press of Va. rev. ed. 1998).

British rule.⁴ A combination of lived experience and the persuasive prose of political elites encouraged early Americans to upend British government in the colonies, stymie the British military when it sought to reassert that governing authority, and ultimately form a new series of institutions via state constitutions and the Articles of Confederation that presaged the coming of the U.S. Constitution.⁵

Not so fast, though. This theoretical mobilization depended upon how those colonial masses might understand the arguments being urged upon them in speeches and essays. Just how well acquainted were ordinary Americans with the provisions of Magna Carta? Would they have understood a cultural reference being made to the document—and how would they have likely interpreted the iconic document being used for political purposes?

Recapturing how a prerevolutionary group may have interpreted such a medieval text's importance in its own time is ultimately a much larger project than this Article can encompass. It would require sampling texts in a variety of settings—from diaries and letters to sermons and petitions—to determine how widely (and well) Magna Carta was understood by ordinary folk in the eighteenth century. There is, however, a proxy that one may use to reach some conclusions about the public's level of comprehension and familiarity with Magna Carta during this time period: newspapers.

Newspapers in early America grew steadily in numbers, and their saturation throughout the colonies was such that, by the mid-eighteenth century, all major cities and several second-tier towns had a local printing press that provided news from overseas as well as domestic information.⁶ Printers relied upon a steady diet of items

4. Ray Raphael, *The Democratic Moment: The Revolution and Popular Politics*, in *THE OXFORD HANDBOOK OF THE AMERICAN REVOLUTION* 121, 124–33 (Edward G. Gray & Jane Kamensky eds., 2013).

5. WILLI PAUL ADAMS, *THE FIRST AMERICAN CONSTITUTIONS: REPUBLICAN IDEOLOGY AND THE MAKING OF THE STATE CONSTITUTIONS IN THE REVOLUTIONARY ERA* 66–90 (Rita Kimber & Robert Kimber trans., Rowman & Littlefield expanded ed. 2001) (reviewing the formation of various state constitutions); RICHARD L. BUSHMAN, *KING AND PEOPLE IN PROVINCIAL MASSACHUSETTS* 226–35 (1985); 1 *THE PAMPHLETS OF THE AMERICAN REVOLUTION, 1750–1776*, at 1, 15–19 (Bernard Bailyn ed., 1965); Robert M. Weir, *The Role of the Newspaper Press in the Southern Colonies on the Eve of the Revolution: An Interpretation* (explaining how the press and “[b]etter communications among Americans . . . unified and strengthened their opposition to imperial policies”), in *THE PRESS AND THE AMERICAN REVOLUTION* 99, 99–150 (Bernard Bailyn & John B. Hench eds., 1980).

6. *CHRONOLOGICAL TABLES OF AMERICAN NEWSPAPERS, 1690–1820: BEING A TABULAR GUIDE TO HOLDINGS OF NEWSPAPERS PUBLISHED IN AMERICA THROUGH 1820*, at 2–25 (Edward Connery Lathem ed., Am. Antiquarian Soc’y, 1972) [hereinafter *TABLES OF AMERICAN NEWSPAPERS*]. This trend accelerated after 1770, as lower

from overseas to populate their front pages, while domestic news was pushed to the inside or back pages, along with ads for local shops, craftsmen, and goods newly arrived by ship.⁷ Printers reprinted news that they thought would sell more copies of their papers; news from abroad or received directly from distant cities was thought to be of greater interest than local features, which most people knew about in the smaller cities that lined the Atlantic seaboard in early America.⁸ At roughly 32,000, Philadelphia's population just before the Revolution made it the largest of the five colonial entrepôts;⁹ at 9,200, Newport, Rhode Island, was still sizeable enough to merit its own newspaper.¹⁰ In between, New York City (25,000), Boston (16,500), and Charleston (12,800) each boasted a local news sheet, but they were not generally large enough to require two competing local papers until the 1760s.¹¹ Printers distributed their news either weekly or three times per week, but America did not have daily newspapers until the last two decades of the eighteenth century.¹²

Recapturing the reading habits of individuals who did not go on to great careers in politics or diplomacy is an arena that social historians as well as historians of print culture have plumbed with great enthusiasm in recent years.¹³ Although elites in all periods

printing costs and cheaper mail rates encouraged the greater distribution of more American newspapers. DAVID D. HALL, *CULTURES OF PRINT: ESSAYS IN THE HISTORY OF THE BOOK* 37 (1996); Catherine O'Donnell, *Print Culture After the Revolution* (documenting how the Post Office Act of 1792 made it cheaper and easier to circulate publications), in *THE OXFORD HANDBOOK OF THE AMERICAN REVOLUTION*, *supra* note 4, at 519, 526.

7. DAVID PAUL NORD, *COMMUNITIES OF JOURNALISM: A HISTORY OF AMERICAN NEWSPAPERS AND THEIR READERS* 50–54 (2001).

8. Paul Langford, *British Correspondence in the Colonial Press, 1763–1775: A Study in Anglo-American Misunderstanding Before the American Revolution*, in *THE PRESS AND THE AMERICAN REVOLUTION*, *supra* note 5, at 273, 273–74.

9. BENJAMIN L. CARP, *REBELS RISING: CITIES AND THE AMERICAN REVOLUTION* app. 1 at 225 (2007).

10. *Id.*; TABLES OF AMERICAN NEWSPAPERS, *supra* note 6, at 6.

11. CARP, *supra* note 9, app. 1 at 225; TABLES OF AMERICAN NEWSPAPERS, *supra* note 6, at 2–9. On the appearance, disappearance, and frequency of eighteenth-century newspapers, see generally CLARENCE S. BRIGHAM, *HISTORY AND BIBLIOGRAPHY OF AMERICAN NEWSPAPERS, 1690–1820* (Am. Antiquarian Soc'y, 1962).

12. NORD, *supra* note 7, at 50–54; TABLES OF AMERICAN NEWSPAPERS, *supra* note 6, at 2–25. Dailies began to appear in the 1780s and 1790s in the largest cities: New York, Philadelphia, Boston, Baltimore, and Charleston. See generally BRIGHAM, *supra* note 11 (chronicling each American newspaper from 1690 to 1820).

13. See generally, e.g., JONATHAN ROSE, *THE INTELLECTUAL LIFE OF THE BRITISH WORKING CLASSES* (2d ed. 2010) (providing an excellent reconstruction of the reading habits of ordinary people); see also Robert Gross, *The Print Revolution* (capturing many of the difficulties inherent in estimating rates of newspaper readership in early America),

generally have more ink and paper devoted to their lives, the quotidian experiences of average colonists remain important. Moreover, their comprehension and connection to a document such as Magna Carta could reveal that the writings of revolutionary elites may have had a *greater* impact than previously suspected should it turn out that ordinary people had an intimate knowledge of the references, keywords, and code phrases being relied on by those patriots when they wrote, publicly spoke, and agitated. Of course, that depended upon the contexts in which Magna Carta was referred to, for the news items where it appeared may or may not have done more than simply toss in a phrase without much specificity about what was being referenced. This Article will explore the contexts in which news items discussed Magna Carta, providing a better sense of how eighteenth-century readers would have encountered the document while paging through their local newspaper.

A. *Methodology*

The methods used to gather and then analyze the data related to Magna Carta relied heavily upon two newspaper databases available to many educational institutions. The first, marketed by Readex Corporation variously as “America’s Historical Newspapers” (AHN) or “Early American Newspapers 1690–1922,” is sold in separate units of coverage: libraries may purchase greater or lesser amounts of geographic or temporal coverage, offering cost savings to institutions that do not desire to have access to the entire database. University libraries therefore have differing levels of access within AHN, depending upon the number of units purchased from Readex when they acquire the database. Unfortunately, these units of coverage are not (a) always clearly marked when searching within the database, nor (b) does AHN make clear whether the version one is searching contains the fullest set of data. These differing levels of access must be borne in mind when conducting any sort of research in AHN; attempts to replicate the results found in this Article may not return all documents identified here if one’s database access is restricted to limited coverage. For this Article, I compared and then collated search results for all newspapers in three different versions of AHN, accessed at the University of Michigan, Western Michigan University, and the University of Pennsylvania, to create lists of the maximum

number of news items relating to Magna Carta from 1700 to 1800.¹⁴ Additional coverage for South Carolina newspapers was taken from the Accessible Archives database, which covers South Carolina's publications in greater depth than AHN.¹⁵ The results obtained from AHN and Accessible Archives were then combined into a single data set for description and analysis.

Once copies of all early American newspaper articles that contained references to Magna Carta had been retrieved, coding of their contents followed. Initial coding indicated whether the source of the information was foreign or domestic; that is, was the news item one that originated in Europe and then had been reprinted by an American newspaper editor, or had it originally been written and printed in America? A second layer of coding was added to indicate the location of the newspaper where the item first appeared (not all newspaper titles indicate the city or colony/state of origin, as the databases did). The date of publication was another type of data coded. Each news item was also coded for its content and how the words "Magna Carta" appeared to be used. The codes used included political, historical, cultural, religious, advertisement, rumor, humorous, and other countries (non-American and non-British). Many items resisted general categorization of this type, such as those that related to documentary preservation of Magna Carta itself, Native Americans, Scottish or Irish subjugation to England, lottery rules, and abolition. Out of the nearly 1,000 news items reviewed, eight used "Magna Carta" in such a general fashion that no single category could be applied; however, the vast majority could be coded, revealing authorial intentions to use Magna Carta for a particular purpose, be it political, economic, humorous, or something else. Political usage was significantly large, such that subcategories became necessary, and a second layer of coding for political subjects (John Wilkes, pro-monarchy, or state constitution, for instance) was introduced. A longer field described the article's contents in general terms, and one last field allowed for the identification of republished articles, which appeared more than once in an American newspaper.

14. *America's Historical Newspapers*, READDEX, <http://www.readex.com/content/Americas-historical-newspapers> [http://perma.cc/425L-Q9Q6].

15. *South Carolina Newspapers*, ACCESSIBLE ARCHIVES, <http://www.accessible-archives.com/collections/south-carolina-newspapers/> [http://perma.cc/M3WR-JTWE].

I. RAW DATA

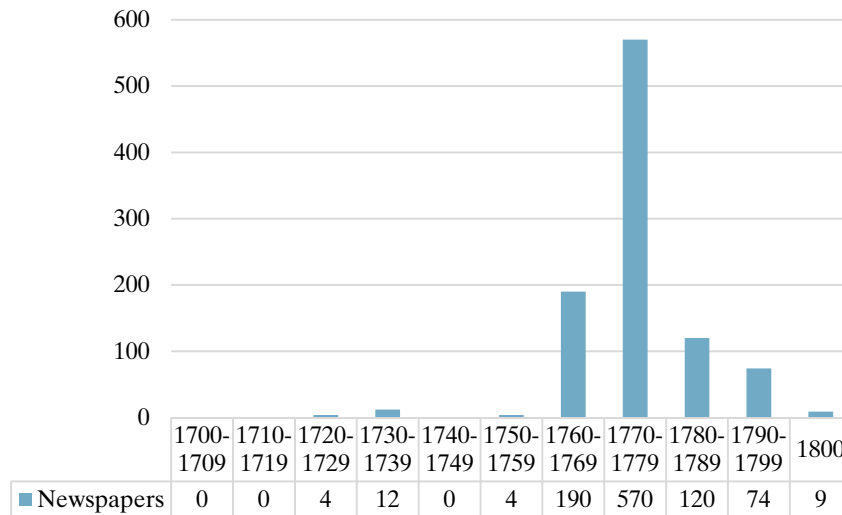
Plumbing the contents of America's early newspapers has become considerably easier with the creation of Readex databases devoted to the print world of America in the eighteenth century, as well as the Accessible Archives database devoted to South Carolina newspapers before the year 1800.¹⁶ Examining news items that pertain to Magna Carta, drawn from these databases, permits the legal historian to gain a greater appreciation for how much exposure early Americans would have had to concepts found in Magna Carta, or the contexts in which it was referenced and used. By understanding early Americans' awareness of the Great Charter and how it evolved or changed through the eighteenth century, it should be possible to recapture their susceptibility to arguments made using Magna Carta as a revolutionary call to arms.

If one were to go by the words "magna carta," however, one might conclude that the common man had almost never heard the term in the eighteenth century. The term "magna carta" turned up only four times in the America's Historical Newspapers database and only twice in the South Carolina Newspapers collection, for a total of six newspaper mentions.¹⁷ However, "magna carta" was not the most common term used to refer to the Great Charter. Instead, "magna charta" was the prevailing term widely known in early America as well as England. "Magna charta" appeared in eighteenth-century newspapers more than 900 times, though the data reveal that it predominantly appeared in the second half of the century rather than the first half.¹⁸

16. Earlier scholars typically had access only to copies of the newspapers on microfilm reels or to the dusty originals, unindexed before the age of computer databases. Readex also markets databases devoted to eighteenth-century pamphlets and print ephemera, such as *Early American Imprints, Series I: Evans, 1639-1800*, READEX, <http://www.readex.com/content/early-american-imprints-series-i-evans-1639-1800> [<http://perma.cc/GQR8-L6AR>], and *American State Papers, 1789-1838*, READEX, <http://www.readex.com/content/american-state-papers-1789-1838> [<http://perma.cc/2VL5-FBB6>]. For a list of all Readex collections, see *Collections*, READEX, <http://www.readex.com/collections> [<http://perma.cc/B8GN-KPV8>].

17. In other databases devoted to print media surveying the eighteenth century, such as *Early American Imprints I (Evans)*, which covers print ephemera from 1690-1800, "magna carta" appeared seven times, while it came up in the *American Periodical Series* database only once. *American Periodicals Series Online*, PROQUEST, <http://www.proquest.com/products-services/aps.html> [<https://perma.cc/T363-GXX5>]; *Early American Imprints, Series I: Evans, 1639-1800*, *supra* note 16.

18. For purposes of this Article, I will use "Magna Carta" as a stand-in for the searched term "Magna Charta."

Figure 1. Magna Carta Domestic News Items by Decade

These figures, which are a simple count of all appearances of the words “magna carta” or “magna charta” in American newspapers, indicate how pervasive the term had become in the second half of the eighteenth century: phrases referring to the document appeared a total of 983 times between 1700 and 1801. Pervasiveness, however, should not be taken at face value.

Two factors affect the high total number of references made to the Great Charter in early American newspapers. Over 400 references come from Charleston newspapers alone, which either suggests that the South Carolina Sons of Liberty were working overtime to mention Magna Carta in their patriotic essays, or that there is some sort of data skew affecting the numbers. Second, news stories and advertisements were often reprinted from week to week in the same papers, since merchants typically paid for an ad to run a minimum of three times, and news from abroad was sometimes considered so noteworthy that it deserved repetition.¹⁹ This type of

19. For examples of repeated news items, see Resolves of the Massachusetts Bay Colonial Legislature, BOS. POST-BOY & ADVERTISER, July 3, 1769, at 1; Resolves of the Representatives of Massachusetts Bay (July 8, 1769), BOS. WKLY. NEWSL., July 13, 1769, at 1 (repeating several resolutions printed in the July 3 paper). For examples of repeated advertisement, see Philip Hawkins & Co., Advertisement for a Large Supply of Goods, S.C. GAZETTE & COUNTRY J., Oct. 15, 1771, at 6; Philip Hawkins & Co., Advertisement

repetition, for news or advertisements in the same newspaper, is not the same as the duplications that could also happen when a news item appeared first in a Rhode Island paper, only to be copied into a Massachusetts paper a few days later.²⁰ Transmission of news from one paper to another was routine in the eighteenth century²¹ and will be addressed later in this Article.

Ultimately, these data revealed that South Carolina's revolutionaries were in fact not working overtime to put Magna Carta into every essay they published. Instead, what accounts for nearly three-quarters of all the references to Magna Carta in Charleston's papers stems from a more mundane reason: in November 1770, a cargo ship named *Magna Charta* launched in South Carolina and made Charleston its base of operations. This vessel carried rice on outbound voyages and returned to South Carolina laden with goods for sale in the port city. Its every movement was chronicled in local papers: its maiden voyage from Hobcaw, South Carolina, (where it was built) to Charleston appeared in a November 27, 1770, paper;²² its departure from Charleston carrying rice for the first time was described in March 1771,²³ as was its return to that seaport about four months later, carrying merchandise for a variety of shopkeepers to peddle to other Carolinians.²⁴ The ship's movements, the passengers it delivered to Charleston, the strange weather it encountered at sea,

for a Large Supply of Goods, S.C. GAZETTE & COUNTRY J., Oct. 8, 1771, at 1; Philip Hawkins & Co., Advertisement for Silks, S.C. GAZETTE & COUNTRY J., Nov. 19, 1771, at 3; Philip Hawkins & Co., Advertisement for Silks, S.C. GAZETTE & COUNTRY J., Nov. 26, 1771, at 4.

20. For examples of reprinted news items appearing in a different newspaper, see Extract of a Letter from Malden (July 12, 1763), NEWPORT MERCURY, Oct. 6, 1763, at 2 (reporting that the king's portrait contained Magna Carta); Extract of a Letter from Malden (July 12, 1763), N.H. GAZETTE & HIST. CHRON., Oct. 14, 1763, at 1 (same); Stamp Act Congress Resolutions (Sept. 21, 1765), NEWPORT MERCURY, Oct. 7, 1765, at 2; Stamp Act Congress Resolutions (Sept. 21, 1765), MASS. GAZETTE & BOS. WKLY. NEWSL., Oct. 10, 1765, at 2; Stamp Act Congress Resolutions, GA. GAZETTE, Oct. 10, 1765, at 4.

21. Charles E. Clark, *Early American Journalism: News and Opinion in the Popular Press*, in 1 A HISTORY OF THE BOOK IN AMERICA: THE COLONIAL BOOK IN THE ATLANTIC WORLD 347, 358 (Hugh Amory & David D. Hall eds., Cambridge Univ. Press 2000).

22. News from Charlestown (Nov. 17, 1770), S.C. & AM. GEN. GAZETTE, Nov. 27, 1770, at 3.

23. News from Charlestown, S.C. GAZETTE, Mar. 14, 1771, at 1.

24. News from Charlestown, S.C. & AM. GEN. GAZETTE, July 1, 1771, at 3; Benjamin Mathewes, Advertisement for a Large and Complete Assortment of Goods, S.C. & AM. GEN. GAZETTE, Sept. 30, 1771, at 3 (advertising imported goods from the ship *Magna Charta*).

and the goods it brought to port were chronicled in nearly 300 news items or advertisements that each mentioned the ship by name.²⁵

The launching of the good ship *Magna Charta* in 1770, however, does represent the cultural awareness of its owners about that document, which had undoubtedly grown during the 1760s, as news items mentioning the Great Charter appeared in colonial papers nearly every month. Unlike many ships that sailed into Charleston harbor for the first time, the *Magna Charta*'s appearance was detailed for readers in terms that left no doubt about the importance of the document that inspired the ship's name.²⁶ *The South-Carolina and American General Gazette* reported that the ship was thought to be "the finest ever built in this Province, and completely finished with all her carved Work and Decorations in the most elegant Taste."²⁷ Its launching was attended by "a very numerous Company" of men and women who later "partook of a cold Entertainment, and afterwards had a Ball."²⁸ The ship's first excursion was a time of community celebration.²⁹ When the ship arrived in Charleston in January 1771, the *South-Carolina Gazette* repeated the November news about its elegance and the community festivities, then added careful details about the ship's prow and stern.³⁰ The figurehead was "a Burst [sic] of BRITANNIA" supported by two subsidiary figures, one "armed for her Defence" and the other "offering her the Horn of Plenty" filled with the "Productions of America."³¹ These supporting characters, in relation to Britannia, create a specific tableau of imperial relations: they reassured the observer that the American colonies were loyal, reliable members of the British Empire, but also that America itself

25. Advertisement to Sail with the Ship Magna-Charta, S.C. & AM. GEN. GAZETTE, Nov. 4, 1771, at 2 (calling for freight or passengers); Advertisement to Sail with the Ship Magna-Charta, S.C. GAZETTE, Nov. 7, 1771, at 2 (same); News Report, S.C. GAZETTE, Sept. 26, 1771, at 1 (reporting that the ship Magna Charta experienced a hurricane at sea); News from Charlestown, S.C. GAZETTE, Jan. 14, 1773, at 3 (noting the specific passengers who landed from on board the ship Magna Charta); James McCall, Advertisement for a Well Assorted Cargo of Goods, S.C. GAZETTE, Jan. 14, 1773, at 1 (advertising goods imported on the Ship Magna Charta); News from Charlestown, S.C. GAZETTE, Oct. 11, 1773, at 3 (reporting the specific passengers who landed from on board the ship Magna Charta); News from Charlestown, S.C. GAZETTE & COUNTRY J., Aug. 9, 1774, at 2 (reporting the specific passengers who landed from on board the ship Magna Charta); Advertisement to Sail on the Ship Magna Charta, S.C. GAZETTE, Feb. 15, 1773, at 4 (calling for freight or passengers to sail on the ship, departing on or before Feb. 20).

26. News from Charlestown, S.C. & AM. GEN. GAZETTE, Nov. 27, 1770, at 3.

27. *Id.*

28. *Id.*

29. *Id.*

30. News from Charlestown, S.C. GAZETTE, Jan. 17, 1771, at 3.

31. *Id.*

was prosperous and a valuable part of that empire. On the rear of the ship appeared a “[s]croll representing MAGNA-CHARTA” sustained by figures representing “Liberty and Justice.”³² Upon the ship’s departure in March for England, the newspaper did not describe its elegance or decoration, but gave an indication of the ship’s substantial size: it sailed carrying 948 tierces of rice, 120 casks with more than 40,000 pounds of indigo, “besides Deer-Skins, and sundry other Articles.”³³ On its subsequent arrivals and departures, the ship did not merit such in-depth commentary, but the ship’s name appeared in local papers with regularity, for Charleston shopkeepers mentioned that their newest goods arrived aboard the *Magna Charta* in order to emphasize the freshness and fullness of their store inventories.³⁴ The name *Magna Charta* was not unique to this particular ship; twelve other references to ships bearing that name appeared in colonial newspapers in the 1770s outside of South Carolina, suggesting that ship owners considered the name important and on a comparable level with other ship names of the time, which routinely included virtues, valued family members (e.g., the *Charming Molly*, the *Three Sisters*, the *Four Brothers*), classical antiquity, or important historic events.³⁵

32. *Id.* Further details, including a figure of Mars carrying a sword in the document’s defense, a winged Mercury, and the word “Repealed” appear in the newspaper column. However, the image available in Accessible Archives does not make it clear how they appear in relation to the scroll on the ship’s stern.

33. News from Charlestown, S.C. GAZETTE, Mar. 14, 1771, at 4. A tierce is larger than a barrel and smaller than a hogshead in storage capacity.

34. See Philip Hawkins & Co., Advertisement for a Large Supply of Goods, S.C. & AM. GEN. GAZETTE, Sept. 30, 1771, at 1 (advertising goods carried aboard the ship *Magna Charta*); Joshua Lockwood, Advertisement for an Entire Fresh Assortment of Hardware and Jewellery, S.C. GAZETTE, Oct. 8, 1772, at 4 (“[H]e shall receive by the *Magna-Charta* sundry other goods.”); Nicholas Langford, Advertisement for a Neat Collection of Books, S.C. GAZETTE & COUNTRY J., Jan. 19, 1773, at 3 (listing goods imported on the ship *Magna Charta*); Roger Smith, Advertisement for a Cargo of Goods, S.C. GAZETTE & COUNTRY J., Oct. 26, 1773, at 3 (same); Hawkins, Petrie & Co., Advertisement for a Supply of Goods, S.C. & AM. GEN. GAZETTE, July 1, 1774, at 34, (same); Hawkins, Petrie & Co., Advertisement for a Variety of Goods, S.C. & AM. GEN. GAZETTE, Aug. 26, 1774, at 6 (same).

35. See DAVID CORDINGLY, WOMEN SAILORS AND SAILORS’ WOMEN: AN UNTOLD MARITIME HISTORY 156–63 (2001) (discussing the use of female figureheads on ships to represent abstract concepts such as faith, hope, and charity); MICHAEL J. JARVIS, IN THE EYE OF ALL TRADE: BERMUDA, BERMUDIANS, AND THE MARITIME ATLANTIC WORLD, 1680–1783, at 142–43, 524 n.33 (2010) (discussing the ship-naming patterns in Bermuda); Joseph Goldenberg, *Names and Numbers: Statistical Notes on Some Port Records of Colonial North Carolina*, 29 AM. NEPTUNE 155, 159–60 (1969) (discussing vessel names inspired by women and historical events).

II. REFINING THE DATA: FOREIGN NEWS AND MAGNA CARTA

Leaving aside news items about Magna Carta as a ship name or advertisements for goods carried in ships bearing that name, more than 650 references to the document Magna Carta appeared in American newspapers from 1700 to 1801. Of these 669 news items, 413 originated in an American (domestic) context, while the remaining 256 references first appeared as part of foreign news items that were subsequently reprinted in American newspapers.³⁶ Although the data reflect that foreign news items were less numerous, one must consider that foreign news carried with it the flavor of worldly and somewhat alien information, brought from afar and repeated because of its importance to the local reader. Newspaper printers placed news items from Europe or the Caribbean on the front pages of eighteenth-century publications³⁷ because local people wanted to know what was happening abroad.

Foreign items containing references to Magna Carta fell into a number of categories, with nearly half of them relating to political events of the 1760s and 1770s.

Figure 2. Foreign News Items About Magna Carta, 1700–1800

Wilkes	78
Anti-Tory	12
Pro-Patriot	36
Pro-Monarchy	5
Anti-Roman Catholic	10
Advertisement	5
General	13
Preservation	6

36. These relative proportions of domestic to foreign news hold true for South Carolina newspapers, which reported a total of 69 domestic and 54 foreign items that mentioned Magna Carta. Those 123 instances have been folded into the larger collection of 669 newspaper reports for America as a whole.

37. See RICHARD D. BROWN, KNOWLEDGE IS POWER: THE DIFFUSION OF INFORMATION IN EARLY AMERICA, 1700–1865, at 128 (1989) (noting that newspapers reported on “battles and diplomatic and political maneuvers” from abroad). On the gradual increase of American-based news appearing in eighteenth-century newspapers, see Weir, *supra* note 5, at 99, 125–26 (citing RICHARD L. MERRITT, SYMBOLS OF AMERICAN COMMUNITY, 1735–1775, at 56, 97, 131, 180 (1966)) (noting that intercolonial news increased substantially in the 1700s); see also, e.g., News from London (May 5, 1769), S.C. GAZETTE EXTRAORDINARY, Aug. 1, 1769, at 1 (discussing the French military).

Scotland	2
Rumor	3
Humor	8
Historical	21
Lottery	1
Abolition	4
Cultural	4
Religious	1
Ireland	16
France	15
Other Country	6
Constitution	3
State Constitution	1
Declaration of Independence	1
Stamp Act	5
TOTAL	256

The lion's share of those 256 foreign stories were devoted to John Wilkes (English journalist, political opponent of George III, and agitator known to support the American colonies) (78), expressions of support for American patriots (36), or partisan parliamentary leaders attacking the Tory party and its handling of the American situation in the '60s and '70s (12). Taken collectively, these three categories promoted arguments that would later be adopted by American patriots: Parliament should accede to American demands that taxes be rescinded, trade restrictions be abandoned, and the former period of "salutary neglect" be resumed in colonial affairs—leaving colonists mostly in charge of their own commercial and trade dealings with little interference from imperial officials.³⁸ Additionally,

38. The phrase "salutary neglect" came into popular use among historians after the publication of James A. Henretta's book with the same title. *See generally* James A. Henretta, "SALUTARY NEGLECT": COLONIAL ADMINISTRATION UNDER THE DUKE OF NEWCASTLE (1972) (describing English colonial policy under the Duke of Newcastle). Henretta's book described the positive, or at least benign, relationship that existed between England and its American colonies, which developed during the period when Newcastle was Secretary of State in England (1724–1754). *See generally id.* Newcastle's focus upon English and European affairs meant that he largely ignored American development and governance in a period when the colonies were expanding in commercial importance and population, setting the stage for difficulties in the 1760s when English

items about John Wilkes stressed the importance of a free press, free speech, the right of petition, and the right of free assembly in pursuit of broader political participation by men living in England.³⁹ Little wonder, then, that American newspaper printers chose to republish them from English, Irish, or continental sources so that Americans could read them: they represented points of view that reinforced the impression that the demands made by early Americans upon the British government were legitimate and in line with those made by important, politically active individuals in England.

A. *Magna Carta and John Wilkes*

The Wilkes items show up repeatedly from 1763 to 1771, and all relate to John Wilkes, a known supporter of Magna Carta rights in England, and by extension, in the colonies.⁴⁰ A political visionary, who articulately explained why Parliament should be free of royal influence and why it should also only tax with the consent of directly represented, enfranchised voters, Wilkes was ahead of his time in arguing for an independent Parliament that operated upon the principle of actual and not virtual representation—issues that made

policies toward the colonies underwent significant changes. Taking a zero-sum approach to imperial control and mercantilism (which gave rise to the interpretive theory of salutary neglect) has recently been criticized. *See generally* Steve Pincus, *Rethinking Mercantilism: Political Economy, the British Empire, and the Atlantic World in the Seventeenth and Eighteenth Centuries*, 69 WM. & MARY Q. 3, 3–34 (Jan. 2012). For pro-Wilkes articles, see John Wilkes, Address to the County of Middlesex (Apr. 10, 1769), BOS. WKLY. NEWSL., June 1, 1769, at 2; Letter from John Wilkes to Sir Fletcher Norton (Mar. 20, 1771), BOS. GAZETTE, May 13, 1771, at 4. For anti-taxation articles, see Great and General Court of Massachusetts, Answer to his Excellency's Speech at the Opening of Sessions, BOS. POST-BOY & ADVERTISER, Oct. 28, 1765, at 1; Letter to the Printers, BOS. EVENING-POST, April 28, 1766, at 1 (excerpting a pamphlet entitled *Brief Remarks on the Defence of the Halifax Libel, on the American Colonies*); Massachusetts House of Representatives (Mar. 2, 1773), ESSEX GAZETTE, March 9, 1773, at 125. For an article on lifting restrictive legislation, see Letter from a Bostonian, PA. J., July 27, 1774, at 5.

39. On Wilkes and trial by jury, see John Wilkes, Speech Before the Court of Common Pleas (May 3, 1763), N.Y. MERCURY, July 11, 1763, at 1; *An Authentic Account (Lately Published in a Pamphlet at London) of the Proceedings Against John Wilkes*, PROVIDENCE GAZETTE & COUNTRY J., July 16, 1763, at 1 (excerpting a pamphlet recording the proceedings against John Wilkes, detailing Wilkes's habeas corpus rights). On Wilkes and free assembly, see John Wilkes, Address to the County of Middlesex (Apr. 10, 1769), BOS. WKLY. NEWSL., June 1, 1769, at 2. On Wilkes and right of petition, see House of Lords Debates (May 7, 1770), N.Y. GAZETTE & WKLY. MERCURY, July 16, 1770, at 1 (resolution delivered by the Earl of Chatham); Lord Chatham, Speech in the House of Lords (May 4, 1770), PROVIDENCE GAZETTE & COUNTRY J., Dec. 1, 1770, at 188. On Wilkes and free press, see News from London (Oct. 5, 1770), MASS. GAZETTE & BOS. POST-BOY & ADVERTISER, Mar. 4, 1771, at 1.

40. *See* BAILYN, *supra* note 3, at 110–12 (noting that many colonists viewed John Wilkes's fate as “intimately involved with their own”).

him an “honorary” American patriot when speaking on topics like taxation without representation. His oratorical brilliance served him well in public office and gave him the ability to stir up ordinary people out of doors, too.⁴¹ Wilkes developed a reputation in the 1760s for being outspoken, and he regularly attacked the ministers who served King George III and the king himself, which helped gain Wilkes a growing and appreciative audience in the American colonies.⁴² His publications, particularly *The North Briton*,⁴³ which he edited and contributed to, eventually resulted in his being charged upon a general warrant (no crime specified, but most likely seditious libel) by the government in 1763.⁴⁴ Wilkes became something of a martyr for the cause of the free press when he was arrested and then challenged the constitutionality of the general warrant used for his arrest.⁴⁵ Wilkes was, at the time he published his first essays attacking the king, a member of the House of Commons in Parliament;⁴⁶ therefore, he was in fact protected in both his oral and written speech from arrest⁴⁷—a protection that his fellow MPs soon voted to revoke, as they were appalled by his thinly veiled attacks upon the king and the king’s ministers.⁴⁸ For other publications deemed scandalous, the House of Lords eventually moved to expel Wilkes from Parliament, and he was forced to flee temporarily to France, but his escape was

41. On Wilkes, see generally ARTHUR H. CASH, *JOHN WILKES: THE SCANDALOUS FATHER OF CIVIL LIBERTY* (2006); PETER D. G. THOMAS, *JOHN WILKES: A FRIEND TO LIBERTY* (1996); *THE DIARIES OF JOHN WILKES, 1770–1797* (Robin Eagles ed., 2014).

42. See CASH, *supra* note 41, at 65, 100; JACK P. GREENE, *THE QUEST FOR POWER: THE LOWER HOUSES OF ASSEMBLY IN THE SOUTHERN ROYAL COLONIES 1689–1776*, at 65, 404 (1963).

43. See generally JOHN WILKES, *THE NORTH BRITON, REVISED AND CORRECTED BY THE AUTHOR, ILLUSTRATED WITH EXPLANATORY NOTES, AND A COPIOUS INDEX OF NAMES AND CHARACTERS IN TWO VOLUMES* (AMS Press 1976) (a compilation of the *North Briton* numbers 1 to 46); see also CASH, *supra* note 41, at 69.

44. See THOMAS, *supra* note 41, at 29, 32–33, 36 (discussing the legal and political ramifications of the *North Briton* case); see also CASH, *supra* note 41, at 99–101 (discussing the process by which the general warrant was issued).

45. See THOMAS, *supra* note 41, at 82; see also CASH, *supra* note 41, at 111–13 (noting the crowds of supporters that seemed to follow Wilkes around to his judicial proceedings); PAULINE MAIER, *FROM RESISTANCE TO REVOLUTION: COLONIAL RADICALS AND THE DEVELOPMENT OF AMERICAN OPPOSITION TO BRITAIN, 1765–1776*, at 161–65 (1972).

46. See *Wilkes, John*, *OXFORD DICTIONARY OF NAT’L BIOGRAPHY* (2008), <http://www.oxforddnb.com.libproxy.library.wmich.edu/view/article/29410> [http://perma.cc/BJK5-3QM7].

47. See CASH, *supra* note 41, at 116.

48. See THOMAS, *supra* note 41, at 37, 41–45 (noting that the House of Lords supported a resolution that would revoke the privilege for a member accused of any crime, expanding the reach of the privilege exception beyond the traditional crimes of treason, felony, and breach of the peace).

short lived.⁴⁹ Wilkes soon returned to England and was reelected to Parliament, for he was a darling of the London crowds.⁵⁰ He was viewed as a spokesman for their rights—but that did not save him from being sentenced to King’s Bench prison for two years as a result of his earlier writings and speeches.⁵¹ Despite Parliament’s efforts to keep him out of the Commons, he was repeatedly reelected by people who thought he represented the interests of the disenfranchised and the rights guaranteed by Magna Carta.⁵² Wilkes continued to be elected, either to Parliament or to posts of authority in London such as alderman, sheriff, or Lord Mayor, for the remainder of his political life.⁵³ Wilkes’s speeches and his writings from King’s Bench prison,⁵⁴ plus the activities of his ardent supporters,⁵⁵ continually referenced the important role played by Magna Carta in understanding English history and the (to Wilkes) correct method of understanding sovereignty and the powers of Parliament or the king. Rarely did Wilkes appear in American papers without some accompanying reference to Magna Carta.

Information about Wilkes, linking him to Magna Carta, began appearing in July 1763, first in New York,⁵⁶ then later Rhode Island⁵⁷ and South Carolina papers,⁵⁸ in connection with his seditious libel trial. In one instance, a full speech by Wilkes at his trial was quoted, concluding with his hope to enjoy his Magna Carta-guaranteed right

49. See *id.* at 48–50, 57–69 (describing Wilkes’s excursion in Paris); CASH, *supra* note 41, at 163–64, 169 (detailing the reasons why Wilkes was unable to return to England for the House of Lords hearing on his expulsion from parliament).

50. See THOMAS, *supra* note 41, at 75 (discussing Wilkes’s election in the County of Middlesex and noting that he had substantial support in London).

51. See *id.* at 79–82 (discussing the sentencing of Wilkes after his election in the County of Middlesex).

52. See CASH, *supra* note 41, at 210–13, 248, 250, 253–54 (noting the substantial support that Wilkes gathered in each poll he participated in); Wilkes, *John*, *supra* note 46.

53. On Wilkes, see generally CASH, *supra* note 41; THE DIARIES OF JOHN WILKES, *supra* note 41; THOMAS, *supra* note 41.

54. See THOMAS, *supra* note 41, at 169–73, 176–89, 191–93 (noting various speeches and letters written and given by Wilkes).

55. See CASH, *supra* note 41, at 212–13 (discussing the mobs of Wilkes’s supporters who gathered, shouting cries of “Wilkes and Liberty”); MAIER, *supra* note 45, at 198–200 (discussing American support for Wilkes).

56. See John Wilkes, Speech Before the Court of Common Pleas (May 5, 1763), N.Y. MERCURY, July 11, 1763, at 1.

57. See Excerpt from a Pamphlet Recording the Proceedings Against John Wilkes, PROVIDENCE GAZETTE & COUNTRY J., July 16, 1763, at 1.

58. See Dunk Halifax, S.C. GAZETTE, Aug. 1, 1763, at 1 (reprinted article on Magna Carta, discussing Wilkes, from LLOYD’S EVENING-POST (London), May 5, 1763); Extract of a Letter from London (Apr. 30, 1763), S.C. GAZETTE, Aug. 6, 1763, at 1.

to trial by jury.⁵⁹ The following week, a shorter news report appeared in Rhode Island, noting that Wilkes had been put on trial for *The North Briton*, and was followed by an excerpt of chapter 29 from Magna Carta on the right to trial by one's peers.⁶⁰ In July and August of the same year, South Carolina papers traced the history of the Wilkes/*North Briton* affair at length for those unfamiliar with it and demonstrated how Magna Carta should help him win his suit.⁶¹ The August 1 issue of *The South-Carolina Gazette* began with a full Latin rendering and then English translation of chapter 29 of Magna Carta, followed by complete details about the Wilkes affair.⁶² This appeared on page one of the paper in the extreme upper-left position, the first story that most readers would probably encounter. The paper noted that the imprisonment of a member of Parliament in the Tower "must have raised the curiosity of many people" and so it intended to give a full elaboration about Wilkes's situation.⁶³ Indeed, the printer noted that "the following detail of simple facts (upon which every reader will make his own comments) cannot be unseasonable, and are perhaps absolutely necessary to be laid before the public[.]" suggesting that the events of Wilkes's capture, imprisonment, and legal cause were of the utmost urgency for the public to know.⁶⁴

These South Carolina papers gave readers a clear sense of how Wilkes would defend himself and to what extent London's people would rally to his aid. Wilkes's defense of the *North Briton* publication prior to his trial went public, on London's streets, in the following manner: "a paper signed by him, with MAGNA CHARTA in large capitals on the front, containing a state of his case, was delivered to the coffeehouses and sold about the streets."⁶⁵ Should any reader misunderstand the impact of this broadside, the report went on to say that "one hawker, in one street, sold 500 in the space of half an hour."⁶⁶ Once the trial began, popular politics in the streets

59. See John Wilkes, Speech Before the Court of Common Pleas (May 6, 1763), N.Y. MERCURY, July 11, 1763, at 1.

60. See *An Authentic Account (Lately Published in a Pamphlet at London) of the Proceedings Against John Wilkes*, PROVIDENCE GAZETTE & COUNTRY J., July 16, 1763, at 1 (excerpting a pamphlet recording the proceedings against John Wilkes, detailing Wilkes's habeas corpus rights).

61. See News from London (May 5, 1763), S.C. GAZETTE, Aug. 1, 1763, at 1; Extract of a Letter from London (Apr. 30, 1763), S.C. GAZETTE, Aug. 6, 1763, at 1.

62. See News from London (May 5, 1763), S.C. GAZETTE, Aug. 1, 1763, at 1.

63. See *id.*

64. See *id.*

65. See Extract of a Letter from London (Apr. 30, 1763), S.C. GAZETTE, Aug. 6, 1763, at 1.

66. See *id.*

outside Wilkes's courtroom was portrayed in a positive light; when Wilkes concluded his first speech before the court of common pleas "the mob gave a loud huzza."⁶⁷

After living in exile for four years,⁶⁸ Wilkes again dominated colonial newspapers in 1768 with reports of his speeches to supporters after his return to England. Like a veritable rock star, Wilkes's movements and speeches were reported with complete details, containing his descriptions of Magna Carta's role in English history along with illustrations of its perversion at the hands of both monarch and current parliamentary leaders.⁶⁹ These news items did not address specifics of the document so much as reference it in full as a statement of political rights that Englishmen ought to enjoy. In his "HISTORY of ENGLAND, from the Revolution to the Accession of the Brunswick Line," Wilkes attacked the Stuart kings of the seventeenth century for censoring the press and attacked James the First for attempting to expand the prerogatives of the king.⁷⁰ When Parliament attempted to claim that Magna Carta protected "the liberties of the nation, and privileges of parliament" as the "undoubted birth-right and inheritance of the subjects of England" Wilkes asserted that King James tried to tear "the generous principles of our *Magna Charta*" from Parliament's own journals.⁷¹ This history lesson was of course intended as a roundabout critique of the sitting monarch, George III, without naming him directly. Smart readers would connect the dots.

In 1769, Wilkes was once again elected to Parliament, and reports of parades in his honor, medals engraved with his likeness, and silver cups embossed with Wilkes's image were always paired with references to Magna Carta.⁷² Charleston's *South Carolina*

67. See S.C. GAZETTE, August 6, 1763 (reprinting CALEDONIAN MERCURY, May 9, 1763).

68. See THOMAS, *supra* note 41, at 57–69 (detailing Wilkes's time in exile).

69. *Late Advices from London*, BOS. EVENING-POST, June 13, 1768, at 2; News from London (June 4–16, 1768), N.H. GAZETTE & HIST. CHRON., Aug. 19, 1768, at 2; John Wilkes, *Introduction to The History of England, from the Revolution to the Accession of the Brunswick Line*, S.C. GAZETTE, Aug. 15, 1768, at 1.

70. Wilkes, *supra* note 69, at 1.

71. *Id.*

72. For discussion of parades in Wilkes's honor, see News from London (Apr. 15, 1769), S.C. GAZETTE, June 15, 1769, at 2; BOS. WKLY. NEWSL., June 1, 1769, at 2. For discussion of the presentation of Wilkes's medal, see News from New York (July 21, 1769), BOS. WKLY. NEWSL., Aug. 3, 1769, at 2; S.C. GAZETTE & COUNTRY J., Aug. 1, 1769, Accessible Archives; News from London (June 9, 1769), N.H. GAZETTE & HIST. CHRON., Sept. 29, 1769, at 1. For discussion of Wilkes's silver cup, see News from London (Oct. 31, 1769), ESSEX GAZETTE, Jan. 9, 1770, at 94; News from London (Oct. 28, 1769), S.C. GAZETTE & COUNTRY J., Jan. 9, 1770, at 2. For discussion of the celebration in Wilkes's honor, see News from London, BOS. EVENING-POST, June 13, 1768, at 2.

Gazette and Country Journal reported that, to celebrate Wilkes's election as a London alderman, the Committee of Supporters of the Bill of Rights (comprised of Wilkes's followers) sent Wilkes a silver cup bearing his image on the outside, with Britannia holding the cap of liberty over his head, and copies of Magna Carta and the Bill of Rights at his feet.⁷³ The London printer then added—and the South Carolina printer retained—this gloss on what the presentation meant: “throughout the metropolis, a general joy was exhibited, which plainly shews that Mr. Wilkes is not merely the idol of the mob, but a man whose very intrepid public conduct is thought deserving universal applause by the most candid, sensible, and prudent.”⁷⁴ The news item about Wilkes being presented with the silver cup was reprinted in five different newspapers in Massachusetts, Rhode Island, Connecticut, New Hampshire, and Pennsylvania, suggesting a wide interest among colonists in Wilkes's political triumph.⁷⁵

Items about Wilkes continued to be published in colonial newspapers through 1770 and 1771, as his supporters' petitions to have him admitted as a lawful member of Parliament were debated within Parliament. Given the importance that the right of petition had taken on in the colonies regarding taxes and trade regulation in the 1760s,⁷⁶ the success or failure of petitions on Wilkes's behalf may have reminded colonists how they were in a similar position with their petitions only a few years before. In each story, the right to petition for redress, as guaranteed in Magna Carta, was repeatedly mentioned. In particular, a House of Lords debate that featured Lord Chatham (William Pitt) making the very same claim as Wilkes was reprinted multiple times in newspaper columns that appeared in New York, Rhode Island, Connecticut, Virginia, Massachusetts, and New

73. News from London (Oct. 31, 1769), S.C. GAZETTE & COUNTRY J., Jan. 9, 1770, at 2. This story was reprinted in Pennsylvania, Massachusetts, Connecticut, and Rhode Island newspapers. See News from London (Oct. 21, 1769), PA. CHRON. & UNIVERSAL ADVERTISER, Jan. 8, 1770, at 2; News from London (Oct. 31, 1769), ESSEX GAZETTE, Jan. 9, 1770, at 2; News from London (Oct. 31, 1769), CONN. J. & NEW-HAVEN POST-BOY, Jan. 12, 1770, at 4; News from London (Oct. 31, 1769), PROVIDENCE GAZETTE & COUNTRY J., Jan. 27, 1770, at 2.

74. News from London (Oct. 31, 1769), S.C. GAZETTE & COUNTRY J., Jan. 9, 1770, at 2.

75. News from London (Oct. 21, 1769), PA. CHRON. & UNIVERSAL ADVERTISER, Jan. 8, 1770, at 2; News from London (Oct. 31, 1769), ESSEX GAZETTE, Jan. 9, 1770, at 2; News from London (Oct. 31, 1769), CONN. J. & NEW-HAVEN POST-BOY, Jan. 12, 1770, at 4; News from London (Oct. 31, 1769), PROVIDENCE GAZETTE & COUNTRY J., Jan. 27, 1770, at 2.

76. For in-depth literature on the Stamp Act, Sugar Act, and Townshend Duties, see generally MAIER, *supra* note 45; EDMUND S. MORGAN & HELEN M. MORGAN, *THE STAMP ACT CRISIS: PROLOGUE TO REVOLUTION* (reprint ed. 1995).

Hampshire.⁷⁷ For Pitt, regarded as a hero to colonists for his actions during the French and Indian War,⁷⁸ to take Wilkes's side—and Magna Carta's—in a Parliamentary debate was perceived as a grand gesture by a statesman.⁷⁹ It also reinforced the perception on the American side of the Atlantic that Wilkes and Pitt championed the right of petition as guaranteed in Magna Carta and could thus be counted upon in any future battles the colonists might wage via petition with Parliament.⁸⁰

While still very much occupying a marginal position of political power in England at large, Wilkes's prominence in connection with Magna Carta in American newsprint suggests that he was viewed by colonists as a spokesman for American liberties every time he wrote about the trammled rights of Englishmen. The multiple references to his activities that appeared in American newspapers—whether on trial,⁸¹ in prison,⁸² speaking to his followers,⁸³ or being spoken about⁸⁴—suggest a close identification between Wilkes and Magna Carta that early Americans understood and felt sympathetic toward.

77. Earl of Chatham, Resolution in the House of Lords (May 6, 1770), PROVIDENCE GAZETTE & COUNTRY J., July 7, 1770, at 1; House of Lords Debates (May 6, 1770), N.Y. GAZETTE & WKLY. MERCURY, July 16, 1770, at 1; House of Lords Debates (May 6, 1770), VA. GAZETTE, July 19, 1770, at 2; House of Lords Debates (May 6, 1770), ESSEX GAZETTE, July 24, 1770, at 4; House of Lords Debates (May 6, 1770), N.H. GAZETTE & HIST. CHRON., Aug. 3, 1770, at 1; News from London (Oct. 15, 1770), CONN. J. & NEW-HAVEN POST-BOY, Jan. 4, 1771, at 2.

78. FRED ANDERSON, THE CRUCIBLE OF WAR: THE SEVEN YEARS' WAR AND THE FATE OF EMPIRE IN BRITISH NORTH AMERICA, 1754–1766, at 227–31 (2000).

79. JEREMY BLACK, PITT THE ELDER 282–83 (1992); PETER DOUGLAS BROWN, WILLIAM PITT, EARL OF CHATHAM: THE GREAT COMMONER 352–69 (1978); Pitt, William, *First Earl of Chatham*, OXFORD DICTIONARY OF NAT'L BIOGRAPHY (2009), <http://www.oxforddnb.com/view/article/22337?docPos=2> [https://perma.cc/GML8-48K6].

80. CASH, *supra* note 41, at 319.

81. John Wilkes, Speech Before the Court of Common Pleas (May 3, 1763), N.Y. MERCURY, July 11, 1763, at 1; *An Authentic Account (Lately Published in a Pamphlet at London) of the Proceedings Against John Wilkes*, PROVIDENCE GAZETTE & COUNTRY J., July 16, 1763, at 1 (excerpting a pamphlet recording the proceedings against John Wilkes, detailing Wilkes's habeas corpus rights).

82. John Wilkes, Speech to the County of Middlesex (Nov. 3, 1768), BOS. CHRON., Jan. 26, 1769, at 31; John Wilkes, Speech to the County of Middlesex (Nov. 3, 1768), PROVIDENCE GAZETTE & COUNTRY J., Feb. 4, 1769, at 2; John Wilkes, Speech to the County of Middlesex (Nov. 3, 1768), PA. J., Feb. 9, 1769, at 2; John Wilkes, Speech to the County of Middlesex (Nov. 3, 1768), PA. CHRON. & UNIVERSAL ADVERTISER, Feb. 20, 1769, at 26.

83. John Wilkes, Speech Before the Court of Common Pleas (May 6, 1763), N.Y. MERCURY, July 11, 1763, at 1; News from London (Oct. 15, 1770), ESSEX GAZETTE, Jan. 15, 1771, at 98.

84. News from London, BOS. EVENING-POST, June 13, 1768, at 2; Supporters of the Bill of Rights, Order (Apr. 11, 1769), S.C. GAZETTE, June 15, 1769, at 2; News from London (June 10–12, 1769), S.C. GAZETTE, Aug. 31, 1769, at 4; News from London (May

Wilkes's notoriety declined in the 1770s, just at the time colonial newspapers began to fill with domestic news items that emphasized Magna Carta.⁸⁵ However, once the American Revolution began in 1775, those same newspapers began to print speeches by parliamentary leaders, referencing Magna Carta, that were anti-Tory in orientation.⁸⁶ Though these men did not belong to the same political faction, they shared a distaste for the policies supported by the Tory party (led by Lord North and King George III) urging many of the same reasons that Wilkes had espoused in earlier years against colonial taxation without representation.⁸⁷ These anti-Tories included Lord Chatham (William Pitt), Edmund Burke, Isaac Barre, and other individuals whose criticisms of the monarchy cast them into the opposition.⁸⁸ Twelve of these speeches were reprinted at length, starting in 1775, while even more pro-patriot news items (36) started to appear that openly expressed support for the revolutionaries' cause. What becomes most clear in this foreign-generated news is that monarchy was rarely connected to Magna Carta in a positive light—only five times did news items link the monarchy to Magna Carta in a non-negative fashion. The king's neglect, or worse, his actions perceived as weakening or undermining Magna Carta's principles, received far more attention.⁸⁹ Criticism of Tories, King George, and

20, 1769), S.C. GAZETTE EXTRAORDINARY, Aug. 1, 1769, at 1; Freeholders of the County of Cornwall, Petition, N.Y. J. OR GEN. ADVERTISER at 1.

85. CASH, *supra* note 41, at 287–95, 311.

86. Henry Temple Luttrell, Speech Against Colonial Taxation, PA. EVENING POST, June 20, 1775, at 255; Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), PA. EVENING POST, Aug. 22, 1775, at 369; Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), DUNLAP'S MD. GAZETTE OR BALT. GEN. ADVERTISER, Sept. 19, 1775, at 1; Abstract of the Debate in the House of Commons, N.Y. GAZETTE, AND WKLY. MERCURY, Feb. 16, 1778 [supplement], at 2; Abstract of the Debate in the House of Commons, CONTINENTAL J., & WKLY. ADVERTISER (Mass.), Apr. 16, 1778, at 4; Isaac Barre, Speech in the House of Commons, S.C. GAZETTE, June 6, 1771, at 1.

87. Henry Temple Luttrell, Speech Against Colonial Taxation, PA. EVENING POST, June 20, 1775, at 255; Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), PA. EVENING POST, June 20, 1775, at 255; Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), PA. EVENING POST, Aug. 22, 1775, at 369; Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), DUNLAP'S MD. GAZETTE OR BALT. GEN. ADVERTISER, Sept. 19, 1775, at 1; Abstract of the Debate in the House of Commons, N.Y. GAZETTE & WKLY. MERCURY, Feb. 16, 1778 [supplement], at 2; Abstract of the Debate in the House of Commons, CONTINENTAL J. & WKLY. ADVERTISER (Mass.), Apr. 16, 1778, at 4; Isaac Barre, Speech in the House of Commons, S.C. GAZETTE, June 6, 1771, at 1.

88. See sources cited *supra* note 87.

89. Extract of a Letter from Malden, NEWPORT MERCURY, Oct. 6, 1763, at 2 (reporting that the king's portrait contained Magna Carta); Extract of a Letter from

imperial policy that drove the colonists to revolt became a steady refrain in foreign news items of the 1770s, all linked to how politicians and policies violated either the spirit or the letter of Magna Carta. From the 1760s into the 1770s, there was a steady drumbeat of Wilkes, the anti-Tories, and pro-patriot features that turned up in newspaper pieces from overseas, continually painting monarchy or “mysterious others” sympathetic to monarchy (usually simple code for the king’s main advisor, Lord Bute) as subverters of Magna Carta.

B. *Magna Carta and Foreign Affairs*

The sheer variety of different foreign news items that incorporated references to Magna Carta increased over the course of the century, as humorous items (a horse race featuring entries like Liberty and Freedom, bred from the stallion Magna Carta)⁹⁰ or rumors (did the new ruler in Corsica sign into law a document like Magna Carta?)⁹¹ gave way to more and more news about Ireland and France. The restrictions placed upon other parts of the British Empire—like Ireland⁹²—doubtless held the interest of many American colonists even after the Revolution. Colonial Irishmen and Americans were in similar positions when it came to being taxed despite lacking representation in Parliament, trade restrictions limiting where they could ship their exports, and a heightened sense of political awareness about their rights being less respected because

Malden, PROVIDENCE GAZETTE & COUNTRY J., Oct. 8, 1763, at 1 (same); Extract of a Letter from Malden, N.H. GAZETTE & HIST. CHRON., Oct. 14, 1763, at 1 (same). For criticisms for weakening Magna Carta, see Extract of a Letter from Dublin, PA. J., Dec. 7, 1774, at 3; Letters, VA. GAZETTE, July 6, 1775, at 1–2; Ludlow, CONST. GAZETTE (N.Y.), Dec. 20, 1775, at 1.

90. *Westminster Races*, NEWPORT MERCURY, July 29, 1765, at 3. For other examples of humor, see *Runningmede Races*, N.Y. GAZETTE & WKLY. MERCURY, Oct. 16, 1769, at 3; Gracchus, *The Battle of the Ins and Outs: A Vision*, N.Y. CHRON., Dec. 4, 1769, at 1; PENN. CHRON., Sept. 12, 1771, at 1.

91. News from Paris (May 26, 1736), S.C. GAZETTE, Aug. 14, 1736, at 2, Accessible Archives.

92. For more information on the restrictions on Ireland, see LAWRENCE A. HARPER, THE ENGLISH NAVIGATION LAWS: A SEVENTEENTH CENTURY EXPERIMENT IN SOCIAL ENGINEERING 283–84 (1939); Jane H. Ohlmeyer, “*Civilizing of those Rude Parties*”: *Colonization Within Britain and Ireland, 1580s–1640s*, in 1 THE OXFORD HISTORY OF THE BRITISH EMPIRE: THE ORIGINS OF EMPIRE: BRITISH OVERSEAS ENTERPRISE TO THE CLOSE OF THE SEVENTEENTH CENTURY 124, 133–47 (Nicholas Canny et al. eds. 1998). See generally AUDREY HORNING, IRELAND IN THE VIRGINIAN SEA: COLONIALISM IN THE BRITISH ATLANTIC (2013) (comparing and contrasting British expansion into Ireland and America).

they did not live in England proper.⁹³ Sixteen items about Magna Carta and Ireland appeared, commencing in the 1780s, urging home rule and protesting restrictive parliamentary laws, particularly in the wake of the American Revolution.⁹⁴ It seems likely that Americans viewed the Irish situation as analogous to their own (in pre-revolutionary times) in terms of the desire for freedom and the grounds upon which the Irish deserved it: if their political and personal rights under Magna Carta were threatened, perhaps an independence movement would finally erupt in Ireland as it had in America.

News items linking the French to Magna Carta might at first seem tangential, since the French had not been part of the British Empire as the Americans had been and as the Irish continued to be. Yet foreign news items about France were reprinted in American newspapers during the French Revolution, pointing out for readers instances of French lawmaking that might signal the importation of Magna Carta's ideals to Gallic shores. A letter from Paris appearing in a New York paper described how the path of rights worldwide had been retrograde since Magna Carta's creation, but that events in France would ultimately show how Frenchmen would restore those essential rights to the people.⁹⁵ Evil kings in France were compared to the historic villainy of King John that prompted the creation of Magna Carta, suggesting that King Louis and Queen Marie Antoinette would drive the French people to the extremity of documenting their rights in a similar fashion.⁹⁶ In 1791, colonial newspapers reported that the compilation of all the French Assembly's decrees was comparable to the creation of a French Magna Carta; by 1797, the stories coming from France spoke of

93. For parallels between Ireland and colonies with regard to restrictions, see Edmund Burke, Speech on Moving his Resolutions for Conciliation with the Colonies (Mar. 22, 1775), PA. EVENING POST, Aug. 22, 1775, at 369.

94. For examples of commentary on Ireland in American newspapers, see News from London, PA. PACKET OR GEN. ADVERTISER, May 14, 1782, at 2; House of Commons of Ireland, *Irish Declaration of Rights* (Apr. 16, 1782), MASS. SPY OR WORCESTER GAZETTE, Aug. 22, 1782, at 1; News from Dublin (July 19, 1784), PA. PACKET & DAILY ADVERTISER, Nov. 20, 1784, at 2; News from New York (Nov. 18, 1784), CONTINENTAL J. & WKLY. ADVERTISER (Mass.), Nov. 26, 1784, at 3; Foreign Intelligence, PA. PACKET & DAILY ADVERTISER, Dec. 17, 1784, at 2.

95. Extract of a Letter from Paris to a Gentleman in New Haven (Aug. 30, 1789), GAZETTE U.S. (N.Y.), Dec. 16, 1789, at 3; Extract of a Letter from Paris to a Gentleman in New Haven (Aug. 30, 1789), NORWICH PACKET & COUNTRY J., Dec. 25, 1789, at 3; Extract of a Letter from Paris to a Gentleman in New Haven (Aug. 30, 1789), VT. J. & UNIVERSAL ADVERTISER, Jan. 20, 1790, at 3.

96. News from Baltimore, MD. J. & BALT. ADVERTISER, Jan. 26, 1790, at 2.

conspiracies against liberty and of how the French people had “deposited their Magna Carta in the hands of the administrators and judges[.]”⁹⁷ The bloody results of the Revolution were becoming better known in America by 1798, when the last news item referring to Magna Carta and France simply admitted that the French had witnessed executions and must now await the creation of their own Great Charter.⁹⁸

Using Magna Carta as a means to decode foreign affairs became more common in newspapers in the years following America’s independence, as excerpts about Ireland, France, and other countries reveal. Although Ireland (16) and France (15) dominated the news linking Magna Carta to faraway lands, other countries also featured in newspapers of the early national period, typically in instances where the rights of people there (guaranteed by Magna Carta, or thought to be protected) were being infringed upon by the English government. In 1784 and again in 1786, two news stories described how rights enjoyed under Magna Carta and English law did not extend to English subjects living in India (specifically, freedom of the press and provisions of a specific bankruptcy statute—neither actually in Magna Carta).⁹⁹ In both cases, the refusal to extend rights enjoyed by Englishmen at home to all living throughout the empire caught the eye of American newspaper printers, who knew their readers would recognize the ways in which these situations were analogous to how the American colonies had been treated prior to the Revolution.¹⁰⁰ The rights of Scotsmen, under the Act of Union, likewise prompted criticisms of the British government for failing to honor Magna Carta by respecting Scotland’s right to fair representation and a regular parliament.¹⁰¹

The perfidy of England’s government abroad was matched by examples of tyranny on the Continent. For instance, the situation of the Austrian Netherlands (modern-day Belgium) in 1789–1790 was

97. Proclamation of the Executive Directory to the French People (Sept. 9, 1797), FED. GAZETTE & BALTIMORE DAILY ADVERTISER, Nov. 22, 1797, at 2; Proclamation of the Executive Directory to the French People (Sept. 9, 1797), FED. GALAXY (Vt.), Nov. 27, 1797, at 1.

98. Foreign Intelligence from Paris, HERALD LIBERTY (Pa.), June 11, 1798, at 2.

99. See sources cited *infra* note 100.

100. See Petition of the Wife of Almas Ali Cawn to King George, INDEP. LEDGER & AM. ADVERTISER (Mass.), Oct. 4, 1784, at 2 (Almas Ali Cawn was put to death for “political purposes” in India); Extract of a Letter from Calcutta (Nov. 3, 1785), COLUMB. HERALD OR INDEP. COURIER N. AM. (S.C.), June 12, 1786, at 2.

101. ADDRESS OF THE BRITISH CONVENTION (Nov. 19, 1793), ORACLE DAY (N.H.), Sept. 9, 1794, at 1.

the subject of an accusatory essay by “the people of Brabant” who complained of misrule by Joseph II, the Austrian Hapsburg king; their essay pointed out that all kings had to learn restraints, from King John starting in the time of Magna Carta, down to the present day.¹⁰² The revolutionaries in Brabant were not so fortunate as those in America—forces of the Holy Roman Empire marched into Brabant and neighboring provinces and put down the insurgency of 1789–1790 with brutal efficiency. By including references to Magna Carta within these news stories, printers shaped American perceptions of foreign affairs in Ireland, France, India, and the Austrian Netherlands by showing how people around the world were clamoring for their political freedom, just as the Americans had done. The familiarity that Americans developed about Magna Carta in the 1760s and 1770s, while struggling for their own political rights, helped transform the document into a template that could later be used to interpret foreign affairs in and out of the British Empire.

C. *Magna Carta and the Slave Trade*

Other foreign news items about Magna Carta connected that document to the repression of Catholic rights and freedom of the church (10), the preservation of original copies of the Great Charter (6), and even gave Magna Carta a cultural legacy by describing it in poetic verse (4). At regular intervals, advertisements appeared for books that contained copies of its text (5). But one final, most intriguing, set of foreign news items about Magna Carta appeared in the 1790s, as it was used by both advocates and protectors of the slave trade in Parliament. Initial debates about abolishing the trade in African slaves prompted men on both sides to call upon Magna Carta as proof of the rightness and justness of their positions. Mr. Dent pointed out that the planters on Britain’s Caribbean islands would lose their property as result of such a law, and an infringement of right and property was surely against Magna Carta; he emphasized that to take away slaves as property would be to delay or deny right to their owners. Mr. Adair countered by saying he could not recall a single favorable line about slavery in Magna Carta; moreover, he asked, “what right had the planters in the West-Indies to dominion over their fellow creatures in Africa? Such a property was repugnant to the maxim [to delay or deny right] in Magna Carta” if Parliament

102. Letter from The People of Brabant, *DAILY ADVERTISER* (N.Y.), Feb. 16, 1790, at 3; *Manifesto of the Patriots in Austrian Flanders*, *VT. J. & UNIVERSAL ADVERTISER*, Mar. 31, 1790, at 2.

denied the rights of enslaved Africans.¹⁰³ While later critics of slavery in the American context might point to the Declaration of Independence's guarantees of liberty and the juxtaposed hypocrisy of keeping four million African-Americans in chains, Magna Carta occupied the same rhetorical space for early English abolitionists; its protection of rights, to them, meant that respect for individuals in British ships should encompass Africans as well. Not to do so was to subvert the promises made in the Great Charter and weaken its ability to protect Englishmen in the future.

III. REFINING THE DATA: DOMESTIC NEWS AND MAGNA CARTA

The 413 news items that included references to Magna Carta originating in early America likewise spanned a wide variety of topics.

Figure 3. Domestic News Items About Magna Carta, 1700–1800

Tory	26
Patriot	142
Wilkes	5
Stamp Act	29
Declaration of Independence	10
Articles of Confederation	6
State Constitution	9
Constitution	32
Bill of Rights	3
Federalist	4
Republican	6
Republican and Federalist	2
Native American	3
Yazoo	1
Rumor	1
Religious	5
Cultural	17

103. Debate in the House of Commons on a Bill to Abolish the Slave Trade (Mar. 7, 1796), *POL. GAZETTE* (Mass.), May 5, 1796, at 2.

Lottery	2
Abolition	1
General	8
Text	8
Historical	10
Advertisement	79
Salary	4
TOTAL	413

These include the earliest references to Magna Carta that appeared in colonial newspapers of the 1720s and 1730s. The absence of any citations to the Great Charter in newspapers prior to the 1720s and a dearth of references to it again in the 1740s and 1750s—only four—give the earliest references added importance.

A. *Massachusetts*

In 1728 and 1729, the Massachusetts colonial legislature engaged in a dispute with their governor about whether or not the assembly should provide the governor a permanent, fixed salary. William Burnet, who had been governor in New York and New Jersey for eight years prior to his appointment as Massachusetts governor in July 1728, was a proud though controversial administrator whose high-handed methods failed to cow the colonial assembly into doing his will.¹⁰⁴ Following his arrival in Boston, the legislature granted Burnet an allowance with the possibility of annual renewals thereafter, a system that legislators had followed with earlier governors for nearly thirty years, but one to which Burnet had already objected during his earlier tenure as governor in New York.¹⁰⁵ Finding the same practice in place in Massachusetts, Burnet objected again, for he perceived that, by withholding the renewals, the assembly could force his acquiescence to bills he might otherwise wish

104. WILLIAM NELSON, WILLIAM BURNET, GOVERNOR OF NEW-YORK AND NEW JERSEY, 1720–1728: A SKETCH OF HIS ADMINISTRATION IN NEW-YORK 151–77 (1892) (summarizing briefly his service and the major issues raised during his tenure).

105. BUSHMAN, *supra* note 5, at 124; NELSON, *supra* note 104, at 153–54, 176; HENRY RUSSELL SPENCER, CONSTITUTIONAL CONFLICT IN PROVINCIAL MASSACHUSETTS: A STUDY OF SOME PHASES OF THE OPPOSITION BETWEEN THE MASSACHUSETTS GOVERNOR AND GENERAL COURT IN THE EARLY EIGHTEENTH CENTURY 75–78 (1905).

to oppose.¹⁰⁶ Burnet adopted a rigid posture with the assembly, refusing to transact any business until they capitulated in the matter. He then forced the legislature to meet outside of Boston, first at Salem, later at Cambridge, attempting to demonstrate his ultimate authority over the recalcitrant locals by forcing many of them away from their comfortable Boston homes.¹⁰⁷ The matter dragged on, bringing all colonial business to a halt, until Burnet's sudden death in September 1729.¹⁰⁸

In Boston's newspapers, both Burnet and the Massachusetts colonial assembly aired their grievances and called upon Magna Carta as justification for their actions. The assembly listed the reasons why a permanent governor's salary was unacceptable, starting with past practice and the unforeseen dangers that might arise from such an innovation.¹⁰⁹ Second, they asserted that "it is the undoubted Right of all Englishmen by Magna Charta to raise & dispose of Moneys for the publick Service of their own free accord without any compulsion."¹¹⁰ They then pointed out how it would alter the balance of power between the branches of government, and the lawmakers concluded that the Massachusetts charter authorized them to act for the benefit of the people—and they were not assured that a permanent governor's salary was in the people's best interests.¹¹¹ A full year passed before Governor Burnet responded, and it was a frontal attack. He read to the legislature a May 1729 report from the Crown and Privy Council, censuring the Massachusetts assembly for failing to act upon the king's instruction to give Burnet a fixed salary, accompanied by opinions from the Solicitor General and Board of Trade and Plantations that concurred in faulting the assembly's inaction.¹¹² Royal displeasure was accompanied by a promise to lay the matter before Parliament, which had the power to punish the colony for its recalcitrance. Burnet then offered them a choice: capitulate to the royal will and give him a permanent salary, or resist

106. SPENCER, *supra* note 105, at 76–77. Governor Burnet's objection to an unfixed, insecure salary was one shared by every governor of Massachusetts through the first half of the eighteenth century. This dispute about power within the colonial system has been well documented by Henry Russell Spencer. *Id.* at 64–94.

107. *Id.* at 83, 86–87.

108. BUSHMAN, *supra* note 5, at 68.

109. News from Boston, *NEW ENG. WKLY. J. (Mass.)*, Sept. 15, 1728, at 2 (listing reasons stated by the Massachusetts colonial legislature against awarding a permanent salary to the governor).

110. *Id.*

111. *Id.*

112. William Burnet, Speech Before the Massachusetts Colonial Legislature (Aug. 20, 1729), *NEW ENG. WKLY. J. (Mass.)*, Sept. 1, 1729, at 1–2.

and run the risk that the Massachusetts charter might be revoked. Referring to the 1728 assembly's decision, he told the men gathered in 1729 that "your Adhering to the Proceedings of your Predecessors will make you answerable for them."¹¹³

The legislators of 1729 responded immediately—and stood firm upon their predecessors' reading of Magna Carta. They would have immediately complied with the royal instruction and the governor's entreaty but for the fact that to do so would have "infringed Rights and Priviledges inherent in all His Majesty's Subjects by Magna Charta" as well as those vested in the assembly under the colonial charter.¹¹⁴ They refused to take an action that would deprive the people of Massachusetts "of the Rights and Liberties they have been in the free and uninterrupted Use and Enjoyment of."¹¹⁵ To tax against their wishes and comply with the request would "weaken if not destroy a very valuable Priviledge belonging to the House of Representatives, and every free-born Subject of His Majesty."¹¹⁶

Burnet was not done. He took to the newspaper with a rebuttal the following week, chastising the assemblymen for thinking they understood Magna Carta better than the king or Parliament. After all, Parliament granted the king a permanent allowance of funds (the civil list), so why should the Massachusetts men treat their governor any differently? "It has a strange appearance, that you should undertake to understand Magna Charta, better than themselves, when you know that they are and will be your Judges."¹¹⁷ He spurned their offer of an annual salary with disdain: if they would not follow the king's command, the least they could do was not repeat their attempts "to seduce one of His Servants from his declared Duty."¹¹⁸

After the legislature responded with another message to Burnet, declaring that the king's civil list and the governor's request for a permanent salary were different, and therefore the governor would receive no permanent salary,¹¹⁹ Burnet struck back one more time. He knew trying to persuade the legislators was hopeless; his public message was designed to sway public opinion about the rightness of

113. *Id.*

114. Massachusetts Colonial Legislature, Speech in Response to William Burnet (Aug. 23, 1729), *NEW ENG. WKLY. J. (Mass.)*, Sept. 1, 1729, at 2.

115. *Id.*

116. *Id.*

117. Letter from William Burnet to the Massachusetts Colonial Legislature (Aug. 17, 1729), *BOS. GAZETTE*, Sept. 8, 1729, at 1.

118. *Id.* at 2–3.

119. Letter from William Burnet to the Massachusetts Colonial Legislature (Sept. 3, 1729), *NEW ENG. WKLY. J. (Mass.)*, Sept. 15, 1729, at 1.

his cause. Burnet tried to impress upon Massachusetts residents that they were mistaken about promoting their freedom to tax as they wished above their duty to their king, and Parliament would correct them if they did not alter their course—quickly. “When you follow better Maxims, and consent to put the publick Affairs upon the real foot of the [Massachusetts] Charter and the Magna Charta, then the province may again flourish, but till then you have nothing to expect but the Displeasure of the Legislature of Great Britain.”¹²⁰ He concluded his message to the assembly (and the reading public) by quoting the law passed by Parliament “for the better securing the dependency of the Kingdom of Ireland upon the Crown of Great Britain,” which declared any law passed in Ireland that contravened Parliament’s policies to be null and void.¹²¹ Burnet undoubtedly expected them to get the message: should they persist in this course of action, Massachusetts subjects might be placed in the same position as the Irish.¹²²

B. *South Carolina*

A strikingly similar dispute between royal appointee and colonial assembly arose in the 1730s in South Carolina. The Chief Justice of South Carolina’s highest tribunal, Robert Wright, wanted the legislature to give him a permanent salary, yet the South Carolina Commons House of Assembly refused to grant one. The squabble escalated when Wright accused the legislature of spreading false rumors of Indian raids in order to suspend habeas corpus and pass whatever laws they wished during the ensuing panic.¹²³ The assembly struck back, publicly explaining that, given Wright’s behavior, if a salary had already been granted Wright, they would have removed him from office to retaliate for his slanders; since no salary was guaranteed to him, as it was “[d]iscretionary in us to give or not to give[,]” they would not give their sworn enemy any money for his services.¹²⁴ In rejecting his request, members of the legislature claimed

120. *Id.*

121. *Id.*

122. *See id.*

123. *See* Robert Wright, Remarks on Lloyd’s Speech, S.C. GAZETTE, June 30, 1733, at 1, Accessible Archives.

124. South Carolina Commons House of Assembly (May 30, 1733), S.C. GAZETTE, June 9, 1733, at 1, Accessible Archives; South Carolina Commons House of Assembly (May 30, 1733), S.C. GAZETTE, June 2, 1733, at 1. In his rebuttal, Wright noted that the assembly had no power to remove a royal appointee—but the suggestion that they would try indicated the level of animus that already existed between the assembly and Wright. Robert Wright, Remarks on Lloyd’s Speech, S.C. GAZETTE, June 30, 1733, at 1. This item

that they could not be compelled to tax themselves for a purpose they did not wish to support—to do so would be a violation of their rights under Magna Carta.¹²⁵ The assembly persisted in claiming its prerogative to pay or not pay salaries; Wright did not receive any money from them for three years.¹²⁶ These few early references to Magna Carta suggest that men engaged directly in colonial politics knew enough about the Great Charter to invoke it when necessity prompted them to, though they did not cite any specific chapters of the document to support their claims.

C. *Mid-Century Revival*

A resurgence of interest in Magna Carta put the document into the news repeatedly in the middle of the century. In part, this reflected increased sales of Magna Carta's text within the colonial world. From the 1750s to 1800, copies of Magna Carta appeared for sale in a wide range of settings. Seventy-nine different domestic news items were advertisements for the sale of legal or historical texts that contained copies of Magna Carta. Booksellers in Boston, New York, Philadelphia, and Charleston regularly stocked almanacs, legal treatises, and chapbooks that would give the reader first-hand access to the Great Charter.¹²⁷ Interestingly, these book-selling advertisements were evenly spaced throughout the second half of the eighteenth century: 2 in the 1750s, 20 in the 1760s, 24 in the 1770s, 19 in the 1780s, and 15 in the 1790s. The high water mark for sales came in the 1770s,¹²⁸ but advertisements for the text were high for nearly

and the three others from the 1730s in South Carolina were not coded as "salary" because the central and repeated mentions of Magna Carta within them referred to disputes about habeas corpus, rather than taxation for the purposes of paying a judicial salary.

125. See sources cited *supra* notes 123–24.

126. DAVID DUNCAN WALLACE, *CONSTITUTIONAL HISTORY OF SOUTH CAROLINA FROM 1725 TO 1775*, at 50 (Hugh Wilson ed., 1899).

127. See, e.g., Rivington & Miller, Advertisement for Books, *BOS.-GAZETTE & COUNTRY J.*, Dec. 17, 1764, at 1; John Mein, Advertisement for Books, *BOS. POST-BOY & ADVERTISER*, Oct. 19, 1767, at 4; William & Thomas Bradford, Advertisement for Books Containing Copies of Magna Carta, *PA. J.*, Aug. 15, 1771, at 2; John Swanwick, Advertisement, *INDEP. GAZETTEER (Pa.)*, Aug. 23, 1783, at 3; For advertisements for Printed Copies of Magna Carta, see Notice of Publication (Oct. 10, 1761), *N.Y. MERCURY*, Mar. 29, 1762, at 6; Notice of Publication, *Every Man His Own Lawyer*, *N.Y. GAZETTE & WKLY. MERCURY*, June 27, 1768, at 4; John Armstrong, Advertisement for Printed Materials, *S.C. & AM. GEN. GAZETTE*, Dec. 31, 1771, at 1.

128. Bookseller Robert Wells of South Carolina ran several different advertisements in 1770 and 1771 advertising Magna Carta published in conjunction with other texts he had for sale. See, e.g., Robert Wells, Advertisement for Printed Materials, *S.C. & AM. GEN. GAZETTE*, Sept. 3, 1770, at 3; Robert Wells, Advertisement for Printed Materials, *S.C. & AM. GEN. GAZETTE*, June 24, 1771, at 3.

forty years, suggesting the enduring appeal of Magna Carta in a simple text format.

Selling Magna Carta represented only a portion of the 413 domestic news items referencing Magna Carta that appeared in colonial newspapers. The vast majority linked the document to issues in the 1760s and 1770s about Parliament's unfounded efforts to tax and regulate colonists, particularly objecting to the Stamp Act. Numerous articles about the Stamp Act and Magna Carta included detailed discussions of how colonial charters had the same status as Magna Carta, and attempts to abrogate those charters by permitting Parliament to tax the colonies constituted a violation of both documents. A Connecticut writer put it this way: "Magna Charta and our's [colonial charter] stands upon just the same footing; and must stand or fall together; and is consequently undermined by the act."¹²⁹ In Massachusetts, protests against the Stamp Act were folded in with anger directed at the Stamp Act's innovative use of admiralty courts (which had no juries) to hear colonial suits;¹³⁰ Boston printers borrowed an essay from a Connecticut paper to make their point:

Another fundamental of British liberty, is that of trial by our own Peers—Jurymen, after the manner of England. If there be any privilege in the common law it is this. If any in Magna Charta, secure and sacred to the subject; it is this right of trial by our own Peers.¹³¹

In South Carolina, even after the repeal of the Stamp Act in 1766, the newspaper was still reprinting news items that discussed how rights Englishmen enjoyed under Magna Carta were being trampled upon in the colonies a year later. The essay, entitled "The NATURE and EXTENT of PARLIAMENTARY POWER Considered" (originally published in a Pennsylvania paper), was reprinted in the *South-Carolina Gazette* and described the numerous usurpations of power that Parliament and the king directed against their overseas colonists—of which the Stamp Act was simply the latest evidence.¹³² The essayist claimed that "[i]f we are entitled to the liberties of British subjects we ought to enjoy them unlimited and unrestrained. If our pretension to these are without any foundation, why are we left

129. See NEW-LONDON GAZETTE (Conn.), Sept. 27, 1765, at 1. For scholarly evaluation of this comparison, see CRAIG YIRUSH, *SETTLERS, LIBERTY, AND EMPIRE: THE ROOTS OF EARLY AMERICAN POLITICAL THEORY, 1675–1775*, at 215–62 (2011).

130. Letter to the Printers (Sept. 20, 1765), BOS. EVENING-POST, Oct. 14, 1765, at 1.

131. *Id.*

132. *The Nature and Extent of Parliamentary Power Considered*, S.C. GAZETTE, Apr. 4, 1768, at 1.

unacquainted with the cause and nature of our subordination[?]”¹³³ A Virginia writer asserted in 1768 that “[t]he rights we claim, have been our uninterrupted possession for upwards of an hundred years[,]” meaning, since the time of Virginia’s colonization in 1607.¹³⁴ The essayist continued, “I say uninterrupted, for otherwise our rights are as old as the British constitution; since we are the direct and lineal descendants of Britons.”¹³⁵ The writer ended his argument on rights by asserting that “it must have been concluded that we were in course in titled to them.”¹³⁶ This Virginia news item was then reprinted in a South Carolina paper some time later.¹³⁷

Although duplication of Magna Carta news items lowers the total number of unique items that appeared in eighteenth-century American papers, the duplication also indicates that printers valued a news story and thought their readers would be interested in seeing that particular content.¹³⁸ Among all news items tallied for this analysis, 163 represent duplicate items that appeared more than once, either in the same newspaper or in two or more cities’ newspapers. Duplication is sometimes linked to a lack of new material (space-filling) in a newspaper, but the items printed about Magna Carta typically appeared in front-page locations, indicating that they were repeated because the printers considered them of highest importance. A second, third, or fourth printing of a news item may in fact indicate greater overall interest in a specific article or essay such that newspaper printers in multiple locations considered the item extremely important; duplication may be a good indicator of which stories seemed (to printers) likely to attract the interest of their readers. By virtue of their very nature, all the stories categorized as foreign Magna Carta news items in American newspapers (256 in number) would be considered duplicates of newsworthy information, the items having originally appeared in European publications. And in a time when not all historical artifacts printed on paper have survived to the modern day, duplication sometimes represents a second chance at discovery. Given the relative scarcity of extant

133. *Id.*

134. Editorial, S.C. GAZETTE, June 27, 1768, at 1. The Virginia essay appeared on March 17, 1768, in a newspaper no longer extant, and was reprinted.

135. *Id.*

136. *Id.*

137. *Id.*

138. By category, the other duplicated items are: U.S. Constitution (12); cultural (8); Tory (7); John Wilkes (3); Articles of Confederation (3); general (3); political salary dispute (2); text (2); Native American (2); Republican (2); document preservation (1); historical (1); state constitution (1); Republican/Federalist (1).

newspapers from some periods of eighteenth-century American history, the second or third appearance may (in some cases) be the only surviving copy of a specific essay or article. In a number of instances, the news item about Magna Carta is only known from its repetition in a second newspaper, the originating news story having been lost when the first newspaper disappeared.¹³⁹

Tracing what types of information were repeated from paper to paper is much easier than tracking the patterns of news and its dispersion in the eighteenth century. By far, the most commonly duplicated articles in the century fell into the pro-patriot classification (53), closely followed by advertisements for copies of Magna Carta's text (52). For duplicate news items in the pro-patriot category, attempts to track the flow of information in specific directions (e.g., story first appears in Massachusetts paper, then is copied by Rhode Island or Connecticut paper, following a particular geographic path) proved futile. Pro-patriot news was as likely to originate in Massachusetts and be copied in Pennsylvania and Maryland as a New York story about Magna Carta was to be copied by Rhode Island or Massachusetts. Tracing the patterns of duplicate news stories about the Great Charter revealed no distinctive point of origin or dispersion, suggesting that there was no one printer, or group of printers, who set the agenda for news and information about Magna Carta as it moved about in eighteenth-century America.

IV. INCREASING VARIETY, DECREASING SPECIFICITY: CITATION TO SPECIFIC CHAPTERS OF MAGNA CARTA

A. *After 1750*

When considering the newspaper data decade by decade, it becomes clear how the sheer variety of subjects linked to Magna Carta increased substantially in the last twenty-five years of the century. Twelve references attempted to connect the Great Charter to the political strife of the Federalists and Republicans in national government in the 1790s.¹⁴⁰ Three newspaper accounts tied Magna Carta to disputes about treaties with Native Americans, specifically the Creek tribe, again in the 1790s.¹⁴¹ Religious references, connecting

139. See, e.g., sources cited *supra* note 134.

140. See, e.g., Letter from Agricola to Publicola, N.Y. J. & PATRIOTIC REG., July 6, 1791, at 210–11; Letter from T.B. to the Printers, FED. GAZETTE & BALT. DAILY ADVERTISER, Aug. 31, 1797, at 2; Aurora, *Loyalty*, BEE (Conn.), Jan. 31, 1798, at 3; Editorial, GAZETTE U.S. & PHILA. DAILY ADVERTISER, May 28, 1798, at 2.

141. See, e.g., *Naval Armaments*, DAILY ADVERTISER (N.Y.), Oct. 22, 1790, at 2.

Magna Carta to freedom of religion, appeared with somewhat greater frequency.¹⁴² A widening range of cultural news items discussed the Charter in terms of poetry¹⁴³ and even tied Magna Carta to eulogies for the Revolutionary dead, like John Hancock (signer of the Declaration of Independence, America's Magna Carta).¹⁴⁴ The nascent American abolitionist movement even claimed Magna Carta for its own.¹⁴⁵ And in what might be the most unusual linkage, Georgians connected Magna Carta and the Yazoo land fraud dispute of the 1790s.¹⁴⁶ In the American domestic news context, Magna Carta came to have relevance to a broad range of topics that moved well beyond monarchy, sovereignty, trial by one's peers, or even taxation and representation, the central subjects of the 1760s and 70s. Like the foreign news items that used Magna Carta as a means to understand events happening overseas, these domestic news items from the latter part of the century reveal how the iconic Magna Carta had become transformed into an interpretive lens; average readers of the newspapers knew of the Great Charter in a general sense, so news items commonly referred to the Charter as a whole.

Strangely enough, references linking Magna Carta to important, foundational documents in American history appeared less frequently than simple ads for purchasing copies of it as a text. Connections made in print between Magna Carta and the Declaration of Independence (10), the Articles of Confederation (6), state constitutions (9), the U.S. Constitution (32), or the Bill of Rights (3) account for only 60 total references that appeared in newspapers. Of those references, roughly half of them were not actually

142. See, e.g., Editorial, PA. PACKET OR GEN. ADVERTISER, July 13, 1782, at 2; Address of the Fifth Presbytery of the Eastward to George Washington (Oct. 28, 1789), ESSEX J. & N.H. PACKET (Mass.), Nov. 11, 1789, at 1; George Washington, Answer to the Presbytery of the Eastward, ESSEX J. & N.H. PACKET (Mass.), Nov. 11, 1789, at 1; Philonomos, Letter to the Printer, ESSEX J. & N.H. PACKET (Mass.), Nov. 18, 1789, at 3; Extracts from the Address of the First Presbytery of the Eastward to George Washington (Oct. 28, 1789), GAZETTE U.S. (N.Y.), Dec. 12, 1789, at 277.

143. See, e.g., *McFingal: A Modern Epic Poem*, N.H. MERCURY & GEN. ADVERTISER, Dec. 27, 1785, at 4.

144. See, e.g., Obituary for Governor John Hancock, MEDLEY OR NEWBEDFORD MARINE J. (Mass.), Oct. 11, 1793, at 3; Obituary for Governor John Hancock, MIRROR (N.H.), Oct. 21, 1793, at 3; Obituary for Governor John Hancock, CARLISLE GAZETTE & W. REPOSITORY OF KNOWLEDGE (Pa.), Oct. 30, 1793, at 2.

145. A. Watchman, Address to the Inhabitants of Connecticut, CONN. J. & NEW-HAVEN POST-BOY, Aug. 9, 1775, at 1, 4.

146. Address to the Freemen of the State of Georgia, AUGUSTA CHRON. & GAZETTE STATE, Apr. 4, 1795, at 1. For background on the Yazoo land fraud, see generally C. PETER MAGRATH, *YAZOO: LAW AND POLITICS IN THE NEW REPUBLIC, THE CASE OF FLETCHER V. PECK* (1966).

contemporaneous to the creation of those documents, but instead appeared in newspapers some time after those documents had already been proposed, ratified, or implemented. For example, all references linking Magna Carta to the Declaration of Independence did not occur in the 1770s, or even the 1780s—they appeared in print in the 1790s.¹⁴⁷ Similarly, writers on the Articles of Confederation did not mention Magna Carta in the 1770s, when the Articles were created; all the references appear in the 1780s instead.¹⁴⁸ Even at the height of creating state constitutions in the period from 1776 to 1780,¹⁴⁹ Magna Carta was only linked to any of those documents in newspapers once.¹⁵⁰ The majority of references tying together the Great Charter and state constitutions appeared in the 1780s, when the second wave of state constitution-making was underway.¹⁵¹ Only the U.S. Constitution¹⁵² and the Bill of Rights¹⁵³ were linked to Magna Carta in newsprint contemporaneous to the time of their creation. What these temporal data suggest is that Magna Carta and documents like the Declaration, the Articles, and state constitutions became linked only after some time had passed following the creation of those eighteenth-century documents—the Declaration, the Articles, and state constitutions had begun to acquire the patina of age.

Typically, these newspaper references were comparisons of the documents as a whole, rather than citations to specific elements of

147. *See, e.g.*, Obituary for Governor John Hancock, MEDLEY OR NEWBEDFORD MARINE J. (Mass.), Oct. 11, 1793, at 3; David Ramsay, Oration Delivered in St. Michael's Church, Charleston, S.C. (July 4, 1794), GAZETTE OF THE U.S. & DAILY EVENING ADVERTISER (Pa.), July 29, 1794, at 2; A Son of Freedom, Poem, DIARY OR LOUDON'S REG. (N.Y.), Aug. 4, 1794, at 2.

148. *See, e.g.*, Letter from a Friend of Rhode Island and the Union in Answer to the Citizens of Rhode Island on the Five Percent Duty, PA. PACKET OR GEN. ADVERTISER, Dec. 5, 1782, at 1; News Report, MASS. SPY OR WORCESTER GAZETTE, July 17, 1783, at 3; Letter to the Freemen and the Free and Independent States of Connecticut, CONN. J., Mar. 24, 1784, at 1.

149. ADAMS, *supra* note 5, at 66–90.

150. Philadelphus, Letter to the People of the Massachusetts Bay, INDEP. CHRON. & UNIVERSAL ADVERTISER (Mass.), Apr. 17, 1777, at 1.

151. *See, e.g.*, Letter to the Editor, INDEP. GAZETTEER OR CHRON. FREEDOM (Pa.), July 28, 1788, at 2; Letter to the Representatives of Pennsylvania, FED. GAZETTE & PHILA. EVENING POST, Feb. 24, 1789, at 1.

152. *See, e.g.*, Letter to the Editor, PA. HERALD & GEN. ADVERTISER, Nov. 10, 1787, at 2; Letter to the Printer, N.Y. J. & DAILY PATRIOTIC REG., Dec. 8, 1787, at 2; Philadelphia State Convention Proceedings, WORCESTER MAG. (Mass.), Dec. 20, 1787, at 163; Answer to the Principal Objections that Have Been Raised Against the Proposed Federal Constitution, by a Citizen of America, PROVIDENCE GAZETTE & COUNTRY J., Dec. 29, 1787, at 1.

153. *See, e.g.*, House of Representatives Proceedings, DAILY ADVERTISER (N.Y.), Aug. 17, 1789, at 2; News from New York, DAILY ADVERTISER (N.Y.), Aug. 18, 1789, at 2; House of Representatives Proceedings, INDEP. GAZETTEER (Pa.), Aug. 19, 1789, at 1.

Magna Carta such as trial by peers or the right to petition. When news that the state constitutions had been published in Europe returned to America, newspaper readers were happy to learn that reviewers abroad considered them “the Magna Carta of the American States” and thought them filled with “unsophisticated wisdom and good sense.”¹⁵⁴ Anniversaries of the signing of the Declaration of Independence inspired writers to claim that it was “the Magna Charta of our Political Salvation” when created in 1776.¹⁵⁵ Following the adoption of the Articles of Confederation, one Connecticut writer urged his fellow citizens to study the law and know its intricacies: “It would be well if every gentleman freeman was well acquainted with the articles of confederation, which is our American Magna Carta.”¹⁵⁶ Five years later, “Americanus” urged his readers to consider that the U.S. Constitution was “the Magna Carta of America” reflecting “the genius and character of the people who formed it.”¹⁵⁷

But not all comparisons made during the 1780s and 1790s between the Declaration or the U.S. Constitution and Magna Carta cast the Great Charter in a positive light. During the ratification debates for the U.S. Constitution in 1787 and 1788, Federalists suggested repeatedly that the proposed Constitution was actually superior to Magna Carta. Speeches or essays that appeared in Pennsylvania, Vermont, and Massachusetts newspapers all argued that, since the king had granted rights to his subjects in Magna Carta, this fact made it inferior to the U.S. Constitution, for the process of the Constitution’s creation established that rights flowed from the people who proposed and then ratified it. In the Pennsylvania ratification convention, Judge James Wilson noted this difference clearly: “The very words of that celebrated instrument [Magna Carta], declare them to be the gift or grant of the King But here, Sir, the fee simple of freedom and government is declared to be in the people, and it is an inheritance with which they will not part.”¹⁵⁸ The *Vermont Journal*, and the *Universal Advertiser* republished Wilson’s speech in its entirety a month later, in January 1788, even though Vermont would not separate from New York and New Hampshire to become

154. Excerpts of reviews, MD. J. & BALT. ADVERTISER, Sept. 5, 1783, at 3.

155. Editorial, ALB. REG., July 7, 1794, at 3.

156. Letter to the Freemen and the Free and Independent States of Connecticut, CONN. J., Mar. 24, 1784, at 1.

157. Americanus, *A Sketch of the Political State of America*, CONN. COURANT, June 15, 1789, at 4.

158. Philadelphia State Convention Proceedings, WORCESTER MAG. (Mass.), Dec. 20, 1787, at 163.

an independent state until 1791.¹⁵⁹ The essayist “Mariot” reminded his Massachusetts readers that the Great Charter granted rights only to aristocrats, not the common people, and only because the king chose to part with those rights.¹⁶⁰ For those who could not follow the argument, “Mariot” used capital letters to make his point.¹⁶¹ “The title of Magna Charta is in these words: ‘We (the King) GRANT of our own free will the following privileges.’”¹⁶² In 1794, news items in South Carolina, New York, and Pennsylvania papers celebrated the Declaration by pointing out these differences. For instance, on July 4, 1794, South Carolina doctor and historian David Ramsay praised the Declaration’s superiority to Magna Carta because in the Great Charter “[w]hat is thus said to be given and granted by the free will of the sovereign, we the people of America hold in our own right. The sovereignty rests in ourselves.”¹⁶³

These comparisons of Magna Carta as a whole to other documents, like the Declaration, fit with the general pattern of how Magna Carta was discussed throughout the century. The vast majority of references to Magna Carta that appeared in American newspapers mentioned the document only by name, rather than specifying parts of the document for commentary.

159. Debates in the Pennsylvania State Convention, VT. J. & UNIVERSAL ADVERTISER, Jan. 28, 1788, at 1.

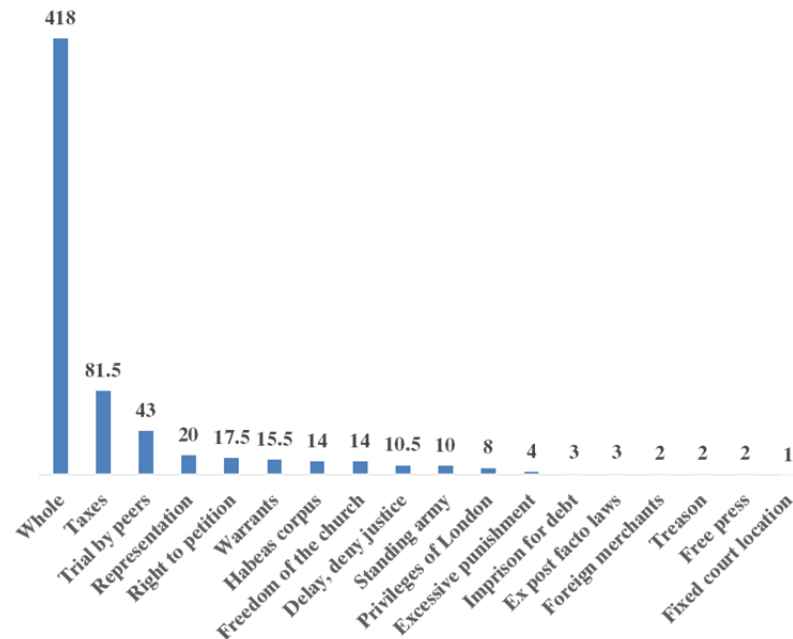
160. Mariot, Letter, MASS. CENTINEL, Jan. 2, 1788, at 124.

161. *Id.*

162. *Id.*

163. David Ramsay, Oration Delivered in St. Michael’s Church, Charleston, S.C. (July 4, 1794), GAZETTE U.S. & DAILY EVENING ADVERTISER (Pa.), July 29, 1794, at 2. The original South Carolina speech was reprinted in both this Pennsylvania paper and the DIARY OR EVENING REG. (N.Y.), Aug. 4, 1794, at 2.

Figure 4. Domestic News Items About Magna Carta, Referring to the Whole Document or a Specific Right Claimed (n=669)



Out of 669 newspaper references to the Great Charter, 418 simply used the words “Magna Carta” without being more specific; these news items referred to the document as a whole. Thus, nearly two-thirds of all newspaper references provided little information to readers about specific rights protected by Magna Carta.

The remaining one-third of all references (251) identified a number of particular rights that subjects enjoyed under Magna Carta. Not surprisingly, the one mentioned most frequently was the right to consent to taxation (chapter 29), which appeared in print 81.5 times.¹⁶⁴ This was also the only specific clause of Magna Carta reprinted in both Latin and English in American newspapers.¹⁶⁵ The general complaints made in colonial America in the 1760s and 1770s against

164. News items that referred to two specific elements within Magna Carta were coded as 0.5 for each item. The only clauses this happened for were taxes/deny, delay (1 item = 0.5/0.5); trial by peers/excessive punishment (8 items = 4/4); and warrants/right of petition (1 item = 0.5/0.5).

165. Dunk Halifax, *Magna Charta*, S.C. GAZETTE, Aug. 1, 1763, at 1.

Parliament's Sugar Act, Stamp Act,¹⁶⁶ Townshend Duties,¹⁶⁷ and Intolerable Acts¹⁶⁸ meant that this particular clause of Magna Carta received overwhelming attention in newsprint. The installation of admiralty courts to try colonists without juries in the 1760s likewise generated more references to chapter 39, the guarantee of trial by one's peers.¹⁶⁹ More than forty news items discussed the abrogation of this right. The complaints that John Wilkes and his followers made against the use of general warrants—which they claimed violated Magna Carta—could be linked to chapter 39, which protected a man from the seizure of his goods without due process of law.¹⁷⁰ The same was true of news articles that emphasized the importance of habeas corpus, which is nowhere mentioned specifically in Magna Carta; it has historically been connected to chapter 39, as part of the due process protections guaranteed individuals.¹⁷¹ Thus, the part of Magna Carta that had the second greatest number of general references appear in American newspapers was chapter 39, for it combined together protections for trial by peers, protection against general warrants, and habeas corpus (72.5 references). Only taxing by consent gained more publication in eighteenth-century American newspapers.

After chapter 29 and chapter 39, news items referring to specific elements of Magna Carta declined dramatically. The promise of a consultative body (chapter 14)¹⁷² that would meet to discuss matters of importance with the king, frequently (though erroneously) linked to the formation of Parliament, and the denial of representation in

166. James Parker, General Post-Office, Public Notice, MASS. GAZETTE & BOS. WKLY. NEWSL., Oct. 10, 1765, at 2; Letter to the Printers, BOS. EVENING-POST, Oct. 14, 1765, at 1; Letter, BOS. EVENING-POST, Oct. 21, 1765, at 1.

167. Speech to the Merchants of Boston, N.Y. J. OR GEN. ADVERTISER, Dec. 10, 1767, at 2–3; Extract of a Letter from a Gentleman in London to His Friend in Boston (Nov. 16, 1768), BOS. GAZETTE (Supp.), Jan. 23, 1769, at 1.

168. Extract of a letter from Dublin, PA. J., Dec. 7, 1774, at 3; Editorial, NORWICH PACKET & CONN., MASS., N.H. & R.I. WKLY. ADVERTISER, Dec. 29, 1774, at 3; Extract of a Letter from London (Feb. 13, 1775), MD. J., Apr. 26, 1775, at 3.

169. For examples of admiralty courts as innovation, see Letter to the Printers, BOS. EVENING-POST, Oct. 14, 1765, at 1; Legislative Proceedings, BOS. CHRON., May 11, 1769, at 151; Legislative Proceedings, MASS. GAZETTE & BOS. POST-BOY & ADVERTISER, May 25, 1772, at 2; Letter to the Printer, CONN. J. & NEW-HAVEN POST-BOY, Aug. 9, 1775, at 1.

170. Lewis Morris, Speech to the Legislature, N.Y. WKLY. J., Feb. 9, 1735, at 1; News from London, CONN. J. & NEW-HAVEN POST-BOY, Jan. 4, 1771, at 2; Justices of the Peace of the County of Middlesex, Address to the King, VA. GAZETTE, Jan. 13, 1776, at 1; see *supra* Section II.A.

171. Letter from Dublin (Apr. 24, 1787), PA. PACKET & DAILY ADVERTISER, Aug. 23, 1787, at 2.

172. MAGNA CARTA ch. 14 (1215), *reprinted and translated in* DAVID CARPENTER, MAGNA CARTA 44–45 (2015).

that body was raised 20 times in eighteenth-century newspapers.¹⁷³ By contrast, the right of people to have a fixed location where courts would meet (chapter 17)¹⁷⁴ was mentioned only once.¹⁷⁵ The right of petition that men believed was protected in Magna Carta was more correctly the right to “claim immediate redress” should the king give offense (chapter 61),¹⁷⁶ but long usage of petitioning had aligned it closely to the promise of redress.¹⁷⁷ Surprisingly, there were as many references to the freedom of the church as there were to habeas corpus when Magna Carta was mentioned in the news (14 each).¹⁷⁸ Particular rights relating to trial and detention appeared sporadically: each man’s protection against justice being either denied or delayed (chapter 40)¹⁷⁹ was mentioned 10.5 times, and the protection against excessive punishment found in chapters 20¹⁸⁰ and 21¹⁸¹ was mentioned four times.¹⁸² The bar against imprisonment for debt—which can be linked to protections found in chapters 9¹⁸³ and 39¹⁸⁴—garnered three references.¹⁸⁵ Protection given to foreign merchants traveling in time of war (chapter 41)¹⁸⁶ appeared in American papers only twice.¹⁸⁷

173. BOS. EVENING-POST, Jan. 2, 1769, at 4; MASS. SPY, July 23, 1772, at 86; PA. EVENING POST, Aug. 22, 1775, at 369; MD. J. & BALT. ADVERTISER, Dec. 17, 1784, at 2.

174. MAGNA CARTA ch. 17., *reprinted and translated in* CARPENTER, *supra* note 171, at 44–45.

175. Junius Americanus, Editorial, BOS. EVENING-POST, Aug. 31, 1772, at 1.

176. MAGNA CARTA ch. 61., *reprinted and translated in* CARPENTER, *supra* note 171, at 62–63.

177. For discussion of how the right of petition came to be linked to the promise of redress, see J.C. Holt, *MAGNA CARTA* (2d ed. 1992).

178. For references to freedom of the church, see *The American Whig*, N.Y. GAZETTE OR WKLY. POST-BOY, July 4, 1768, at 1; John Hancock, PA. J., Feb. 3, 1773, at 1.

179. MAGNA CARTA ch. 40., *reprinted and translated in* CARPENTER, *supra* note 171, at 52–53.

180. MAGNA CARTA ch. 20., *reprinted and translated in* CARPENTER, *supra* note 171, at 46–47.

181. MAGNA CARTA ch. 21, *reprinted and translated in* CARPENTER, *supra* note 171, at 46–47.

182. For references to protections against justice being delayed or denied, see Declaration of the Freemen of Talbot County, BOS. EVENING-POST (Supp.), Dec. 30, 1765, at 2; Address to the Citizens of Vermont, VT. GAZETTE, Aug. 21, 1786, at 1; Editorial, INDEP. GAZETTEER OR CHRON. OF FREEDOM, Nov. 6, 1788, at 3.

183. MAGNA CARTA ch. 9., *reprinted and translated in* CARPENTER, *supra* note 171, at 42–43.

184. MAGNA CARTA ch. 39, *reprinted and translated in* CARPENTER, *supra* note 171, at 52–53.

185. For references to the bar against imprisonment for debt, see Letter from The Tradesman to James Bland Burgess, N.Y. PACKET, May 30, 1788, at 2; Letter from The Tradesman to James Bland Burgess, COLLIER’S WKLY. MONITOR (Conn.), June 9, 1788, at 1; News from London, N.Y. DAILY GAZETTE, Mar. 11, 1791, at 2.

186. MAGNA CARTA ch. 41., *reprinted and translated in* CARPENTER, *supra* note 171, at 52–53.

Some claims of specific rights went well beyond what Magna Carta could even generously be said to protect. For example, news items that discussed the definition of treason (2) connected the law to Magna Carta, without pointing to any specific clause, as did claims that Magna Carta protected the free press—an obvious exaggeration since printing presses did not even exist in 1215 (2).¹⁸⁸ The injunction against the king keeping a standing army without the consent of the people (commented upon during the occupation of Boston by British troops)¹⁸⁹ was never mentioned by referring to a particular chapter or term, but only by connecting it to Magna Carta generally (10); in fact, that right is more appropriately linked to the English Bill of Rights, which explicitly prohibited the king from keeping an army in peacetime.¹⁹⁰ In Magna Carta chapter 51, King John promised only to send away the foreign-born mercenaries that he had hired.¹⁹¹

B. *End of the Century*

By the end of the century, references to particular elements of Magna Carta had become far less common. In the 1790s, references to Magna Carta as a whole appeared in print seventy-nine times; publishing about any particular clause happened only fifteen times, scattered among a variety of specific chapters.¹⁹² It may be that, as the

187. For references to protections for merchants, see Caius, Letter to the Public, MD. J., Mar. 21, 1780, at 1; Argus, *The Defence*, GAZETTE U.S. (PA), Oct. 8, 1795, at 2.

188. Letter to the Printer, BOS. POST-BOY & ADVERTISER, Sept. 2, 1765, at 2; Letter to the Printer, S.C. GAZETTE (Supp.), Aug. 24, 1765, at 1; News from London, VA. GAZETTE, Jan. 13, 1776, at 1; Editorial, FED. ORRERY (Mass.), Apr. 18, 1796, at 202; Letter from “a Federal”, CENTINEL OF LIBERTY & GEORGE-TOWN & WASH. ADVERTISER, Mar. 15, 1799, at 3.

189. Massachusetts Legislature, Resolves, BOS. POST-BOY, July 3, 1769, at 1; Massachusetts Legislature, Resolves, BOS. WKLY. NEWSL., July 13, 1769, at 1; Resolves of the Massachusetts Bay Colonial Legislature (July 1, 1769), N.Y. J. OR GEN. ADVERTISER, July 13, 1769, at 3; Proceedings of the Committees of the Townships of Monmouth County, New Jersey (July 19, 1774), N.Y. J. OR GEN. ADVERTISER, Aug. 25, 1774, at 2.

190. *English Bill of Rights 1689*, http://avalon.law.yale.edu/17th_century/england.asp [<http://perma.cc/cc/NVY2-K8KD>] (“That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against the law.”).

191. MAGNA CARTA ch. 51, *reprinted and translated in* CARPENTER, *supra* note 171, at 56–57.

192. In the 1790s, a single essay discussed how only two rights remained intact from Magna Carta (right to trial by peers and right against excessive punishment); this one essay was reprinted seven more times in American newspapers. The right to consent to taxation appeared twice in 1790s newspapers. In that decade, the following Magna Carta rights appeared once each: protection against ex post facto laws, protection of foreign merchants, trial by peers, right of petition, and the (spurious right) that Magna Carta protected a free press.

use of Magna Carta to interpret foreign affairs increased,¹⁹³ and the battles fought in partisan politics between Federalists and Republicans escalated with each side trying to claim the Charter for its own,¹⁹⁴ specific knowledge of the constituent elements of Magna Carta was no longer considered important enough for printers to include such articles in the pages of America's newspapers. However, it is also true that with the connection between England and America severed as a result of the Revolution, news items about denial of trial by jury, protections against general warrants, and the right to petition for redress no longer continued to have the immediacy or relevance that they had during the era of John Wilkes and his supporters. The many news items devoted to the Wilkes trials, the struggles over taxation, representation, and trial by jury that dominated the 1760s and 1770s had little relevance in the 1790s, as citizens of the new United States government (and state governments) enjoyed new legal protections under their Bills of Rights.¹⁹⁵ One need not invoke Magna Carta from a distant land when a Bill of Rights could be found much closer at hand.

CONCLUSIONS

The many uses Magna Carta was put to in the pages of eighteenth-century American newspapers far exceeded what its original creators might have ever envisioned. From battles over a (supposed) freedom of the press¹⁹⁶ and the death of John Hancock¹⁹⁷ to the Yazoo land fraud,¹⁹⁸ the Great Charter was called into use repeatedly throughout the century. Colonists invoked it to fight royal governors and judges about salaries;¹⁹⁹ new American citizens read about how individuals living in faraway Brabant and France hoped for protections such as Magna Carta had provided for centuries.²⁰⁰ Its specific chapters, particularly chapters 29 and 39 relating to taxing with consent, trial by one's peers, protections against general warrants and the right to habeas corpus, appeared with regularity from the 1720s through the 1780s.²⁰¹ Readers of American papers would have become familiar with some rights Magna Carta protected: essayists

193. See sources cited *supra* notes 36–37, 90–91.

194. See sources cited *supra* note 140.

195. See *supra* Sections II.A–B.

196. See sources cited *supra* note 188.

197. See sources cited *supra* note 144.

198. See sources cited *supra* note 146.

199. See *supra* Section III.B.

200. See sources cited *supra* notes 95–98, 102.

201. See sources cited *supra* notes 164–71.

and printers kept referring to the right to petition and the right to some form of representation in a steady stream of articles that fed the public's desire for information, particularly in the 1760s and 1770s.²⁰² The charter became a means of interpreting overseas political affairs as well as shaping public perceptions of rival political parties in the 1790s, and it was applied in an ever-widening range of arenas.

Yet the suggestion made originally in this Article—that if ordinary readers knew more about Magna Carta, they might be more susceptible to the pleas of revolutionaries to join the patriot cause—remains unconfirmed. The overwhelming majority (nearly two-thirds) of all news articles about Magna Carta simply used the two-word term to refer to the whole document, in totemic fashion; this same sort of generality prevailed in the pro-patriot, tory, John Wilkes, and Stamp Act articles in print before the Revolution, all of which pointed out that the document protected rights, needed to be preserved for the ages, and was being undermined by the extension of royal prerogative or unconstitutional Parliamentary taxes.²⁰³ If eighteenth-century Americans could name a single provision of Magna Carta, it was most likely chapter 29 on taxing with consent or chapter 39 on due process of law in all its myriad forms. But those specific details may have been swamped by the more voluminous general references to the document as an icon of freedom. The steady sale of books and almanacs containing the text of Magna Carta, and the building of ships that bore the name *Magna Charta* may be as solid a form of proof as the hundreds of print articles that used the same words—eighteenth-century Americans had certainly heard of Magna Carta, but the level of specific knowledge that they had about its contents can be determined with less precision than one might assume. Only extensive investigations into Magna Carta's appearance in other print media (pamphlets, periodicals, and treatises) and deeper analysis about the geographic extent of intelligence about Magna Carta would permit further conclusions to be drawn about how well the document was understood in the 1700s. Nonetheless, it would have been difficult if not impossible for members of the reading public to avoid reading about Magna Carta entirely in the newspapers of early America. The invocation of the Great Charter to explain a multitude of political situations, near and far, made the 1215 document a near-constant, particularly in the second half of the century.

202. See sources cited *supra* note 39.

203. See *supra* Section II.A.