

How the Magna Carta Influenced the Bill of Rights; John Locke's Influence

Article 39 of the Magna Carta is similar to the Fifth Amendment of the U.S. Constitution. Article 39 states, "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land." The Fifth Amendment, in applicable part, states, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury..." These are similar because they required an element of due process before a person is detained by the government. This was important to the Framers because they held due process as a fundamental right for all people. They had just escaped a tyranny where due process was at the discretion of the Crown.

Articles 20 and 21 of the Magna Carta are similar to the Eighth Amendment of the U.S. Constitution. The Articles state:

(20) "For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood. In the same way, a merchant shall be spared his merchandise, and a husbandman the implements of his husbandry, if they fall upon the mercy of a royal court. None of these fines shall be imposed except by the assessment on oath of reputable men of the neighbourhood."

(21) "Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence."

The Eighth Amendment states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

These are similar because both recognized the importance of the government not imposing excessive bail. The crime should comport with the bail amount. This was to ensure that an individual could not be detained by the government because it set bail intentionally too high (excessive) to keep the individual detained.

Locke's theory influenced the Framers very much. Of note, the Fifth Amendment Due Process clause states (in applicable part), "...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The Fifth Amendment protects a citizen's right to dispose of property by requiring the government intervention to deprive such provide the citizen a notice and hearing before doing so. This is a converse manner to protect individual rights that Locke directly stated.