



By Thad Box

## Charter of Forests Revisited

**E**ighty years ago, in the Texas hills where I was born, grazing animals had to be confined to land one owned or rented. Hogs could range anywhere. If the landowner wanted hogs off his land, he had to fence them out. A bee tree on any land belonged to the finder, not the person who controlled the land. We never questioned those cultural rules. That's just the way things were. I figured the reason cattle had to be retained on land under one's control and hogs were free range was because it was too difficult and costly to build a hog-proof fence. I never questioned why bees belonged to the finder.

I had no idea those cultural rules were suggested almost 800 years ago in the Magna Carta, first signed by King John of England in 1215 and reissued in 1217. When I was a child the traditional rules of the English commons were alive and well among Texans who probably had never heard of King John.

The Magna Carta is usually associated with the beginning of modern democracy based on the rule of law. But before King John and the rebel barons could distribute and implement the new rules, the King died. In 1216, John's nine-year-old son became King Henry III. Henry's guardians unexpectedly reissued the Magna Carta, doing an end run around both the king and the barons, defining rights of individuals and suggesting land use rights of the community.

The new Magna Carta had two parts: the Charter of Liberties and the Charter of Forests. The Charter of Liberties dealt with freedom of individuals—life, liberty, and property. The founding fathers of the United States borrowed heavily from this charter and used it to help frame our constitution. Anyone finishing elementary school in our country should be able to understand the basic human rights spelled out in the early 13th century.

The Charter of Forests is less well known. Sadly, few people, including those in natural resource professions, have read the document. Forests, as used in the document, are not tree-covered lands, but the commons—land not owned by individuals but controlled loosely by kings or barons. Commons produced goods and services needed by ordinary people—air, water, wood, forage for humans and animals. Products of the commons supported the community, thus rules for their use were as necessary in the Magna Carta as rules for arrest and punishment of ordinary people.

The two volumes of the Magna Carta represent one of the earliest English-language attempts to balance rights of the individual and needs of the community. Even today, the balance between individual rights and community health is at the roots of conflicts between individual persons, families, towns, counties, states, and countries. At its best, the balance makes peaceful and productive societies possible. At its worst, it creates societal misfits, tribalism, and political parties who fight one another rather than work for the people who elected them.

Basic biological rules govern both individuals and communities. Since communities are collections of individuals, neither individual nor community can exist without the other.

Both have a beginning, a life and a death. Individuals evolve from two parents, mixing the genes and cultures of two distinct lines. Their lifespan is short, and unless one finds a mate and reproduces, her genes will be lost. The drive to survive and produce offspring promotes competition and selfish behavior.

Communities evolve from interaction of thousands of organisms, from microbes to humans, living together. Community lifespan is long but it is constantly changing as new organisms enter the community and old ones die out. Biologist E. O. Wilson, in his book *The Social Conquest of Earth*, argues that altruism is key to community stability and longevity. Cheaters within a colony get “rich” by breaking the rules, acquiring a larger share of the resources, or avoiding dangerous tasks. Although a few individuals in a community may benefit from selfish action, with too many cheaters the community will self destruct. Colonies of cheaters lose to colonies of cooperators.

How tightly organized and regulated a community is depends on the number of cooperators in relation to the number of cheaters. Some 800 years ago, the Charter of Forests was included with human freedom because the charter regulated the use of land that provided those things necessary for life itself—air, water, wood, mast, forage, space, privacy. Those things should not be owned by the rich and elite in a society of freemen. Forests, or commons, represented key needs for the pursuit of happiness.

Garrett Hardin’s essay, “The Tragedy of the Commons,” was first presented at Utah State University at the 1968 meeting of the American Association for the Advancement of Science. He compared human population growth and pollution to livestock grazing on the old English commons. He called for community regulation by “coercion” mutually agreed upon by the majority of people affected. Some use his essay to promote privatization of goods and services. But Hardin’s essay was not about private ownership of resources. Education for human responsibility, altruism, and cooperation—not privatization—was his suggestion for a stable commons.

In his recent essay “Destroying the Commons,” Noam Chomsky wrote that modern capitalists, or the “New Spirit of the Age,” “cannot tolerate the pre-capitalist conception of the Forest as the shared endowment of the community at large, cared for communally for its own use and for future generations, protected from privatization, from transfer to the hands of private power for service to wealth, not needs.” He argues for protecting the commons with strong regulatory control.

The Charter of Liberties called for a regulated government to ensure freedom of people. The Charter of Forests suggests human freedom cannot be achieved without access

to the land, and that the commons cannot be managed for the good of the people without restrictive rules and laws.

When a majority of the people accept public ownership of their environment, the concept of a commons becomes part of their culture. It is maintained by shared sacrifice. Kenneth Boulding, in “Commons and Community—The Idea of a Public,” wrote “Once people are coerced, or even better, persuaded, into making sacrifices, their identity becomes bound up with the community organization for which the sacrifices were made.... The sacrifices which parents make for children, or children for parents, bind them to each other much more powerfully than either love alone or hatred and fear alone could possibly do. The strongest communities, indeed, are those towards which we feel ambivalent.”

Today, some of the most bitterly divided political positions are related to the management of our modern commons. Some Western officials, listening to an invigorated new passion among the far right, call for the federal public lands to be privatized. Others want to “starve the beast” that manages the people’s public lands. The air we breathe is shared and polluted by every American citizen. People in China, Nigeria, Brazil, and Australia share that commons. Water supply will soon be inadequate for the human population. The seas and the oceans are shared by all. Widespread drought threatens agriculture. Ice melts from Greenland. Weather patterns change and debate rages over the science of climate change. Given these conditions, what is the new commons?

The world today cries for a modern Charter of the Commons, one that will not privatize resources or enact more stringent government rules. The solution lies in getting people to accept responsibility in a world they share, but do not wholly own. That, if we dare accept it, is the mission of those of us who listen to the land and work for its continued health.

### Further Reading

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