



A Hundred Years of Misunderstanding (?): Magna Carta and Power of the Purse

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ABSTRACT

Magna Carta Libertatum was interpreted by social scientists firstly as the initial step forward transition to representative democracy; secondly, within the context of limiting the taxation authority of the king, it was considered, by public finance theorists, especially in developing countries such as Türkiye, as the first document regarding the principle of "no taxation without representation" as a reflection of the power of the purse. On the other hand; in many studies until 1960s; it has been put forward that, what were limited by the Carta were not taxes, that the limiting body was "not representative", and that taxes in England have always been based on the consent factor since the 10th century (therefore, the Carta did not introduce a new practice for taxation). Furthermore, in open sources it is stated that, a word denoting tax [task or taske(n)] was used during the signation period of Carta. Surprisingly, this word does not appear anywhere in the Carta. Unfortunately, or deliberately, these studies were totally ignored in studies written after 1960s in public finance and budgeting fields of the literature in developed countries and Türkiye. In conclusion; it is a debatable pre-assumption that Carta is the first document which limits the taxation authority, and it is an unproven assumption that it is the first written document on the power of the purse.

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1. Introduction: A Brief History

After the conquest of Britannia with the Battle of Hastings in 1066 by Normans, who were coming from Normandia region of France, William I became the first Norman king of England. Then naturally, he and his successors have tried to take the barons of Britain under their control. Of course, some of the barons have adapted to the new status quo, while others have declared objections against it. From then on, Britain has faced clashes between kings and barons for approximately 150 years. Especially, the defeat of King John at the battle with France in 1215 (the Battle of Bouvines), has encouraged barons and they have declared that, they would have to battle with the king, unless he would accept their demands. Then, the King have asserted that, he would respond them later in a near future, however he didn't keep his word. The result was the First Barons' War, and this war has forced the King to make a deal with Barons (as well as the Church) and to sign an agreement known as "Magna Carta Libertatum" (Miller, 1962: 76-79; Turner, 2015: 15-17; Çelik & Kara, 2020: 822-824; Taşdöğen, 2021: 125-128; Karaimamoğlu, 2022: 115-120). On the other hand, "[i]n later years," wrote Sir Maurice Powicke, ... the Church, working through the papal legate, had 'recovered this kingdom to be at peace with us". But only at a price -Magna Carta- which, for the barons, was a breakthrough, the final legitimation of hitherto rebel aims (Galbraith, 1966: 316). Nonetheless, the Carta has brought a sense of rule and the law to the royal administration of Britain. As the matter of our debate here, its reflections on the public finance, power of the purse and taxation are thoroughly discussed below..

2. Public Finance Related (12th and 14th) Articles/Chapters of Magna Carta

In the public finance theory, the Carta's importance is mentioned in two ways or dimensions: First of all, it is referenced as "the first" written text by which the taxation powers of the royalty have been limited. This idea has been taken forward even by arguing that the Carta is the first regulation towards the "no taxation without presentation" principle. Secondly, by grounding on the first dimension, -especially- theoreticians from Türkiye have argued that, the Carta is the first written document on the power of the purse of the people and parliaments. In their arguments, both group of theoreticians refer to the 12th and 14th articles of the Carta. Historically, there were no article numbers in the original document, yet they are added to the text after years. These two articles are written below²:

"(12) No 'scutage' or 'aid' may be levied in our kingdom without its general consent, unless it is for the ransom of our person, to make our eldest son a knight, and

² The text/copy of Magna Carta, which is referenced and used in this study, is taken from U.K.'s Official National Archive at: <https://www.nationalarchives.gov.uk/education/resources/magna-carta/british-library-magna-carta-1215-runnymede/> (Access Date: 04.10.2023).

(once) to marry our eldest daughter. For these purposes only a reasonable 'aid' may be levied. 'Aids' from the city of London are to be treated similarly.

(14) To obtain the general consent of the realm for the assessment of an 'aid' - except in the three cases specified above - or a 'scutage', we will cause the archbishops, bishops, abbots, earls, and greater barons to be summoned individually by letter. To those who hold lands directly of us we will cause a general summons to be issued, through the sheriffs and other officials, to come together on a fixed day (of which at least forty days notice shall be given) and at a fixed place. In all letters of summons, the cause of the summons will be stated. When a summons has been issued, the business appointed for the day shall go forward in accordance with the resolution of those present, even if not all those who were summoned have appeared”.

Here, it will be helpful to explain meanings of “scutage” and “aid”, because these royal revenues are considered as tax types of that time by social science theoreticians; and as a result of this presumption, most of them argues that, historically the Carta is the first document that limits the taxation power of the King.

The Encyclopedia Britannica defines the scutage as “*scutage, also called shield money, French écuage, (scutage from Latin scutum, “shield”), in feudal law, payment made by a knight to commute the military service that he owed his lord. A lord might accept from his vassal a sum of money (or something else of value, often a horse) in lieu of service on some expedition. The system was advantageous to both sides and grew rapidly with the expansion of money economy in Europe in the 12th and 13th centuries*”. Britannica writes that scutage could also be demanded from tenants by the crown, but this time, it was called a “fine”. Britannica writes “[i]t soon became a general tax on knights’ estates”, however as it can be seen below, this is a very controversial issue; because some theoreticians evaluate “scutage” as a fee for the military service, while some others define it as “rent for the land”.

According to McKechnie, “[t]he proper technical meaning of ‘scutagium’ or ‘shield-money’ is a money payment of so much per ‘shield’ (that is, per knight’s fee) by a tenant in lieu of actual attendance in the army of his feudal lord; it is, as Dr. Stubbs explains ‘an honourable commutation for personal service’. The word, however, also more loosely used for any exaction assessed on a feudal basis, irrespective of the occasion of its levy; and in this wider sense, includes feudal aids and other payment as well” (McKechnie, 1914: 70). It is clear that, as well as the fact that there is nothing to do with the taxation, even we cannot talk about a fiscal obligation here. It is about the military service and loyalty to the lord.

When we come to the “aid” again with reference to the Britannica; “*aid [is] a tax levied in medieval Europe, paid by persons or communities to someone in authority. Aids could be demanded by the crown from its subjects, by a feudal lord from his vassals, or by the lord of a manor from the inhabitants of his domain*”. There were two differences of “aid” from “scutage”: Firstly, the “aid” was not compulsory; it was a voluntarily contribution to the landlord or the King in exceptional occasions. Secondly, the

“occasions” mentioned at the first difference were limited to four: When the King or a landlord goes “(1) to the knighting of his eldest son, (2) to the first marriage of his eldest daughter, (3) to the payment of his ransom, and sometimes (4) on a crusade” (Britannica).

McKechnie explains aids as such: “*The feudal tenant, in addition to fulfilling all the essentials of the feudal relation and also all the burdensome incidents already enumerated, was expected to come to the aid of his lord in any special crisis or emergency. The help thus rendered was by no means reckoned as a payment to account of the other obligations, which had also to be paid in full. The additional sums thus given were technically known as ‘aids’.* At first, the occasions on which these might be demanded were varied and undefined. Gradually, however, they were limited to three. ... This understanding was embodied in Magna Carta. A tradition has been handed down from an early date, **that these aids were in reality voluntary offerings** made by the tenant as a mark of affection, and forming no part of his legal obligations.” (McKechnie, 1914: 65-66). As it can be seen, to be deemed as a kind of taxation, the “aid” lacks of two main features: Coercion and Continuity. Actually, it was a “donation” instead of being a type of taxation. The reader can see the discussions on the meanings of the “scutage” and “aid” below at the 3rd title.

3. Magna Carta and So Called “No Taxation Without Representation”

Radin (1947: 1074-1075) argues that the first source can be reached and that makes a connection between Magna Carta and taxation power is “The Governance of England” written by Sir John Fortescue (Oxford: Clarendon Press, 1885). Radin states that, despite the word “tallage” had not a meaning which can be deemed as “tax” until 1297, Fortescue argued that it includes meaning of “aid” as it had written in Carta; and Radin concludes that “[i]t seems reasonable to assume that the Statutum de Tallagio was known to Fortescue since the prohibition against taxation without parliament is found there and not in the Carta”. Needless to say, we see plenty of works after Fortescue, that connects the 12th and 14th chapters of the Carta to the “first” limitation of taxation power of the crown.

Guthrie (1915: 310-312) says that although the idea of taxation in modern terms was quite unknown in 1215, “*direct consequence of the provisions of Magna Carta was a Parliament based theoretically at least on the representative idea as well as on the principle that there could be no legislation without the consent of Parliament*”. In his work, he defines “aid” as a form of tax and accepts the “Commune Consilium” (council that composed of 25 barons and established in accordance with the 61th article of the Carta) as the predecessor of the parliament constituted in 1265. No matter the representation is attributed to barons/nobles (Seligman, 1923: 1; Shick, 2002: 18; Wehner, 2020: 7; Paccione, 2023: 1) or to “the realm” (Siebeneck, 1943: 7), to “majority principle in civil society” (Costanzo, 1952: 272), to “popular approval” (Summers, 1971: 1174), to “common assent” (Brown, 1973: 10), to “common council of the realm” (Lauth,

2002: 70) and so on; there are many of works that takes the Carta as the first document that brought limitations to the taxation power of the crown (King) by a “representative” body or manner.

On the other hand, especially until 1960s, there are a non-negligible number of studies which reject the idea that “aids” and “scutages” were types of taxation, and so argue that what were limited by the Carta cannot be defined as “tax” (Stuart, 1914: 576-577; Baldwin, 1915: 61; Pollard, 1917: 172; Radin, 1947: 1074-1075; Hoyt, 1950: 44). Stuart (1914: 576). Baldwin (1915: 61) define the “scutage” as the reciprocation for the military service, thus it is impossible to talk about a taxation. Phillips states that *“[t]he first of our real taxing statutes on record was an Act of 1297 which, like that of 1963, provided no explanation. It was not until the long reign of Edward III, in the year 1340, that the victims were told what the taxes were about, the reason the king was to have a ninth of most of the wealth of the country ...”* (1963: 359). Thus, according to Phillips, the time when the Carta was signed was a very early period to talk about the existence of a “legal” tax structure.

Furthermore, these and some other important studies argue that, the council constituted by barons was not a parliament and so no one can mention about a “representation” of the common people by barons (Vinogradoff, 1905: 255; Beard, 1908: 342; Beddow, 1914: 4-5; Stuart, 1914: 578; Painter, 1947: 45; Phillips, 1963: 359). For example, Pollard (1917: 172) says *“[t]here is really little about “taxation” in Magna Carta at all; it deals with rents and services due from tenants of the Crown. ... The barons no doubt had a grievance, but it was their own, and they were the last people to lay down a general and democratic principle. There was no national taxation at that time, except perhaps the carucage on land, and still less was there any national representation. ... Nor must this baronial “consilium” be transformed into a “common council”. That is one of the myths of Magna Carta ... There is no provision for “election” in Magna Carta even for the baronial class and no suggestion of the necessity for consent to taxation by the rest of the community”*. Here, Pollard claims two arguments: there were no taxes during the Carta period; and hence there was no election, we cannot talk about a “representation”. The last sentence can be interpreted as such, there were no representation, because the Carta had nothing to do with common people.

Additionally, some works argue that the value of the Carta was/is exaggerated both in political and fiscal respects (Beddow, 1914: 10; Fulton, 1914: 67; Painter, 1947: 46). Such as Painter states that *“I cannot prove from the wording of Magna Carta that its authors intended that the king had to gain the consent of the assembly for these financial exactions. But it seems clear that it was so interpreted by contemporaries. ... There is no reason to believe that the barons who dictated Magna Carta had any general ideas such as we express by the slogans “No taxation without consent” and “Government by the will of the governed”* (Painter, 1947: 45-46). Fulton put the issue a bit forward: *“Magna Carta has been used with effect though often irrelevantly; that “ no taxation without representation” is a principle unknown to the constitution which has obsessed people at various times with practical effect, and that most of the community have*

depended on their school knowledge, mainly, during their lives. That we do remember dogmas from childhood will be probably agreed by everyone, and the dogmas of the history lesson are certainly no exception" (Fulton, 1914: 67). Similarly, Beddow (1914: 5) says "[f]or Magna Carta was drawn up in the Middle Ages by mediaeval men, and to obtain a just estimate of its value it must be regarded in its proper historical setting. To hold it up to modern standards and assume that thirteenth century barons acted like twentieth century humanitarians is hardly reason". In the same study, Beddow argues that "even when its provisions were becoming hopelessly antiquated, men rushed to it unreasoningly, regarding it as a sort of fetish, and read into its words ever meaning they required to meet their present case" (p. 10). It is clear that, our untouchable and glorified Carta was insensibly evaluated and criticized at the very beginning of the 20th century, even by defining it as a "dogma" or a "fetish". Nevertheless, all these discussions have been forgotten or ignored in the second half of the century.

An interesting assumption about the issue has been asserted by L.L.P. (unfortunately we couldn't find the full name of the author despite we have carefully scrutinized and scanned open sources). In his review on the book titled "Historie Financière et Économique de l'Angleterre" written by Etienne Martin, L.L.P. has stated that "in England, unlike France, taxation has not been raised on the sole authority of the reigning sovereign, but has always had the assent [consent] of the taxed, or of their representatives in Parliament" (1913: 612). Similarly, Pelin (1944: 10) argues that even in the tenth century in England, it was impossible to impose taxes without the consent of the people. From such a standpoint, it can be said that, contrary to common belief, the "consent" side of taxation in England can be traced to the times very before the Carta. The "written" aspect of the Carta may be emphasized here; nevertheless, Stuart argues that "[c]ause [article] 12, then, was purely, a baronial provision, and if any further proof were necessary, it would appear in the fact that when the Carta was reissued in 1216, John being dead, and the baronage in undisputed control of affairs, this clause was altogether omitted. It was also omitted from all subsequent reissues until the year 1297, when it appeared in a form essentially different, in the Confirmatio Cartarum. As to the matter of taxation, then, the irresistible conclusion is that Magna Carta was very far from setting up for the nation at large the principle of "no taxation without consent" (1914: 578). As it can be seen the life of "[n]o 'scutage' or 'aid' may be levied in our kingdom without its general consent" rule of the article no 12 lasts only one year until 1297. Actually, "in order for the principle of 'no tax without representation' to be fully emerged in English law, we should wait until the time when Magnum Concilium (Common Counsel) would turn into a Parliament, or more accurately, all segments of society with financial obligations to the king would have the authority to approve the tax" (Taşdoğan, 2021: 136). Thus, the time of Carta is early to look for a representative parliamentary oversight on the taxation power.

All arguments about relations between the Carta and taxation are summarized at the Table 1 below.

Table 1: Magna Carta and the Power of Taxation

Argument	Author	Explanation
"Yes, taxation power of the King is limited by the Carta".	Guthrie, 1915: 310-312	Only certain sources were taken. Sources claiming that Magna Carta limited the King's taxation authority or subjected it to the approval of the parliament are seen especially after 1950.
	Seligman, 1923: 1	
	Siebeneck, 1943: 7	
	Costanzo, 1952: 272	
	Summers, 1971: 1174	
	Brown, 1973: 10	
	Lauth, 2002: 43, 70	
	Shick, 2002: 18	
	Wehner, 2020: 7	
Paccione, 2023: 1		
"No, what is limited by the Carta is not taxation power".	Stuart, 1914: 576-577	Scutage is the fee for military service. Aid is already voluntary.
	Baldwin, 1915: 61	They are not taxes, but military service and voluntary contributions (for aids).
	Pollard, 1917: 172	What have been limited were rent and (military) service. There was no tax at that time.
	Radin, 1947: 1074-1075	There is no provision in the Carta limiting taxes.
	Hoyt, 1950: 44	There is not enough obligatory features (for aid).
"It is not possible to talk about a representative council or parliament brought by the Carta".	Vinogradoff, 1905: 255	There is no general representation, there is the representation of its own class (barons/feudal class).
	Beard, 1908: 342	It is not the parliament that is sovereign, but the King who is above the legislature.
	Beddow, 1914: 4-5	Carta reflects the values of the medieval period. Barons cannot be deemed as "representative" men of the twentieth century.
	Stuart, 1914: 578	Article 12 was removed from the text in 1216 and did not enter the text again until 1297.
	Painter, 1947: 45	It cannot be inferred from the text of the Carta that the King must obtain parliamentary consent.
	Phillips, 1963: 359	The first English tax law in history was passed in 1297.
"There was 'consent' factor in taxation already before the Carta in England".	L.L.P., 1913: 612	Unlike France, taxes in England have always been subject to consent. There is no innovation brought by Magna Carta.
The value of the Carta is exaggerated.	Beddow, 1914: 10	There is a Magna Carta fetish.
	Fulton, 1914: 67	The claim that Carta introduced the "no taxation without presentation" principle is a "dogma" taught in schools.
	Painter, 1947: 46	There is no reason to believe that the barons will push for "no taxes without representation".

Source: Author

An interesting evaluation on the representation and consent issues attributed to the Carta comes from Pollard (1917: 172). He states that “[i]t was the barons who felt the burden of John as a landlord; and it was their capacity as tenants that made them appear in Magna Carta as comparatively progressive. Hence, they demanded that their “*l commune consilium*” or common consent must be obtained before scutage or aids could be levied. But nothing would have horrified them more than a suggestion that they should obtain the “*commune consilium*” of their villeins before extorting tallage [tribute]”. This explanation is a strong rejection of the idea that, medieval barons had a representative democratic perspective and understanding. Pollard argues that, if the barons had such an understanding, they would apply the same or similar mentality to tributes that they were collecting from their villagers. Actually, this is a theoretically consistent/solid standpoint.

At this point, a very important yet neglected issue should be emphasized. Actually, at the times that the Carta was signed, there was a term reflecting the exact fiscal meaning of the tax: *Task, or taske(n)* (which is evolved to the “*tax*” after a century). According to open sources³ (when we type “etymology of tax” or another expression with the same meaning to any search bar we see that), *task* or *teske(n)* is the term used instead of “tax” during the Middle English times (1100 – 1500 A.D.). In other words, during the time in which the Carta was signed (1215), there were taxes that were called “task, or taske(n)”. However, we cannot find task, taske(n) or tax anywhere in the full text of the Carta. For that reason, interpreting or explicating “scutage” or “aid” as types of tax(ation) seems to be a hundred years misunderstanding and interpretation. Interestingly, as it can be read above, this mistaken interpretation repeated and repeated again in the social sciences literature for almost more than a century. What is more interesting is that, despite there were a strong literature against that interpretation until 1960s arguing “scutage” and “aid” were not types of tax(ation), this literature has been almost forgotten or ignored after that break point (1960s). Nowadays; from law to political science and to public finance; in almost all research areas of the social science, the Carta is considered as the first document on the way to the limitation of King’s taxation power by a representative body. This situation is seen also throughout the literature in developing countries (such as Becho, Renato Lopes, & Oliveira, Rafael Kaue Feltrim, 2021: 978 from Brazil; d’Eszlary, Charles, 1958: 205 and Pfeffer, Zsolt, 2020: 90 from Hungary; Kori, Salkesh R., 2018: 67 and Ahmad, Naima, 2021: 783 from India; Gupta, Ranjana, 2020: 3 from New Zealand; Cascant-Sempere, Ma Josep, 2022: 527 and Asiegbu, Martin F. et al., 2023: 21 from Nigeria; Collier, Berna, 2015: 96 from Papua New Guinea; Stefanovska, Vesna, 2015: 200 from Republic of North Macedonia). Here, we think that the Carta is one of the strongest candidates for social sciences’ pre-assumptions lasting more than a century. In other words, it seems to be one of the greatest myths in social sciences.

³ For the etymology of *task* and *taske(n)*, and also for the information about the *Middle English*, please look at: <https://www.worldwidewords.org/topicalwords/tw-tax1.htm>, <https://quod.lib.umich.edu/m/middle-english-dictionary/dictionary/MED44575>, <https://etymologeek.com/eng/task/35207612>, https://en.wikipedia.org/wiki/Middle_English.

4. The “Power of the Purse” Issue and the Literature

Unlike the “taxation” context, studies that connects the power of the purse to the Carta are very limited in western literature compared to the literature in Türkiye. Studies especially from Türkiye argue that the first document that brought the power of the purse was the Carta. Only few works from western literature have such an argument all of which are dated to post-1990 period. These works are mentioned below:

Rosen (1998: 29) states that “[t]he origins of parliamentary control of the purse and the concomitant limitations on the monarchy’s authority to raise and expend revenues are obscured by the mists of time. Some trace the beginnings of limited monarchical control over the purse to the Magna Carta [with reference to: Albert H. Putney, *United States Constitutional History and Law 45-46 (1908)*]”. Shick (2002: 18) by implying legislative power of the purse says “England’s struggle for legislative pre-eminence dates back to the Magna Carta in 1215 when King John covenanted with the barons not to levy any tax without their assent”. Similarly Read (2006: 3) writes “[t]he power of the purse is the oldest and most important check against executive tyranny in the Anglo-American constitutional tradition. It dates from medieval England, at least as far back as the Magna Carta in 1215”. Fölscher (2006: 137) argues “[t]he evolution of this power of the purse dates back to medieval times when the English monarch, King John, agreed with the barons in the Magna Carta that no taxes would be raised without their consent”. Antoš (2013: 650) by implying the power of the purse says “[t]he outset of the power to adopt state budget dates back to 1215 when John, King of England, issued his famous Magna Carta Libertatum as a concession to the nobility”. Finally, McLennan (2018: 92) writes “[t]he idea of legislative ‘power of the purse’ originates from medieval England when the Magna Carta guaranteed that the king would not raise taxes without the consent of the barons”. In open sources, we found no other studies in western literature connecting the Carta to the power of the purse.

We were curious about to which sources that these works had referenced, and the result is the Table 2 below:

Table 2: Magna Carta and Power of the Purse in Western Literature

Author	Reference to	Context
Rosen, 1998: 29	Putney, 1908: 45-46	Power of the Purse
Read, 2006: 3	None	Power of the Purse
Antoš, 2013: 650	None	Power of the Purse
Mc Lennan, 2018: 92	Fölscher 2006	Power of the Purse
Fölscher, 2006: 137	Shick, 2002	Power of the Purse
Shick, 2002: 18	None	Taxation

Source: Author

As it can be seen at the Table 2, three works out of the six, make no reference to any study while arguing that the Carta is the first document or the event that gave rise to the power of the purse. Unfortunately, by scrutinizing open sources, we couldn't reach Putney's study (1908) that was referenced by Rosen (1998), thus it is impossible to make a comment on this work. The other three make reference to each other, and interestingly the oldest one makes no reference to any source. It is clear that; Mc Lennan makes reference to Fölscher, Fölscher makes reference to Shick, and Shick makes reference to no one/work. This means that, references made by Fölscher and Mc Lennan lack any scientific proof or background. As a result, we see that the relation between the Carta and the power of the purse is a virtual or an imaginary myth that is repeatedly walking from on study to another.

A more severe situation is seen in the social sciences literature of Türkiye. During our search, we faced that almost all statements arguing that the Carta is the first document on the way to power of the purse, are from works of authors from developing world, and the vast majority of them are from Türkiye. By a careful and thorough inspection on Turkish public finance (mainly public budgeting) literature with beginning from the oldest ones that we could reach, we faced an interesting literature path which is depicted at the Table 3 below:

Table 3: Magna Carta and Power of the Purse in Turkish Literature

Author	Reference to	Context
Faik B, 1930	None	No Magna Carta
Erçin, 1938	None	No Magna Carta
Pelin, 1944	None	No Magna Carta Argument: No one knows how the power of the purse emerged in England (with reference to British historian Thomas Babington Macaulay).
Fevzioğlu, 1969:16	Kuyucak, 1952: 15 Allix, 1912: 135 Laferrière, 1952: 18-19	Taxation Right
Palamut, 1980	None	Budgeting England is mentioned, but No Magna Carta.
Gürsoy, 1981: 74	Not Clear*	Power of the Purse, Taxation
Çağan, 1982: 15	Bagehot, 1952: 249 Akbat, 1961: 154 Leeds, 1978: 5 Akın, 1980: 281-282 <i>et.al.</i>	Taxation
Batirel, 1987: 3	None	The idea of budgeting
Aksoy, 1993: 10-11	Gürsoy, 1980: 58 Edizdoğan, 1989: 20 Coşkun, 1986: 13	Power of the Purse, Taxation

Batirel, 1996: 4	None	Taxation
Edizdođan, 1998: 20	None	Taxation
Cořkun, 2000: 14	None	Taxation
Bülbül, Ejder and řahan, 2005: 4	Tüđen, 2003: 4-18 Uluatam, 2003: 111-112	Budget, Taxation
Güneř, 2011: 35	Okandan, 1966: 4 Akın, 1987: 277 Savcı, 1953: 5 Güneř, 1956: 31	Taxation
Özbilen, 2013: 15	None	Budget, Taxation
Pehlivan, 2014: 25	None	Taxation
Edizdođan and Çetinkaya: 2014: 25	None	Budget, Taxation
Selen and Tarhan, 2014: 7	Wahner. No Date: 6 (Unreachable)	Power of the Purse
Pehlivan, 2018: 29	None	Taxation
Altuđ, 2019: 28	None	Power of the Purse
Tüđen, 2022: 15	Gürsoy, 1980: 58	Power of the Purse, Taxation

Source: Author

* There are no specific reference in/under author's arguments on Magna Carta. But there are 23 references at the end of the Chapter III. However, it is not clear that which one the author had used for his comments on the Carta.

As it can be seen at the Table, until 1950s, the Carta has not even been mentioned in Turkish public finance and budget literature. The first source in which the Carta is mentioned is dated to 1969, yet in taxation context. When we start with the taxation context, 14 works out of 21 in the Table make a connection between the Carta and the taxation right or the limitation of the taxation power of the sovereign (8 of which do not include budgeting issue, directly emphasize the taxation). Only 3 of the 8 works directly make reference to other studies. Remaining 5 work make no direct reference to any study. Continuing with power of the purse issue, 10 out of 21 works do connect the power of the purse, the idea of budgeting, and public budget (in short public budgeting issue) to the Carta; however, 6 of them make no reference to any study. One (Selen and Tarhan, 2014) of them makes a reference which is unreachable. When we look at the remaining 3 study which connects the public budgeting or power of the purse to the Carta, we face an interesting picture: As it is seen, our myth starting from Gürsoy goes to Tüđen and to other works in time. Here the main first source is Gürsoy and it is not clear that he made a reference to one of the references at the end of the Chapter III in which the Carta is mentioned. Like a ghost, the Carta seems to jumping from a work to another.

On the other hand, of course this situation does not point out a scientific mistake or a deliberate misunderstanding. After the consolidation of the idea that, the Magna Carta was the first document on power of the purse or on the "no taxation without representation" argument throughout the literature after 1960's, the use of these assertions as natural and general knowledge was very normal. Even the author of this

study has mentioned the Carta as “the first document on power of the purse” in his many works without resorting to any reference. Because almost in all sources written after 1960’s, the fiscal results of the Carta were almost hold as a scientific constant. So, the place that Turkish theoreticians stands for, was not a wrong territory. However, the borders of that territory are challengeable. The main argument of this study is to explain this situation.

On the other hand, we argue that, the rise of power of the purse and/or the so called “no taxation without representation” issue are searched by looking at wrong date and civilization. Because by dating back to very far from 13th century in which the Carta was signed, we see some clues of power of the purse and taxation with representation in Roman Republic (509 B.C. – 27 A.D.). Eighteen centuries before the signation of the Carta, in Roman Republic, the treasury was being administrated by the Senate (*Senatus*), taxes were being imposed, and even exemptions were being decided by the same representative organ. Unfortunately, there are very limited open source on the tax system of Roman Republic. It is stated in Wikipedia that, like “aid” in England, in Ancient Rome, “[t]ributum was a tax imposed on the citizenry to fund the costs of war. The Tributum was one of the central reasons for the conducting of the census on assets, as it rose with wealth. It included cash assets, land, property and moveable goods. The introduction and the enforcement of tributum relied on decisions made by the Senate. Unlike other Roman taxes, tributum was not established under a binding law but required a senatorial decree to be enforced”. As it is clear, eighteen centuries before the signation of the Carta, during the Roman Republic period, taxes were imposed by a representative body via decrees. Thus, it won’t be wrong to argue that, the emphasize on the Carta with respect to “no taxation without representation” issue is historically wrong, or at least it is only a pre-assumption commonly used in social sciences.

Sarıtaş, in her very precious study worldwide, states that (2012: 23-35), during the Republic period, the administration of state politics was completely in the hands of the *Senatus*. Revenues were collected in the common treasury of the Roman people called *Aerarium Populi Romani*. The *Aerarium* was the central treasury left at the disposal of the *Senatus*. In line with the *Senatus*’ authority to allocate funds, the *Senatus* determined the number of appropriations required for the needs of the army, the construction and maintenance of public buildings, the needs of provincial governors and their staff, and various administrative expenses of the provinces. The *Senatus* would decide whether *tributum* would be collected to meet financial needs and, if so, at what rate. Likewise, the *Senatus* would decide whether to grant exemption from *tributum* and whether *tributum* would be refunded. The *Senatus* also determined the taxation method of the states. For example, the *Senatus* granted tax exemption to the city of *Aphrodisias* and its people living in the north-east of the Caria Region of Anatolia. Thus, it is now clear that, not only the taxation with representation, also other aspects of the power of the purse (treasury rights, control over public spending, exemptions from taxation etc.) were exist in Roman Republic. As a result, we argue that, even if we have no documents to prove (because Roman Republic had no Constitution, and other laws

that had been authorizing the *Senatus* for taxes and other fiscal issues), historically the right time and the place to look for power of the purse and the taxation with representation, is the Roman republic period.

The explanations so far do not mean that the Carta is a valueless or unimportant attempt and/or text. Even if it had a great weakness, due to the absence of adequate sanction (McKechnie, 1914: 129); our aim is not to underestimate and devalue the Carta. Of course, it is very precious in terms of history of democracy. Firstly, it gave a practical and legal direction to efforts of Englishmen for many ages. Secondly, *“it made definite what had been vague before. Definition is a valuable protection for the weak against the strong: vagueness favors the tyrant who can interpret while he enforces the law. Where previously the vagueness of the law lent itself to evasion, its clear re-statement in 1215 pinned down the King to a definite issue. He could no longer plead that he sinned in ignorance; he must either keep the law, or openly defy it – no middle course was possible”* (McKechnie, 1914: 122). Thirdly, in terms of its legal value, the King was under “the law” after the signation of the Carta. It was the first time for Europe to subordinate the sovereignty under the law. Fourthly, it was a very valuable attempt on the way to the “Constitution based rule of law” including political and civil (Taşdöğen, 2021: 131) rights (especially chapters 39 and 40) throughout the Europe and Anglo-Saxon world. Lastly, even if members were not elected, the establishment of the Common Council and requirement of Council’s consent for some decisions of the King were very huge steps towards the representative democracy for Europe.

The main aim of this study is to remind and call a forgotten discussion back to the literature. Today, the arguments on relations of the Carte with the taxation and power of the purse can be deemed to be “exaggerated”. Because, until 1960’s there were strong studies asserting that the Carta had no clause on taxation, precisely they were arguing that, there had been no connection between the “no taxation without representation” principle (and power of the purse) with the Carta. Nevertheless, it seems that, these discussions and studies have almost totally been forgotten; and the idea that the taxation with representation has emerged from the Carta, is accepted as a scientific constant. The only endeavor of this study is dedicated to challenge this obsession.

6. Conclusion

The main discussion on the Magna Carta in foreign literature is carried out in the context of limiting the taxation power of the crown and within the framework of the principle of "no taxation without representation". In this regard, vast majority of sources state that Magna Carta did indeed impose a limit on the taxation authority; while in some other studies (especially in studies from the beginning of the 20th century to the 1960s), it is stated that, words such as “scutage, fine, aid” in Magna Carta cannot be considered as a tax in any way, and that the council of barons cannot be considered as an elected parliament when it is evaluated within the feudal order. Therefore, there are

strong claims stating that no importance can be attributed to Magna Carta regarding taxation.

Furthermore, before the signation of Magna Carta, the word "task or taske(n)", which later evolved into the word "tax", had already begun to be used in the 12th century. In other words, if the intent was tax, this word could well have appeared in Magna Carta, but the words "tax" or "task(en)" do not appear anywhere in the text. We think that, this issue has been over-emphasized in the literature, and that this seemingly minor negligence has caused a huge misunderstanding that has lasted more than a hundred years.

In Türkiye, theorists working in the field of public finance have attached an exaggerated value to the Magna Carta with its virtual relation to power of the purse. Based on (or not) the argument that the King's taxation authority was limited for the first time by a representative committee (a 25 person Barons committee); Magna Carta has been evaluated as "the first written document on the power of the purse" and this status of the Carta has almost become settled in the literature, especially in textbooks. However, we evaluate that there is a strong possibility of misunderstanding here. Namely; when a literature review is made via typing "Magna Carta power of purse" to open sources, it is seen that the number of studies linking Magna Carta to the power of the purse does not exceed the fingers of one hand, these studies refer to a smaller number of articles, and these articles define Magna Carta as the first written document regarding the power of the purse with almost no reference. There are six such studies, one of which made reference to a work that cannot be reached (dated to 1908), two of the remaining made no reference, finally the last three ones made reference to each other. The oldest of this last three studies made no references to any other research.

In the Turkish literature (including the author of this study), it is stated as a presupposition in the majority of works, without any reference, that Magna Carta is the first written document regarding the power of the purse. While some of them relate the Carta to the power of the purse directly, others relate within the taxation context. It's worthy to state that, in the 14 out of the 21 main books on the public finance and budgeting, there is no reference to any other study. When we look at the remaining seven studies, it is seen that they refer to each other and, in the study, (Gürsoy, 1980), which is the source of all references, it is stated without any clear reference that the first written document regarding the power of the purse is Magna Carta (there is no specific reference in/under author's arguments on Magna Carta. But there are 23 references at the end of the Chapter III. However, it is not clear that which one the author had used for his comments on the Carta).

As it can be seen, even if there were strong studies until 1960s provenly arguing just the opposite, the pre-assumption that the Carta have brought the "no taxation without representation" principle, is settled down among the public finance literature; and this pre-assumption walks from one study to other like a ghost. The same situation is relevant for the "Magna Carta is the first written document on the power of the purse" argument in the public finance and budgeting literature in Türkiye. Interestingly, in


Turkish literature, the nearest work that relates the Carta to the taxation is dated back to 1969, and the nearest one that connects the Carta to directly power of the purse can be dated back to just 1980 (1981 in our study). Despite these facts, we see the pre-assumption that connects the Carta to the taxation or to the power of the purse prevails in-between studies worldwide like the word of the God.

The last issue is the Eurocentric (or Anglocentric) viewpoint that globally dominates the social science literature in general and public finance literature in particular about the turning points of the history. Actually, there was a place out of the Anglo-Saxon world and a time period eighteen centuries before the signation of the Carta, in which the power of the purse was in action with its all aspects (taxation, spending, treasury etc.). Despite we have no supportive constitution or authorizing law text (because the administration of the state was based on traditions rather than written constitutions or laws), in Roman Republic the *Senatus* (the representative body) had the full power of the purse by managing the treasury, by deciding to impose taxes, abolishing taxes, deciding exemptions, deciding and managing public spending. Thus, the right place and time according to us to search on the power of the purse is not medieval England; it is ancient Roman Republic. In spite of this fact, although some researchers have defined it as a “fetish” or a “dogma”, the Carta is still playing the leading role in the researches on power of the purse and taxation issues; in other words, the Carta may still continue to be misunderstood.

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