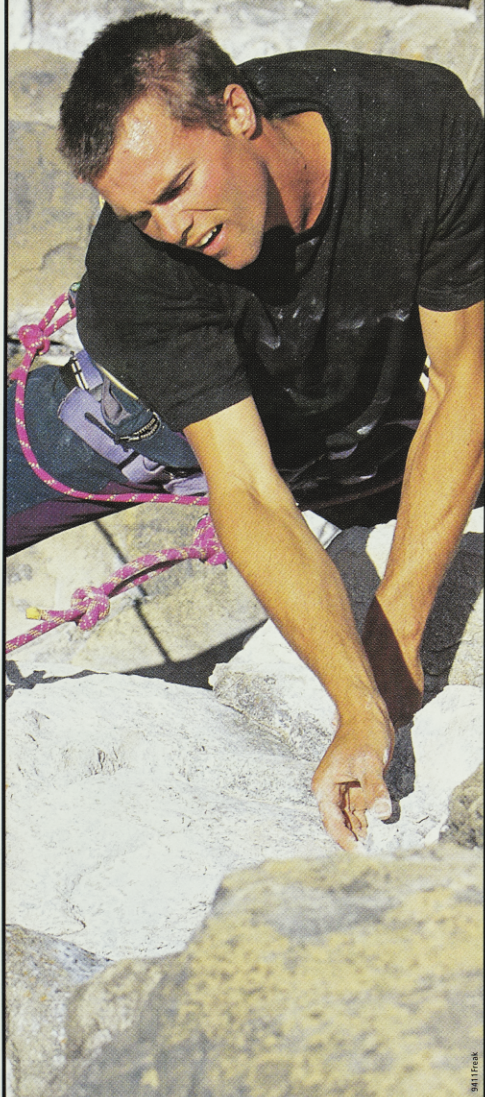


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comment

An Ancient Law of Conservation

Listening to mini speeches, delivered in the guise of questions at a public meeting, is an interesting pastime.

Rarely is a question simply asked. Oh no! There is a ritual, which must be observed. First, there is the 'speech minor', then the peroration and only then, sometimes, the question.

I fondly recall such a 'question' delivered in Shakespearian tones by a property rights group (for which you may read 'loggers') who were pleased to base their *raison d'être* on the Magna Carta. I didn't understand a word of it (and if glazed expressions are anything to go by, neither did anyone else), but by crikey, it sounded good!

The Magna Carta was the great charter which the English barons forced King John to sign at Runnymede, on June 15, 1215. Traditionally, it is interpreted as guaranteeing certain civil and political liberties. Just what the charter has to do with freedom to log indigenous forests escapes me. However, one day I might be in the hot seat, so it seems prudent to prepare a reply.

I think I might couch my answer on what is understood to be New Zealand's oldest law: the Statute of Marlborough (of 1267). Conveniently, this ancient planning law is partly about logging. The language is wonderful.

'...It was provided and established and with full consent ordained that, (whereas the realm of England having been of late depressed by manifold troubles and dissensions, standeth in need of a reformation of the laws and usages, whereby the peace and tranquillity of the people may be preserved, whereto it behoveth the King and his liege men to apply an wholesome remedy) the provisions, ordinances and statutes underwritten should be firmly and inviolably observed by all people of the realm, for ever.'

The reference to logging is clearer.

'Fermors shall make no waste. Fermors, during their terms shall not make waste, nor exile of house, woods, men or of anything belongeth to the tenements that they shall have to ferm, without special licence had by writing of covenant, making mention that they may do it: which thing if they do, and shall thereof be convict they shall yield full damage, and shall be punished by amerciament grievously'.

What are we to make of this? What, was the nature of the of the 'manifold troubles and dissension?' Why was the realm so depressed? More to the point, what did the King and his liege men hope to achieve for the better state of the realm?

One explanation could be that the King was simply a conservationist. He and his barons understood and accepted the value of living woods. No doubt they received jolly good advice from officials, the botanists and ecologists of the day. (Pesky questions from the Treasury were not really a problem because the King owned it and was his own adviser.) Having weighed the evidence, it seems an indigenous forest policy was formed and law enacted.

And they didn't mince their words. People shall not cut down trees without permission or they will be fined: grievously! Clearly, the King and his liege men were able to do this by virtue of the authority derived from the Magna Carta itself.

The Statute of Marlborough is evidence that that caring for the environment and conservation has been enshrined in our law for a very long time.

It also proves that those who believe they have a right stemming from the Magna Carta to harvest forest are barking up the wrong tree.

— Keith Chapple



KEITH CHAPPLE is national president of Forest and Bird



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