Part I: What is Magna Carta?

This article was written by a law student for the general public.

Introduction

2015 is the 800-year anniversary of Magna Carta, a medieval agreement that limited the English king's power. It has been popularly thought of as a symbol of rights, freedoms, and the rule of law.

Magna Carta – The "Great Charter"

Magna Carta was first sealed in 1215 in Runnymede, a meadow near London. It was an agreement between unpopular King John I and his English barons, who were unhappy with his arbitrary rule. Magna Carta was a product of its times, and dealt with contemporary social and political issues that may seem bizarre to a modern Canadian. For example, some of the terms included that no family heir could owe interest to Jews until they came of age, and that women could only be witnesses in murder trials if their husband was the victim.[1]

Most important, and most relevant to us today, Magna Carta limited the king's power. It established the idea that the king was not above the law.[2] For instance, clause 61 of Magna Carta in 1215 authorized a council of barons to seize royal lands if the king did not respect the agreement terms of Magna Carta.[3] Additionally, the agreement included protections for "free men" (a term that included all free tenants).[4] Magna Carta forbade illegal and arbitrary and imprisonment. Free men would have to be tried by the judgment of their peers, or by the law of the land (later clarified as the familiar term "due process of law.")[5] As well, it stipulated that justice could not be sold, denied, or delayed.[6]

Will the Real Magna Carta Please Stand up?

Magna Carta in 1215 was historically significant and novel, but in practical terms, it was largely a failure. Neither the barons, nor the king really stood behind their commitments and King John had the entire document annulled by the Pope later that year. This led to the First Barons' War, a civil war that lasted from 1215-1217. King John himself died in 1216.[7]

Magna Carta was then reissued as part of the peace treaty ending the First Barons War in 1217, with some modifications. It was reissued again by Henry III in 1225 in its authoritative version, as a trade-off to levy new taxes, and then again in 1297.[8] As such, when looking at Magna Carta and its importance, it is more appropriate to think of it as a series of charters, rather than as one single document.

An Important Symbol

Over time, Magna Carta lost some practical legal significance. However, it became an important symbol for rights and the rule of law. In the 15th and 16th centuries, English kings tried to reassert their powers. Lawyers such as Edward Coke looked to Magna Carta

as evidence that Englishmen had an 'ancient constitution' of rights, and it was used to combat the idea that monarchs had a divine right to rule.[9]

Magna Carta and its influence spread to the New World and the thirteen colonies that became the United States of America, where it was revered as a source of liberties, especially by the American founding fathers.[10] It also contributed ideals and principles to Canadian Confederation. Our fathers of confederation adopted a constitution "similar in Principle to that of the United Kingdom," including the foundation principle of the rule of law.[11]

In the modern world, Magna Carta was a guiding symbol in the creation of the United Nation's Universal Declaration of Human Rights, a cornerstone in international law and universal human rights. On a domestic note, Magna Carta is an ancestor to our constitutional *Canadian Charter of Rights and Freedoms*, with many common law rights, influenced by Magna Carta, being incorporated into the *Charter*.[12]

In Conclusion

The first Magna Carta in 1215 may not have been a political success, but over time Magna Carta became a renowned source of rights, as well as a symbol of freedom. It became an important part of English common law and political life, and its influence spread though out the world. Magna Carta itself is an iconic symbol of rights, freedoms, and the rule of law, and the rights it informed are still relevant today.

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[1] Magna Carta 1215, clauses 10, 54, 12;

[2] Carolyn Harris, *Magna Carta and Its Gifts to Canada: Democracy, Law and Human Rights* (Dundurn, Toronto: 2015) at 39-40

[3] *Supra* note 1, clause 61: please note that this clause was not included in later versions of Magna Carta

[4] Nigel Saul, ed, *The Oxford Illustrated History of Medieval England*, (Oxford: Oxford University Press, 1997) at 99

[5] *Supra* note 1, clause 39; Ralph V Turner, The Meaning of Magna Carta since 1215, History Today, 53:9 (9 September 2003)

[6] *Supra* note 1, clause 40

[7] Danny Danziger & John Gillingham, *1215: The Year of Magna Carta* (Hodder & Stoughton, London: 2003) at 270, 277; *supra* note 2 at 46-49

[8] *Supra* note 5

[9] *Ibid*; *supra* note 2 at 64-66

[10] *Supra* note 2 at 80-84

[11] *Ibid* at 91-95; *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5, Preamble

[12] *Supra* note 2 at 98-102, 106-108

Image: King John signs the Magna Carta, from James William Edmund Doyle, *A Chronicle of England: B.C. 55 – A.D. 1485* (London: Longman, Green, Longman, Roberts & Green, 1864). Engraver: Edmund Evans. https://upload.wikimedia.org/wikipedia/commons/d/d6/A_Chronicle_of_England_-_Page_226_-_John_Signs_the_Great_Charter.jpg