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Holt: Magna Carta

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MAGNA CARTA. By *James C. Holt*. Cambridge, England: At The University Press. 1965. Pp. xv, 378. \$11.50.

Professor Holt's work, which was published in 1965 along with a flood of scholarly articles, pamphlets, and essays commemorating the seven hundred fiftieth anniversary of Magna Carta, is the first comprehensive study of that document in many years. The author states that his purpose is to present the Great Charter in the context of the politics, administration, and political thought of England and Europe in the 12th and 13th Centuries. To this end, he has refrained from discussing the role of Magna Carta in later English legal and constitutional development, except for brief comments in the opening and closing chapters of the book. Professor Holt is a constitutional historian rather than a lawyer, and he has eschewed the technical, clause-by-clause treatment of some earlier commentators for a more general discussion.

To be sure, some clauses of Magna Carta survive intact as part of contemporary English law. The specific prohibition against fish-weirs still helps to preserve navigation on the Thames and other rivers. At the other extreme from fish-weirs stands the injunction that no free man is to be imprisoned, dispossessed, outlawed, exiled, or damaged without lawful judgment of his peers or by the law of the land. But the continuing significance of Magna Carta lies not so much in the survival of these individual provisions as in the use which has been made of the document as a check to royal prerogative and a guarantee of individual liberties under law.

Professor Holt notes that Magna Carta reflects two distinct conditioning circumstances. Viewed in broad perspective, it derived from the increased maturity of European political thought and practice, and especially the demands for the preservation of the rights of subjects within a feudal and ecclesiastical hierarchy. Seen more narrowly, it was the product of a specific English political crisis.

The author's emphasis on the elements of feudal reaction against the growth of royal or imperial power throughout Europe during the 12th and 13th centuries is commendable. In 1183, the Holy Roman Emperor Frederick Barbarossa concluded the war in northern Italy by granting the towns of the Lombard League liberties amounting to virtual independence from imperial rule. Five years later, King Alphonso VIII of Leon promulgated a series of ordinances conferring important feudal privileges on his vassals. Similar grants or guarantees appeared in Hungary, Sicily, Aragon, France, and elsewhere. Thus the Great Charter stands as one of a number of documents protecting certain feudal, ecclesiastical, and corporate liberties, rather than as a unique product of English political genius.

Having anchored Magna Carta firmly in its broader European context, the author devotes a considerable portion of his book to the English political crisis from which it emerged. The 12th Century had witnessed the development of an efficient, centralized royal government in England, with a corresponding decrease in the power of the great feudal barons. The Angevin monarchs were engaged in constant fighting on the Continent, and the cost of warfare, crusades, and ransoms fell heavily upon all elements of society, but especially upon the members of the upper nobility. The accession of King John in 1199 was soon followed by the loss of Normandy to the king of France, and John's efforts to recover this portion of the Angevin patrimony were decisively crushed with the defeat at Bouvines in 1214.

Baronial plotting against John began as early as 1212, and in 1213 some barons refused to serve overseas or provide the demanded knights and supplies. John's defeat at Bouvines helped to crystallize the baronial revolt, which then received the adherence of the city of London and Stephen Langton, Archbishop of Canterbury and head of the English Church. Despite grants of concessions to the Church and a liberal charter for London, John was unable to marshal any significant elements of support in England.

The negotiations between John and the barons began in the spring of 1215 and were climaxed by the confrontation at Runnymede about June 15. John never signed any document, but he probably permitted his seal to be affixed to the Articles of the Barons, a statement of baronial demands, and this draft provided the basis for the subsequent copies which contain the text of the Great Charter.

Previous historians have assumed that Magna Carta merely restated ancient English law regarding feudal dues, aids and obligations, royal and seigneurial justice, ecclesiastical and corporate privileges. Professor Holt corrects this impression, indicating that many of its provisions established limits on royal authority where none had clearly existed under customary law. For the enforcement of

the agreement, the barons appointed a committee of four of their number, who were to be constantly available to hear complaints against the king, with a possible appeal from their decision to a larger council of twenty-five. Failure by the king to abide by the agreement would result in the levying of distraint or private warfare against the lands, castles, and possessions of the Crown.

Magna Carta was drafted to conclude a peace, but by September 1215 war had again broken out between John and the barons. Fortunately for the baronial party, John died unexpectedly on October 19, 1216, and after considerable negotiation his infant son Henry was permitted to assume the crown, with a committee of barons to supervise the royal government during the minority. Under their auspices, the Charter was reissued with minor modifications in 1216, 1217, and 1225, and confirmed by Henry in 1237 after he had attained his majority. Thus during the 13th Century Magna Carta became popularly accepted as a statement of law governing the relationship between the English sovereign and his subjects.

Professor Holt's study is rich in information for students of English constitutional history. It is based on the most recent scholarship, and contains extensive footnote and bibliographic documentation, in addition to a thorough index. The text of the Charter and various other significant documents are reproduced at the end of the book. The author's tone is uniformly objective and dispassionate, and he carefully refrains from passing judgment on John's character or actions. At times this can be misleading, as when he notes that during a quarrel between John and a vassal, William de Braose, the latter's wife and son died in a royal prison. Most historians writing on the subject have included the information that Mathilde de Braose and her son were starved to death at John's command. Also, the author assumes that the reader has a considerable degree of knowledge of English feudal law and custom. The non-specialist is thus likely to find this book reasonably difficult reading, although ultimately rewarding.

With these reservations, Professor Holt's work may be recommended most highly to all who wish to understand the circumstances and political history which culminated in the creation of Magna Carta.

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