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CONTROVERSY OF MAGNA CARTA LIBERTATUM AND ITS INFLUENCE ON DEVELOPMENT OF LAW SYSTEM IN MODERN WORLD

This year on the 15th of June people and lawyers all over the world mark the 800th anniversary of Magna Carta Libertatum (Latin for «Great Charter» literally «Great Paper»), also called («Great Charter of Freedoms»).The roots of problems of human rights date back to the period of Middle Ages. Personal issues came to the forth. It is about Magna Carta, 1215 and its subsequent changes in 1217, 1225 and some regulatory decisions of which have gone through the historical periods. Magna Carta was originally created because of disagreements between Pope Innocent III, King John, and his English barons about the rights of the King. It required the king to renounce certain rights, respect certain legal procedures and accept that «the will of the king could be bound by law». Many clauses were renewed throughout the Middle Ages, and further during the Tudor and Stuart periods, and the seventeenth and eighteenth centuries. By the early nineteenth century, most clauses had been repealed from English law [Magna Carta – Режим доступу: http://www.newworldencyclopedia.org/entry/Magna_Carta].

Perseverance and the will of the British parliamentarians in the XIII – the XIV centuries did Magna Greatgreat. Formation of the first elements of bourgeoisie perception about a legal status of a personality in feudal ideology is highlighted in the document [Романовская В.Б. Magna Carta Libertatum в контексте современной проблемы прав личности / Романовская В.Б. // Вестник Нижегородского университета им. Н.И. Лобачевского. – 2009. – № 5. – С. 258-261].

Some modern researchers insist on class limitations, short life and conservative features of Magna Carta. It is partly true but they don't take into consideration standards of political life in Britain in the 13th century. There's some kind of controversy and paradox. Time flies, standards of political British life don't exist any more but norms and standards of Margna Carta are still alive and crucial. It serves as an impulse for further progressive decisions in the international system of law.

There are three things that are perhaps most important in it. Clause 61 says that nobody is above the law. «If the king does not abide by the charter when he's notified that he is in breach of it, in effect a council of 25 barons can take over the running of the kingdom». They're not to harm him, they're not to injure him, they're not of course to treat him with violence or his family, but they're no longer stuck with the oath of allegiance and fealty. Suddenly, the king is on answerable on earth not just in heaven and from this we derive constant references through the Middle Ages to the king not being above the law. Magna Carta also preserves the freedoms of the church of England including the right to free election of clergy.It charted the right to a fair trial, and limits on taxation without representation. It inspired a number of other documents, including the US Constitution and the Universal Declaration of Human Rights.

In the 17th century jurist Edward Coke interpreted Magna Carta to apply not only to the protection of nobles but to all subjects of the crown equally. He famously asserted: «Magna Carta is such a fellow, that he will have no sovereign».

Sir Edward Coke was a leader in using Magna Carta as a political tool during this period. Still working from the 1225 version of the text–the first printed copy of the 1215 charter only emerged in 1610 – Coke spoke and wrote about Magna Carta repeatedly [Danziger, Danny; Gillingham, John (2004). 1215: The Year of Magna Carta. Hodder Paperbacks]. His work was challenged at the time by Lord Ellesmere, and modern historians such as Ralph Turner and Claire Breay have critiqued Coke as «misconstruing» the original charter «anachronistically and uncritically», and taking a «very selective» approach to his analysis [Breay, Claire (2010). Magna Carta: Manuscripts and Myths. London, UK: The British Library]. More sympathetically, J. C. Holt noted that the history of the charters had already become «distorted» by the time Coke was carrying out his work [Holt, James C. (1992b). Magna Carta. Cambridge, UK: Cambridge University Press].

It does not seems strange that Coke's opinions were so confused however, as the times were confused about how to treat The Charter; the Petition of Right in 1628 was meant as a reaffirmation of the Charter, but was defeated by the Attorney General as he stated that the petition claimed it was a mere codification of existing law stemming for Magna Carta, but that there was no precedent shown as to these laws existing in such as a way as they bound the present king; there was a definite

feeling that the king could not be bound by law and therefore Clause 39 and all others did not apply to him. dare suggest such a thing [Magna Carta – Режим доступу: http://www.newworldencyclopedia.org/entry/Magna_Carta].

The reason why Magna Carta survived at all it's a pure historic accident [Transcript–Library– Режим доступу: of Congress www.loc.gov/today/cyberlc/transcripts/2014/141105law1100.txt].

Only three clauses are still valid – the one guaranteeing the liberties of the English Church; the clause confirming the privileges of the City of London and other towns; and the clause that states that no free man shall be imprisoned without the lawful judgment of his equals.

Nonetheless, rights established by the Magna Carta have subsequently become fundamental principles of international human rights and it can be argued that democratic societies developed as a long-term consequence of this charter.

To sum up, Magna Carta was the most significant early influence on the long historical process that led to the rule of constitutional law today. Magna Carta influenced many common law documents, such as the United States Constitution and Bill of Rights, and is considered one of the most important legal documents in the history of democracy.

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СТАТИКА ТА ДИНАМІКА СТАТУТУ ДОГОВІРНОГО ЗОБОВ'ЯЗАННЯ ЯК ФАКТОР РОЗВИТКУ ЦИВІЛЬНОГО ОБІГУ

Договірний статут визначає правовий режим договірного зобов'язання. Очевидно, що інтереси стабільності та розвитку цивільного обігу знаходяться в діалектичному взаємозв'язку з зобов'язаннями сторін договору відповідно до його статуту. Тому розглянемо основні засади його встановлення та динаміку розвитку.