Pre-1800


The eight-hundredth anniversary celebrations of Magna Carta in 2015 attracted huge global interest. As expected, there was a proliferation of books and articles published not only on the “Great Charter” itself but, even more so, on the reign of King John (1199–1216), the monarch who conceded the charter’s terms at Runnymede in June 1215. The Charter, though it is to be largely understood as a product of John’s inept rule, is a much drier and more prosaic topic than the colorful king himself; as a consequence, a close study of its long life (John’s most enduring, if inadvertent, legacy) more readily falls into the hands of legal historians. In The Reinvention of Magna Carta 1216–1616, John Baker, who taught law at the University of Cambridge for forty years until 2011 (specializing in late medieval and early modern legal history), offers the reader a valuable and insightful exposition of the Charter’s influence on the development of English public law to the early seventeenth century, by which point its fading political influence began to resurface. Baker argues that just a century after the Charter’s birth its legal significance had been drastically reduced before its tentative resurgence in the 1580s (Baker reminds us that Shakespeare’s King John from the 1590s makes no reference to Magna Carta). Before this time, he observes the almost total absence of the Charter in cases that covered constitutional issues. Indeed, he is probably right to assert that, but for this resurgence, the charter would likely be of little interest to any but medieval specialists.

Baker examines the origins of the Charter in statute and common law. He notes that the original of 1215 (then called the Articles of the Barons) was a peace treaty. This is crucial to our understanding of it, although, as with many medievalists (surprisingly), too little is made of the actual circumstances of the looming French invasion of England, which occurred soon afterwards and led to occupation of England for by French forces eighteen months, until September 1217. This invasion provided the overwhelming and urgent
impetus for the two reissues of the Charter in revised forms in 1216 and 1217. The third reissue—that of 1225—is the one that became the standard, finalized document in legal, political, and constitutional history, and so is the one Baker concentrates on. By the end of his period of study, Baker notes, “it is obvious that the Magna Carta of 1616 was very different from the Magna Carta of 1225, even though the words were identical” (444); indeed, the 1225 one was very different from the more radical 1215 one. However, he adds, “it was just as real to those who lived in 1616 as to those who wrote it” (444). This is surely correct, not least given the turbulent times of the early seventeenth century but also because of the increased level of publications, reading and legal pervasiveness in the era—to which Baker affords due attention.

The Charter was last issued in 1300, by which time it was already feeling its age. As Baker points out, the growth of Parliament owed no small part to the Charter; indeed, Parliament regularly opened with a public reading of the Charter, which received more than forty renewals of its confirmation into the early 1400s. Baker sees the fourteenth century as a significant period in the Charter’s life, and here his focus is primarily “on the most important of all the provisions of Magna Carta” (32), chapter 29: “No free person shall be taken or imprisoned […] except by the lawful judgment of his peers or by the law of the land.” It was not long before the term free man (liber homo) applied to all in the land. The chapter “came to be revered” (68), especially after 1581 and the impact of Puritan barrister Robert Snagge’s engagement with it.

Baker leads the reader through the part played by Magna Carta in the Inns of Court (1340–1540), heresy proceedings (a particularly interesting chapter), and the royal prerogative and common law under Elizabeth I, all exemplified by numerous, informative cases. He moves on to devote much attention to those figures who offered new evaluations of the Charter. Thus, we encounter the Elizabethan lawyer William Fleetwood (d. 1594), whom Baker praises as a founder of legal history, not least for his commentary on the Great Charter; the abovementioned Robert Snagge, a “truculent MP” (253); and, naturally, the leading figure in the Charter’s seventeenth-century return to prominence, Edward Coke, who employed it to warn of encroachments on common law: “The beatification and canonisation of Magna Carta are indelibly associated with Sir Edward Coke, partly because of his lengthy published commentary (written in the 1620s), but mainly as a result of his parliamentary campaign against arbitrary taxation and imprisonment, leading to the Petition of Right in 1628” (335).

The role of personalities is not only central to the legal narrative but also allows for a judicious dilution of the dense analysis and surveying of Magna Carta’s common law development. Baker writes lucidly throughout, eschewing any overindulgence in legalistic phraseology and thus helpfully making the book more accessible. A great strength of this volume is that it is, as Baker calls it, “internalist” (11): its main sources are those that few other than legal scholars would likely refer to. This provides other historians with additional valuable evidence and perspectives. Baker also makes the important point that in the period covered, lawyers were more interested in history than were most other people—understandable in that all-important historical precedent frequently meant legal precedent.

There are some notable gaps in the literature that a historian of the Middle Ages might like to see filled, but this is a legal, not a political or social, history. Eighty pages of primary source appendices and a seventeen-page alphabetical list of historical cases cited add to the book’s great utility. Baker’s comprehensive and reflective study makes an impressive contribution to our understanding of Magna Carta in the medieval and early modern world.

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