

GENERAL SYNOD

DIOCESAN SYNOD MOTION: MAGNA CARTA

Background note from the Chair of the Mission and Public Affairs Council**800th anniversary of Magna Carta**

1. 15th June 2015 is to be celebrated nationally as the 800th anniversary of Magna Carta, when King John sealed it at Runnymede. The significance of Magna Carta is beyond dispute – although historically, 15 June 1215 represents one moment in a long process of shifting balances of power between king, barons, church, Pope and other actors; while as a legislative charter, Magna Carta was avowedly descended from Henry I's coronation charter of 1100, was revised in many subsequent versions, and in the process of consolidation of law all but three of its clauses were eventually repealed.¹
2. In spite of these complexities, 15th June 1215 stands not just symbolically but in well-established historical reality as the pivotal moment in the establishing of the principle that the executive is subject to the law, and of access to justice, and of the beginnings of conciliar structures as the forerunner of parliamentary democracy.

Why is Magna Carta so important?

3. The principle that the king is subject to law is implicit in the very acceptance of the charter by the king. In the case of King John, this acceptance was very short-lived; but it was reissued in the succeeding reign of Henry III, and became firmly established thereafter, the last of its formal confirmations being by Henry VI in 1423.
4. The rights in respect of access to justice were unequivocal, although restricted to free men. In the 1297 Charter which remains in Statute today, the relevant clause reads:

‘29. No Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will we pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the Law of the land. We will sell to no man, we will not deny or defer to any man either Justice or Right.’
5. The claim that the tradition of parliamentary democracy sprang in part from Magna Carta rests chiefly on the part of the 1215 text known as Clause 61 (clause numbers are not original), establishing a committee of 25 barons, chosen by the full body of barons, who could overrule the decision of the king if it contravened the terms of the Charter. This clause proved short-lived.
6. As Lord Woolf, in the first of ten annual Runnymede commemorative events in 2005, said, ‘The first petition presented by the commons to the monarch at each new parliament is a request that the Great Charta be kept.’ Professor Nigel Saul, of Royal Holloway University which stands next to the Magna Carta field in Runnymede, has written:

¹ Much of the historical evidence about the events surrounding Magna Carta is contested. The outlines given here are indicative of views which have gained common currency, and are not presented as the conclusions of original scholarship.

‘There can be no doubting the historical importance of Magna Carta. It established the principle that the executive power – in this case, the king – is subject to the law just like everyone else. Later in the 13th century the jurist Bracton wrote ‘in England the king is below God and below the law’. The crucial clause is clause 39: no free man shall be arrested, imprisoned or dispossessed without judgment of his peers or against the law of the land. Magna Carta explains why we live in a constitutional monarchy today’

Archbishop Stephen Langton and the bishops at Runnymede

7. Langton had a pivotal role both in the formal acceptance of Magna Carta and in the political processes surrounding it. His consecration by the Pope as Archbishop of Canterbury had been resisted for years by King John until he acknowledged Langton in 1213. Soon after the latter’s arrival in Canterbury, however, the king’s abjuring of his own undertakings to repeal unjust laws and restore freedoms led the Archbishop to take a leading role in opposition to John, calling a council of church leaders and some barons at Westminster in August 1213. This in turn put Langton on the wrong side of the Pope for a while. However, he remained Archbishop until his death in 1228, laying a number of the foundations for the development of modern ecclesiastical law.
8. The following Bishops are recorded as having been present at Runnymede as witnesses to the Charter: Archbishops of Canterbury and Dublin; Bishops of London, Bath & Wells, Winchester, Lincoln, Salisbury, Rochester, Worcester, Ely, Hereford and Chichester.

Magna Carta, the English Church and its contemporary mission

9. The first clause of Magna Carta proclaims that ‘the Church of England shall be free...’ It is right to say that the Church played a key role not only in moderating and supporting the process leading to and including the formal acceptance of Magna Carta, but also in shaping a culture in which the absoluteness of human executive power was held to be subject to higher authorities and higher principles. This enables us, in the much changed ecclesial, social and political context of the 21st century, to pull back into focus the contributions which faith communities, the churches especially, and the Church of England by virtue of its establishment and its reach into the whole country, can make to giving substance and value to the rights and freedoms enshrined in Magna Carta 800 years ago.
10. In celebrating this anniversary, as dioceses, cathedrals and churches are up and down the country, Christians have the opportunity to question some widely-held views about human rights: for example that the concept is necessarily secular, perhaps a product of the European Enlightenment. Nicholas Wolterstorff (Justice: Rights and Wrongs, 2010) has argued that the idea of natural rights goes back to 12th century canon law and is in fact rooted in the biblical traditions. He argues that socially conferred rights presuppose natural rights, and those rights spring from the respect due to the worth of the person. There can be a real flavour of mission about the church’s part in these celebrations, if they inspire us to rethink and to talk with our neighbours about what it means for our faith and living that universal human rights and liberties flow from the love, actions and purposes of God in Christ.

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