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Magna Carta's rule of politics

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Eight hundred years ago last week in a meadow west of London, King John of England did something peculiar for a king: He promised to obey "the law of the land." And thus was born, we have been taught, America's "rule of law" - the principle that political leaders must act within boundaries set out in law.

English kings at that time did not feel bound to obey the law (much less anything else), so John's promise is typically celebrated as a huge step forward in the history of good government. It is entirely proper to remember Magna Carta for this achievement, but the history of the document teaches us just as much about the rule of law's essential partner: the rule of politics.

King John was a mean and inept king. By 1215, he had lost the support of the barons, the ruling class of England. Facing a rebellion and the potential loss of the throne, John reluctantly affixed his seal to Magna Carta, thus agreeing to be bound by "the law of the land."

John was not so easily beaten, however. Within weeks of the agreement, he sent messengers to Rome to persuade Pope Innocent III to declare it void - something Chapter 61 of the document specifically prohibited. At the time, the Catholic Church enjoyed significant authority over English law and politics. Using that authority, the pope promptly declared Magna Carta void and excommunicated the barons who negotiated the deal with John.

Stunned by King John's about-face, the barons quickly mounted a military campaign to overthrow him. For the next year and a half, the crown and the barons wrestled for control of England. The war ended only when King John died, ostensibly of food poisoning. Now in a position of relative power, the leading barons arranged to have John's 9-year-old son crowned as king. The young boy quickly pledged allegiance to Magna Carta (or at least most of it).

This history reveals an essential truth about the Magna Carta's rule of law: The rule was born, died and was born again through political struggle and power. King John agreed to obey the law of the land not because it made for a more just society, but because the barons - with their political and military heft - backed him into a corner.

The rule of law then quickly vanished, not because it was foolish or unjust, but simply because the pope wielded a power superior to the barons'. And then the rule was reborn, again not because it was just, but because the barons suddenly found themselves with the upper hand over a young king.

Thus, even though Magna Carta contained the seed of the rule of law, it was raw politics and military power that nourished that seed into the tall oak that it is today. We live, thankfully, in the shade of that great tree. But like anything that is alive, our tree requires nourishment to survive. Our rule of law, like England's in the 13th century, is not a self-effectuating proposition that, once created, will persist indefinitely. It survives only because we, as a political community, keep it alive.

Our rule of law is not so starved that the people must band themselves into a militia and overthrow a lawless king, but it does require the regular the care and feeding of political participation. We thus preserve the rule of law, and celebrate the real Magna Carta, when we protest constitutional abuses by the police, or demand the president abide by the law in reforming our immigration system, or call for the resignation of officials who abuse their power. These and countless other political acts maintain our rule of law by reminding our leaders that they are not above the law.

John Adams famously characterized the rule of law as "a government of laws, not of men." The phrase describes the rule of law well, but to fully capture the American vision of government, it should be joined with one of Abraham Lincoln's characterizations of good government. American government, at its best, is a "government of law ... of the people, for the people and by the people."

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