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THE PLACE AND ROLE OF THE ENGLISH GREAT CHARTER OF THE LIBERTIES IN TEACHING LAW IN POLAND

When speaking about the role of the Great Charter of the Liberties (*Magna Charta Libertatum*) in the teaching of law in Poland, the document can be treated in two ways. Firstly, as a specific act with particular content and a recognised footprint in the formation of the political system standard on our continent (or, more broadly, in the European civilisation circle, which also includes the Americas). Secondly, as an example that perfectly demonstrates the need to use the historical perspective in explaining today's institutions of the European states. Thus, speaking about the teaching of law in Poland from those two viewpoints, I would like to first tackle the place of the historical legal subjects and contents in the curriculum of law studies at Polish universities, and then see how the Great Charter and its provisions are positioned in historical subjects and their environment.

I

Let us start with the Great Charter of the Liberties itself. While this will, by no means, be an in-depth analysis of the document itself, a few general comments seem worthwhile before we proceed with the role of the Great Charter in teaching law, because the character of this document and its fortunes in the history of England and Europe lead to conclusions on how to position it in the curriculum and as to the method of presentation in the educational process.

The history of European political systems is marked by legal acts or documents that have played a special, pivotal role. Their content determined a model of institutional arrangements and initiated larger-scale system transformation processes. It was usually the case that not only were the authors of such documents not motivated by such intentions, but their imagination did not even reach that far. However, events unfolded so that those legal acts gained special signif-

icance, many a time extending beyond the borders of the country in which they were issued or promulgated. Apart from the Constitution of the United States or the French Constitutional Charter of 1814, such special documents include *Magna Charta Libertatum* of 1215, sealed in the fields of Runnymede by King John of England (John Lackland) in the presence of the English barons.

Magna Charta (named so to be distinguished from another charter promulgated at the same time, *Parva Charta*, which concerned forest matters, and not out of the awareness of the importance of that document)[1], triggered the development of English parliamentarism. From the end of the 18th century, English parliamentarism became a point of reference, and soon simply a model of what later evolved into European constitutionalism of the 19th century. This is why it is worth studying the history of England's political system, and if we embark of this task, we are bound to come across the Great Charter of the Liberties.

Magna Charta Libertatum was a privilege and it did not differ from many similar documents that were issued by rulers of other European countries[2]. The list is long, so let us just mention a few of them: the Golden Bull issued by King Andrew II of Hungary in 1222, Emperor Frederick II's privileges of 1220 and 1232, the Aragonese *Privilegio General* granted by Peter III in 1283, the Danish king's charter of 1282, or the Swedish Magna Charta of 1319 issued by Magnus Eriksson, the Golden Bull of 1356 by Emperor Charles IV, the Privilege of Kassa granted by Louis I of Hungary to the Polish nobility in 1374, and further privileges issued by during the reign of Władysław Jagiełło and his sons Władysław and Kazimierz, or the privileges granted by previous rulers of England, mainly by Henry I (1100) and Stephen (1135). They all limited royal authority to some extent, primarily as regards the freedom to charge various levies, but they usually also provided a mechanism that guaranteed the privilege would be respected in future.

In the Great Charter of the Liberties, such guarantees were enshrined in its art. 14, 39 and 61: the first of these provided that all taxes or other levies for the benefit of the king required the consent of the Grand Council, the second prohibited conviction or dispossession other than by court sentence, whereas the third provided that allegiance to the ruler could be forsaken and he could be deposed in the event of his failure to observe the provisions of the Charter. The Great Charter was unique in that in fact that its beneficiaries were not only the barons (although it was them who agreed it in 1215) but also all "free men", i.e. those not bound by serfdom (some peasant population and mainly inhabitants of towns, which, in a sense, opened up the way to their representation in the House of Commons, alongside knighthood).

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[1] *Cf.* K. Koranyi, *Powszechna historia państwa i prawa*, Vol. III, Warszawa 1966, p. 180, footnote 10.

[2] *Cf.* K. Grzybowski, *Prawda i legenda Wielkiej Karty Wolności*, (in:) *Refleksje sceptyczne*, Vol. I, Warszawa 1972, pp. 106–107.

What proved to have a bearing on the political systems of European states was not so much the provisions of the Charter itself as fighting for compliance with its provisions throughout the long reign of Henry III. It was not without reason that subsequent revisions of the Charter (starting as early as 1217) omitted both art. 14 and art. 61[3]. This test of strength finally resulted in a relative balance between the kingdom's barons – later Parliament – and the ruler who retained a sizeable package of rights. It is worth noting that the Golden Bulla mentioned above, issued by Andrew II roughly at the same time, led to the marginalisation of royal power and the clear domination of magnates. In England, the Great Charter also became a manifestation of the strengthening belief (formulated emphatically by Henry Bracton, and then repeated in an equally determined way by John Fortescue) that the king was subject to law and should observe it. It is worth recalling that the reasons given for the deposition of Edward II in 1327 and Richard II in 1399 included their arbitrary law-making practices, or failure to comply with the relevant rules which required Parliament's involvement in the process. From the end of the 14th century until the 17th century, the significance of the Charter diminished in the face of the strengthening, sustainable position of Parliament, consolidated by the 1295 and 1397 legislation, and the emergence of the mechanism of Parliament's legislative initiative in the mid-15th century. Even in the Tudor era, Parliament's relations with the king were correct, so it was not necessary to refer to the Charter as the primary source of Parliament's power. It seems meaningful that in his tragedy *The Life and Death of King John*, Shakespeare does not mention the Charter at all; some tend to believe he had never even heard of it[4].

The Great Charter came back to the fore in the mid-17th century, when rivalry between the Stuarts, with their absolutist inclinations, and Parliament defending its powers and its position in the state, flared up with full intensity. The Charter became a case for the principle of limited royal power (in the 1628 Petition of Right it was cited directly several times[5], and in the Levellers' concept of the new society it even defined the sources of power in the state). The rivalry was eventually won by Parliament, and the Great Charter (along with the Petition of Right, the acts of 1641 and the *Habeas Corpus* Act of 1679) became one of the fundamental documents of the kingdom. As English historian G. M. Trevelyan put it: the Great Charter of the Liberties became "a symbol of the spirit for our constitution (...) Its historical importance lay not only in what the men of 1215 meant by its clauses, but in the effect which it has had on the imagination of their

[3] M. Wąsowicz, *Prawo i obywatel. Rzecz o historyczno-prawnych korzeniach europejskiego standardu ustrojowego*, Warszawa 2015, p. 140.

[4] S. Grodziski, *Porównawcza historia ustrojów państwowych*, Kraków 1998, p. 73, footnote 65, and H. Zins, *Historia Anglii*, Ossolineum 1995, p. 71.

[5] Which was attributable to Edward Coke, one of the most outstanding English lawyers, who pointed out in a debate on the Petition that "Magna Charta is such a fellow that he will have no 'Sovereign'", *cf.* K. Grzybowski, *Prawda i legenda*..., p. 112.

descendants"[6]. Later, owing to Montesquieu, who made English bicameralism the basis of his concept of the separation of powers, and then the Constitutional Charter of Louis XVIII, which assimilated the bicameral structure of parliament, the English political system model became the one to follow. In this way, the Great Charter of the Liberties became part of the European political system tradition and it had to be incorporated to some extent in law teaching curricula. This was also the case in Poland.

II

The traditions of the organised teaching of law in Poland date back to the early 19th century. Previously, as in many other European countries, legal skills were acquired through practice alongside experienced jurists. In 1808, the School of Law was established in the Duchy of Warsaw[7]. Its establishment was associated with the imposition of the Napoleonic Code and other French codes in the Duchy. However, contrary to similar initiatives – such as those undertaken by Franz von Zeiller in Austria, connected with the implementation of the Austrian Civil Code (ABGB), or the French schools of law set up by Napoleon to pursue strictly dogmatic teaching objectives – the School of Law in the Duchy did not become an ordinary vocational school of law; instead, its originators gave it an academic dimension from the very beginning[8]. Therefore, when a university was established in Warsaw in 1816, the School of Law was transformed into a faculty of the new institution. This academic nature of teaching law was manifested, among other things, in a strong presence of historical legal subjects in the curriculum. One of the School's first professors, later dean of the Faculty of Law, Jan Wincenty Bandtkie, himself an outstanding expert in old Polish law, was a great enthusiast of this approach. Bandtkie wrote: "history of law is undoubtedly at the heart of the study of law. Without it, one can learn law literally, can grasp some practical skills, but someone who has no understanding of the history of law will lack the profound certainty which is necessary to explore in full depth so impor-

[6] G. M. Trevelyan, *History of England*, London 1926, p. 172.

[7] *Cf.* A. Rosner, *Dzieje Wydziału Prawa i Administracji Uniwersytetu Warszawskiego w latach 1808–1831*, (in:) *Zarys dziejów Wydziału Prawa i Administracji Uniwersytetu Warszawskiego 1808–2008*, Warszawa 2008, pp. 17–56, and the literature cited there.

[8] Therefore, the curriculum included subjects such as history, economy, statistics or philosophy. When assessing the School's achievements years later, Stanisław Kostka Potocki wrote that what was provided to the students was "profound knowledge of law derived from solid and enlightened teaching, and not from distortions of tangled practice or an indigestible pile of laws and ordinances", *cf.* A. Rosner, *Dzieje Wydziału*..., p. 24.

tant a science"[9]. This thought expressed by the first dean can be taken as a motto guiding all subsequent authors of the curricula of legal studies in Poland.

The curriculum of the School, and later the Faculty of Law at the University, was not limited to the history of national law. As part of subjects such as "Characteristics of State Political Systems", students were also studying the foundations of the system of government of the states existing at the time, starting with France, which was obvious in the realities of the Duchy of Warsaw, but also taking into account the English example. We do not know if Franciszek Ksawery Szaniawski, who taught this subject, mentioned the Great Charter of the Liberties, but this cannot be ruled out, all the more so as the English Charter was indeed mentioned in French handbooks of the period, as a document shaping English parliamentarism. In 1818−1831, the subject of political systems was taught as part of world history but also as part of national public law. However, the subjects of French and German law prevailed.

In the times of the so-called Main School (1862−1869), the law course (as defined in the Act on public education in the Kingdom of Poland) included historical subjects, while mainly dealing with the history of the Slavic states. This does not mean, however, that the subject of political systems of the Western states was completely non-existent. It emerged especially when the subject was taught by Antoni Okolski, an outstanding expert in administrative law, but also the author of an important handbook on the political systems of European states and the United States of America, *Ustrój państw europejskich i Stanów Zjednoczonych Ameryki Północnej* (1888)[10]. After the Main School was closed down in 1869 and replaced by the Imperial University of Warsaw, political system-related historical content could be found in Antoni Białecki's lecture as part of the General State Law course (Białecki based his lecture on Robert von Mohl's *Encyklopädie der Staatswissenschaften*)[11].

The interwar period was marked mainly by a great polemic between Oswald Balzer and Juliusz Makarewicz on the place of historical legal disciplines in teaching lawyers. Balzer was in favour of positioning historical subjects at the beginning of studies, so as provide students with an opportunity to learn the context in which law was made and applied. He also believed that historical legal subjects broadened the minds of future lawyers and thus had a formative role. Unlike Balzer, Juliusz Makarewicz believed that the first years of studies should provide

[9] M. Wąsowicz, *Rola dyscyplin historyczno-prawnych i metody historyczno-prawnej w formowaniu współczesnego prawnika*, (in:) T. Giaro (ed.), *Dziedziny prawa, dyscypliny i metody prawnicze*, Warszawa 2013, p. 84.

[10] M. Paszkowska, *Wydział Prawa i Administracji Szkoły Głównej Warszawskiej w latach 1862–1869*, (in:) *Zarys dziejów Wydziału Prawa i Administracji Uniwersytetu Warszawskiego 1808–2008*, Warszawa 2008, p. 69.

[11] A. Bosiacki, *Wydział Prawa Cesarskiego Uniwersytetu Warszawskiego 1869–1915*, (in:) *Zarys dziejów Wydziału Prawa i Administracji Uniwersytetu Warszawskiego 1808–2008*, Warszawa 2008, p. 93.

students with the basic knowledge of the notions and institutions of the governing law, and only in the senior years did he see the possibility and sense of conscious "tasting" of the historical perspective (but only for those really interested). Balzer gained the upper hand in the dispute, and consequently a fair portion of historical subjects was integrated into the curriculum (approved by the Minister of Religions and Public Enlightenment)[12].

After World War II, the issue of the role of historical legal subjects in legal education was resumed several times. The first clash focused around the ideologically fundamental issue of building a new, socialist social order, including legal order, and doing away, on ideological grounds as it were, with the old "bourgeois" law and system. Historians of law quickly won the dispute because historicism, which was endorsed at the time as the methodology of explaining great socio-economic changes, also implied the significance of the historical approach to the phenomenon of law[13]. That said, it must be kept in mind that the curriculum of legal studies was a product of relevant ministerial authorities, which means that retaining historical legal subjects in the legal curriculum was a political decision. The stabilisation of historical subjects in the curriculum of legal studies led to the preparation of several important handbooks, including some in the form of multi-volume synthetic works. They will be discussed below. The 1970s saw a major adjustment of the curriculum, combining the history of Poland's political system with world history, and the history of law with Roman law. The experiment turned out to be short-lived, and during the "Solidarity" period (1980−1981) it was abandoned, reinstating the traditional division into universal history of state and law, history of Polish state and law, and Roman law.

Interesting evidence of the stabilised position of the historical legal disciplines in faculties of law is provided by a survey – published in 1970 and 1971 in *Czasopismo Prawno-Historyczne* – conducted among representatives of dogmatic disciplines, on the place of historical legal disciplines among historical and legal sciences[14]. A vast majority of the survey respondents (the most prominent lawyers of the time in Poland) emphasised the importance of those subjects in the formation of the lawyer's profession. A statement by Prof. Witold Czachórski, an outstanding expert in civil law, one of the authors of the polish Civil Code of 1964, seems to best sum up those opinions: "One can be a lawyer without having completed extensive historical studies. But not a good lawyer"[15].

What proved to be an acid test of the extent to which this position was shared by lawyers was the liberation – as a result of the 1989 transformation and the

[12] On this debate, *cf.* G. Kowalski, *O miejsce historii prawa w programie studiów uniwersyteckich. Polemika między Oswaldem Balzerem i Juliuszem Makarewiczem*, 1919–1923, "Czasopismo Prawno-Historyczne" 2004, fasc. 2.

[13] M. Wąsowicz, *Rola dyscyplin...*, p. 86.

[14] "Czasopismo Prawno-Historyczne" 1969, fasc. 2, 1970 fasc. 1.

[15] "Czasopismo Prawno-Historyczne" 1969, fasc. 2, p. 172.

adoption of a new Act on higher education which afforded substantial autonomy to universities – of legal studies and granting faculties of law virtually unconstrained freedom in designing their curricula. In all Polish universities which had faculties of law, historical legal subjects remained on their curricula (although to various extents) as an element expanding the knowledge of the context in which law operates and as a component of the general legal culture of law graduates. Such a treatment of the history of political systems and law resulted in an abundance of new handbooks, including those dealing with the development and history of the political systems of major European states[16]. They all contain overviews of the English Great Charter of the Liberties.

III

Handbooks of the universal history of state political systems can be categorised, in general terms, into two groups. In the first one, the subject matter of the lecture focuses on the history of political institutions of several selected countries whose influence on other countries has been the strongest. Thus it takes the form of stories about the political systems of different states, being told in parallel, usually grouped by era (antiquity, the medieval period, modern times, the late modern period). Such a method of delivery can be found in the old handbook by Antoni Okolski, and later, in handbooks by Iwo Jaworski, Michał Sczaniecki, Marian Klementowski, or the writer of this article. A similar arrangement is to be found in the great four-volume synthesis by Karol Koranyi. The set of the states described is similar everywhere: they are France, Germany, England, sometimes also Russia, and, closer to our times, additionally the United States, as well as Austria and Prussia. Some of the handbooks falling within this group feature chapters summing up the periods concerned (Sczaniecki's handbook being a good example). In the other group of handbooks, the subject matter taught is divided into individual periods or types of state political systems (patrimonial monarchy, estate monarchy, absolutism, constitutional state), within which major development trends are presented, illustrated by examples from various states of Europe (or sometimes also

[16] The major ones include: M. Sczaniecki, *Powszechna historia państwa i prawa*, Warszawa 1993, revised edition 6 and subsequent editions; J. Baszkiewicz, *Powszechna historia ustrojów państwowych*, Gdańsk 1998 (2nd ed., 2007); S. Grodziski, *Porównawcza historia ustrojów państwowych*, Kraków 1998; M. Wąsowicz, *Historia ustroju państw Zachodu. Zarys wykładu*, Warszawa 1998 (and subsequent revised editions 2007, 2011); K. Krasowski, M. Krzymkowski, K. Sikorska-Dzięgielewska, J. Walachowicz, *Historia ustroju państwa*, Poznań 1993 (2nd ed., 2002); M. Klementowski, *Powszechna historia ustroju*, Warszawa 2012; G. Górski, S. Salmonowicz, *Historia ustroju państw*, Warszawa 2001; T. Maciejewski, *Historia powszechna ustroju i prawa*, Warszawa 2011; E. Klein, *Powszechna historia państwa i prawa*, Wrocław 2003.

from other continents). This group includes handbooks by Stanisław Estreicher, Jan Baszkiewicz, Stanisław Grodziski, or Tadeusz Maciejewski.

This categorisation also has a bearing on the way the Great Charter of the Liberties is described. Where England's political system is the subject of a separate chapter or chapters of a handbook, the Great Charter of the Liberties is given particular attention, in most cases as a separate subchapter. This usually means a more precise description of its literal content. In such cases, the Great Charter reappears when British constitutionalism is discussed, but then it has a different role, as one of the documents forming, in historical perspective, the parliamentary system of government. The handbook by Sczaniecki is one example. The author draws attention to the different functions the Charter played in the history of England, using it as an example of changes in the significance of a specific document taking place over time. It is worth quoting two statements from the handbook, one summing up its role in the 13th century. "The Great Charter of the Liberties did not create Parliament, but it did pave the way to its emergence"[17], and the other showing the role that the Charter started to play in later centuries: "(...) the great influence it [the Charter] had later on the formation of the English constitutional ideology cannot be denied. Over time, the articles of the Great Charter of the Liberties started to be quoted as the source of progressive political agendas, with diverse conclusions being drawn from them. In the 16th century, the Charter served the nobility and burgesses fighting against the king, in the 17th century – the time of the first revolution – it served radical movements (the Levellers), in the 19th century – it became the basis of the liberal English constitution. The Great Charter was glorified and treated as a sacred national treasure. And yet, in the 13th century it was nothing other than a privilege for the barons, a stage in their struggle for the restriction of royal power"[18]. Consequently, the Great Charter appears in discussions on the subject of the English constitution in substantive terms, in the context of the basic acts and documents forming the political structure of Great Britain, together with acts such as the Petition of Right of 1628, the act of 1641, the Habeas Corpus Act of 1679, the Bill of Rights of 1689 and the Act of Settlement 1701. A similar reference to the Great Charter of the Liberties will be found in a handbook prepared at the university in Poznań[19]. In his handbook, Antoni Okolski treats the Great Charter of the Liberties rather in passing. But he too notes that the Charter, an old privilege, invariably (Okolski's handbook comes from the end of the 19th century) forms the foundation of English liberties and constitutionalism, in particular by contributing to the establishment of parliament[20].

[17] M. Sczaniecki, *Powszechna historia*…, p. 168.

[18] *Ibidem*, p. 168.

[19] K. Krasowski, M. Krzymkowski, K. Sikorska-Dzięgielewska, J. Walachowicz, *Historia*…, p. 173.

[20] A. Okolski, *Ustrój państw europejskich i Stanów Zjednoczonych Ameryki Północnej*, Warszawa 1887, p. 6.

A detailed overview of the provisions of the Charter (with special focus on its art. 61 concerning the right of opposition), together with the indication of their real significance in 13th century England, can be found in a synthetic handbook by Karol Koranyi[21]. Interestingly, however, the author completely passes over the role of the Charter in the chapters devoted to the formation of England's political system in the 17th–20th centuries.

As important aspect of the Charter is highlighted in a handbook by Marian Klementowski. He emphasises that the Charter restricted the monarch's powers by imposing on him the obligation to observe the existing law, thus reflecting the growing belief (soon expressed clearly by Bracton in his work *De legibus et consuetudinibus Angliae libri quinque*) that the ruler was bound by law[22]. This observation is also to be found in K. Koranyi's synthesis[23].

The handbooks included in the second group tackle the subject of the Great Charter of the Liberties in a broad context of changes of the form of government taking place in medieval Europe and leading to the emergence of estate monarchy. A handbook by Jan Baszkiewicz is a good example here. Its author views the Great Charter of the Liberties (against the background of many other similar documents which abounded in medieval Europe) as an example of a group of barons slowly organising themselves in a bid to stop the growing monopoly of royal power. In conclusion, he states that "the Great Charter of the Liberties is an ambiguous phenomenon. While it opposed the obvious abuse of power by John Lackland, it did seek to curb the already advanced processes of monarchical concentration. To this end, it drew on the traditional and already anachronistic feudal principles, but it did accept numerous royal innovations of the 12th century (e.g. while condemning arbitrary actions of royal courts, it did not question the principle of the king's judicial sovereignty)" and adds "It was not a foundation of constitutional monarchy, but it can be seen as a forerunner of the institution of estate monarchy"[24].

Much room is devoted to the Great Charter of the Liberties in Stanisław Estreicher's lectures. He notes that "it was by no means a liberal constitution for the general population (as it was not until the 17th century that it started to be viewed this way), but an attempt to emancipate vassals from royal supremacy, where the Church, towns and smaller feudatories were also given some benefits in return for supporting the barons"[25]. Estreicher refers to the Great Charter also when discussing later eras. Writing about the results the struggle between the monarch and the parliament in the 17th century, he notes that acts emerged at the time which defined

[21] K. Koranyi, *Powszechna historia*…, pp. 180–182.

[22] M. Klementowski, *Powszechna historia*…, p. 193.

[23] K. Koranyi, *Powszechna historia*…, pp. 182–183.

[24] J. Baszkiewicz, *Powszechna historia*…, pp. 112–113.

[25] S. Estreicher, *Wykłady z historii ustroju państwa i prawa na zachodzie Europy*, Kraków 2000, p. 153.

"citizens' rights vis à vis the state, referring to the ancient *Magna Charta Libertatum*"[26], and describing the origins of the liberal state, he points out the roots of the idea of constitution embedded in the English charters of the liberties, such as *Habeas Corpus* referring to the Great Charter of 1215. He concludes as follows: "The Bill of Rights and the Act of Settlement are new in that they are not estate privileges but they refer to the whole nation, and together with the Great Charter of the Liberties and the Petition of Rights they are harbingers of modern constitutions"[27]. The Great Charter appears in Estreicher's lectures also when he discusses civil rights in liberal constitutions. Presenting various models of designing the list of those rights, Estreicher highlights the uniqueness of the English model in which "every citizen has the right of full liberty, and only law can prescribe how much civil liberty can be restricted in exceptional circumstances (...) Their liberty charters (*Magna Charta Libertatum*, Petition of Right, *Habeas Corpus*) contain valid definitions of such exceptional circumstances (when a citizen can be imprisoned, dispossessed of his property, etc.). Should state authorities breach a citizen's liberty, he has the right to challenge them in court, and the court rules whether a breach has indeed taken place and whether or not it is in compliance with law"[28].

References to the English Great Charter are also to be found in state (constitutional) law handbooks, especially in chapters dealing with civil rights. For example, in a handbook by Zygmunt Cybichowski, published in 1933, the Great Charter of the Liberties is referred to in a discussion on the origins of the French Declaration of the Rights of Man and of the Citizen (as a source of inspiration for the American states' declarations of rights, such as those adopted in Virginia, which influenced the authors of the French document)[29]. In a similar context, the Great Charter of the Liberties appears in Leszek Garlicki's constitutional law handbook, reissued in many editions, in which the Great Charter of the Liberties as well as the Petition of Right and the Bill of Rights of 1689, are referred to as examples of the first constitutional documents in medieval Europe relating to the rights of the individual[30].

The Great Charter is also referred to in handbooks dedicated to the history of political doctrines. The handbook by Konstanty Grzybowski is perhaps a good example here. Analysing the theory of representation in the Middle Ages, Grzybowski emphasises the uniqueness of England in this respect, as government bodies that did not represent particular estates appeared there earlier than in other countries and, he adds, "more than anywhere else, starting with the Great Charter

[26] *Ibidem*, p. 181.

[27] *Ibidem*, p. 215.

[28] *Ibidem*, pp. 231–232.

[29] Z. Cybichowski, *Polskie prawo państwowe na tle uwag z dziedziny nauki o państwie i porównawczego prawa państwowego*, Vol. 1, Warszawa 1933, p. 134.

[30] L. Garlicki, *Polskie prawo konstytucyjne. Zarys wykładu*, Warszawa 2015, p. 87.

of the Liberties of 1215, rights were vested in all free men, without distinction of estate"[31].

In the mid-1970s, the subject titled "Contemporary Political Systems" appeared in the faculties of law in Poland. Although it was optional, it did open up an opportunity for interested students to study the political system principles of major states of the Western world. In the People's Republic of Poland, this was an exceptional opportunity. The group of states whose political systems were discussed during those classes included Great Britain. Over time, handbooks were issued, written especially for those classes. Similar classes soon became part of the political science curriculum. Some of the handbooks contained introductory notes, for each chapter dedicated to a particular state, showing the historical evolution of the system. A handbook prepared at Maria Curie-Skłodowska University in Lublin also featured such an extensive historical disquisition concerning the formation of Great Britain's political system[32]. The book draws attention to the role of the Great Charter of the Liberties as a 13th century privilege of the barons, and then – in the 17th century – as a document supporting the call for the development of parliamentary liberties. The subchapter "British Constitution" mentions the Great Charter of the Liberties as an example of an act with a historical value, shaping political awareness and foundations of the system of government, although it was not originated in parliament, and thus does not have the force of statute[33]. The Great Charter of the Liberties is referred to in a similar way, albeit very succinctly, in a handbook by Andrzej Pułło[34].

IV

Thus the Great Charter of the Liberties has been present in teaching Polish lawyers for almost 200 years. It has been invariably associated with the beginnings of English parliamentarism and with the evolution of civil liberties, and in this sense it is treated as one of the essential documents forming the foundations of the European political system standard. It is not without reason that for many years at the University of Warsaw the sets of examination questions on completion of the course of General History of State have included a question about the Great Charter of the Liberties. At the same time, the Charter is a good example for

[31] Referring to Article 39 of the Charter "*Nullus liber homo capiatur*", K. Grzybowski, *Historia doktryn politycznych i prawnych. Od państwa niewolniczego do rewolucyj burżuazyjnych*, Warszawa 1967, p. 209.

[32] W. Skrzydło (ed.), *Ustroje państw współczesnych*, Vol. 1, Lublin 2007, p. 10.

[33] *Ibidem*, pp. 16–17.

[34] A. Pułło, *Ustroje państw współczesnych*, Warszawa 2007, p. 42.

our students of the changing role that a particular legal act can play in the functioning of a state, which is a good and, hopefully, lasting lesson of the evolutionary character of political institutions. The 800th anniversary of the Great Charter of the Liberties is an excellent opportunity to raise awareness of its special role.

Translated by *Ryszard Guz-Rudzki*

THE PLACE AND ROLE OF THE ENGLISH GREAT CHARTER OF THE LIBERTIES IN TEACHING LAW IN POLAND

Summary

The article concerns the place of the English Great Charter of Liberties in the teaching of law in Poland. The presentation of the ways of describing this document and its provisions in the most important Polish handbooks on the history of political systems, is preceded by the short historical analysis of the position (still significant) of the history of law in the curriculum of the teaching of law at Polish universities.

The English Magna Carta from 1215 became one of the most important documents in the history of constitutionalism. This privilage, delivered to the English barons by king John Lackland, began to play, since the XVIIth century, the foundamental role for the concept of civic liberties and then became the basis of English parlamentarism.

In that double sense Magna Carta has for 200 years been present in the education of Polish lawyers. In the article the author analizes from that viewpoint the content of the most influent Polish handbooks on the history of political systems as well as on constitutional law.

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KEYWORDS

Magna Carta Libertatum (Great Charter of Liberties), constitutionalism, teaching of law, citizins rights

SŁOWA KLUCZOWE

Wielka Karta Wolności, konstytucjonalizm, nauczanie prawa, prawa obywatelskie