



THE GOLDEN BULL OF 1356. A LEGISLATIVE MASTERSTROKE BY EMPEROR CHARLES IV

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ABSTRACT

The Golden Bull of Emperor Charles IV (reigned 1346/1355-1378) of 1356 is one of the most prominent laws of the late medieval and early modern Holy Roman Empire. It is one of the fundamental laws (leges fundamentales) and, from the point of view of constitutional history, presenting a clear programme for the organisation of imperial rule involving the privileged electoral group. The Code pursues the creation of a firmly structured order, which can be based in part on custom.

Ranking (casting of votes; seating order; different privileges) and equality of rank (ceremonial) among the electors are laid down as essential elements of an order of unity and peace in the empire. The consensus with the electors sought by the Emperor and apparently largely implemented offered the chance to also implement the agreed and imperially proclaimed rules in reality. In this respect, those important rulers besides the emperor who had to enforce the law in general in their territories were involved in the content and formal design of the Code as a prerequisite and unifying feature.

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At the heart of the Golden Bull were the rules for the election of kings, which basically stood the test of time until the end of the Old Empire. Clarity and the endeavour to reach agreement on the applicable rules were the goals of the Golden Bull. This meant that there was no longer any room for the election of opposing kings and double elections. In many cases, the legislator was able to refer to tradition and custom, which contributed to an evident legitimisation of the respective norms. Compliance with and enforcement of the legal norms enacted by the legislature were important to the legislature. A system of sanctions – from loss of rights to fines to the death penalty and the diminution of rights/honour of the descendants of executed conspirators/mayhem criminals – reinforced the relevant norms. In this respect, the legislator left no doubt about his determination. The electors, whom he had included in the legislation by consensus, were held in high esteem by him as emperor (of necessity due to the power-political relations in the empire) with regard to the welfare of the Holy Roman Empire.

Keywords: Emperor Charles IV, Holy Roman Empire, fundamental laws, constitutional history, election of kings, legislation, electors, ceremonial rank, privileged electoral group, Empire and territories

1. ORIGIN AND TRADITION

The Golden Bull¹ of Emperor Charles IV (reigned 1346/1355–1378)² of 1356 is one of the most prominent laws³ of the late medieval and early

1 Authoritative scholarly-critical edition of Fritz, *Goldene Bulle MGH* 1978–1992. The conference volumes Hohensee et al. I, II 2009 are of outstanding importance for the historical appreciation and research of the Golden Bull in its diverse, also comparative-international contexts. Presenting the state of research at that time, they go back to a conference organised by the working group of the Academy Project of the Berlin-Brandenburg Academy of Sciences and Humanities „MGH. Constitutiones et acta publica imperatorum et regum. Dokumente zur Geschichte des Deutschen Reiches und seiner Verfassung” in 2006.

2 The dates in brackets for kings and emperors are the year of election as Roman-German king and the year of coronation as Roman-German emperor. On the biography of Charles IV, cf. on behalf of many: Monnet, 2021; Seibt, 1978; Seibt, 1983/1994; Spěvák, 1979; Moraw, 1979; Müller-Mertens, 1982; Bobková, 2012. On the autobiography of Karl IV, Schlotheuber, 2005.

3 On the concept of law, cf. the overview by Mertens, 2012.

modern Holy Roman Empire. It is one of the fundamental laws (*leges fundamentales*)⁴ and, from the point of view of constitutional history, stands chronologically between the imperial laws of Emperor Frederick II (r. 1212/1220–1250) (*Confoederatio cum principibus ecclesiasticis* 1220; *Statutum in favorem principum* 1231/32)⁵ and the reform laws of the Diet of Worms under King Maximilian I (r. 1486/1508–1519) (Reichskammergerichtsordnung 1495, Ewiger Landfriede 1495⁶, etc.).

Historically⁷, the Golden Bull is a collection of individual laws (*leges, constitutiones*,⁸ *edicta*) of Emperor Charles IV, which were discussed and promulgated⁹ at the court days¹⁰ of Nuremberg (November 25th 1355 to January 10th 1356) and Metz¹¹ (November 17th 1356 to January 7th 1357).¹² The total of 31 chapters are written in Latin („in an elevated language”).¹³ The Code consists of two parts, which came into being at the two aforementioned court days. Only a few months earlier (April 5th 1355), Charles IV had been crowned Emperor in Rome. In addition to the crown of Roman-German emperor and king¹⁴, Charles wore the Bohemian royal crown, the Lombard („Milanese”) royal crown (coronation in Milan in 1355) and the Burgundian royal crown (coronation in Arles in 1365),¹⁵ which also play a role in the Golden Bull.

The Proemium and Chapters 1 to 23 (the later first part of the Golden Bull) were promulgated on January 10th 1356 at the Court Day of Nuremberg. Chapters 24 to 31, which form the second part, followed at the Court

4 Mohnhaupt, 2016, col. 695.

5 Cf. also Laufs, 2012, col. 452; Buschmann, 2008a.

6 Cf. also Buschmann, 2008.

7 The work of Hergemöller, Fürsten 1983 is fundamental to the history of origin, structure, effects and other aspects; Wolf, 2013b should also be mentioned here.

8 Cf. Lück, 2014.

9 On promulgation as a component of legislation, cf. Mertens, 2020, col. 936 f.

10 On the preference of this term over „Reichstag”, cf. Hergemöller, 2006, p. 26; cf. also the detailed study by Annas, 2004.

11 Cf. the very informative chronology of events and procedures at the two court days in Hergemöller, 2006, pp. 35–37.

12 Hergemöller, 2015, p. 17. On the promulgation of laws in the Middle Ages in general, cf. Wolf, 1973, pp. 558–562.

13 Fritz, 1978, p. 37.

14 Cf. Fillitz, 2012.

15 Laufs, 2012, col. 448.

Day of Metz on December 25th 1356.¹⁶ It was only between 1366 and 1378 that the Nuremberg and Metz parts were united into one book (the so-called Bohemian copy).¹⁷ The Proemium provides brief information on the reasons for the legislation and how it came about. The legislator („we”), who as King of Bohemia refers to his own electoral position,¹⁸ wants to establish unity among the electors. He gives two reasons for this: because of the emperorship and because of the right to vote. Unity was to be brought about on the rules for the election of kings. Discord and other dangers should no longer have access to the electors. In exercise of the imperial power, the following laws have been enacted and confirmed. As to the manner of execution of the legislative act, it is stated that the laws were passed at the solemn Court Day in Nuremberg in the presence of all the ecclesiastical and secular electors as well as other princes, nobles and city representatives¹⁹ after thorough deliberation. The proclamation was made while seated on the imperial throne, with the emperor adorned with the imperial insignia²⁰ (crown, sceptre, orb).²¹

It has been handed down from the Metz Court Day that the Emperor read from the Gospel of Luke (2:1), the beginning of the Christmas story, during the Christmas Mass. In doing so, he identified himself with the Roman Emperor Augustus and, through this symbolic act, let all contemporary witnesses know that he was an indirect successor to him. Furthermore, this was connected with the statement that the Roman Empire was older than the Christian Church.²²

This was preceded by the preparation of drafts and draft resolutions on individual provisions in the imperial chancellery during the second half of 1355,²³ i. e. in preparation for the Nuremberg Court Day.²⁴ The

16 Cf. Hergemöller, 1989.

17 Hergemöller, 2015, p. 24.

18 His own position as elector obviously meant a lot to the Emperor/King. Cf. Heinig, 2009, p. 73. On his decrees in favour of Bohemia, cf. Bobková, 2009.

19 On them cf. Lindner, 2009a.

20 Cf. also Lück, 2012c; Lück, 2012b.

21 Hergemöller, 2006, p. 26.

22 Schneidmüller, 2009, p. 272.

23 Bojcov, 2013, pp. 586, 593, 596, 606 f.; Hergemöller, 1983, pp. 6, 161-168; Greule, 2020, p. 104.

24 Cf. Hergemöller, 2006, pp. 26-28.

emperor probably brought several drafts in edict²⁵ form with him to Nuremberg, which served as a basis for negotiations and were incorporated more or less modified into the text of the Golden Bull.²⁶ The emperor himself called his and his court chancellery's work of law²⁷ 1361: „unser keiserliches rechtbuch” (our imperial law book).²⁸ The final editing was apparently in the hands of the court chancellor Johannes von Neumarkt (Bishop of Leitomischl 1353-1364). The teachings of Lupold von Bebenburg (Bishop of Bamberg 1353-1363) also appear in the text.²⁹ With all due respect for the legislative achievements of the emperor, his court chancellor, his councillors³⁰ and notaries, the electors³¹ as actors in the Golden Bull legislation must also be taken into account³² – as is rightly expressed solemnly and verbally in the Proemium.³³ With the electors (Archbishops of Mainz, Cologne and Trier as well as King of Bohemia, Count Palatine of the Rhine, Duke of Saxony, Margrave of Brandenburg), strong personalities with knowledgeable advisors were present at the two court days alongside the Emperor. With a sense of compromise³⁴, they were not infrequently able to assert their positions in the negotiations on the text of the law and even to include new provisions not planned by the emperor in their interests.³⁵ The Proemium emphasises that the emperor enacted the law with the consensus³⁶ of the electors, which refers to both the form and the content. On the one

25 On the edict as a legal act of ancient Roman imperial legislation, cf. Waldstein and Rainer, 2014, p. 212 f.

26 Bojcov, 2013, p. 607.

27 Cf. also Hergemöller, 1981.

28 Neumann, 1996, no. 196. Cf. also Wolf, 1969/2013; Lindner, 2009, p. 99.

29 Laufs, 2012 col. 451.

30 Cf. generally also Schirmer, 2012.

31 Cf. the overview by Wolf, 2016.

32 See also Lindner, 2009, p. 132; Willoweit, 2013, p. 85. See also Heinig, 2009; Lieberich, 1959, p. 186.

33 Similarly Lindner, 2009a, p. 172 f.

34 Cf. also Hergemöller, 2015, p. 28; Heckmann, 2009, p. 933; Greule, 2020, p. 108 f.

35 So presumably chapters 13, 16 and 24 at the insistence of the Archbishop of Cologne, the Bishop of Strasbourg, the Archbishop of Mainz (Heinig, 2009, p. 88; Hergemöller, 2015, p. 24).

36 On consensus in medieval legislation, cf. Dilcher, 2016, col. 113-115, cf. also Lanzinner, 2012.

hand, due to the constellation of political forces, imperial legislation of the kind still practised by the Staufer Frederick II, for example, was no longer possible. Only in this way could a fundamental imperial law come into being,³⁷ which „owes itself to a unique constellation of exceptionally interdependent protagonists ...”.³⁸ On the other hand, under Emperor Louis IV, called the Bavarian, (r. 1314/1328-1347) and Charles IV, the concept of the emperor’s legislative power had finally established itself in the course of the reception of Roman and canon law.³⁹ Louis’ reign was marked by massive constitutional disputes,⁴⁰ to which Charles IV referred with the Golden Bull. From the point of view of negotiation with consensus as the result, the Golden Bull has often been described, not entirely inaccurately, as a treaty or agreement.⁴¹ However, the increasing role of the electors and their growing co-responsibility for the empire did not preclude imperial *plenitudo potestatis*.⁴² With the solemn promulgation by the emperor, making the splendour of the empire visible, and the conscious use of his legislative competence, it became imperial law. The function of highlighting precisely this function could also be assigned to its opening poem, which emphasises the emperor „as the guarantor of the secular (legal) order ... and thus the special and novel role of law in the conception of rule”.⁴³

Seven original copies have been preserved,⁴⁴ which were made shortly after the promulgation.⁴⁵ Five of them (executed in 1356) were

37 Similarly Lindner, 2009, p. 132.

38 Heinig, 2009, p. 91.

39 Wolf, 1973, pp. 523, 528-530; Willoweit, 2009, pp. 248-251 et al.

40 Willoweit, 2013, p. 83.

41 Helmrath, 2009, p. 1140; Schlinker, 2021, p. 120.

42 Willoweit, 2013, p. 85.

43 Greule, 2020, p. 141.

44 1) Frankfurt copy (Institut für Stadtgeschichte Frankfurt am Main; 2) Cologne copy (ULB Darmstadt); 3) Mainz copy (Österr. Staatsarchiv, Haus-, Hof- u. Staatsarchiv Wien – AT-OeStA/HHStA UR AUR 9229 Golden Bull – Mainz copy, 1356 I 10); 4) Bohemian copy (ibid., AT-OeStA/HHStA UR AUR 9228; URL: <http://www.archivinformationssystem.at/detail.aspx?ID=489245>); 5) Nuremberg copy (Staatsarchiv Nürnberg); 6) Palatine copy (Bayerisches Hauptstaatsarchiv); 7) Trier copy (Landesarchiv Baden-Württemberg/Hauptstaatsarchiv Stuttgart. Detailed description in Fritz, Goldene Bulle 1978-1992, pp. 540-547.

45 Hergemöller, 2015, p. 17.

given to electors (Bohemia, Mainz, Cologne, Trier, Palatine of the Rhine). Two further copies went to the cities: Frankfurt am Main as the place of the election of the king (1366)⁴⁶ and Nuremberg as the place of the first court day (1366/1378).⁴⁷ Adequate copies for the Electors of Saxony and Brandenburg have not survived.

The extremely popular name of the law (first „Bulla Aurea” in 1400)⁴⁸ goes back to the seal capsule made of sheet gold, filled with wax.⁴⁹ It measures approx. 6 cm in diameter and has a thickness of approx. 0.6 cm.⁵⁰ The seal shows the emperor enthroned on the front with a bow crown, a long sceptre crowned with lilies and an imperial orb. The throne, furnished with cushions, is flanked at seat level by the imperial coat of arms (shield with crowned eagle – heraldically on the right) and the coat of arms of the Kingdom of Bohemia (shield with crowned double-tailed lion – heraldically on the left). The inscription reads: KAROLVS QVARTVS DIVINA FAVENTE CLEMENCIA ROMANO(RVM) IMPERATOR SEMP(ER) AVGVSTVS, in the inner field continuation of the inscription: ET BOEMIE REX. The reverse shows a stylised view of the city of Rome and the inscription AVREA ROMA on a portal. The circumscription reads: ROMA CAPVT MVNDI REGIT ORBIS FRENA ROTVNDI.⁵¹

During the reign of Charles IV, the Golden Bull apparently did not develop any significant „normative force”.⁵² Only gradually did it develop from a privilege⁵³ into an „unrestricted basic law of the empire”,⁵⁴ which is expressed, among other things, in the transcriptual tradition. There are 173 copies from the late Middle Ages (not including the seven copies for five electors and the cities of Nuremberg and Frankfurt) and at least 20 more

46 For details see Lindner, 2009, p. 107–112; Brockhoff, 2006; Matthäus, 2015.

47 The Nuremberg copy, unlike the others, has a wax seal (Hergemöller, 2015, p. 26).

48 So also Fritz, 1978, p. 35.

49 Fritz, 1978, p. 35; cf. also Matthäus, 2015, p. 76.

50 Fritz, 1978, p. 35.

51 Seal description according to Fritz, 1978, p. 7. This hexameter was often used on bulls (Vogtherr, 2008, col. 713). On this type of seal, cf. also Matthäus, 2006.

52 Lindner, 2009, p. 137.

53 On the privilege in the Middle Ages, see Hecker, 2020.

54 Lindner, 2009, p. 136; similarly p. 139. On the distinction between privilege and law, cf. Wolf, 1973, p. 518.

from the early modern period.⁵⁵ Most of the manuscripts have survived in Latin, followed by the German ones. French versions and a late translation into Spanish have also survived; a Czech version, however, is missing.⁵⁶ The greatest concentration of manuscripts is found between the years around 1435 and 1475.⁵⁷ It is possible that the unfolding juridification of society brought with it an increased need for Golden Bull texts.⁵⁸

Of outstanding cultural-historical importance is the magnificent manuscript with 48 miniatures from 1400, commissioned by King Wenceslas (reigned as Roman-German King 1376-1400; as Wenceslas IV King of Bohemia 1363-1419).⁵⁹

The first printing in book form appeared around 1474 in Nuremberg by Friedrich Creussner. It is the first ever printing of an imperial law.⁶⁰ A total of nine cradle prints can be identified (three of them in Latin and six in German).⁶¹ Among them is the print illustrated with impressive and artistically high-quality woodcuts, which was published in 1485 by Johann Prüss in Strasbourg.⁶² The book was produced in preparation for the election of King Maximilian.⁶³

2. ASPECTS OF CONTENT⁶⁴

At the centre of the regulations made at the Nuremberg Court Day was the election of the king with the exclusivity of the right to vote for the

55 Heckmann, 2009, p. 934; locations and description of the manuscripts *ibid*, pp. 981-1042.

56 Heckmann, 2009, p. 941.

57 Heckmann, 2009, p. 938.

58 So also Heckmann, 2009, p. 937.

59 Today in ÖNB, Cod. Vind. Pal. 338. Cf. Wolf, 2013c; Garnier, 2009, pp. 225-237, as well as the facsimile edition Wolf, König Wenzels Handschrift 2002.

60 GDW M16093.

61 Fritz, 1978, p. 36.

62 Die güldin bulle. vnd küniglich reformacion, Strasbourg 1485 (Gesamtverzeichnis Wiegendrucke Nr. M 16095); cf. also Die güldin bulle 1485/1968.

63 Wolf, 1989, col. 1543.

64 The following remarks are based on Fritz, 1978, as well as on his bilingual MGH edition (Latin and Early New High German) – Fritz, Goldene Bulle MGH 1978-1992. All literal German-language quotations are also taken from the translation, unless otherwise indicated.

seven electors⁶⁵ and the stipulation of the voting order as well as the majority principle in voting.⁶⁶ The head of the election was the Archbishop of Mainz. He had to ask for the votes in the order now prescribed by law: Archbishop of Trier, Archbishop of Cologne, King of Bohemia, Count Palatine of the Rhine, Duke of Saxony and Margrave of Brandenburg. Lastly, the Archbishop of Mainz was to be asked for his vote by the six other electors. Furthermore, the legal status and ranking of the electors, clarifications of the right of feud, as well as the prohibition and punishment of conspirators for the preservation or restoration of the land peace were regulated.

The conspicuously meticulous rituals listed in connection with court sessions and other representative imperial assemblies, some of which were based on traditional imperial customs, are a characteristic feature of the Golden Bull's content. Without the imperial custom and without the symbolic language of the rituals, the imperial constitution was „not viable”.⁶⁷ The laws of Metz therefore largely contain concretisations on ceremonial and the presentation of the Empire.⁶⁸ The constitution of the empire⁶⁹ existed in the 14th century and later not only in the form of customary and written legal norms, but also in the form of rituals in the sense of legally relevant symbolic acts.⁷⁰ Also of central importance is the stipulation of the indivisibility of the Kurlande, which corresponds with the imperial prohibition of dividing imperial fiefs that had existed since the 12th century.⁷¹ Finally, the strict imperial legal requirement of primogeniture⁷² was intended to bring about a uniform succession regulation for all electorates.

The main actors of the imperial constitution in the Golden Bull are, besides the king/emperor, the seven electors. The latter elect the Roman

65 Fundamental works on the right of kingship are those by Armin Wolf: Wolf, 2002a; Wolf, 2013; Wolf, 2017; Wolf, 2020 et al.

66 Cf. also de Wall, 2008, col. 40 f.

67 Cf. Stolleis, 2015, p. 65 f. Fundamental to this is Stollberg-Rilinger, 2008.

68 Hergemöller, 2015, p. 17 f., 26.

69 Cf. fundamentally Moraw, 1985.

70 Stolleis, 2015, p. 65.

71 Willoweit, 2009, p. 252.

72 Cf. Brauneder, 2020.

King and future Emperor: *rex Romanorum in cesarem* (or: *imperatorem*) *promovendus*.⁷³ The Roman King is elected in Frankfurt am Main⁷⁴ and crowned in Aachen.⁷⁵ According to the doctrine of *translatio imperii*, he is entitled to the imperial crown.⁷⁶ With the imperial coronation⁷⁷ in Rome by the Pope, he attains the imperial dignity. The regular mention of the formula reproduced above proves that the Golden Bull consciously and thus constitutionally correctly distinguishes between kingship and emperorship. It should be borne in mind that the electors no longer considered papal approval of the election of the king,⁷⁸ as was customary and necessary in the High Middle Ages,⁷⁹ necessary at the latest after the imperial law *Licet iuris*⁸⁰ as well as the Mandate *Fidem catholicam* and the *Rhenser Weistum* (all from 1338), prepared by the *Sachsenhausen Appeal* (1324), which had been created and promulgated under Charles' predecessor and rival Louis the Bavarian.⁸¹ In general, the Pope as the head of the universal spiritual power plays no role in the Golden Bull in relation to the universal temporal power of the Emperor.⁸² The reference to Rome in the seal is clearly aimed at the metropolis of origin of the Western (Roman) Empire. Although Charles IV had himself crowned emperor in Rome in 1355, a cardinal legate acted as coronator here, admittedly after consultation with the Pope.⁸³

According to the Golden Bull, seven electors are entitled to vote (first practised in this way in 1298 at the second election of King Albrecht I (r.

73 See also Hergemöller, 2015, p. 21. On the origin and reception of this formula, see in detail Menzel, 2009, pp. 40–45, 52–55, as well as Willoweit, 2013, p. 85.

74 On Frankfurt am Main, cf. the overview by Maaser, 2008.

75 Cf. Heidenreich and Kroll, 2006.

76 Cf. also Schmidt, 2012, col. 883. On the scholarly debate about the *translatio imperii* in the context of the election of Charles IV, cf. Moeglin, 2009, p. 32 f.; Willoweit, 2009, p. 248.

77 Cf. Becker, 2012; Büttner, 2017.

78 Cf. in detail Menzel, 2009 as well as; Lindner, 2009, p. 114 f.; Stollberg-Rilinger, 2012, col. 1506–1508.

79 Cf. Lückcrath, 2008; Willoweit, 2013, p. 81, 84; Castorph, 2022.

80 See also Laufs, 2012, col. 451; Schneidmüller, 2012, col. 1502 f.; Becker, 2016.

81 See also Moeglin, 2009, pp. 20–38; Menzel, 2009, pp. 47, 58; Lieberich, 1959.

82 Laufs, 2012, col. 454.

83 Hergemöller, 2015, p. 21; Schneidmüller, 2012, col. 1503; in detail Schlotheuber, 2017.

1298-1308). The Electoral College⁸⁴ is composed of three ecclesiastical (Archbishops of Mainz, Cologne and Trier)⁸⁵ and four secular electors (King of Bohemia, Count Palatine of the Rhine, Duke of Saxony, Margrave of Brandenburg).⁸⁶ As King of Bohemia, Emperor Charles IV was himself the highest-ranking secular elector.⁸⁷ The explicit stipulation that the King of Bohemia was an elector of the empire with the right to vote clarifies with the highest authority of imperial law that the exception communicated in the Saxon Mirror (Landrecht III 57), that the King of Bohemia had no right to vote, was rejected and replaced by an unequivocal stipulation.⁸⁸ The electoral dignity was linked to the territory that the electors held as a fief of the empire (Fahnlehen). Attached to this was the noble right to elect the Roman king. Anyone who legally held an electorate was entitled to elect a king and enjoyed other associated privileges which were radicated to the electorate. In addition, there was an arch office, which was also accessory to the electorate or the electorship. This was to be exercised by the secular electors, especially on ceremonial court days at the royal/emperor's banqueting table, in the sense of a service of honour to the king/emperor.⁸⁹ The King of Bohemia was the *Archipincerna*, the Count Palatine of the Rhine the *Archidapifer*, the Duke of Saxony the *Archimarschallus* and the Margrave of Brandenburg the *Archicamerarius* of the Empire. The arch offices⁹⁰ of the three ecclesiastical electors consisted in the exercise of the chancellorship, divided among certain areas of the empire. Thus the highest-ranking archbishop of Mainz⁹¹ acted as chancellor for Germania (*Archicancellarius per Germaniam*), the archbishop of Cologne as chancellor for Italy (*Archicancellarius per Italiam*) and the archbishop of Trier as chancellor

84 Cf. Hlawitschka, 2015; Wolf, 2013; Wolf, 2017; Wolf, 2020.

85 See also Kloft, 2006; Pelizaeus, 2006.

86 The article was inserted later (around 1273) into the law book, which was written between 1220 and 1235 (cf. Wolf, 2020). However, it denies the King of Bohemia – historically incorrectly – the right to vote. On Bohemian electoral law, cf. also Begert, 2003; Wolf, 2012; Wolf, 2013a; Hlaváček, 2002.

87 Cf. Frey, 1978.

88 Cf. also Schneidmüller, 2009, p. 275.

89 Cf. Töbelmann, 2010.

90 Cf. also Erkens, 2008.

91 Cf. also Jürgensmeier, 2006.

for Burgundy (*Archicancellarius per Galliam*).⁹² These offices were of a purely symbolic nature and served primarily to stage the visualisation of the empire in the context of court days and similar representative gatherings.

As a group, the electors were endowed with extensive privileges, some of whose contents they had been exercising for a long time. These included various regalia (coinage regal, mining regal, rule for the protection of Jews) as well as freedom of the courts. The latter included above all the assurance of the king/emperor that he would no longer drag anyone from an electorate before an external court, and thus also before a royal court (*privilegium de non evocando*). Furthermore, the subjects of the electors were forbidden to appeal to a foreign court (*privilegium de non appellando*). These privileges⁹³ weakened the imperial jurisdiction and strengthened the development of the judicial system in the electorates with the elector or his court as the apex of jurisdiction towards the outside world and the empire. The Count Palatine of the Rhine and the Duke of Saxony had a special position among the electors. As vicars of the empire, they had the power to represent the emperor/king in the event of a vacancy⁹⁴ on the throne.⁹⁵ The Count Palatine of the Rhine was responsible for the areas of the empire where Frankish law⁹⁶ applied, the Duke of Saxony for the areas of the empire in the Saxon legal⁹⁷ sphere.

The electors are characterised in Chapter 12 as „pillars of the Empire“, expressing their exclusive position and weight in the constitution of the Empire.⁹⁸

Viewed as a whole, the Golden Bull „as a work of peace“⁹⁹ was aimed at establishing and maintaining peace between the emperor/king and the electors on the one hand and between the electors themselves on

92 On this tripartitedivision of the empire, cf. Holzhauer, 2012, col. 1194; Lindner, 2009, p. 128.

93 Cf. Eisenhardt, 1969; Battenberg, 2020a; Battenberg, 2020.

94 Cf. also Erkens, 2012; Moraw, 1983, pp. 51 f., 55.

95 Cf. also Heckmann, 2002.

96 Cf. also Schumann, 2008.

97 Cf. also Lück, 2010; Lück, 2012a.

98 Cf. the fundamental research by Gotthard, 1999; Gotthard, 2001.

99 Schneidmüller, 2015, p. 45.

the other.¹⁰⁰ Chapter 24, which endows the electors with the right of majesty, is of particular importance. Whoever attacks an elector in the future will be judged with the sword, because the electors are „members of our [the imperial – H. L.] body”.¹⁰¹ Last but not least, the imperial law aimed at strengthening the royal house power, which for Charles IV and his successors included the kingdom of Bohemia, which was privileged by the law in several ways, including in particular the right to the first secular electoral vote in the election of the king and the final vote of the royal/imperial chancellor in the person of the archbishop of Mainz. However, the associated expectations of the Luxembourg dynasty were not fulfilled.

Nevertheless, the Golden Bull remained in force until the end of the Old Empire in 1806 and had a stabilising and promoting effect on imperial constitutional law and on the state-building processes in the imperial territories, especially in the electorates. It formed the legal basis for all royal elections after 1356, the last time for the election of Francis II (r. 1792-1806).

Right at the beginning, the text of the Golden Bull presents in its metaphorical proemium¹⁰² an imperial claim to rule as well as supremacy and divine grace (theocratic vocation).¹⁰³ The necessary unity of emperor/king and electors as well as of the latter among themselves, the uniformity of the election of kings and the overcoming of the division detrimental to the empire are formulated as goals of the law.¹⁰⁴

This is followed by the table of contents with numbers and headings of the individual chapters 1 to 21.¹⁰⁵

100 Similarly Schneidmüller, 2015, p. 33 f.; Lindner, 2009, p. 122. On the avoidance of armed conflict as a basic feature of Charles IV's policy, see Schlottheuber, 2009, p. 144; Angermeier, 1978.

101 The passage is taken verbatim from Codex Iustinianus 9, 8, 5 (so-called *lex Quisquis*). Cf. also Lieberwirth, 2016, col. 1198; Schneidmüller, 2009, p. 269.

102 Bojcov, 2013, p. 592, fn. 26.

103 Laufs, 2012, col. 451 f. Cf. also Bauch, *Divina favente clemencia* 2015.

104 Schneidmüller, 2009, p. 269.

105 This overview does not represent a „systematic arrangement” of the contents of the Code (Bojcov, 2013, p. 588). A factually oriented subdivision has been proposed by Armin Wolf (Wolf, 1969/2013, p. 973). The list of chapters has been prefixed to the Code in connection with the adopted transcript of the Code.

Chapter 1: How the escort of the electors shall be and by whom it must be provided

Chapter 2: On the election of the Roman King

Chapter 3: On the seating arrangements of the Archbishops of Trier, Cologne and Mainz

Chapter 4: On the electors in general

Chapter 5: On the right of the Count Palatine and also of the Duke of Saxony

Chapter 6: On the prerogatives of the electors over the other princes

Chapter 7: On the succession of the secular electors

Chapter 8: On the freedom of the courts of the King of Bohemia and his countrymen

Chapter 9: About gold, silver and other mines

Chapter 10: About coins

Chapter 11: On the jurisdiction of the electors

Chapter 12: On the meeting of the electors

Chapter 13: On the revocation of privileges

Chapter 14: On the withdrawal of feudal estates in case of unworthiness

Chapter 15: On conspiracies

Chapter 16: About the stake citizens

Chapter 17: On announcing feuds

Chapter 18: Notification form for the invitation to the King's Election

Chapter 19: Form of power of attorney of an elector for his representatives at the election

Chapter 20: On the unity of the electorates and the rights attached to them

Chapter 21: On the order of precedence of archbishops in solemn processions.¹⁰⁶

¹⁰⁶ The overview in the copies is incomplete. The text still has a Chapter 22 (On the hierarchy of the secular electors and the wearing of the insignia in ceremonial processions) and a Chapter 23 (On the giving of blessings by the archbishops in the presence of the emperor). Chapter 23 is only mentioned in the Mainz original in the overview (Fritz, 1978, p. 40).

The provisions proclaimed at the Court Day of Metz on December 25th 1356 are not preceded by a list of chapters. Therefore, the chapters do not have headings. In Fritz's edition and translation¹⁰⁷, their numbering follows that of the Nuremberg laws (chapters 24-31). In terms of content, they concern the following subjects:

Chapter 24: Punishment of crimes of majesty against electors

Chapter 25: Prohibition of the division of electorates

Chapter 26: Ceremonial at court days

Chapter 27: Arch offices of the electors at solemn court days

Chapter 28: Table and seating arrangements at ceremonial court days

Chapter 29: Determination of places for king's election, coronation and first court day / Position of representatives of the electors

Chapter 30: Rights of the court officials in the granting of fiefs by the emperor/king to the electors

Chapter 31: Multilingualism in the Empire and the learning of languages by the firstborn sons of the electors.

3. THE GOLDEN BULL AFTER 1356 – HIGHLIGHTS OF CHANGE AND PERMANENCE

Nobody else but Charles IV himself violated the rules of kingship he promulgated under the Golden Bull a little later.¹⁰⁸ When electing his son Wenceslas as Roman King and future Emperor in 1376, he put his dynastic interest above the legal precept he had issued 20 years earlier. He must certainly have been aware that, according to Roman law, the ruler was above the law (*princeps legibus solutus*) and could not regard it as binding on him.¹⁰⁹ It is curious that Wenceslas, of all people, was deprived of his power by the Rhenish electors in 1400 because of his unfitness.¹¹⁰ Charles granted princes benefices

107 Fritz, *Goldene Bulle MGH* 1978-1992; Fritz, 1978.

108 On the Golden Bull and the royal elections after 1356, see Johannes, 2012.

109 Cf. Schlinker, 2020.

110 Cf. Lindner, 2009, p. 105 f.

in the form of the conferral of arch offices that were not connected with an electorate.¹¹¹ Furthermore, he repeatedly disregarded the rules for the ceremonial wearing and display of the insignia (sword, sceptre, orb).¹¹²

A more intensive reception of the Golden Bull in constitutional and legal practice seems to have taken place only in the course of the 15th century.¹¹³ The central regulations of the election of the king were first used in the election of King Sigismund (1411/1433–1437) in 1410/11.

In the long run, the Golden Bull was to have strong effects, also intended by the legislator. Already at the time of the Golden Bull's enactment, papal approval of the election of the king was no longer relevant.¹¹⁴ Consequently, there is no longer any mention of it in the Code.

The imperial coronation of the elected Roman-German king in Rome was also no longer mandatory in the further development. The last regular king/emperor to receive such a coronation was Frederick III (reigned 1440/1452–1493) in 1452. In 1508, with the election of Maximilian I as „Elected Roman Emperor”¹¹⁵, the final renunciation of the papal imperial coronation was completed. The imperial coronation by the Pope was henceforth dispensed with. Only Emperor Charles V had himself crowned by the Pope in Bologna in 1530, which was to remain an exception.¹¹⁶ Since the election of Charles V, the privileges of the electors and the other imperial estates were promised, confirmed and secured by the emperor through negotiated electoral capitulations between the emperor and the estates¹¹⁷ (also *leges fundamentales*)¹¹⁸, which is reminiscent of the procedure of negotiation in the legislation of 1355/56.

111 Lindner, 2009a, pp. 176, 178–181.

112 Schneidmüller, 2009, p. 279.

113 Hergemöller, 2015, p. 21.

114 Hergemöller, 2015, p. 21.

115 Cf. Eisenhardt, 2008.

116 See also Stolleis, 2015, p. 56.

117 Cf. also Stollberg-Rilinger, 2012, col. 1508.

118 Mohnhaupt, 2016, col. 695.

From the early 15th century onwards, a general pressure for reform intensified in the empire. One of the best-known reform writings is the *Reformatio Sigismundi* of 1439, named after Emperor Sigismund but by an unknown author. However, significant results of the reform process were only achieved under King Maximilian I at the Reform Reichstag of Worms in 1495. Feuding was prohibited by the Eternal Peace of 1495. Legal disputes were referred to the Imperial Chamber Court created in 1495.

Attempts to involve the imperial estates in the exercise of imperial power in 1500 and 1521 (imperial regiment) failed.

In the first half of the 16th century, the Reformation led to the division of the imperial territories and towns into Catholic and Protestant, which significantly influenced the imperial constitution and its „symbolic language”.¹¹⁹ While Charles IV, with his legislative work and other measures, contributed significantly to placing the constitution of the empire on stable foundations, the next emperor with the name Charles (in the census Charles V) had to experience how „the world broke”¹²⁰ for him with and as a result of the Reformation.¹²¹

The relevance of the Golden Bull to imperial law was reflected in the science of imperial journalism and public law that was established around 1600, initially at Protestant universities.¹²² The appreciative signature as „fundamental imperial law”¹²³, which is widespread in modern legal, constitutional and historical literature, is first found in 1699 in the work of Johann Jacob Moser.¹²⁴ The Latin designation „lex

119 Cf. in detail Stollberg-Rilinger, 2008, pp. 93-136 (Reichstag von Augsburg 1530).

120 Schilling, 2020.

121 Cf. also Lück, 2012d, col. 1627 f.

122 Stolleis, 2015, p. 67.

123 Lindner, 2009a, p. 190; Laufs, 2012, col. 455; Stollberg-Rilinger, 2018, p. 25; similarly: „the fundamental constitutional law of the Holy Roman Empire ...” (Eisenhardt, 2013, p. 12); „this basic law” (Kunisch, 2001, p. 264); „one of the elementary basic laws of the empire” (Stollberg-Rilinger, 2008, p. 60); „European basic law” (Borgolte, 2009, p. 599).

124 „... reichsgrund-gesetze, benahmentlich die aurea bulla ...” (Moser, Staats-Recht 33 1747, p. 122). Cf. also Deutsches Rechtswörterbuch: <https://drw-www.adw.uni-heidelberg.de/drw-cgi/zeige?index=lemmata&term=reichsgrundgesetz> (6.2.22).

Imperii fundamentalis” appears somewhat earlier, namely in 1615 in the work of Arumaeus.¹²⁵ It was already regarded as such in the 16th century.¹²⁶

Admittedly, as a result of multiple shifts in power and changes in political conditions, a number of changes had taken place. The Golden Bull nevertheless represented „a kind of immovable centre as the basic law of the slowly changing imperial constitution”.¹²⁷ In the 16th and 17th centuries, Frankfurt was no longer the exclusive place for the election of kings.¹²⁸ A successor to the king/emperor was often elected while the emperor was still alive (*vivente imperatore*).¹²⁹ The Perpetual Diet had been meeting in Regensburg since 1663.¹³⁰

The number of electors was expanded in the 17th century. In 1623, the Duke of Bavaria took the place of the Count Palatine of the Rhine. The arch office created for him was that of Imperial Treasurer (*Archithesaurarius*). In 1692, the Duke of Brunswick-Lüneburg attained the electoral dignity. At the same time, he was given the newly created arch office of Reichserzbannerträger (*Archivexillarius*). With the annexation of Bavaria to the Count Palatine of the Rhine, the Palatine electorate ceased to exist, while the Bavarian electorate remained. With the Imperial Deputation of 1803, the Electors of Cologne and Trier disappeared. The Elector of Mainz received the newly created principality of Regensburg to replace Mainz, which had been lost to France. In addition, there were the new electorates of the Dukes of Salzburg (from 1805 Würzburg) and Württemberg as well as the Margrave of Baden and the Landgrave of Hesse-Kassel.¹³¹ They all ceased to exist with the fall of the Old Empire in 1806. The territory of Hesse-Kassel was called the „Electorate of Hesse” or „Kurhessen” until 1866. The sovereign used the title „Elector of Hesse”.

125 Wolf, 1969/2013, p. 971.

126 Stollberg-Rilinger, 2018, p. 25.

127 Stolleis, 2015, p. 55.

128 Stolleis, 2015, p. 56; in detail Stollberg-Rilinger, 2008, pp. 172-193.

129 Stolleis, 2015, p. 56.

130 Cf. Duchhardt, 2012.

131 Stolleis, 2015, p. 58.

4. CHARACTERISTICS OF THE GOLDEN BULL LEGISLATION

If we take a look at the Golden Bull as a product of imperial legislation, the following aspects deserve emphasis:

Charles was an educated ruler, legislator and judge.¹³² This is symbolised not only by the foundation of the University of Prague in 1348, the first university in the territory of the Holy Roman Empire, which he initiated, as a model that set standards and is still a flourishing reality today. He and his closer courtly surroundings knew the teachings and works of important poets as well as thinkers on state and law. It is assumed that the Golden Bull was influenced to a greater or lesser extent by Dante Alighieri, Petrarch, Lupold von Bebenburg, Konrad von Megenberg, Bartolus de Saxoferrato and others.¹³³ In addition, there was considerable knowledge of the law as well as analytical abilities, which were attested to Charles by contemporaries.¹³⁴ Charles understood and spoke several languages (Latin, German, Tuscan, French, Czech). Above all, he was proficient in Latin, which gave him good access to the sources of learned law (Roman and canon law).¹³⁵

It should be remembered that Charles IV was able to build on the legal acts of his former rival and predecessor Louis the Bavarian, even though he was extremely critical of them.¹³⁶ In terms of content, however, they corresponded to Charles' interests. This applies above all to the provisions enacted or confirmed by Louis to detach the election of kings and the coronation of emperors from papal involvement.¹³⁷ Charles took up the legislative achievements of Louis, whom he had fought as a counter-king, and made them appear as his own *constitutiones* or *leges* in the splendour of the comprehensive and solemnly proclaimed body of laws,

132 Cf. Schlotheuber, 2016; Schlotheuber, 2016a; Schlotheuber, 2005. Greule, 2020, p. 117 f.; Žurek, 2017.

133 Lindner, 2009, pp. 114-127; Schlotheuber, 2009, pp. 141 f.

134 Schlotheuber, 2009, p. 151.

135 Schlotheuber, 2009, p. 167.

136 Cf. Lieberich, 1959, p. 187.

137 Cf. in detail Menzel, 2009.

which was to have lasting repercussions and popularity. In retrospect, it had to appear to posterity as an imperial law of exclusive Carolinian provenance – confirming Charles IV's „legislative practice aimed at publicity”¹³⁸. The Golden Bull was his work, flowing from his sole legislative competence.¹³⁹ In this respect, the „inheritance of the legislative emperor” Louis was „taken away” from Charles IV.¹⁴⁰

The Emperor had his Court Chancellery prepare written drafts of various provisions, which he brought to the Court Day in Nuremberg. These formed the basis for negotiating the respective norms. Proposals for norms were also submitted by the electors and represented with an indispensable willingness to compromise. In Metz, Charles IV, as elector, carried the sealed copy of the Nuremberg part of the Golden Bull that had been given to him.¹⁴¹ Both in matters of content and in the language of documents, Charles and his chancellery were guided by the laws and charters of the Staufer Frederick II.¹⁴² Incidentally, the original order of the individual chapters, their rearrangement and supplementation in the process of drafting the Golden Bull is highly disputed.¹⁴³

The Golden Bull reveals a clear programme for the organisation of imperial rule involving the privileged electoral group. The Code pursues the creation of a firmly structured order, which can be based in part on custom.

Ranking (casting of votes; seating order; different privileges) and equality of rank (ceremonial) among the electors are laid down as essential elements of an order of unity and peace in the empire. Thus, „on the one hand, the clear hierarchy ... And on the other ... the absolute equality of rank”¹⁴⁴ were meticulously balanced with each other. The consensus with the electors sought by the Emperor and apparently largely implemented offered the chance to also implement the agreed

138 Lindner, 2009, p. 95.

139 Lindner, 2009, p. 132.

140 Moeglin, 2009, p. 18 f.

141 Lindner, 2009, p. 102.

142 Schlotheuber, 2009, pp. 165, 168. On the languages of documents in the 13th and 14th centuries cf. Lawo, 2009.

143 Zeumer, 1908; Hergemöller, 2006; Bojcov, 2013; Greule, 2020, pp. 102-109.

144 Kunisch, 2001, p. 269 f.

and imperially proclaimed rules in reality. In this respect, those important rulers besides the emperor who had to enforce the law in general in their territories (e.g. land peace; freedom of jurisdiction) were involved in the content and formal design of the Code as a prerequisite and unifying feature. The balancing of different ideas between the king/emperor and the electors, as well as among the electors and other representatives of the empire, and the implementation of unity (consensus) with regard to the rejection of papal claims, the maintenance of the god-independent empire and the special rights of the electors in the text of the law constitute „the special achievement of the Luxembourg” as a legislator.¹⁴⁵

At the heart of the Golden Bull were the rules for the election of kings, which basically stood the test of time until the end of the Old Empire. Clarity and the endeavour to reach agreement on the applicable rules were the goals of the Golden Bull. This meant that there was no longer any room for the election of opposing kings and double elections. In many cases, the legislator was able to refer to tradition and custom, which contributed to an evident legitimisation of the respective norms. Compliance with and enforcement of the legal norms enacted by the legislature were important to the legislature. A system of sanctions – from loss of rights to fines to the death penalty and the diminution of rights/honour of the descendants of executed conspirators/mayhem criminals – reinforced the relevant norms. In this respect, the legislator left no doubt about his determination. The electors, whom he had included in the legislation by consensus, were held in high esteem by him as emperor (of necessity due to the power-political relations in the empire) with regard to the welfare of the Holy Roman Empire. The fact that the emperor himself was the most distinguished secular elector among them favoured and strengthened this constellation, also from the point of view of authenticity. With their exclusive imperial fiefdoms (electorates), the royal electors were something like the basis of the constitutional and peaceful order sought by the Golden Bull. This position was underpinned by the stipulation of an annual meeting of the electors

145 Lindner, 2009, p. 133. For appreciation as a „completely independent work” created „with admirable creativity”, see also Willoweit, 2009, p. 256.

to deliberate for the good of the empire, which, however, was to remain largely a vision.

Through the Archbishop of Mainz as Imperial Chancellor, imperial rule was also present in the day-to-day practical actions of rulers in the empire. Two royal/imperial imperial vicars represented the emperor/king in the event of a vacancy on the throne – admittedly on the important condition that the high-ranking legal acts they performed had to be confirmed by the new king/emperor as soon as one was elected.

5. CONCLUSION

The epochal and European history of the Golden Bull's impact, which is supported by a „rhetoric aiming at eternity”¹⁴⁶, cannot and should not be described here.¹⁴⁷ As a representative example of the complex reception in the centuries after its creation and its after-effects in the modern age, only three facts should be pointed out. Basic knowledge of the Golden Bull has always been included in school textbooks.¹⁴⁸ The seven copies and Wenceslas' magnificent manuscript were inscribed on the UNESCO World Documentary Heritage List in 2014.¹⁴⁹ The legislative masterpiece of Emperor Charles IV is still a reminder today: a divided society is no advantage for the good development of the community. Let us learn from it!

146 Heinig, 2009, p. 67.

147 Cf. the instructive contributions by Schubert, 2009; Heckmann, 2009; Holtz, 2009; Buschmann, 2009; Niedermeier, 2009; Kümper, 2006; Matthäus, 2006a; Neuhaus, 2011.

148 So also Bojcov, 2013, p. 581 f.

149 Brockhoff and Matthäus, 2015; Greule, 2020, p. 99; Stieldorf, 2015.

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