



GOLDEN BULL OF SICILY

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ABSTRACT

The study ponders the contradiction between the period significance of a set of documents from 1212 known today as the Golden Bull of Sicily and its position in the present discourse of Czech sites of memory. It points out that the Golden Bull of Sicily is, in essence, an agreement between a feudal lord and a vassal, namely future King of the Romans Frederick II of Sicily and King of Bohemia Ottokar I. Today, however, it is presented to the Czech public as a document of extraordinary national and constitutional-law significance. The study shows on the transformations of Czech historical thought that the Golden Bull of Sicily only became a site of memory in the twentieth century, in connection with the defence of Czech state and national independence against Nazi Germany on the eve of the Second World War.

Keywords: *Golden Bull of Sicily, places of memory, Czech historical thought, Czech statehood, Czechs and Germans*

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1. INTRODUCTION

The Golden Bull of Sicily is the name used today for a set of three privileges that came into existence in Basel on 26 September 1212. They were issued by Frederick II, the King of Sicily and future (imperator electus) King of the Romans, in reward to King of the Bohemians Ottokar I and his brother, Margrave of Moravia Vladislaus Henry. The time and place of their origin, their appearance and historical context enable us to view these documents as a single legal unit.¹

Historical research concurs that the legally most important articles were part of the bull in which Frederick II assures the King of the Bohemians Ottokar I (1197/1198–1230) that he would maintain the validity of the privileges that had been bestowed on him by Frederick's uncle, King of the Romans Philip of Swabia (*sicut dilectus patruus noster pie memorie rex Philippus omnium principum habito consilio per suum privilegium instituit*). Referring to the merits of the Bohemians and especially of King Ottokar, Frederick promised to accept him as his vassal and to bestow the royal insignia on whoever was elected at home (*volentes, ut quicumque ab ipsis in regem electus fuerit, ad nos vel successores nostros accedat, regalia debito modo recepturus*). At the same time, he emphasized that Ottokar and his successors would rule the Czech lands hereditarily and free of any payment. Moreover, formerly alienated dominions were to be restored to the kings of Bohemia, and they were also granted the right of investiture of bishops of Prague and Olomouc under the condition that the old freedoms of the church would not be affected. Their obligations to the kings of the Romans were limited to the attendance of court diets as long as these were summoned to Bamberg or Nuremberg. The king of Bohemia was to attend diets in Merseburg only if the duke of Poland was invited there and if he himself received an invitation at least six weeks in advance. Ottokar and his successors were also obliged to either send

1 Wihoda, 2012 (Forschungen zur Kaiser- und Papstgeschichte des Mittelalters. Beihefte zu J. F. Böhmer Regesta Imperii 33).

300 riders to the coronation journey to Rome, or to pay 300 marks instead.²

In the second bull, Frederick II ceded properties and fiefs in the Upper Palatinate, Pleissenland and Vogtland to the King of the Bohemians. The Bohemian claim of Dohna Castle, which was then held by Ottokar's rival, Margrave of Meissen Dietrich, was treated in a special way. Frederick pledged to acquire the castle for Ottokar; if he did not succeed, he would submit to an arbitral award.³

The bull for the Margrave of Moravia Vladislaus Henry (1197–1222) defies unambiguous interpretation. He was admitted rights to *Mocran et Mocran* with appurtenances while maintaining his existing services and obligations to the court of the kings of the Romans (*concedimus et confirmamus Mocran et Mocran cum omni iure et pertinentiis suis, salvo servitio, quod inde curie nostre debetur*).⁴ The words *Mocran et Mocran* are usually regarded as a scrivener's error – a distortion of the name of Moravia, which was divided into two parts at that time (*Moraviam et Moraviam*), meaning that the privilege would confirm Vladislaus Henry's rule in the whole land. An alternative interpretation puts *Mocran et Mocran* into context with feoffment, most recently in the area of Leipzig.⁵ However, indirect evidence, especially the transformation of Moravia into a margraviate, corroborates the former option.⁶

2. ORIGIN

All the bulls from Basel were verified with the gold majesty seal of the royal chancery of Sicily; they also share the scribe, notary Henry *de Parisius*, who most probably worked with a template, a list of requirements that had probably originated at the Prague court. This is the only

2 *Friderici II. Diplomata inde ab anno MCCXII usque ad annum MCCXVII*, edited by Walter Koch, *Monumenta Germaniae Historica, Diplomata XIV/2*, Hannover 2007, 1–5, No 171.

3 *Friderici II. Diplomata*, 8–10, No 173.

4 *Friderici II. Diplomata*, 5–7, No 172.

5 Žemlička, 2007, pp. 251–289.

6 Wihoda, 2015, pp. 100–112.

possible explanation of how Frederick II, who was educated in Sicily and was only superficially acquainted with the situation in the Empire, could know that Ottokar I had been the first of the imperial princes to vote for him (*rex eorum Ottacharus a primo inter alios principesspecialiter pre ceteris in imperatorem nos elegit et nostre electionis perseverantiediligenter et utiliter astiterit*), how he could know the content of the privilege by Philip of Swabia, the complex property and power situation in the east of the Empire or the custom of the Bohemians to choose their ruler by election.⁷

The final form was imprinted on the Golden Bull of Sicily by three persons: Henry *de Parisius*, who held the title of notary (*notarius et fidelis noster*), vice-protonotary (*viceprothonotarius*) Ulrich and royal court protonotary (*regalis curie prothonotarius*) Berthold of Neuffen. Bertold had dictated one of Frederick's deeds already in Verona on 25 August 1212. In the following years, he supervised the operation of the chancery, which means that he might have been the superior of protonotary Ulrich. Ulrich apparently put together the dating forms and probably also took care of the attachment of the gold bulls, as it was part of the obligations of lower staff members of the chancery. Most importantly, however, he remained canon of the Basel chapter, and his relationship with Frederick II begun and ended with the Golden Bull of Sicily. The position of Henry *de Parisius* can be defined similarly: he was apparently a public notary and left Frederick's services after completing the commission, the Golden Bull of Sicily.⁸

The attractive name of the Basel bulls of 26 September 1212 is due to their gold seal. As it was only valid in the Kingdom of Sicily, however, its legal value on the imperial soil was rather disputable. The southern-Italian chancery tradition influenced also the appearance of the privileges, most considerably their protocols. All the privileges of 26 September share a precise rendition of Frederick's name, and especially the initial F, which was extended across several lines and decorated with a plant pattern (*lettres fleuries*) with tassels on the outer edge. The remaining letters (REDERICUS) are attached to the central crosspiece of the initial

7 Koch, 2002, pp. 721–741.

8 Friedl, 2008, pp. 112–121.

F. Its upper arm introduced an invocation rendered in majuscule which is, however, lacking in the bull with which Frederick II defined the rights and obligations of the kings of Bohemia. Non-filled lines reveal that the scribe forgot about it. He also overlooked a missing lower tassel of the initial F in the second privilege for the king of Bohemia.

The appearance of the lines of witnesses was determined by two different chancery traditions. While the privilege with which Ottokar I secured estates and fiefs in the Upper Palatinate, Pleissenland and Vogtland respects the rules established in the Empire, Frederick's second privilege for the king of Bohemia and the *Mocran et Mocran* bull divide the persons present into four parallel columns emphasized by a system of dividing lines. The first one includes bishops, the second abbots and protonotary Berthold of Neuffen, and the last two secular persons. The arrangement of the witnesses according to their social position markedly resembles the customs used by the papal chancery.⁹

Generally speaking, the Golden Bull of Sicily is a legal document in which the customs of the Sicilian, papal and imperial chanceries mingle in a unique way. The historical context is no less interesting. We can hardly imagine Frederick II having the privileges for his Bohemian allies sealed merely out of his good will. In fact, we can reasonably doubt that before 1212, he had an idea that there were any domains of the king of the Bohemians and of the margrave of Moravia in the Holy Roman Empire. Hence the question: How could he assess their rights and obligations in Basel on 26 September 1212? Did he meet envoys from Bohemia in Basel? And if so, how could they have known in Prague where to send the envoys?

Well-informed sources concur it was in Nuremberg in the autumn of 1211 that the imperial princes called on Frederick II of Sicily to seek the imperial crown; Frederick was informed about their decision in January 1212. At that time, he started to use the title *imperator electus*, literally the chosen one, the future ruler of the Holy Roman Empire, thus informing his rival, Holy Roman Emperor Otto IV, that he accepted the princes' offer. Pope Innocent III endorsed Frederick's candidacy in April 1212, but bad news was waiting for Frederick in Genoa, where he

9 Wihoda, 2016, pp. 69–97, here 72–78.

arrived on 1 May at the latest: Lombard cities led by Milan remained faithful to Emperor Otto IV; ten weeks had to elapse before Frederick dared to move to Pavia.

Frederick found support also in Cremona, where he stayed for twenty days and found out that the Alpine passes were in control of his enemies. The options that lay before him were either to go back and admit defeat, or to turn to the east; he chose the latter and set off on 20 August 1212, accompanied by a small retinue of riders. Without rest, he passed through Mantua and Verona, where Berthold of Neuffen joined Frederick, and was welcomed in Trento late in August. From there, Frederick headed for Chur. In front of Constance, however, he was informed that Emperor Otto IV was encamped on the opposite shore of Lake Constance.

A direct confrontation was out of the question and a retreat into the Alpine passes could have led to a catastrophe in the advanced summer. After an intervention from the papal legate, who anathematized Emperor Otto IV and threatened all his allies with the same punishment, however, the bishop of Constance let Frederick II enter the city after all. From there, he travelled to Basel by boat along the Rhine; at the beginning of October, Friedrich took the important palatine castle (*Pfalz*) of Hagenau.¹⁰

A testimony of the hardships of the long and dangerous journey is borne by the Golden Bull of Sicily, whose witness lines can be described as the list of Frederick's allies as of 26 September 1212. The list of the people present makes it evident that Frederick II crossed the Alps in secrecy, which practically rules out the possibility that envoys of the king of Bohemia and the margrave of Moravia could have appeared in Basel. Why, then, did he address the first deeds on the German soil precisely to them?

The answer might be hidden in the chronicle by Burchard of Ursberg, according to which the imperial princes authorized Anselm of Justingen and Henry of z Neuffen to inform the Pope about the outcome of the negotiations in Nuremberg.¹¹ At that time, Ottokar could have seized

10 Wihoda, 2012, pp. 84–94.

11 Holder-Egger and von Simson, 1916, pp. 108–109.

the opportunity and equip the envoys with the list of requirements with which he conditioned his further support. Frederick II might have found out about the Bohemian requirements in Rome and, following the Pope's advice, hire public notary Henry *de Parisius* and entrust him during the first stop on the German soil to develop the template, the draft originating in Prague, into the form of a legal document, the Golden Bull of Sicily.

3. SECOND LIFE

Let us admit right away that it is impossible to prove that the king of Bohemia and the margrave of Moravia had a draft made, which then travelled with the imperial envoys to Rome and possibly as far as Sicily. We only know that if 1212 and the Golden Bull of Sicily were ever remembered in Bohemia, it was, surprisingly, not under the reign of Ottokar I and his successors. Another striking fact is the king of Bohemia and his brother, the margrave of Moravia must have been informed that the privileges were not free of defects. Despite that, neither of them ever asked to have them rectified. Yet a suitable opportunity offered itself in February 1213, when they attended a court diet summoned by Frederick to Regensburg.¹²

There are also other ways of proving the marginal place the Golden Bull of Sicily held in the legal architecture of the Kingdom of Bohemia. The canons of St Vitus chapter at Prague Castle kept annals close to the royal court; as of 1212, they mention the translation of the relics of saints, the fall of Chamberlain Czernin and King Frederick's arrival in the Empire.¹³ There is not a single word about the Golden Bull of Sicily, even though it is clear from the annals that the canons had access to the documents in the crown archives, among which the Golden Bull of Sicily must have been. Therefore, they undoubtedly knew Frederick's privileges of 26 September 1212, but they apparently did not consider them important.

12 *Friderici II. Diplomata*, 39–41, No 188; 44–47, No 190.

13 Emler, 1874, p. 283.

The Golden Bull of Sicily remained a forgotten document throughout the thirteenth century. It was not quoted by any king of Bohemia; it was not read publicly until the extinction of the Premyslids in 1306, when the land diet in Prague was deciding about the further fate of the kingdom.¹⁴ Charles IV (1346–1378) was the first to acquaint himself more thoroughly with the content of the Golden Bull of Sicily. He had the first crown archive registers made and, on 7 April 1348, he presented eleven deeds including the Golden Bull of Sicily to the land diet for approval. Moreover, he came to the conclusion that Frederick's privilege was imprecise and, therefore, had the election article augmented with a provision that if no lawful male or female descendant came out of the royal family or if the throne was vacated for any other reason, the election of the king of Bohemia should belong to the estates of Bohemia for all times.¹⁵ The adding of precision to the procedure contains a fair dose of irony. It was due to this condition that Ottokar I overlooked the Golden Bull of Sicily, as an election vote of the Bohemian nobility was the last thing he wanted to heed in his kingdom.¹⁶

Yet, it was the Golden Bull of Sicily rather than Charles's confirmation from 1348 that became a firm part of the modern Czech state and national self-confidence. This brings us to relatively recent events – the break-up of Austria-Hungary in 1918 and the successor states, which started to create their own legitimization myths. The Czech, or more precisely Czechoslovak one was based upon emphasizing a thousand-year-old state distinctiveness and the independence on the western neighbour, Germany. The legal dimension of these notions was summarized on eve of the Munich crisis 1938 by Karel Doskočil, who made translations of important legal documents available in a readingbook intended for a wide audience in 1938.¹⁷ The Golden Bull of Sicily could not have missed in the chronologically ordered selection, and its appearance immediately attracted the attention of the general public. History textbooks and multiple graphic reproductions followed after the war.

14 Wihoda, 2012, pp. 239–245.

15 Hrubý, 1928, pp. 43–47, No 51, here 45–46.

16 Wihoda, 2012, pp. 246–252.

17 Doskočil, 1938.

4. SUMMARY

Looking back, it is evident that the legally-historical interpretation of the individual articles of the Golden Bull of Sicily was subordinated to period-conditioned interests. The privileges from Basel were torn out of the historical framework, divided and quoted with the assertion that some parts were in effect and others were not. Special attention was paid to the electability of the kings of Bohemia; in it, the proof was sought that the Bohemian society had won already in the Middle Ages freedom of acting or even outright independence from the (German) Empire. From the early twentieth century, therefore, the discussion no longer concerned the bulls from 1212 but various matrices of their interpretation. What slipped through the cracks during this process was the fact that from the legal perspective, the Golden Bull of Sicily is a common contract between a senior, Frederick II of Sicily, and a vassal, Ottokar II. Likewise, no ear was lent to the fact that the Golden Bull of Sicily was embedded in the legal order of Bohemia by Charles IV, whose rigorous comment on the election of the kings of Bohemia was to become a subject of disputes between the estates of Bohemia and the Habsburg dynasty in the sixteenth century.

Surprisingly, the Golden Bull of Sicily was not duly appreciated by the historicizing nineteenth century, in which the modernizing Czech nation started to demand more autonomy from Vienna. If the proposition established in the Czech law-historical thought – that the privileges from Basel had defined the Kingdom of Bohemia's rights and obligations towards the Holy Roman Empire – was valid, how come that none of the educated Czech patriots pointed that out? This is, after all, a surprising fact at the time of strengthening national awareness and struggles concerning Czech constitutional law.

In other words, the Golden Bull of Sicily has not been a jewel of the national past since time immemorial but was inserted into the collective memory of the modern Czech nation only shortly before the end of the First Czechoslovak Republic in 1938. And, even though the Golden Bull of Sicily's influence on the domestic order was negligible before 1348, its historical significance is undoubted – due to the circumstances of its origin, its contents and remarkable fate, and due to the manner in which it was incorporated into the pragmatic image of the national past in the

twentieth century. Rather than a tug-of-war concerning the meaning of a beautiful document, therefore, the lengthy disputes concerning its interpretation reflect the difficult search for the role of the Czech nation and state in the history of Central Europe.¹⁸

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¹⁸ Hruza, 2007, pp. 215–251.